

COUNTRY OF ORIGIN INFORMATION REPORT

TURKEY

12 MARCH 2007

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Preface

- i This Country of Origin Information Report (COI Report) has been produced by Research, Development and Statistics (RDS), Home Office, for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the Report includes information available up to 31 January 2006. The 'latest news' section contains further brief information on events and reports accessed from 1 February 2007 to 12 March 2007.
- ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.
- iii The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.
- iv The structure and format of the COI Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.
- v The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.
- vi As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

- vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.
- viii This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.
- ix COI Reports are published regularly the top 20 asylum intake countries. COI Bulletins are produced on lower asylum intake countries according to operational need. Home Office officials also have constant access to an information request service for specific enquiries.
- x In producing this COI Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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ADVISORY PANEL ON COUNTRY INFORMATION

- xi The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country of origin information material. The Advisory Panel welcomes all feedback on the Home Office's COI Reports and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk.
- xii It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office COI Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken

to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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Latest News

EVENTS IN TURKEY FROM 1 FEBRUARY 2007 TO 12 MARCH 2007

- 9 March Greek Cypriot authorities demolish a key section of the Green Line that had separated Cyprus's Greeks from the Turkish population since 1974. "But the Greek Cypriot authorities say Turkish troops must pull back before people can cross in either direction."
Greek Cypriots dismantle barrier, 9 March 2007
<http://news.bbc.co.uk/1/hi/world/europe/6433045.stm>
(date accessed 9 March 2007)
- 6 March A Kurdish politician in Turkey is sentenced to six months in prison for referring to jailed Kurdish rebel leader Abdullah Ocalan as "Mr Ocalan".
BBC News, Mr Ocalan conviction in Turkey 6 March 2007
<http://news.bbc.co.uk/1/hi/world/europe/6425043.stm>
(date accessed 6 March 2007)
- 27 February Prime Minister Erdogan declares the date for the announcement of presidential candidates. He stated that the AKP [explain?] will announce its candidates on April 15-16.
English Sabah.com, The candidate for presidential elections to be clarified on April 15-16
<http://english.sabah.com.tr/print.php>
(date accessed 27 February 2007)
- 26 February The Turkish Daily News reports that the Diyarbakır Women's Problems [?] Research Center [Centre?] (DİKASUM) in Anatolia has intervened in the cases of 13 women at risk from "honour killings" by persuading their families not to kill them. The DİKASUM also offers advice on family planning and employment for women.
Turkish Daily News, Honorable end to 'honor' killings
<http://www.turkishdailynews.com.tr/article.php?enewsid=66971>
(date Accessed 26 February 2007)
- 23 February The Minister of Women and Family [for Women and Families?] announces the launch of a UN and European Commission- supported project designed to prevent domestic violence against women. "The project, which will be implemented by the General Directorate of Women's Status, for two years with technical support from the UN Population Fund (UNFPA) and financial support from the European Commission." (sic)
Todays Zaman, Turkey firm in fighting violence against women.
<http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=103663>
(date accessed 23 February 2007)
- 23 February Turkey's economy is now the seventh biggest in the EU with a GDP of 352.7 billion Euro.
The New Anatolian, Turkey's economy on the rise
<http://www.thenewanatolian.com/tna-23479.html>
(Date accessed 23 February 2007)

19 February The Turkish Daily News reports that changes are imminent to Article 301 (which makes it a crime to insult "Turkishness").
Turkish Daily New, Government to present Article 301 changes this week
<http://www.turkishdailynews.com.tr/article.php?enewsid=66521>
Date accessed 19 February 2007

REPORTS ON TURKEY PUBLISHED OR ACCESSED BETWEEN 1 FEBRUARY AND 12 MARCH

US Department of State

Turkey Country Report on Human Rights Practices, 2006

Released 6 March, 2007

<http://www.state.gov/g/drl/rls/hrrpt/2006/78844.htm>

(Date accessed 8 March 2007)

Contents

Section 1: Respect for the integrity of the person, including freedom from:

- a. arbitrary or unlawful deprivation of life;
- b. disappearance;
- c. torture and other cruel, inhuman, or degrading treatment or punishment;
- d. arbitrary arrest or detention;
- e. denial of fair public trial;
- f. arbitrary interference with privacy, family, home, or correspondence.

Section 2: Respect for civil liberties, including:

- a. freedom of speech and press;
- b. freedom of peaceful assembly and association;
- c. freedom of religion;
- d. freedom of movement within the country, foreign travel, emigration and repatriation.

Section 3: Respect for political rights: the right of citizens to change their government

Section 4: Governmental attitude regarding international and non-governmental investigation of alleged violations of human rights

Section 5: Discrimination, societal abuses, and trafficking in persons

Section 6: Worker rights:

- a. the right of association;
- b. the right to organise and bargain collectively;
- c. prohibition of forced or compulsory labour;
- d. prohibition of child labour and minimum age for employment;
- e. acceptable conditions of work.

United Nation Population Fund (UNFPA)

The Dynamics of Honor Killings in Turkey – Filiz Kardam

Publication date 2007

http://web.unfpa.org/upload/lib_pub_file/676_filename_honourkillings.pdf

(Date accessed 9 March 2007)

Background Information

1 GEOGRAPHY

- 1.01 The Republic of Turkey covers an area of approximately 780,580 square kilometres. Turkey is located between south-eastern Europe and south-western Asia (that portion of Turkey west of the Bosphorus is geographically part of Europe), bordering the Black Sea, between Bulgaria and Georgia, and bordering the Aegean Sea and the Mediterranean Sea, between Greece and Syria. Its border countries are Armenia 268 km, Azerbaijan 9 km, Bulgaria 240 km, Georgia 252 km, Greece 206 km, Iran 499 km, Iraq 352 km, and Syria 822 km. [103] (CIA World Factbook updated 8 February 2007)
- 1.02 The capital city is Ankara, and there are 81 provinces consisting of Adana, Adiyaman, Afyonkarahisar, Agri, Aksaray, Amasya, Ankara, Antalya, Ardahan, Artvin, Aydin, Balikesir, Bartin, Batman, Bayburt, Bilecik, Bingol, Bitlis, Bolu, Burdur, Bursa, Canakkale, Cankiri, Corum, Denizli, Diyarbakir, Duzce, Edirne, Elazig, Erzincan, Erzurum, Eskisehir, Gaziantep, Giresun, Gumushane, Hakkari, Hatay, Icel (Mersin), Igdir, Isparta, Istanbul, Izmir, Kahramanmaras, Karabuk, Karaman, Kars, Kastamonu, Kayseri, Kilis, Kirikkale, Kirlareli, Kirsehir, Kocaeli, Konya, Kutahya, Malatya, Manisa, Mardin, Mugla, Mus, Nevsehir, Nigde, Ordu, Osmaniye, Rize, Sakarya, Samsun, Sanliurfa, Siirt, Sinop, Sirnak, Sivas, Tekirdag, Tokat, Trabzon, Tunceli, Usak, Van, Yalova, Yozgat, Zonguldak. [103] (CIA World Factbook updated 8 February 2007)
- 1.03 As noted in CIA FactBook (updated 8 February 2007) Turkish is the main spoken language. In addition to the official language it also mentions Kurdish, Dimli (or Zaza), Azeri, Kabardian and there is also a substantial Gagauz population in the Europe part of Turkey. [103]
- 1.04 The US State Department Report on International Religious Freedom, published on 12 September 2006, reported that:
- “According to the Government, approximately 99 percent of the population was Muslim, the majority of which was Sunni. According to the human rights nongovernmental organization (NGO) Mazlum-Der and representatives of various religious minority communities, the actual percentage of Muslims was slightly lower. The Government officially recognized only three minority religious communities—Greek Orthodox Christians, Armenian Orthodox Christians, and Jews—although other non-Muslim communities existed. The level of religious observance varied throughout the country, in part due to the influence of secular traditions and official restrictions on religious expression in political and social life.” [5e] (section 1)

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MAP

- 1.05 Map of Turkey courtesy of CIA World FactBook:
<https://www.cia.gov/cia/publications/factbook/geos/tu.html>



See also links to more detailed maps of Turkey:

<http://www.unhcr.org/cgi-bin/texis/vtx/publ/openssl.pdf?tbl=PUBL&id=4487e9280>

<http://www.factmonster.com/atlas/country/turkey.html>

http://www.lib.utexas.edu/maps/middle_east_and_asia/turkey_pol83.jpg

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2 ECONOMY

- 2.01 The European Commission Turkey 2006 Progress Report, released on 8 November 2006, noted that:

“In examining the economic developments in Turkey, the Commission's approach was guided by the conclusions of the European Council in Copenhagen in June 1993, which stated that membership of the Union requires the existence of a functioning market economy, and the capacity to cope with competitive pressure and market forces within the Union. The rapidly growing Turkish economy ran into fast growing external imbalances. This was predominantly caused by too slow structural reforms and a sizeable increase in investment spending. The authorities reacted promptly by fiscal and monetary

tightening. In conclusion, economic growth has remained quite strong and has become more balanced.” [71a] (p25-26)

- 2.02 The Economist Intelligence Unit (EIU) country report released January 2007 noted that:

“After the 2001 financial crisis and recession, GDP growth in Turkey was strong, averaging 7.5% per year in 2002-05. In 2006 it averaged 7% year on year in the first half of the year, but slowed sharply to 3.4% in the third quarter, reflecting the impact on domestic demand of the fall in the value of the lira, rising inflation and higher interest rates. Overall, we now expect economic growth to have slowed from 7.4% in 2005 to 5.2% in 2006 and to fall further to 4.5% in 2007, before picking up again to 5.5% in 2008. Weaker domestic demand growth will be partly offset by a deceleration in imports and an acceleration in export growth, resulting in a marked improvement in the foreign balance in 2006-08. There is a substantial risk, however, of a more prolonged and deeper slowdown if inflation starts to rise sharply again in 2007 and the Central Bank retightens monetary policy.” [108] (p12)

- 2.03 The World Bank Data and Statistics for Turkey – World Development Indicators database, April 2006 (website accessed 13 December 2006) recorded a GNI per capita [average annual income] in 2005 of US\$4710. [45]

- 2.04 The 2006 EC report however noted that:

“As regards employment policy, little progress can be reported. Low labour force participation and employment rates, in particular of women, high levels of youth unemployment, the large size of the informal economy and the strong rural/urban labour market divide remain the main challenges. The overall employment rate in 2005 decreased to 43.4%, whereas unemployment rate remained at 10.3%. The scale of unregistered employment continues to be of concern.” [71a] (p53)

- 2.05 The Economist Intelligence Unit (EIU) country report released January 2007 however noted that:

“The strength of the economy increased employment in industry, construction and services in 2005 and 2006. In August 2006 the number of people employed in these three sectors rose by 2.9%, 6.8% and 4% respectively by comparison with August 2005. The pace of employment growth in services which is by far the largest employer, providing work for 10.6m people was noticeably slower than in preceding months... The number of unemployed was put at 2.38m the same as in August 2005. The unemployment rate worked out at 9.1%, compared with 9.4% a year earlier. The unemployment rate had already been running below year earlier levels for some months, and in May, June and July which are the peak months for employment, owing to the seasonal nature of much work in agriculture, construction and tourism it had fallen as low as 8.8%.” [108] (p30-31)

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3 HISTORY

GENERAL ELECTION 2002

3.01 As recorded by the Office of the Prime Minister of Turkey:

“On December 2, [2002] the Supreme Election Board (YSK) annulled the results of the elections held in the southeastern province of Siirt on November 3 [2002]. A written statement following the YSK meeting said: 'The Board has decided unanimously that irregularities in the election procedures necessitate re-holding the elections in the southeastern province of Siirt.' The by-election in Siirt was held on March 9, 2003. AKP candidates Recep Tayyip Erdoğan, Öner Gülyeşil and Öner Ergenç were elected, and the number of AKP seats in Parliament increased to 365. However distribution of seats in the Turkish Grand National Assembly as of October 20, 2006 noted;

Justice and Development Party (AKP)	354
Republican People's Party (CHP)	154
Motherland Party (ANAP)	21
True Path Party (DYP)	4
Social Democratic	
People's Party (SHP)	1
People's Rise Party (HYP)	1
Independents	9
Vacant	5
TOTAL	549
[36i]	

See also Section 14:01 [Freedom of Political Expression](#)

3.02 The Organisation for Security and Co-operation in Europe (OSCE) found in their report on the Turkish elections, published 4 December 2002 that “The election campaign was short but active. Parties campaigned in a calm and peaceful atmosphere. Although there were a substantial number of cases of harassment reported by some political parties and by human rights groups, there was a general consensus that the situation had improved markedly compared to previous elections.” [14] (p2)

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GENERAL ELECTIONS IN 2007

3.03 The EIU country report released January 2007 noted that:

“The next general election will be a serious challenge for the government. In Turkey’s last general election, held in November 2002, the AKP was highly lucky, in that around 45% of the votes went to parties that failed to clear the

10% threshold required to elect any members of parliament. Hence, the AKP won a massive majority, with 363 of the 550 seats, on only 34.3% of the poll. It cannot assume a repeat of this performance. According to opinion polls, the main opposition party, the nominally centre-left Republican People's Party (CHP), is unlikely to score more than around 20%. However, either or both of two other parties 'the ultra-rightist Nationalist Action Party (MHP) and the moderate centre-right True Path Party (DYP)' might clear the 10% threshold. If only one of them does so, the AKP will probably stay in power, albeit with a sharply reduced majority. If both of them do so, it will probably have to form a coalition. In this scenario, the AKP would almost certainly prefer a coalition with the DYP, since the MHP is fiercely nationalist (for instance, opposing EU accession) and its leader, Devlet Bahceli, would be a difficult coalition partner. The outcome of the general election could be affected by the AKPs choice of president, as well as the state of play in Turkey's EU accession negotiations." [108] (p8)

3.04 The 2007 EIU report further stated that:

"The first serious domestic test that the government will face will be the election of a new president in May 2007, when the present incumbent, Ahmet Necdet Sezer, will complete his seven-year term. Under the constitution, he cannot run for a second term, and his successor must be elected by parliament, if necessary by a simple majority. The president has limited constitutional powers, but the office has considerable symbolic value, especially in the eyes of secularists in the army, the judiciary and large parts of the state administration and general public, who are deeply suspicious of the AKP's Islamist origins and suspect its ultimate intentions. In recent weeks Mr Sezer has urged that an early general election be held before May, so that the next president could be elected by the new parliament. However, the president has no powers to call for an early election unilaterally: this can only be done by parliament in effect, the AKP. Mr Erdogan has firmly resisted the president's call. He has no interest in calling an early election, so the suggestion will almost certainly fall by the wayside." [108] (p7)

EUROPEAN UNION REFORMS 2006

3.05 The 2007 EIU country report stated that:

"Attempts to persuade Turkey to meet the EU's requirement intensified in the second half of 2006, but by the time the European Commission published its annual report on Turkey's progress towards membership on November 8th 2006, the Turkish parliament had still not ratified the additional protocol. As a result, the European Commission put forward recommendations on November 29th, which were endorsed by EU ministers of foreign affairs on December 11th and by the European Council on December 14th-15th, that talks should be suspended on eight 'chapters' of the *acquis communautaire* the body of EU law, which Turkey is required to adopt to become a member. The suspended chapters cover the free movement of goods, transport, the customs union, agriculture, fisheries, foreign relations, financial services and the right to establish businesses in other EU countries. Talks on the other 27 chapters can go ahead, but the European Council stated that no chapters could be closed

until Turkey had carried out its obligations under the additional protocol (so far, Turkey has concluded negotiations on one chapter, science and research, which was provisionally closed in June 2006).” [108] (p14)

3.06 The EIU report further noted that:

“The Council asked the European Commission to decide whether this had been done in its annual reports on Turkey’s progress towards accession in late 2007, 2008 and 2009 (implying that the Council realised that this could be a long, drawn-out process). On the question of human-rights reforms in Turkey, the Council recognised that progress had been made, but regretted that the pace of reform had slowed down in such areas as freedom of speech and religion, women’s rights, the rights of minorities and labour unions, and civilian control over the military (October 2006, The political scene). In the months preceding the summit, European attitudes towards Turkey had hardened, reflecting weak public support for the general principle of further EU enlargement and for Turkish membership in particular, in several member states. On the Turkish side, there had been a slowdown in the reform programme that the EU is demanding (especially in the area of human rights). There has also been declining public support in Turkey for EU accession, according to opinion polls.” [108] (p14)

3.07 In an article written by Bernard Bot Foreign Affairs Minister of Netherlands originally published in the Washington Times, 26 December 2004 accessed via the Netherlands Ministry of Foreign Affairs website noted that:

“The decision to start negotiating has done away with a great deal of psychological and political uncertainty about whether Turkey can be considered part of Europe. The reforms undertaken in Turkey in the past two years have been truly impressive. The EU wants to ensure reform will continue. The prospect of EU membership is already transforming Turkey, and the country’s accession will likewise profoundly affect the EU. Turkey’s accession will also strengthen the EU’s political and military capacity to fight terrorism and promote international peace and stability.” [2c]

3.08 The European Commission (EC) Turkey 2006 Progress Report, released on 8 November 2006, noted that:

“Turkey has not fully implemented the Additional Protocol extending the EC-Turkey Association Agreement to the ten Member States that acceded on 1 May 2004, which it had signed in July 2005 and which enabled the accession negotiations to start. Turkey has continued to deny access to its ports to vessels flying the Republic of Cyprus flag or where the last port of call is in Cyprus.” [71a] (p25)

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4 RECENT DEVELOPMENTS

TERRORISM IN 2006

- 4.01 Travel advice issued by the Foreign and Commonwealth Office, updated on 16 February 2007, reported that:

“There is a high threat from terrorism in Turkey. We believe that international terrorist groups, as well as indigenous ones, are currently active in Turkey. Attacks, including in tourist areas, could well occur.

Examples of recent incidents in the Mediterranean and Aegean Tourist areas include:

- On 28 August 2006, in Marmaris, a series of explosions injured 21 people, including 10 British nationals.
- On 28 August 2006, in Antalya, three people were killed in an explosion and at least 30 were injured, including foreign nationals.
- On 12 September 2006, an explosion in the south eastern city of Diyarbakir killed 11 people and injured at least 13. No foreign nationals were involved.” [4j]

- 4.02 The BBC World news reported on 4 September 2006 that:

“Two people have been killed in a bomb explosion at an outdoor cafe in south-east Turkey, police say. At least seven people were injured in the blast, which hit the tea garden in the town of Catak in Van province, near the border with Iran. A separatist militant group, the Kurdistan Freedom Falcons (TAC), had said it carried out those attacks. It warned on its website on Tuesday that it would turn ‘Turkey into hell’.” [66e]

- 4.03 The *Turkish Daily News* reported on 4 September 2006 that:

“Separatist Kurdish terrorists killed eight Turkish soldiers and wounded two others in stepped-up attacks against military units along the Iraqi and Iranian borders and elsewhere in southeastern Turkey over the weekend, with Sunday dominated by funerals taking place around the country. The Kurdistan Workers' Party (PKK) detonated a remote-controlled bomb planted near an outpost in the town of Güçlükonak, Şırnak province, killing a lieutenant, a reserve officer and a private on Friday. In an overnight attack further east, terrorists attacked an outpost in the town of Çukurca, Hakkari province, killing two soldiers and wounding two others. Both Şırnak and Hakkari are close to the Iraqi border.” [23d]

See also Section 19:37 [PKK/KADEK](#) Kongra-Gel and the Conflict in the South-East.

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5 CONSTITUTION

- 5.01 The Jane Sentinel Security Assessment website updated 25 November 2006 noted:

“Turkey's current constitution is based on the 1982 constitution put in place after the military coup. The document reflects the values the Turkish military has long taken pride in protecting: democracy, secularism, and strict insistence on Atatürk's goal of a unified Turkey uncritical of its founder or founding principles. Turkey installed the constitution after years of military rule, with the explicit aim of creating stability and order at the expense of civil liberties and human rights. The constitution remained essentially unchanged until 1999's military coup... Following Erbakan's ousting, civilian governments cautiously amended the constitution to dilute the original absolutist wording and increase protection for human rights and civil liberties, judicial independence, and power of the civilian government over the military. Torture and ill treatment are prohibited, and the entitlement to strike and other labour rights are recognised but can be restricted.” [109a]

- 5.02 The same Jane Sentinel website also noted that:

“In December 2002 as part of Turkey's efforts to harmonise Turkish laws with European laws, the parliament amended Article 76 of the constitution, which had banned people convicted of ideological crimes from running for office. The amendment, passed with the support of the Republican People's Party (CHP), the official parliamentary opposition, has rehabilitated all people stripped of their political rights, including Erdogan, who subsequently won a seat in parliament and became prime minister. In May 2004 President Ahmet Necdet Sezer signed a package of 10 constitutional amendments designed to bring legislation closer to EU requirements. The amendments abolished the State Security Courts, the death penalty in all circumstances, the seizure of printing houses, and the Office of the Chief of Staff's representative from the Higher Education Board, and placed military expenditure under full Audits Office supervision and guaranteed gender equality. 514 out of 526 deputies voted for the amendment package.” [109a]

- 5.03 The Jane Sentinel Security Assessment website further noted that:

“According to the Constitution, the president and the Council of Ministers (usually numbering around 35) share executive powers. The president, chosen by Parliament for a single seven-year term, has indistinct powers, and an active president may choose to stretch them... The Council of Ministers, which is politically accountable to the Legislature, is composed of a prime minister selected and appointed by the president and ministers selected by the prime minister and appointed by the president.” [109a]

See also Section 15:01 [Freedom of Speech and Media](#).

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6 POLITICAL SYSTEM

INTRODUCTION

THE TURKISH GRAND NATIONAL ASSEMBLY (TGNA)

6.01 As recorded in the 'Political structure of Turkey' dated 20 October 2006:

"Legislative authority is vested in the Turkish Grand National Assembly (TGNA). The TGNA is composed of 550 deputies. Parliamentary elections are held every five years... **(Section on Legislature)** The Council of Ministers consists of the Prime Minister, designated by the President of the Republic from members of the TGNA, and various ministers nominated by the Prime Minister and appointed by the President of the Republic. Ministers can be dismissed from their duties by the President or upon the proposal of the Prime Minister when deemed necessary. When the Council of Ministers is formed, the government's program is read at the TGNA and a vote of confidence is taken...The fundamental duty of the Council of Ministers is to formulate and to implement the internal and foreign policies of the state. The Council is accountable to the Parliament in execution of this duty. The Constitution also includes national defense in the section related to the Council of Ministers. The Office of the Commander-in-Chief, the Office of the Chief of the General Staff and the National Security Council form the authoritative organizations for national defense...The Prime Minister is responsible for ensuring the Council of Ministers functions in a harmonious manner. He/she supervises implementation of government policy. The Prime Minister is the de facto head of the executive branch. Each Minister is accountable to the Prime Minister who in turn ensures that Ministers fulfill their functions in accordance with the Constitution and its laws." [36i] **(Section on Executive)**

6.02 As recorded by the Jane Sentinel Security Assessment website updated 25 November 2006:

"The Turkish Grand National Assembly (TGNA) is a 550-seat, unicameral body. The parliament can pass legislation over a presidential veto by a simple majority. A parliamentary term may last up to five years but a simple majority can call early elections. The electoral system is based on proportional representation but parties must overcome a 10 per cent threshold to gain representation. Voting is compulsory for everyone over 18, and those who abstain face a very small fine and the loss of the franchise at the following election. The TGNA monitors the Council of Ministers, has the power to enact, amend and abrogate laws and to ratify international agreements, the printing of currency and the declaration of war, as well as debating and passing the Budget and the Bills for Final Accounts." [109a]

NATIONAL SECURITY COUNCIL (MGK) OR (NSC)

6.03 As recorded in 'Political Structure of Turkey':

“The National Security Council consists of the Prime Minister, the Chief of the General Staff [the army], the Minister of National Defense, the Minister of Interior, the Minister of Foreign Affairs, the Commanders of the Army, Navy and the Air Force and the General Commander of the Gendarmerie. The NSC makes decisions related to the determination, establishment and application of national security policy. The Council of Ministers gives priority to National Security Council decisions where measures deemed necessary for the preservation of the existence and independence of the state, the integrity and indivisibility of the country and the peace and security of the society are concerned.” [36i] (Section on Executive)

6.04 The European Commission Turkey 2006 Progress Report noted that:

“There has been progress concerning the competence of military courts to try civilians. Under the law amending the relevant provisions of the Military Criminal Code as adopted in June 2006, no civilian will be tried in military courts in peacetime unless military personnel and civilians commit an offence together. The new law also introduces the right of retrial in military courts. Accordingly, if there is an European Court of Human Rights (ECtHR) decision in favour of military or civilian persons who have been tried before military courts, they can ask for a retrial. The National Security Council (NSC) has continued to meet on a bi-monthly basis in line with its revised role.” [71a] (p7)

6.05 As recorded in the Jane Sentinel Security Assessment website updated 25 November 2006:

“The National Security Council (NSC)...is a powerful body in Turkish politics but its influence has waned after the wave of reforms in 2004. The armed forces can make recommendations to the cabinet through the Council. Historically, this body has been divided sharply between civilians and members in uniform. Recently, however, the Council has met infrequently - once a month or less - and the ongoing fight for power between the two factions has taken place more behind the scenes than in open confrontation. From August 2004, for the first time, a civilian has headed the NSC... Mehmet Yigit Alpogon took up his post as the new civilian secretary general. The NSC is slowly being forced under civilian control, having long been the stronghold of the military and the mechanism through which Turkey's generals have warned the government of impending coups.” [109a]

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LOCAL GOVERNMENT

6.06 The Library of Congress Federal Research Division in their January 2006 country profile of Turkey state that “Turkey is divided into 81 provinces (il), which in turn are divided into districts (ilce) and sub-districts (bucak). Provinces have an average of eight districts each. Sixteen large metropolitan municipalities, about 3,200 smaller towns, and about 50,000 villages have their own local governments.” [110]

- 6.07 The Library of Congress 2006 report further noted that:

“These provinces are administered by governors (vagi), who are appointed by the Council of Ministers with the approval of the president. The governors function as the principal agents of the central government and report to the Ministry of Interior. Districts are administered by sub-governors. Provinces, districts, and local jurisdictions also have directly elected councils. Although local jurisdictions have gained political powers since 1980, the system remains highly centralised. The national government oversees elected local councils in order to ensure the effective provision of local services and to safeguard the public interest; the minister of interior is empowered to remove from office local administrators who are being investigated or prosecuted for offences related to their duties. Several ministries of the national government have offices at the provincial and district levels. An autonomous local administration exists at the level of municipalities (belediye), which elect a mayor and a municipal council. In the villages (köy derneg), the village assembly elects a council of elders (ihtiyar meclisi) and a village headman (mukhtar).” [110]

- 6.08 As noted in a letter from the British Embassy in Ankara to the Home Office, dated 14 September 2005:

“I am responding to a Home Office request for further information on Muhtars in Turkey and any computer system they might use. Muhtars are the elected heads of villages or small towns who are responsible for local administrative matters (e.g. recording births and registering names and addresses of newcomers to their village). Together with my colleague [name omitted], I recently visited two Muhtars’ offices in north eastern Turkey. Both Muhtar offices were very basically equipped and there was no evidence of any kind of computer equipment. In one village, local people told us that they had been without electricity for a year. (Turkish NGOs report that lack of infrastructure, including electricity, is still a problem in outlying areas of Turkey.).” [4g]

- 6.09 As noted in a letter from the British Embassy in Ankara to the Home Office, dated 6 April 2006:

“I am responding to your request for additional information on Muhtars in Istanbul and any computer system they may use. The Istanbul Security Directorate is running a Muhtar computer project which aims to eventually administer the work of all Muhtars from one center. The project began about a year ago and should be completed within a further year. 100 of the 956 Muhtars in Istanbul are currently using the system. Our Consulate in Istanbul was given this information by project administrators at the Istanbul Security Directorate.” [4k]

- 6.10 As noted in the European Commission 2006 report:

“The Law on the Associations of Local Governments was amended in January 2006. This allows villages, municipalities and special provincial administration to undertake joint projects. The expenditure and budgets of the joint projects

became exempt from the Court of Accounts audit. This is not in line with the principles of external audit.” [71a] (p7)

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Human Rights

7 INTRODUCTION

- 7.01 As outlined in the Human Rights Watch (HRW) World Report 2007, published on 11 January 2007:

“The government of Prime Minister Recep Tayyip Erdoğan failed during 2006 to implement key reforms necessary to consolidate the human rights progress of the past years. Entrenched state forces, including the military, continued to resist reform. Illegal armed groups, as well as rogue elements of the security forces, conducted violent attacks that threaten the reform process, although clashes decreased after the Kurdistan Workers’ Party (PKK) declared a ceasefire in October.” [9b]

- 7.02 The US State Department Report (USSD) 2005, published on 8 March 2006, noted that:

“The government generally respected the human rights of its citizens; although there were improvements in a number of areas, serious problems remained. The following human rights problems were reported: some restrictions on political activity; unlawful killings; torture, beatings, and other abuses of persons by security forces; poor prison conditions; arbitrary detention; impunity and corruption; lengthy pretrial detention; excessively long trials; restrictions on freedoms of speech, press, assembly, and association; restrictions on religious freedom; violence and discrimination against women; child abuse; child marriage; trafficking in persons; restrictions on worker’s [sic] rights; child labor.” [5b] (Introduction)

- 7.03 As noted in the European Commission Turkey 2006 Progress Report, published on 8 November 2006:

“The human rights situation in the Southeast raises particular concerns following the violent disturbances that took place in several cities in March and April. Over 550 people were detained as a result of these events, including over 200 children. The Diyarbakir Bar Association submitted more than 70 complaints of ill-treatment to the authorities. Subsequently, investigations were launched into 39 of these claims.” [71a] (p13)

- 7.04 The International Helsinki Federation (IHF) report ‘Human Rights in the OSCE Region’ (Events of 2005), published on 8 June 2006, noted that:

“In the past two years, Turkey has made major modifications to its legislation with a view to protecting human rights and democratizing the country in connection with the EU accession process. In 2004, a paragraph was added to article 90 of the constitution, recognizing the supremacy of international agreements in the area of fundamental rights and freedoms duly put into effect over national law. The criminal justice system was reformed with a series of laws that came into force in June 2005, amending key provisions that had led to the prosecution of peaceful speech and introducing provisions against ‘honor

killings' and the trafficking of women as well as for the protection of children and combating the impunity of officials involved in gross human rights violations".
[10a] (p1)

- 7.05 The Freedom House report 'Freedom in the World 2006', published on 17 January 2007, described Turkey as 'partly free'. Using the following scale of 1 (being the most free) to 7 (being the least free), Freedom House assessed Turkey's political rights as 3 and civil liberties as 3. Turkey struggles with corruption in government and in daily life. The AK Party- 'ak' means 'pure' in Turkish-came to power amid promises to clean up governmental corruption, and it has adopted some anticorruption measures, including ones aimed at combating corruption in public procurement. However, enforcement is lacking, and a culture of tolerance of corruption pervades the general population. Parliamentary immunity prevents prosecution. Transparency has improved through EU reforms, although implementation lags. Turkey was ranked 65 out of 159 countries surveyed in Transparency International's 2005 Corruption Perceptions Index. [62g] The Freedom House 'Global Survey 2007, Freedom in the World (Table of Independent Countries: Comparative Measures of Freedom)', also described Turkey as 'partly free' with the same ratings for political rights and civil liberties. [62f]

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8 SECURITY FORCES

- 8.01 "Turkey Interactive 2005", prepared by the Turkish News Agency for the Office of the Prime Minister of Turkey noted that "The maintenance of law and order and security in the country is under the jurisdiction of the gendarmerie and the police forces which are attached to the Ministry of the Interior." [36a] (p187 **Internal Security**)
- 8.02 As recorded by the chairman Dr. Can Paker of the Executive Board, Turkish Economic and Social Studies Foundation (TESEV) at the launching event of the publication 'Almanac Turkey - Security Sector and Democratic Oversight 2005'
- "The Almanac analyses all units within the Security Sector, their organization, their known and unknown working principles and activities, the civilian authorities they work under, the legal framework and basic approaches within which they operate, and the changes and bottlenecks they went through within the framework of full membership to the European Union, in a contemporary , informative and analytical format. The four forces of the Armed Forces (Land, Air, Naval and Gendarmerie), Police, Coast Guard, Police and Gendarmerie Intelligence units, National Intelligence Organization, Special Anti-Terrorism Units, National Defense Council, the security-related activities of the Turkish Grand National Assembly and the Government, Military Judiciary system, Village Guards, Private Security, the roles of the Civil Society and the Media are studied by experts, in a dynamic and analytical framework in connection with politics, history, social development in Turkey as well as in an international context." [98c]

Intelligence Agency (MIT)

- 8.03 As stated on the website of the National Intelligence Organisation (Milli Istihbarat TeŞkilati - MIT) (website accessed on 19 January 2007):

“The Turkish National Intelligence Organization was founded as a body subordinate to the ‘Prime Ministry’...in accordance with the Constitution, the Cabinet and the Prime Minister are jointly responsible for carrying out the general policy of the Government.” [88] (Section on Duties, Powers and Responsibilities of the MIT)

- 8.04 The Global Security Organisation in their website accessed 19 January 2007 also noted that:

“Intelligence gathering is the primary responsibility of the National Intelligence Organization (Milli Istihbarat Teskilati--MIT), which combines the functions of internal and external intelligence agencies... Military and civil intelligence requirements are formulated by the National Intelligence Coordination Committee. This committee includes members of the staff of the National Security Council, to which it is directly responsible. Nevertheless, a lack of coordination among the intelligence services is said to be a weakness that hampers MIT effectiveness. MIT has no police powers; it is authorized only to gather intelligence and conduct counterintelligence abroad and to uncover communist, extreme right-wing, and separatist--that is, Kurdish and Armenian--groups internally. The MIT chief reports to the prime minister but was in the past considered close to the military. MIT has been charged with failing to notify the government when it became aware of past plots, if not actual complicity in military coup attempts. The organization functions under strict discipline and secrecy. Housing and headquarters offices for its personnel are colocated in a compound in Ankara.” [28]

- 8.05 As recorded in the Turkish Economic and Social Studies Foundation (TESEV) report ‘Almanac Turkey - Security Sector and Democratic Oversight 2005’:

“MIT, the existing intelligence organisation of the Republic of Turkey, was established when the National Intelligence Organisation Law No. 644 took effect on 22 July 1965. With this law, the organisation known as MEH or MAH became MIT...In recent years; the suggestion that MIT focus on foreign intelligence and the police force investigate domestic intelligence affairs frequently arises. MIT is not in favour of these suggestions. As stated in its official website in 2005, it supports the idea that domestic and foreign intelligence must be MIT-run in an integrated fashion.” [98b] (p160-163)

Police

- 8.06 “Turkey Interactive 2005”, prepared by the Turkish News Agency for the Office of the Prime Minister of Turkey noted that:

“The police force carries out its activities under the Directorate General of Security and includes central and provincial organisations. The area of responsibility of the Turkish police is restricted by the municipal borders. Outside these areas, police functions are carried out by the gendarmerie. The Turkish police respect human rights in the fulfilment of all its duties, in conformity with the principles of a contemporary state of law. Within this framework, utmost importance has been placed on training and education. The qualifications of the police force have improved a great deal by raising the level of education and sending a large number of personnel abroad for training”.
[36a] (p187 Internal Security)

- 8.07 The same publication further noted that “The Turkish police force performs its functions by approximately 188,000 personnel, almost 170,000 of them working in security services. Around 10,000 women serve in the police force”. **[36a] (p188 Internal Security)**
- 8.08 The Library of Congress country profile of Turkey 2006 stated that “The national police, under the Ministry of Interior, are responsible for security in urban areas. Under the central directorate of this force are sub-directorates for each province. The exact size of the police force is not known. The 150,000-member paramilitary National Guard, or Jandarma, also under the Ministry of Interior except for wartime situations, is responsible for security outside urban areas about 90 per cent of Turkey’s territory. Jandarma officers come from the military academy, and recruits are conscripted.” **[110] (page 23)**
- 8.09 The US State Department Report (USSD) 2005, published on 8 March 2006, noted that “The courts investigated many allegations of abuse and torture during the year; however, they rarely convicted or punished offenders. When courts did convict offenders, punishment generally was minimal and sentences were sometimes suspended. Authorities typically allowed officers accused of abuse to remain on duty and, in some cases, promoted them during their trial, which often took years.” **[5b] (section 1d)**
- 8.10 The USSD 2005 Report also noted that “During the first six months of the year, prosecutors opened trials against 1,337 security personnel and other public officials on torture or abuse charges. During that period courts reached final verdicts in 531 torture and abuse cases begun in previous years, convicting 232 defendants and acquitting 1,005. Of the convicted officials, 30 were given jail terms, 32 were fined, seven were jailed and fined, and 163 were subject to other punishments.” **[5b] (section 1d)**
- 8.11 The Amnesty International (AI) Annual Report 2006 stated that:
- “Torture and ill-treatment by law enforcement officials continued to be reported, with detainees allegedly being beaten; stripped naked and threatened with death; deprived of food, water and sleep during detention; and beaten during arrest or in places of unofficial detention. However, people detained on suspicion of committing ordinary crimes such as theft or for public disorder offences were particularly at risk of ill-treatment. Reports suggested that there were still many cases of law enforcement officials completely failing to follow

lawful detention and investigative procedures and of prosecutors failing to ascertain that law enforcement officials had complied with procedures.” [12d]

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- 8.12 The AI report for 2006 also noted that “Police also regularly used disproportionate force against demonstrators... particularly targeting leftists, supporters of the pro-Kurdish party DEHAP, students and trade unionists. Often those alleging ill-treatment, particularly during demonstrations, were charged with resisting arrest while their injuries were explained away as having occurred as police attempted to restrain them... In March, in the Saraçhane area of Istanbul, demonstrators gathering to celebrate International Women’s Day were violently dispersed by police, beaten with truncheons and sprayed with pepper gas at close range. Three women were reportedly hospitalised. The scenes drew international condemnation. In December, 54 police officers were charged with using excessive force; senior officers were not charged, but three received a ‘reprimand’ for the incident.” [12d]

OTHER GOVERNMENT FORCES

Jandarma/Gendarmerie

- 8.13 As recorded on the website of the General Command of Gendarmerie, updated on 17 July 2006: “The Gendarmerie of The Republic of Turkey, which is responsible for the maintenance of safety and public order as well as carrying out other duties assigned by laws and regulation, is an armed security and law enforcement force, having military nature...In accordance with Act No 2803 on ‘The Organization, Duties and Powers of The Gendarmerie’, the duties of the gendarmerie fall in four main points as administrative, judicial, military and other duties...The administrative duties cover the activities preventing crime in order to perform the protection, watching, safety and public order” [99] (Section on Duties)
- 8.14 As recorded in the Turkish Economic and Social Studies Foundation (TESEV) report ‘Almanac Turkey - Security Sector and Democratic Oversight 2005’:
- “The basic law concerning the General Command of Gendarmerie (*Jandarma Genel Komutanı*) (JGK) is the Law on the Establishment, Duties and Jurisdiction of Gendarmerie No. 2803, put into effect by the Turkish Grand National Assembly (Türkiye Büyük Millet Meclisi, TBMM) on 3 October 1983... (p99-100) The official headcount of JGK, established in 1839 as a military organisation, stands at 280,000, 80% of which are enlisted under compulsory military service, whereas the unofficial number is probably closer to 300,000... (p101) At any one time, there are 5,000 gendarmerie conducting special missions in Turkey, such as protecting television transmitters belonging to Turkish Radio and Television Corporation... 11,773 gendarmerie, around 10,000 of which are enlisted as part of the compulsory military service, are responsible for providing security, on the 397 kilometers-long Iraqi border as well as for parts of the Iranian and Syrian borders.” [98b] (p102)

- 8.15 The same 2005 TESEV report further notes that:

“The gendarmerie executes its duties with officers, petty officers, special officers, non-commissioned officers and soldiers who are trained in the school of the gendarmerie and associated training units. Gendarmerie schools train officers who have graduated from the military academy as well as petty officers who have earned the right to become officers by means of outstanding achievement, in accordance with the services provided by the gendarmerie. Petty and special officers are also trained and educated by these bodies.” [98b] (p103)

Village Guard

- 8.16 As recorded in the Turkish Economic and Social Studies Foundation (TESEV) report published in May 2006:

“The position of provisional village guards (geçici köy korucusu) was created on 26 March 1985 through a clause added by Law no. 3175 to the 1924 Village Law (Law no. 442). They were hired pursuant to the decision of the cabinet of ministers, at the request of the interior ministry. Currently, this practice is in effect in 22 provinces. Not much is publicly known about the principles on which provisional village guards are hired and fired and what their duties precisely entail, since the Implementing Regulation (Yönetmelik) on Law no. 3175 is classified on the grounds that it pertains to ‘national security’. According to the interior ministry, as of 7 April 2006 there were 57,174 provisional village guards in the region. In addition, there are also voluntary village guards (gönüllü köy korucusu), or civilians who volunteer to become village guards with the stated purpose of protecting themselves and their families against the PKK.” [98a]

- 8.17 The same (TESEV) 2006 report further added that:

“In principle, the hiring of both provisional and voluntary village guards was discontinued in accordance with a government decree in 2000. However, a recent local news account reported that 650 voluntary village guards had been hired in the Sason district of Batman. In response to the TESEV Working Group’s query, an interior ministry official said that ‘these people had volunteered to protect their villages themselves’, that the sub-provincial governor’s office had merely registered their names, and that they were not provided with firearms. According to the interior ministry, 5,139 provisional village guards ‘committed crimes’ between 1985 and April 2006, and 868 of them were arrested.” [98a]

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- 8.18 Furthermore the TESEV 2006 report noted that:

“Despite all the evidence about criminal incidents involving the village guards, there is no indication that the government is planning to disarm the village guards and abolish the village guard system. Overall, the interior ministry’s

position is that the village guard system is necessary to guarantee the security of returning IDPs. This is in contrast to the position of many civil society organisations which identify the village guards as a security concern for IDPs and returnees because of the numerous human rights abuses committed by provisional village guards in the past.” [98a]

- 8.19 As noted in the Human Rights Watch document ‘Turkey: Letter to Minister Aksu calling for the abolition of the village guards’ published on 8 June, 2006:

“The Turkish government must take immediate steps to abolish the system of village guards, which has given rise to some of the most serious human rights violations in southeast Turkey, and continues to present an obstacle to the return of displaced villagers in that area. In the past three-and-a-half years village guards have killed at least thirteen unarmed villagers, and attacked many others. Continuing violations are severely hindering resolution of the problem of widespread internal displacement in the southeast: the threatening presence of village guards is deterring displaced people from returning to their former homes; village guards occupy displaced persons’ houses or land; and displaced villagers fear that on return they will again be put under pressure to join the village guards. There is no legal requirement to join the village guard corps, but security forces often make village guard service an informal requirement for return.” [9d]

- 8.20 On 4 August 2006, BBC News published an article stating that the Village Guard was set up originally as a temporary militia group 22 years ago. They are still operating with more than 58,000 members. “It is a system which has long been criticised by human rights organisations for exacerbating mistrust and ethnic divisions in an already troubled region.” [66d]

Torture

- 8.21 According to the Turkish Constitution, the use of torture is prohibited, everyone has the right to life and the right to protect and develop his material and spiritual entity. Article 17 states that “no-one shall be subjected to torture or ill-treatment; no-one shall be subjected to penalty or treatment incompatible with human dignity”. [15]

- 8.22 The US State Department Report (USSD) 2005, published on 8 March 2006, noted that:

“The law prohibits such practices; however, members of the security forces continued to torture, beat, and otherwise abuse persons regularly. Incidents of torture and abuse declined during the year but remained widespread. Courts rarely convicted security officials accused of torture and tended to issue light sentences when they did convict. According to the HRF, there were 657 credible cases of torture or abuse reported at its 5 national treatment centers through November. Of these, 180 cases involved torture or abuse inflicted during the year; the rest involved incidents that occurred previously. A number of human rights observers claimed that only a small percentage of detainees reported torture and abuse because they feared retaliation or believed that complaining was futile.” [5b]

- 8.23 The International Helsinki Federation for Human Rights (IHF) (Events of 2005), published on 8 June 2006 noted that:

“Since 2003, the government has officially promoted a policy of ‘zero tolerance’ against torture and ill-treatment. The measures against torture and ill-treatment included eliminating obstacles to the prosecution of officers charged with such offences and to measures to reduce or suspend penalties decided for such officers. New safeguards were put in place to ensure the right of detainees to access medical and legal assistance. The Regulation on Apprehension, Detention and Statement Taking, amended in January 2004, improved the protection of the rights of detainees. European Committee for the Prevention of Torture (CPT) commented in a report published in 2005 that the legislative framework in Turkey was capable of effectively preventing torture, but there was a need to enforce the rules in practice. Despite the legislative improvements introduced in the past two years, Turkey’s laws and practices in 2005 still fell short of international standards for the protection of human rights.” [10a] (p434)

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- 8.24 As noted in the summary of the HRW report ‘Turkey - First Steps Toward Independent Monitoring of Police Stations and Gendarmeries’, published on 6 March 2006:

“In Turkey’s campaign efforts to eradicate torture, a new program in which provincial human rights bodies monitor local police stations can play a critical safeguard role, but this monitoring needs to be independent and more widespread. Since early 2005, a countrywide network of provincial human rights boards operating under the prime minister’s office has begun to pay both announced and unannounced visits to local police and gendarme stations to ensure that they have implemented safeguards against the torture and ill-treatment of detainees.” [9c]

- 8.25 The 2006 HRW report further noted that:

“In recent years, the Turkish government has introduced a number of reforms aimed at protecting detainees from torture and ill-treatment. The Turkish government took two significant steps to open up police stations to independent monitoring. First, it signed the Optional Protocol to the United Nations Convention Against Torture, thereby committing itself to set up ‘a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.’ Secondly, the countrywide network of human rights boards began to make visits to police stations, as an interim measure until a permanent monitoring system can be established based on commitments under the Optional Protocol.” [9c]

- 8.26 The same 2006 HRW report also stated that:

“The human rights board monitoring system is still at an experimental stage, and additional steps are needed in order to ensure that it fulfills its potential to help combat torture. Human Rights Watch made a number of recommendations to the Turkish government. To increase the independence of the boards, the government should encourage bar and medical association delegates to take the lead in monitoring activities, provide the boards with resources independent of the local governors (who are responsible for the police within the province), and invite human rights NGOs (such as Mazlum-Der and the Human Rights Association) to assist boards in visiting activities as consultants.” [9c]

8.27 The European Commission 2006 report stated, “Overall, the Turkish legal framework includes a comprehensive set of safeguards against torture and ill-treatment. Cases of torture and ill-treatment declined over the reporting period. However, concerns remain regarding cases outside detention centres, human rights violations in the Southeast and the problem of impunity.” [71a] (p14)

8.28 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey from 7 to 14 December 2005 and their report issued on 6 September 2006 noted that:

“New Criminal and Criminal Procedure Codes, as well as a revised version of the Regulation on Apprehension, Detention and Statement Taking, entered into force on 1 June 2005. These texts have consolidated improvements which had been made in recent years on matters related to the CPT’s mandate. It is more than ever the case that detention by law enforcement agencies (police and gendarmerie) is currently governed by a legislative and regulatory framework capable of combating effectively torture and other forms of ill-treatment by law enforcement officials. From both the delegation’s discussions with detained persons and its own on-site findings, it would appear that progress continues to be made as regards the implementation in practice of the safeguards against ill-treatment provided for by law.” [13a] (section 3 paragraph 21)

8.29 The CPT 2006 report also noted that:

“However, the picture which emerges from the information gathered by the CPT’s delegation is not entirely reassuring. The delegation did receive, in each of the three Provinces visited, several allegations of recent physical ill-treatment during police/gendarmerie custody, in a few cases of a serious nature. Further, a number of complaints were heard of physical ill-treatment at the time of apprehension and/or in the context of public demonstrations; indeed, there would appear to be a continuing problem of the disproportionate use of force on such occasions. Medical evidence consistent with some of the above-mentioned allegations was found in the end-of-custody medical reports and/or in medical reports drawn up on entry into prison. Further, in several cases, medical members of the delegation observed themselves injuries consistent with allegations made.” [13a] (section 2 paragraph 18)

8.30 The CPT 2006 report continued:

“The information gathered during the CPT’s December 2005 visit would indicate that the curve of ill-treatment by law enforcement officials remains on the decline. However, there are clearly no grounds for complacency, all the more so as reports continue to appear of ill-treatment by law enforcement officials in different parts of the country. The CPT trusts that the Turkish authorities will continue to pursue vigorously their efforts to combat all forms of ill-treatment by law enforcement officials.” [13a] (section 2 paragraph 20)

- 8.31 As outlined in the Human Rights Watch (HRW) World Report 2007, published on 11 January 2007, “Reports of torture and ill-treatment remain much lower than in the mid-1990s. However, during the March disturbances in Diyarbakır, hundreds of people were detained and allegedly tortured, including approximately two hundred children. Almost all those detained during this time reported being beaten, stripped of their clothes, hosed with cold water, or deprived of food.” [9b]

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TURKISH ARMED FORCES (Türk Silahlı Kuvvetleri, TSK)

- 8.32 The Turkish General Staff website updated on 15 August 2006 noted:

“The Armed Forces of the Turkish Republic having great geopolitical and geostrategic importance comprise the Army, Navy and Air Force that are subordinate to the Turkish General Staff. The General Command of Gendarmerie and the Coast Guard Command, which operate as the parts of internal security forces in peacetime, are subordinate to the Land and Naval Forces Commands, respectively in wartime... General Hilmi Özkok the 24th Commander of the Turkish Armed Forces retired on 30 August 2006 and the 25th new Commander of the Turkish Armed Forces is now Yaşar Büyükanıt.” [106]

- 8.33 As recorded in Europa World online, Turkey: Defence (website accessed on 18 July 2006), “The total strength of the active armed forces at 1 August 2004 was 514,850 (including 391,000 conscripts), comprising an army of 402,000, a navy of 52,750 and an air force of 60,100. There was a gendarmerie numbering 150,000 and a coast guard of 2,200. Reserve forces totalled 378,700 in the armed forces and 50,000 in the gendarmerie.” [1e] (Turkey: Defence)
- 8.34 The Library of Congress 2006 report on Turkey noted that “Turkey’s armed forces, the second largest in the North Atlantic Treaty Organization (NATO), are mainly made up of conscripts commanded by a cadre of professional soldiers. In 2005 the army had 402,000 active personnel, the navy had 52,750 active personnel, and the air force had 60,100. Of the active personnel, about 391,000 were conscripts, mainly in the army. In addition, some 379,000 were in the reserves and 150,000 in the national guard.” [110] (page 21)

Discrimination in the armed forces

8.35 The War Resisters International 2005 document stated that “There have been regular reports of Kurdish conscripts in particular being subjected to discriminatory treatment, especially when they are suspected of having separatist sympathies. Different sources make different assessments of the extent to which Kurdish conscripts face discriminatory treatment within the armed forces.” [53a] (Section on Draft evasion)

8.36 As reported by the *Turkish Daily News* on 13 August 2005:

“A military court’s decision to sentence a gay Turkish conscientious objector to a record four-year prison term is a ‘political sentence’ and actually serves only to intimidate all conscientious objectors as well as homosexuals in Turkey, his lawyers claimed yesterday. Mehmet Tarhan, a pacifist and gay rights activist who refused to serve his compulsory military service, was arrested in April [2005] and interned in a military prison in the central Anatolian province of Sivas... In June [2005] a judge ordered his release because he had already served the minimum three-month term of imprisonment and returned to his army unit. However, Tarhan was subsequently charged by the Turkish Military Penal Code (TACK) with Article 88, namely, ‘Insubordination in front of the unit,’ which carries a penalty of between three months and five years’ imprisonment. The court duly dealt with the original offense and the second one – Article 88 – and sentenced Tarhan to a four-year and a two-year sentence of imprisonment to run concurrently. The defendant’s lawyers announced they have appealed both sentences.” [23ai]

8.37 As noted in an Amnesty International public statement of 9 December 2005:

“Amnesty International is gravely concerned for the health and safety of conscientious objector Mehmet Tarhan, 27, who is currently serving a four-year sentence in Sivas military prison on two charges of insubordination after refusing to do his military service. During his imprisonment, Mehmet Tarhan has allegedly undergone severe ill-treatment. Furthermore, he is now facing a possible forced physical examination which would amount to cruel, inhuman and degrading treatment, as well as a breach of his right to privacy. Amnesty International considers Mehmet Tarhan to be a prisoner of conscience and calls for his immediate and unconditional release.” [12f]

8.38 The AI public statement of December 2005 continued:

“Amnesty International received reports that on 30 September 2005, a prison officer accompanied by at least three guards forcibly cut Mehmet Tarhan’s hair and shaved his beard against his will while he was held down by at least seven people. The incident reportedly left Mehmet Tarhan in great pain in his neck, hands, left arm and left foot, and unable to turn his head fully. Furthermore observers reported that he had bruises on his limbs. On 1 October 2005, Mehmet Tarhan was reportedly transferred to a military hospital against his will and examined by two military doctors. However, following the examination, which appears to have been cursory (allegedly lasting 10 minutes), he was apparently given a medical report stating that there were no signs of beating on his body and sent back to the military prison. Such an examination would be in

clear contravention of the Istanbul Protocol, which stipulates that medical examinations should be thorough and carried out by civilian doctors. Following this incident, Mehmet Tarhan initiated a second hunger strike in protest at the prison authorities' ill-treatment of him, and against the cramped, unhygienic conditions in which he was allegedly being held. According to reports, he was held in a small, dirty cell without windows, and was sometimes held in solitary confinement and denied his rights to make phone calls, receive reading materials and letters or see visitors for up to 15 consecutive days... Mehmet Tarhan reportedly ended his 34-day hunger strike on 2 November 2005 after the meeting of his demands for legal action to be taken against those who forcibly held him down and shaved him, and for equal treatment to that of other prisoners." [12f]

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- 8.39 As reported on 31 December 2005 on the website of the gay group Kaos GL (quoting 365Gay.com):

"Turkish LGBT rights groups have appealed to the European Union to investigate the treatment of a gay pacifist jailed for refusing to serve in the military. In a letter to the Members of the European Parliament the groups - Kaos, Lambda Istanbul, and Rainbow Antalya - say that Mehmet Tarhan is facing an anal examination to prove he is gay. There are allegations that prison guards have encouraged other prisoners to repeatedly beat, humiliate and threaten Tarhan with death, even in front of his lawyer. He was first jailed on April 8 [2005]. When he appeared in court in June human rights observers said Tarhan could not walk properly and his body was covered in bruises." [96a]

- 8.40 Kaos GL also reported that:

"Under Turkish military law homosexuality is considered a psychosexual disorder and those who have this 'pathology' are considered 'unfit to serve' in the Turkish Armed Forces. But, exemption from military service on the grounds of homosexuality is an [sic] extremely difficult and humiliating. One is required to submit photographs or videos graphically displaying sexual intercourse with another man and/or submit to an anal examination that supposedly yields proof of passive anal sex. Even so there is no guarantee of being exempted from service." [96a]

- 8.41 On 10 March 2006 Turkish War Resisters International reported that conscientious objector Mehmet Tarhan had been unexpectedly released from military prison in Sivas, following an order of the Military Court of Appeal in Ankara who had to deal with appeals against the decision of the Sivas Military Court from 15 December 2005.

"The court gave as reason that, in case Mehmet Tarhan would be finally sentenced, the sentence would unlikely be higher than what he had already served...The decision is a surprise, because normally the Court of Appeal does not have the power to order the release of a prisoner - it can only refer the case back to the military court, and judge on the validity of a ruling by a military court.

After his release from the military prison in Sivas, Mehmet Tarhan was brought to the recruitment office in Sivas, where he was given an order to present himself to his military unit. Mehmet Tarhan did not follow this order, and is presently visiting his family. This means that soon he will be officially classified as 'deserter', and could be re-arrested any time. The procedure is very similar to the case of Osman Murat Ülke, who recently won his case at the European Court of Human Rights in Strasbourg. It can be assumed that the Court of Appeal reacted to the pressure created by the decision of the European Court of Human Rights in the case of Osman Murat Ülke... Mehmet Tarhan is now in exactly the same situation. Although released from prison, he faces a 'clandestine life amounting almost to 'civil death', unless Turkey finally recognise [sic] the right to conscientious objection and solves a backlog of almost 80 existing conscientious objectors." [53b]

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8.42 The USSD 2005 report recorded that:

"Reports by Mazlum-Der, the media, and others indicated that the military sometimes dismissed religiously observant Muslims from military service. Such dismissals were based on behavior that military officials believed identified these individuals as Islamic fundamentalists, which they were concerned could indicate disloyalty to the secular state. According to Mazlum-Der, the military charged individuals with lack of discipline for activities that included performing Muslim prayers or being married to women who wore headscarves. According to the military, officers and NCOs were sometimes dismissed for maintaining ties to what the military considered to be Islamic fundamentalist organizations, despite repeated warnings from superior officers. In February [2005] a military court reportedly dismissed the deputy commander of the Jandarma command in Ardahan for worshipping at a mosque while wearing his uniform." [5b] (Section 2c)

See also Section 9:10 [Conscientious objectors](#) (Vicdani Retci)

Extra-judicial killings

8.43 For the year 2005, the Human Rights Association (HRA/IHD) recorded 225 extra-judicial executions/deaths as a result of torture/deaths in detention/killings by village guards. (Letter from the British Embassy in Ankara to the Home Office dated 6 April 2006 providing data from the Human Rights Association's Annual Report 2005) [41]

8.44 The European Commission 2006 report recorded that:

"The Turkish Armed Forces Internal Service Law remains unchanged. This defines the role and duties of the Turkish military and contains articles granting the military a wide margin of manoeuvre. Similarly, as reported last year, Article 2a of the NSC Law provides a broad definition of national security. No measures have been taken to enhance civilian control over the Gendarmerie. This is part of the army and operates under the General Staff as well as

under the Ministry of Interior in terms of law-enforcement duties.

In March, a draft report of the Şemdinli Investigation Commission of Parliament revealed the existence of a secret protocol on Security, Public order and Assistance Units (commonly called EMASYA). Signed by the General Staff and the Ministry of Interior in 1997, this protocol allows for military operations to be carried out for internal security matters under certain conditions without request from the civilian authorities. Under the protocol, the military can gather intelligence against internal threats.” [71a] (p7-8)

- 8.45 The Amnesty International (AI) report “No impunity for state officials who violate human rights” noted in May 2006 that:

“Amnesty International considers that the bombing of a bookshop in the southeast town of Semdinli on 9 November 2005 raises fundamental questions about human rights violations allegedly perpetrated by the Turkish security forces in the course of counter-terror operations; and that the incident casts serious doubts on the will of the Turkish authorities to ensure that allegations of grave human rights violations – in particular those allegedly committed by members of the security forces – are promptly, thoroughly and impartially investigated and the alleged perpetrators brought to justice.” [12n]

- 8.46 The same AI report further noted that:

“Amnesty International is concerned that to date, in spite of such assurances by the Prime Minister, the criminal investigation into the bombing and its circumstances has been mired by the interference of senior government, state and military officials, and that the recent decision by the Higher Council of Judges and Prosecutors to dismiss from office the prosecutor who prepared the indictment constitutes a flagrant assault on the independence of the prosecution in Turkey today. The organization is seriously concerned that the impact of such interference may have a chilling effect on the proper administration of justice in this and any other similar cases.” [12n]

- 8.47 As outlined in the Human Rights Watch (HRW) World Report 2007, published on 11 January 2007 noted that:

“There was a sharp increase in indiscriminate and disproportionate use of lethal force by security forces in dealing with protestors, as well as during normal policing. In March youths attending the funerals of PKK militants clashed with police, throwing stones and petrol bombs. During the ensuing street battles in Diyarbakır and other cities police fired bullets, gas grenades, and stones at rioters, killing eight people, including innocent bystanders and four children under 10 years of age. In other incidents during 2006, police shot and killed 13 persons either in error or because they were deemed not to have heeded orders to stop. Instead of conducting an inquiry into the use of lethal force resulting in these deaths, in June the government amended the Anti-Terror Law, authorizing security forces to use weapons directly and without delay.” [9b]

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9 MILITARY SERVICE

- 9.01 The Freedom House report, 'Countries at the Crossroads 2005 – Turkey', noted that:

"The military holds a special place in the Turkish republic. Since Turkey's first military coup, in 1960, it has acted as the guarantor of Turkey's secularism, territorial integrity, and government functioning. While it has never stayed in power long, it used the first and subsequent coups, in 1971 and 1980, to increase its autonomy and enhance its role during civilian rule...Reducing the political influence of the military has been a prime concern of the EU. Beginning with the 2001 constitutional amendments, Turkey has confined the NSC to an advisory role with, as of August 2004, a civilian at its head; it has removed the military members from the higher education council and RTUK; and it has increased transparency and parliamentary oversight of military expenditures. The military is still not entirely subservient to the ministry of defense, and its budget remains disproportionately high...Public trust in the military is strong, and military schools are among the best in the country, thus contributing to the continued power and prestige of this institution." [62c] (p8)

- 9.02 According to Article 1 of the Military Act No.1111 (1927) every male Turkish citizen is obliged to carry out military service. [21] (p1) The length of military service is 15 months. University graduates may perform 8 months' military service, or 12 months if they are trained to become reserve officers. All men between the ages of 19 and 40 are liable for military service. Men who have not fulfilled their military service by the age of 40 and who have not been legally exempt from service, may still be called up after the age of 40. [53a]

- 9.03 Furthermore the 'Refusing to Bear Arms: A world-wide survey of conscription and conscientious objection to military service' (Turkey: 2005 update) by War Resisters International states:

"Different military service regulations apply for Turkish citizens who are living abroad. They can postpone their service up to the age of 38, for a period of three years at a time. Turkish citizens living abroad may also partially buy themselves out of military service by paying a sum of 5,112 Euros. However, in this case they still need to perform a one-month military service. Turkish citizens who live abroad and who possess dual nationality may get legally exempt from service, on the condition that they lived abroad before the age of 18 and that they performed military service in another country. Exemption on this ground is only possible if the length of military service that has been performed in another country is considered to be comparable to the length of service in Turkey." [53a]

- 9.04 The website "All about Turkey" on the Turkish Army however noted that:

"Military service in Turkey is compulsory for all male citizens between 20 - 41 years of age (with some exceptions such as handicapped, or mentally ill, or not healthy people). For Turkish citizens who have lived or worked abroad for at least 3 years, a basic military training of 3 weeks is offered instead of the full-

term military service if they pay a certain fee in foreign currency (was 10.000 old German Marks, equal to 5.112 Euros of today). [114]

DEFERRING MILITARY SERVICE

9.05 According to Article 35 of the Military Act No.1111 (1927) a number of provisions allow people liable to military service to defer their service, principally for educational reasons. In accordance with Article 35c, military service for those attending a school in Turkey or abroad is deferred until the end of the year in which they reach 29. Under Article 35e, the military service of university graduates who attend a postgraduate programme is deferred until the end of the year in which they reach the age of 33. Furthermore, for those post-graduate students whose studies in local or foreign post-graduate programmes are proved to be an innovation or development in the respective field of study, military service is postponed to the end of the year in which they reach the age of 36. [21] (p13-14)

9.06 As recorded on the website of the Turkish Ministry of National Defence (undated, website accessed on 13 February 2006):

“All recruitment procedures of our citizens, (residing abroad with the title of employee, employer, craftsmen or any other profession having the working or residence permit), such as final military roll call, summons and conscription can be postponed by the Ministry of National Defence until the end of the year they completed the age of 38 (until December 31st of the year they completed the age of 38)...The military service of the undergraduate and postgraduate students who work as part time workers and as workers who are not subject to income tax and whose residence and working permit are given due to their status as students, can not be deferred.” [100] (Section on Deferments)

9.07 The Turkish government has never considered introducing legislation on conscientious objection. A brochure published by the armed forces in 1999 in fact stated: “In our laws there are no provisions on exemption from military service for reasons of conscience. This is because of the pressing need for security, caused by the strategic geographic position of our country and the circumstances we find ourselves in. As long as the factors threatening the internal and external security of Turkey do not change, it is considered to be impossible to introduce the concept of ‘conscientious objection’ into our legislation”. [53a]

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EVASION OF MILITARY SERVICE AND PUNISHMENT

9.08 As recorded in the report ‘Refusing to Bear Arms: A world-wide survey of conscription and conscientious objection to military service’ (Turkey: 2005 update) by War Resisters International:

“Draft evasion (asker kacagi) and desertion are widespread. The exact number of draft evaders is not known, but the number is estimated to be approx. 350,000. Draft evasion is prompted by the risk of being sent to serve in South

Turkey and poor conditions and human rights violations within the armed forces...Draft evasion and desertion are punishable under the Law on Military Service and the Turkish Military Penal Code. Turkish law actually makes a distinction between evasion of military registration, evasion of medical examination, evasion of enlistment and desertion. According to Article 63 of the Penal Code, draft evasion is punishable (in peacetime) by imprisonment of:

- One month for those who report themselves within seven days;
- Three months for those who are arrested within seven days;
- Between three months and one year for those who report themselves within three months;
- Between four months and 18 months for those who are arrested within three months;
- Between four months and two years for those who report themselves after three months;
- Between six months and three years for those who are arrested after three months;
- Up to ten years' imprisonment in the case of aggravating circumstances, such as self-inflicted injuries using false documents (Articles 79-81 of the Penal Code).

Desertion is punishable under Articles 66-68 of the Penal Code with up to three years' imprisonment. Deserters who have fled abroad may be sentenced to up to five years' imprisonment, and up to ten years in case of aggravating circumstances (Article 67)." [53a] (Section on Draft evasion)

- 9.09 As recorded in the 2005 updated report by War Resisters International, "Draft evasion is prompted by the risk of being sent to serve in South Turkey and poor conditions and human rights violations within the armed forces. There have been regular reports of Kurdish conscripts in particular being subjected to discriminatory treatment, especially when they are suspected of having separatist sympathies." [53a] (Section on Draft evasion)

CONSCIENTIOUS OBJECTORS (VICDANI RETCI)

- 9.10 As noted in an Amnesty International public statement of 9 December 2005:

"Conscientious objection is not recognized in Turkish law...In Turkey it is compulsory for all men between the ages of 19 and 40 to do military service for 15 months. Amnesty International is concerned that the right to conscientious objection is not legally recognized by the authorities, and provisions do not exist for an alternative civilian service for conscientious objectors... In recent years in Turkey there have been a small number of conscientious objectors who have publicly stated their refusal to carry out military service. They are usually subject to criminal prosecution." [12f]

- 9.11 The War Resisters International 2005 document noted that:

"The right to conscientious objection is not legally recognized. Although Article 24.1 of the 1982 Constitution guarantees the right to freedom of conscience, the Constitution does not widen this to include the right to conscientious objection

to military service. In 1991, the Turkish Constitutional Court explicitly ruled that the freedom of conscience mentioned in Article 24 does not include the right to conscientious objection to military service.” [53a] (Section on Conscientious objection)

9.12 The War Resisters International 2005 document further noted:

“Since the 1990s, there are a small number of COs who publicly state that they refuse to perform military service for non-religious, pacifist reasons. The Turkish language actually makes a distinction between conscientious objectors (*vicdani retci*) and draft evaders (*asker kacagi*)... Between 1995 and 2004 approx. 40 men have openly declared themselves as conscientious objectors, mostly by making a public statement or giving media interviews about their reasons for refusing military service. COs may be punished under Article 63 of the Turkish Military Penal Code for avoiding military service. COs who attract media attention or publish articles about their refusal to perform military service may also be punished to between six months’ and two years’ imprisonment under Article 318 of the Turkish Criminal Code for ‘alienating the people from the armed forces’. In 2004, a new Criminal Code was introduced (Law No 5237). Under the previous Criminal Code, ‘alienating people from the armed forces’ was punishable under Article 155 with a similar term of imprisonment...In recent years, it appears that the Turkish authorities have refrained from harsh punishment of COs. This may have been caused by the fact that previous trials of COs attracted considerable (international) attention and the Turkish authorities may wish to avoid further attention for the issue of conscientious objection. However, as long as there are no legal provisions for their right to conscientious objection, the legal position of CO’s remains vulnerable and they may still be subject to criminal prosecution. In 2004 there were five known cases of COs.” [53a] (Section on Conscientious objection)

9.13 Under Article 8 of Turkish Nationality Law No. 403 (1964), Turkish citizenship may be restored even if the individual concerned is not residing in Turkey at that point in time. [26a] (p3)

9.14 As reported by the *Turkish Daily News* on 25 January 2006:

“The European Court of Human Rights ruled yesterday that Turkey had violated the rights of a Turkish citizen who was the first conscientious objector in the country to openly declare his refusal to perform compulsory military service for reasons of conscience. In the matter of the complaint filed by Osman Murat Ülke, the Strasbourg-based court decided that Turkey had violated Article 3 of the European Convention on Human Rights concerning the prohibition of inhumane or degrading treatment and ruled that Turkey pay 11,000 euros in financial compensation to the complainant.” [23x]

9.15 As mentioned in a press release of the European Court of Human Rights published on 24 January 2006 on the website of the Council of Europe (COE):

“The Court noted that, despite the large number of times the applicant had been prosecuted and convicted, the punishment had not exempted him from the obligation to do his military service. He had already been sentenced eight times

to terms of imprisonment for refusing to wear uniform. On each occasion, on his release from prison after serving his sentence, he had been escorted back to his regiment, where, upon his refusal to perform military service or put on uniform, he was once again convicted and transferred to prison. Moreover, he had to live the rest of his life with the risk of being sent to prison if he persisted in refusing to perform compulsory military service.” [29a]

9.16 The ECHR continued:

“The Court noted in that connection that there was no specific provision in Turkish law governing penalties for those who refused to wear uniform on conscientious or religious grounds. It seemed that the relevant applicable rules were provisions of the military penal code which made any refusal to obey the orders of a superior an offence. That legal framework was evidently not sufficient to provide an appropriate means of dealing with situations arising from the refusal to perform military service on account of one’s beliefs. Because of the unsuitable nature of the general legislation applied to his situation the applicant had run, and still ran, the risk of an interminable series of prosecutions and criminal convictions.” [29a]

See also Section 8:35 [Discrimination in Armed Forces](#)

Posting after completion of basic training

9.17 The Netherlands report 2001 stated that “Every conscript’s unit for posting after his basic training is determined by computer by the Directorate for the Recruitment of Conscripts in the Ministry of Defence. The place of subsequent posting depends upon the basic training undergone, the place of registration and possible criminal record.” [2b] (p19) “Anyone who has been convicted of theft is therefore very unlikely to be placed in a unit responsible for managing an arms depot. Among others, spokesmen for the Turkish human rights association IHD and various military sources say that they do not believe that a record of past criminal offences, whether or not of a political nature, results in an extra-harsh posting by way of additional punishment.... Spokesmen for the IHD also consider it unlikely that conscripts are screened on the basis of ethnic origin or religious or political convictions for the purpose of deciding on subsequent postings.” [2b] (p21)

9.18 The War Resisters International report noted that:

“For years, the Turkish armed forces have been involved in heavy fighting with the PKK in South Eastern Turkey. In 1999 a ceasefire was agreed between the Turkish government and the PKK, but the situation has remained tense ever since. All conscripts may be sent to serve in South Eastern Turkey as postings of conscripts are usually decided at random by computer. There is a sizeable group of conscripts of Kurdish origin who refuse to perform military service because they do not want to fight against their own people. Many Kurdish draft evaders have, in fact, left Turkey and applied for asylum abroad.” [53a] (Section on Draft evasion)

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10 JUDICIARY

See also [Annex D](#) “Administration of justice” and [Annex E](#) for a comprehensive description of the Court system in Turkey

ORGANISATION

- 10.01 As recorded in ‘Political Structure of Turkey’ (dated November 2005, website accessed 11 July 2006):

“Judicial power in Turkey is exercised by independent courts and supreme judiciary organs. The judicial section of the Constitution, with the principle of a legal state as its basis, is founded on the independence of the courts and the judges, and the guarantee of judges’ rights. Judges rule on the basis of Constitutional provisions, law and jurisprudence. The legislative and executive organs must comply with the rulings of the courts and may not change or delay the application of these rulings. Judges also assume the duties of monitoring elections. Functionally, a tripartite judicial system has been adopted by the Constitution and accordingly, it has been divided into an administrative judiciary, a legal judiciary and a special judiciary. The Constitutional Court, the Supreme Court of Appeals, the Council of State, the Supreme Military Court of Appeals, the Supreme Military Administrative Court and the Court of Jurisdictional Conflicts are the supreme courts mentioned in the judicial section of the Constitution. The Supreme Council of Judges and Public Prosecutors and the Supreme Council of Public Accounts are also two organizations having special functions in the judicial section of the Constitution.” [36i] (Section on Judiciary)

- 10.02 As noted in the European Commission report 2004:

“Since 1999, some important improvements have been made to the Turkish judicial system. The State Security Courts have been abolished and replaced by Regional Serious Felony Courts (also referred to as Heavy Penal Courts). New specialised courts have been set up in order to improve the efficiency of the judicial system. Legal amendments have improved the rights of defence. A Justice Academy has been established and training on international law and human rights for judges and prosecutors has been intensified.” [71c] (p23-p24)

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- 10.03 The EC 2006 report however noted that:

“The authorities have been focusing on the implementation of the new Penal Code, the Code of Criminal Procedure and the Law on Enforcement of Sentences following the entry into force of these laws in 2005. In this respect, the Ministry of Justice updated all existing circulars by issuing some 100 new circulars mainly addressed to public prosecutors in January 2006. This action aimed to create a clearer and more concise framework for the implementation of the new Code of Criminal Procedure and the Law on Enforcement of

Sentences. One circular of particular importance concerns the implementation of legislation on arrest, detention and statement taking and the prevention of human rights violations during these practices. This circular underlines the duty of prosecutors to monitor the situation of detainees through regular visits to places of detention. It also requires prosecutors to report periodically to the Ministry of Justice on implementation by law enforcement authorities. Two circulars were issued by the Ministries of Interior and Justice in November 2005 and January 2006, respectively, to clarify the interaction between prosecutors and the judicial police.” [71a] (p8)

10.04 The EC 2006 report further stated that:

“During the year 620 new judges were recruited. Training activities continued to ensure implementation of the reforms carried out in the last three years. The budget of the Ministry of Justice was increased and the programme of building Courts of First Instance continued. The establishment of Regional Courts of Appeal is proceeding. However, a number of issues remain to be addressed. Certain provisions of the Penal Code, in particular Article 301, have been used to restrict the expression of non-violent opinions...” [71a] (p9)

INDEPENDENCE

10.05 The EC 2006 report further noted that:

“With regard to the independence of the judiciary, various provisions of the Turkish Constitution and of domestic law guarantee this principle. However, a number of factors are perceived as undermining it. Judges and public prosecutors are attached to the Ministry of Justice as far as their administrative functions are concerned. The High Council of Judges and Prosecutors, the supreme governing body of the judiciary, does not have its own secretariat, separate premises and budget. The judicial inspectors, who are responsible for evaluating the performance of judges and prosecutors, are attached to the Ministry rather than to the High Council. The Minister and the Undersecretary of the Ministry of Justice are two of the seven members of the Council with voting rights. The remaining five are appointed among judges of the Court of Cassation and the Council of State. This composition does not seem to be representative of the judiciary as a whole and, together with the other issues listed above, may create the potential for the executive to influence decisions relating to the careers of judges in Turkey, provided that the executive is present.” [71a] (p9)

10.06 The EC 2006 report continued:

“Questions were raised on the independence of the High Council of Judges and Prosecutors in the aftermath of the publication in March 2006 of the indictment on the Şemdinli bombing... which included accusations against the Land Forces Commander and other high-ranking military commanders. The General Staff criticised the indictment in a press statement and urged those bearing constitutional responsibility to take action. In April the High Council of Judges and Prosecutors reviewed charges against the prosecutor and applied the highest disciplinary sanction, i.e. dismissal from office. The final review by the

High Council on this matter is scheduled for November. Overall, there was continued progress in the area of judicial reform. However, implementation of the new legislation by the judiciary presents a mixed picture so far and the independence of the judiciary still needs to be further established.” [71a] (p9-10)

- 10.07 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey’, noted that:

“The Turkish constitution provides for an independent judiciary, but the court system is not in fact entirely separate from the executive. The executive plays a strong role in judicial training, appointment, promotion, and financing. Training of judges is inadequate, and because there is no proper review of cases, many of those that end up in the courts result in acquittal due to lack of merit. Public prosecutors in Turkey have a status very close to that of judges, both functionally and symbolically, thus placing the defense in an inferior position. Prosecutors are sometimes pressured by the Ministry of Justice to pursue cases without merit, and the government issues circulars instructing public prosecutors on how to interpret certain laws.” [62c] (p12)

- 10.08 The EC 2005 report noted that, “The new Code of Criminal Procedure provides that defendants and witnesses who cannot speak the Turkish language are to be provided with an interpreter free of charge. However, concerns have been expressed that as there are currently no interpreters trained in legal interpretation between Turkish and other languages used in Turkey, there may be difficulties in ensuring adequate standards of accuracy. Measures should be adopted to address this problem.” [71d] (p16)

- 10.09 The EC 2005 report noted that, “Courts are now required to establish lists of expert witnesses, including interpreters, in their area of jurisdiction. However, as there are no interpreters trained in legal interpretation between Turkish and languages used by non-Turkish speaking ethnic groups in Turkey, there may still be difficulties in ensuring effective interpretation for the non-Turkish speaking population.” [71d] (p106)

- 10.10 The EC 2006 report recorded:

“As regards the right to an effective remedy and to a fair trial, the average criminal trial period increased from 210 days in 2004 to 234 days in 2005, and so did the average duration of civil proceedings, from 177 days in 2004 to 184 days in 2005. The pending cases before the criminal courts remained stable: 1 050 754 criminal cases were carried over from 2004 to 2005, while 1 050 250 criminal cases were carried over from 2005 to 2006. The pending cases before the civil courts slightly increased: 757 560 cases were carried over from 2005 to 2006, compared to 717 960 cases carried over from 2004 to 2005.” [71a] (p61)

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- 10.11 As noted by the *Turkish Daily News* on 2 June 2005:

“According to an article included in the law that outlines the implementation process of the new TCK [the new Turkish penal code which came into force on 1 June 2005], all cases waiting at the Supreme Court of Appeals will be inspected as to whether the new TCK will benefit the individuals involved and if it does, the cases will be returned to the local courts. According to this article, 150,000 of the 175,000 cases at the Supreme Court of Appeals will be returned to local courts. These cases, in addition to the normal workload, are expected to swamp local courts.” [23ab]

10.12 The EC 2006 report recorded that:

“As far as computerisation is concerned, the National Judicial Network Project continued to progress and became operational in more courts and prisons. The major court houses and all judges and prosecutors now dispose of laptops and Internet access. Trials will be run on the National Judicial Network and case-law will also be available on line. The network will connect electronically the judiciary with all government institutions. Since the entering into force of the new Code of Criminal Procedure, prosecutors have started to use greater discretion to discontinue unmeritorious cases, while many cases are reported where judges returned indictments which were not based on sufficient evidence. The system of plea bargaining was recently introduced by the new Code of Criminal Procedure. A commission has been set up by the Ministry of Justice in an attempt to improve the system.” [71a] (p59)

THE COURT SYSTEM

10.13 As recorded by the Turkish Embassy website 2004:

“According to the Turkish law today, the power of the judiciary is exercised by Judicial (Criminal), and Administrative Military Courts. These Courts render their verdicts in the first instance, and the superior courts examine the verdict for the last and final ruling. The superior courts are: the Constitutional Court, the Court of Appeals, the Council of State, the Military Tribunal of Appeals, the Supreme Military Administrative Court, the Court of Jurisdictional Dispute, the Court of Accounts and the Supreme Council of Judges and Public Prosecutors.” [111] (The Court System)

COURTS

10.14 The same website also noted that, “The courts in Turkey are in fact divided into courts of justice, administrative courts, military courts and the Constitutional Court. Except the Constitutional Court, they are further divided into lower and higher courts.” [111] (The Court System)

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MILITARY COURTS

Military Criminal Courts (Askeri Ceza Mahkemesi)

10.15 The same TESEV 2005 report further noted that:

“There is no definition in the Military Penal Code (Askerî Ceza Kanunu, ACK) as to what constitutes a military crime. Crimes committed by civilians in concert with military personnel are considered military crimes, which constitutes the grounds for their trial in military courts and causes them to be separated from their natural judges... (p52) In other words, military crimes should be those crimes committed by military personnel and related to military duty and service alone. These must be defined as those acts that directly affect military discipline and infringe upon military service and duty.” [98b] (p53)

10.16 As recorded in ‘Political Structure of Turkey’ November 2005:

“The Supreme Military Court of Appeals is the court of final instance for all rulings and verdicts rendered by military courts. It is also a court of first and final instance with jurisdiction over certain military personnel, stipulated by law, with responsibility for any specific trials of these persons. The Supreme Military Administrative Court has jurisdiction over military personnel in administrative or active military service. The Court of Jurisdictional Conflicts is the final authority to settle disputes concerning the verdicts of the Justice, Administrative or Military Courts. This court is made up of members of the Court of Appeals, the Council of State, the Supreme Military Court of Appeals, and the Military Administrative Court of Appeals. Military Courts have jurisdiction to try military personnel for military offenses, for offenses committed by them against other military personnel or crimes committed in military places, or for offenses connected with military service and duties.” [36i] (Section on Judiciary)

10.17 The European Commission Turkey 2006 Progress Report recorded that “There has been progress concerning the competence of military courts to try civilians. Under the law amending the relevant provisions of the Military Criminal Code as adopted in June 2006, no civilian will be tried in military courts in peacetime unless military personnel and civilians commit an offence together. The new law also introduces the right of retrial in military courts.” [71a] (p7)

The Military Criminal Court of Cassation (Askeri Yargitay)

10.18 As noted by the Turkish Embassy website 2004, “According to the law, this court functions as the court of appeal of all decisions and judgments given by Military courts. It is divided into five chambers.” [111] (The Court System)

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STATE SECURITY COURTS (DEVLET GÜVENLİK MAHKEMESİ)

- 10.19 The Freedom House report 'Countries at the Crossroads 2005 – Turkey', noted that:

"Another [in addition to the introduction of the new penal code in September 2004] major change to the justice system has been the May 2004 abolition of State Security Courts. These courts, comprising both civilian and military judges, tried cases against the integrity of the state and had been accused of human rights abuses and an absence of due process...The cases formerly under their jurisdiction have been passed to other courts. The end of the State Security Courts is widely considered to be positive, although it remains to be seen whether the types of cases formerly tried in them will be any better served by the new system." [62c] (p13)

- 10.20 Amnesty International's Summary of Concerns September 2004 stated that, "Human rights defenders welcomed the move to abolish the much criticized State Security Courts, but strongly urged that the establishment of special heavy penal courts which would deal with organized crime, 'terrorism' and crimes deemed to endanger state security be more than simply a change of name for the same institution." [121] (p56)

- 10.21 The September 2006 Amnesty International's (AI) report "Turkey Justice Delayed and Denied" noted that:

"In the context of a package of reforms to the Constitution passed in June 2004, the State Security Courts were formally abolished. The move was heralded by the government as a 'turning point'. After some uncertainty about their new name, the State Security Courts were transformed into Heavy Penal Courts. Heavy Penal Courts (ağır ceza mahkemeleri) already existed within the regular judicial system, but those that replaced the former State Security Courts were only competent to try cases involving organized crime, terrorism and state security. Though nominally integrated into the regular judicial system, these courts did not in fact deal with cases outside those areas... The new special Heavy Penal Courts thus continued to try cases that had started before them when they were State Security Courts." [120]

- 10.22 The AI 2006 report further stated that:

"Judges and prosecutors of the special Heavy Penal Courts are often the same individuals who presided over the same cases when they were before the State Security Courts, and lawyers have consistently complained to Amnesty International that there has been no change to the panel of judges they encounter during trial hearings. The new courts are still widely known by their old name. A large backlog of cases from the State Security Courts was thus transferred to the special Heavy Penal Courts and the main argument of this report is that the new courts have failed to confront some of the most serious violations of the right to fair trial perpetuated in the earlier courts." [120]

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THE CONSTITUTIONAL COURT (ANAYASA MAHKEMESİ)

10.23 As noted by the Turkish Embassy website 2004, “The Constitutional Court consists of 11 regular members and four alternate members. All judges of the Constitutional Court hold office until they retire at the age of 65 like all other judges in Turkey.” [111] (**The Court System**)

10.24 As recorded in ‘Political Structure of Turkey’ November 2005:

“The basic function of the Constitutional Court, established in the 1961 Constitution, is to examine the constitutionality, in both form and substance, of laws, and decrees with the power of law and the Rules of Procedure of the Turkish Grand National Assembly. Other functions of the Court are as follows: With the capacity of the High Tribunal, the Constitutional Court judges the following: the President, members of the Council of Ministers, members of supreme courts, the chairman and members of the Supreme Council of Judges and Public Prosecutors and of the Supreme Council of Public Accounts, the Chief Republic Prosecutors and the Deputy Republic Chief Prosecutors for crimes related to their offices. It audits the finances of political parties. It examines TGNA decisions to revoke the immunities of deputies, or to dismiss members of parliament. It chooses the Chairman and Deputy Chairman of the Court of Jurisdictional Conflicts. The Constitutional Court is composed of 11 regular and four substitute members. Decisions are made when the eleven members convene. The decisions of the Constitutional Court are final. These decisions cannot be amended in any manner and their application cannot be delayed.” [36i] (**Section on Higher Courts**)

10.25 The USSD 2005 report stated that:

“The Constitutional Court examines the constitutionality of laws, decrees, and parliamentary procedural rules and hears cases involving the prohibition of political parties. If impeached, ministers and prime ministers can be tried in the constitutional court. However, the court cannot consider ‘decrees with the force of law’ issued under a state of emergency, martial law, in time of war, or in other situations as authorized by parliament”. [5b] (**Section 1e**)

10.26 As reported on 26 July 2005 by the Office of the Prime Minister, Directorate General of Press and Information (quoting the newspaper *Cumhuriyet*) on the previous day Tulay Tugcu was elected the first female head of the 44-year-old Constitutional Court. [36k]

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FAIR TRIAL

10.27 The USSD 2005 report stated that:

“There is no jury system; a judge or a panel of judges decides all cases. Trials are public. The law requires bar associations to provide free counsel to indigents who request it from the court and bar associations across the country did so in practice. The law provides for the right to a speedy trial; however, at times trials lasted for years. Proceedings against security officials often were delayed because officers did not submit statements promptly or attend trials. In some cases, such delays extended beyond the statute of limitations, causing the trial to end without a verdict. The law prohibits the use of evidence obtained by torture in court; however, prosecutors sometimes failed to pursue torture allegations, and exclusion of evidence occurred only after a separate case on the legality of the evidence was resolved. However, in practice a trial based on a confession allegedly coerced under torture could proceed, and even conclude, before the court had examined the merits of the torture allegations.” [5b] (section 1)

10.28 The USSD 2005 report continued:

“In June [2005] the High Court of Appeals overturned a murder conviction reached by a court in Sinop Province on the grounds that police interrogated the defendant without granting him access to an attorney and there was evidence that the suspect had been tortured. In May the ECHR Grand Chamber ruled that imprisoned PKK leader Abdullah Ocalan did not receive a fair trial during the proceedings that led to his 1999 conviction. The ruling upheld a 2003 decision by a lower ECHR body.” [5b] (section 1)

10.29 On 8 November 2004 the BBC reported that a Dutch court had blocked the extradition to Turkey of a Kurdish woman said to be a militant leader. “Nuriye Kesbir, alleged to belong to the separatist Kurdistan Workers Party (PKK), is accused of organising attacks on military targets in the 1990s. The Dutch justice ministry approved her handover in September [2004] after the Supreme Court ruled she could be extradited. But a court in The Hague has said the Netherlands could not be sure she would receive a fair trial in Turkey.” [66o]

10.30 The Amnesty International (AI) annual Turkey report 2006 however noted that:

“The continuing inequality between prosecution and defence and the influence of the executive on the appointment of judges and prosecutors prevented the full independence of the judiciary. While from 1 June [2005] detainees enjoyed the right to legal counsel and statements made in the absence of lawyers were not admissible as evidence in court, few prosecutors in the new Heavy Penal Courts (which replaced the State Security Courts in 2004) attempted to review ongoing cases where statements were originally made without the presence of legal counsel and where defendants alleged that their testimony had been extracted under torture. Little effort was made to collect evidence in favour of the defendant and most demands of the defence to have witnesses testify were not met.” [12d]

10.31 The EC 2006 report however noted that:

“As regards the right to an effective remedy and to a fair trial, the average criminal trial period increased from 210 days in 2004 to 234 days in 2005, and so did the average duration of civil proceedings, from 177 days in 2004 to 184 days in 2005. The pending cases before the criminal courts remained stable: 1 050 754 criminal cases were carried over from 2004 to 2005, while 1 050 250 criminal cases were carried over from 2005 to 2006. The pending cases before the civil courts slightly increased: 757 560 cases were carried over from 2005 to 2006, compared to 717 960 cases carried over from 2004 to 2005.” [71a] (p61)

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PENAL CODE

10.32 The Amnesty International (AI) annual Turkey report 2005 noted:

“Many significant changes were introduced in 2004. All references to the death penalty were removed from the Constitution and the Penal Code. The new legislation included a new Penal Code. All of these laws contained positive developments and were often less restrictive than their predecessors. For example, the new Penal Code removed many articles which discriminated on grounds of gender and introduced a definition of torture that was closer to that laid down in international law. However, many of these new laws carried over provisions from the old ones that had been used to unnecessarily restrict fundamental rights. In addition, implementation of legislative changes was often uneven and in some cases appeared to be resisted by state officials.” [12k]

10.33 The European Commission report 2005 report stated:

“The entry into force of the Penal Code, adopted in December 2004, was postponed until 1 June 2005 due to concerns about the provisions concerning both organised crime and freedom of expression. In general, the Code adopts modern European standards in line with criminal law in many European countries. However, despite the introduction of a number of amendments by Parliament, concerns remain regarding articles which may be used to restrict freedom of expression.” [71d]

10.34 As stated by the European Commission report 2005 “The new Penal Code contains provisions which strengthen the fight against torture and ill-treatment, increasing the term of imprisonment for those convicted of torture or ill-treatment and the statute of limitations, which in the past has allowed cases against alleged perpetrators of torture or ill-treatment to be dropped, is increased from 10 to 15 years.” [71d]

10.35 The EC 2006 report also noted that “With respect to the right to life and, in particular, the abolition of the death penalty, Turkey ratified, in March 2006, the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which aims to abolish the death penalty. Protocol 13 to the ECHR, which abolishes the death penalty at all times, was ratified in February 2006. Turkey abolished the death penalty in its national legislation, in all circumstances, in 2004.” [71a] (p60)

10.36 The USSD 2005 report noted that:

“Under legislation enacted in June [2005], a judge can bar an attorney from representing a client if the attorney comes under investigation for violating certain articles of the penal code... The government particularly the police and judiciary limited freedom of expression through the use of constitutional restrictions and numerous laws, including articles of the penal code prohibiting insults to the government, the state ‘Turkish identity,’ or the institutions and symbols of the republic... In March [2005] journalists lobbied the government to amend a new draft of the penal code before the legislation became effective. Journalists criticized the legislation for establishing prison sentences for a number of press-related crimes, contradicting the 2004 Press Law. Parliament addressed some of the journalists’ concerns by making revisions to the penal code. The revised penal code eliminated some prison sentences, but not all and reduced the prison terms in some cases.” [5b] (Section 1e)

See also Section 15:01 Freedom of [Speech and Media](#)

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CODE OF CRIMINAL PROCEDURE

10.37 The European Commission 2006 report stated that:

“The authorities have been focusing on the implementation of the new Penal Code, the Code of Criminal Procedure and the Law on Enforcement of Sentences following the entry into force of these laws in 2005. In this respect, the Ministry of Justice updated all existing circulars by issuing some 100 new circulars mainly addressed to public prosecutors in January 2006. This action aimed to create a clearer and more concise framework for the implementation of the new Code of Criminal Procedure and the Law on Enforcement of Sentences. One circular of particular importance concerns the implementation of legislation on arrest, detention and statement taking and the prevention of human rights violations during these practices. This circular underlines the duty of prosecutors to monitor the situation of detainees through regular visits to places of detention. It also requires prosecutors to report periodically to the Ministry of Justice on implementation by law enforcement authorities.” [71a] (p8)

10.38 The EC 2006 report further noted that, “As regards the implementation of the new Code of Criminal Procedure, the establishment of the judicial police has led to some tensions between the law enforcement bodies and prosecutors. Despite the Ministries of Interior and Justice issuing two circulars, prosecutors report difficulties in effective supervision of the judicial police.” [71a] (p9)

10.39 The EC 2006 report also stated that:

“With respect to some provisions of the Code of Criminal Procedures and of the Law on execution of sentences, the notification of a relative of the detained person and the right to access a lawyer are not uniformly applied. Furthermore,

while the Code introduced provisions against the use of statements obtained under torture, concerns remain on statements obtained prior to the enactment of the Code...” [71a] (p13)

10.40 The EC 2006 report further noted that, “With regard to access to justice and right of defence, detainees enjoy the right to legal counsel, and statements made in the absence of lawyers are not admissible as evidence in court under the new Code of Criminal Procedure. However, concerns remain with regard to the lack of review of past statements.” [71a] (p14)

10.41 The EC 2006 report further noted that:

“Since the entering into force of the new Code of Criminal Procedure, prosecutors have started to use greater discretion to discontinue unmeritorious cases, while many cases are reported where judges returned indictments which were not based on sufficient evidence. The system of plea bargaining was recently introduced by the new Code of Criminal Procedure. A commission has been set up by the Ministry of Justice in an attempt to improve the system. Progress can be reported in the area of the judicial reform.” [71a] (p59)

10.42 The EC 2006 report also noted that:

“With regard to the right of defence, a considerable increase was registered in the appointment of lawyers for free legal aid since the entry into force of the new Code of Criminal Procedure. However, the state fees to lawyers are low. This raises concerns on the quality of legal aid provided. In addition, the Union of Bars and the Ministry of Justice agreed on introducing legislative amendments to limit the scope of legal aid. This would reduce the number of suspects and detainees automatically qualifying for legal aid. Following the strengthened provisions in the new Code of Criminal Procedure regarding interpreters free of charge for legal interpretation between Turkish and languages used by non-Turkish speaking citizens, courts are now required to establish lists of expert witnesses, including interpreters.” [71a] (p61)

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11 ARREST AND DETENTION – LEGAL RIGHTS

11.01 The European Commission Turkey 2005 Progress Report recorded that a revised Regulation on Apprehension, Detention and Statement Taking, a Regulation on Judicial and Preventive Search and a Regulation on the Judicial Police, entered into force on 1 June 2005. [71d] (p16)

11.02 The EC 2006 report also noted that:

“One circular of particular importance concerns the implementation of legislation on arrest, detention and statement taking and the prevention of human rights violations during these practices. This circular underlines the duty of prosecutors to monitor the situation of detainees through regular visits to places

of detention. It also requires prosecutors to report periodically to the Ministry of Justice on implementation by law enforcement authorities.” [71a](p8)

11.03 The EC 2006 further noted that:

“Legislation regarding judicial cooperation in criminal matters is not in line with EU standards, in particular extradition of both Turkish and foreign citizens, the application of the ne bis in idem principle, environmental crime, provisions on victims' rights in the framework of criminal proceedings and the implementation of the European Arrest Warrant. Turkey is a member of the European Convention on Mutual Assistance in Criminal Matters (1959) and its Protocol (1978). However, it has not signed the second additional protocol to the Convention (2001). Ratification of the Additional Protocol would bring Turkey closer to alignment with the acquis regarding provisions on joint investigation teams. Turkey is preparing for its participation in Eurojust.” [71a] (p66)

11.04 The EC 2005 report recorded that “As regards legal guarantees including access to justice, so far as the prohibition of arbitrary arrest is concerned, Article 90 of the Criminal Procedure Code provides that persons who are arrested by the police must be informed of the reason for their arrest.” [71d] (p105)

11.05 It was however noted in the EC 2006 report that “With respect to some provisions of the Code of Criminal Procedures and of the Law on execution of sentences, the notification of a relative of the detained person and the right to access a lawyer are not uniformly applied. Furthermore, while the Code introduced provisions against the use of statements obtained under torture, concerns remain on statements obtained prior to the enactment of the Code...” [71a](p13)

11.06 The 2005 USSD report noted:

“Detainees are entitled to immediate access to an attorney and to meet and confer with an attorney at any time, but in practice authorities did not always respect these provisions and most detainees did not exercise these rights, either because they were unaware of them or feared antagonising the authorities. If indigent, detainees were provided an attorney at government expense.” [5b] (section 1d)

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11.07 As noted in a letter from the British Embassy in Ankara to the Home Office, dated 28 September 2005:

“A new Code on Criminal Procedure (CCP) came into force on 1 June 2005. As part of the new CCP, ‘judicial controls’ [reporting conditions] were introduced which allow courts to impose a number of restrictions on suspects or defendants in criminal cases. This includes the condition of reporting regularly, within the time limits indicated, to a place specified by the judge.”

As mentioned in this letter Article 109 and article 110 of the CCP set out the detail of 'judicial controls'.

A109 – Judicial supervision

- (1) Where there are reasons for arrest as specified in Article 100 and where an investigation is being conducted with regard to an offence necessitating imprisonment, with an upper limit of 3 years or less, a decision may be taken to place the suspect under judicial supervision instead of placing him under arrest.
- (2) Judgements in favour of judicial supervision may also be applied to cases for which the law prohibits arrest.
- (3) Judicial supervision may involve the imposition of one or more of the following obligations upon the suspect:
 - (a) not to go abroad,
 - (b) to appear regularly within the time limits indicated at places specified by the judge,
 - (c) to obey the summons of authorities or persons specified by the judge, and where necessary to comply with supervisory measures regarding the persons occupational activities or the pursuit of his education,
 - (d) not to be permitted to drive any or certain vehicles, and where necessary to leave his driving licence at a government office in return for a receipt,
 - (e) to undergo and accept medical care or treatment or examination, for detoxification purposes, particularly with respect to narcotics, stimulants or volatile substances or alcohol dependency and including hospitalization,
 - (f) to deposit an amount of money as a security, as determined by the judge at the request of the public prosecutor, after taking into account the financial circumstances of the suspect and deciding if it is to be paid in more than one instalment,
 - (g) not to possess or carry weapons, and if necessary to leave any weapons in his possession at a judicial depository, in return for a receipt,
 - (h) to provide real and personal security for monies needed to secure the rights of the injured party, concerning which the judge, at the request of the public prosecutor, shall specify the amount and time limit for payment,
 - (i) to provide assurances that he will pay alimony regularly, in accordance with any court verdict, and that he will fulfil his obligation towards his family.
- (4) In applying subsection (b) above, the judge or the prosecutor may permanently or temporarily allow the suspect to drive vehicles as part of his occupational activities.
- (5) Any time spent under judicial supervision may not be deducted from a sentence by reason of being considered as a restriction of personal liberty. This provision shall not apply to cases listed under subsection (e) of this Article.

A110 – Judicial supervision decisions and administration by the authorities

- (1) A suspect may be put under judicial supervision at the request of the public prosecutor, and according to the decision of a Justice of the Peace.
- (2) The judge, at the prosecutors' request, may impose one or more additional judicial supervision conditions; he may also lift or change all or part of the obligations contained in the conditions, or exempt the suspect from fulfilling some of the conditions.

When it is deemed necessary, the provisions of Article A109 and of the present Article may be used by other designated or competent judicial authorities, in order to pursue prosecution at any level." [4i]

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11.08 The USSD 2005 report noted that:

"The law prohibits arbitrary arrest and detention; however, the government at times did not observe these prohibitions... During the year police routinely detained demonstrators... Police detained dozens of members of the DEHAP on several occasions... Police continued to detain and harass members of human rights organizations and monitors... The government continued to detain persons, particularly in the southeastern province of Batman, on suspicion of links to Hizballah... Detainees were generally allowed prompt access to family members." [5b] (Section 1d)

11.09 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey from 7 to 14 December 2005 and their report issued on 6 September 2006, noted that:

"The obligation to notify without delay a relative of the detained person was, as a rule, being complied with. In most cases, the notification was made shortly after deprivation of liberty and, in some cases the detained person was given the opportunity himself to speak to his relatives. Moreover, the procedures related to the notification were properly recorded in the custody follow-up form (including the name and signature of the official giving the notification, the date and time at which notification was given, and the signature of the detained person confirming the fact that detention had been notified). However, in a few cases, allegations of delays in notification were received, as well as of absence of feedback to the detainee (whether notification had indeed been made or when)." [13a] (Paragraph 22, section 2)

DETENTION FOR QUESTIONING PRIOR TO FORMAL ARREST

11.10 The EC 2005 report stated that:

"Article 141 of the Constitution limits the length of pre-trial detention by providing for the right to be judged within a reasonable time. Under Article 91 of the Criminal Procedure Code, a person who has been arrested shall in general be brought before a court within twenty four hours; in exceptional cases, this period may be extended to a maximum of four days. A person who has been remanded in custody awaiting trial may be detained, under Article 102 of the

Criminal Procedure Code, for up to six months if accused of a minor offence and two years if accused of a serious offence; in exceptional cases, this period may be extended to three years.” [71d] (p105-106)

- 11.11 As outlined in the January-February 2005 issue of Newspot which is the online Journal of the Directorate General of Press and Information under the Office of the Prime Minister of Turkey:

“According to the new law [the new Penal Procedural Law (CMUK)], suspects cannot remain in police custody for more than 24 hours. Those arrested and brought to court will not be handcuffed. Police will inform individuals taken into custody of their legal rights. Prosecutors will have the right to extend the period of detainment for a consecutive three days, if gathering evidence is difficult... Detainees suspected of crimes which stipulate punishment for less than two years will no longer be imprisoned for the duration of the trial.” [36d] On 27 May 2005, the *Turkish Daily News* reported that the parliamentary General Assembly had passed a bill that amended the Criminal Procedures Law (CMK), effective from 1 June 2005. “The maximum time in custody before appearing in a relevant court will be 24 hours. Suspects facing charges carrying a fine or prison sentence of less than a year will not be detained beyond arrest and booking.” [23ah]

WARRANTS/COURT SUMMONSES

- 11.12 The USSD 2005 report noted that:

“Warrants issued by a prosecutor are required for arrests unless the suspect is caught in the commission of a crime. Depending on the charges, persons charged with a crime can be held for up to 48 hours, excluding transportation time, before being arraigned by a judge. There is a functioning bail system. After arraignment, the judge may release the accused upon receipt of an appropriate assurance, such as bail, or order detention if the court determines that the accused is likely to flee the jurisdiction or destroy evidence.” [5b] (Section 1d)

- 11.13 The Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ related that:

“According to Mr. Islambay, law enforcement authorities are required to report to the Public Prosecutor on each case-inquiry. This report – Fezleke – contains all information available on the case, such as the type of the crime, names of witnesses, victims, suspects, date of the crime and so on... According to Mr. Islambay, the attorney is entitled to receive a copy of the documents from the Prosecutors Office and would thus have access to this subject index if verification was required... A person claiming to have been summoned to criminal proceedings or to commencement of sentence should be able to give documentary evidence of that... Both Mr. Islambay and Mr. Turan claimed that persons on the run could not get access to an [sic] (authentic) warrant. He or she (or the attorney) would get a copy of the document at the earliest after detention.” [16] (p22- 23)

RIGHT TO LEGAL ADVICE

11.14 As outlined in the EC 2005 report:

“The new Code of Criminal Procedure and the Regulation on Apprehension, Detention and Statement Taking provide for arrested persons to be informed of their rights, including their right to free legal counsel. Legal representation was already compulsory for juveniles accused of criminal offences. The new Code widens the scope of compulsory legal representation by providing that representation by legal counsel is to be mandatory for all offences punishable by more than five years’ imprisonment. Of those accused of serious criminal offences, the number asking for a lawyer increased substantially between 2003 and 2005. However, there are reports that the police and gendarmerie continue to discourage detainees from requesting legal assistance.” [71d] (p17)

11.15 The EC 2005 report further noted that, “Article 147 of the Code of Criminal Procedure provides that detainees must be reminded of their right to have a defence lawyer present and that a lawyer may be appointed by the Bar Association. Bar associations have reported a 100% increase in the appointment of lawyers for accused persons since the entry into force of the new Code.” [71d] (p106)

11.16 The USSD 2005 report noted that:

“According to a number of local bar associations, attorney access for detainees improved during the year, but varied widely across the country. In some parts of the country, bar association representatives estimated that up to 70 percent of detainees consulted with attorneys, while in other areas only 5 percent did so. The Human Rights Association [HRA] also observed an increase in the percentage of detainees consulting with attorneys but maintained that the vast majority of detainees did not exercise this right. HRA claimed police often intimidated detainees who asked for attorneys, for example by telling them a court would assume they were guilty if they consulted an attorney during detention. Detainees were generally allowed prompt access to family members.” [5b] (section 1d)

11.17 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey from 7 to 14 December 2005 and their report issued on 6 September 2006, noted that:

“New Criminal and Criminal Procedure Codes, as well as a revised version of the Regulation on Apprehension, Detention and Statement Taking, entered into force on 1 June 2005. These texts have consolidated improvements which had been made in recent years on matters related to the CPT’s mandate. It is more than ever the case that detention by law enforcement agencies (police and gendarmerie) is currently governed by a legislative and regulatory framework capable of combating effectively torture and other forms of ill-treatment by law enforcement officials. Authorised police/gendarmerie custody periods are now relatively short (24 or, in some cases, 48 hours, with a possible extension to a maximum of four days as regards ‘collective’ offences), and detained persons are entitled to notify a third party of their situation and to have access to a

lawyer, as from the outset of their custody.” [13a] (section 1 Preliminary remarks paragraph 12)

11.18 The CPT 2006 report further noted that:

“From both the delegation’s discussions with detained persons and its own on-site findings, it would appear that progress continues to be made as regards the implementation in practice of the safeguards against ill-treatment provided for by law (notification of custody, access to a lawyer, etc). Further, the time-limits on custody were being respected and, with a few exceptions, custody registers were properly completed (a notable achievement given the amount of data which should now be recorded in those registers).” [13a] (section 3 paragraph 21)

11.19 The CPT 2006 report continued:

“As already indicated, all criminal suspects have, as from the outset of custody, the right of access to a lawyer (including free legal assistance, private detainee-lawyer consultations and the possibility for lawyers to be present when statements are taken). The appointment of a lawyer has long been obligatory if the suspect is a minor. This obligation to appoint a lawyer has now been extended to all persons detained who are suspected of an offence punishable by a maximum sentence of at least five years imprisonment. The information gathered during the December 2005 visit confirmed that there had been a significant increase in the number of persons enjoying access to a lawyer whilst in police custody, including in cases where the assistance of a lawyer was not obligatory. In fact, most criminal suspects had received the visit of a lawyer during their period of custody (contrary to the situation observed during earlier visits, when access to a lawyer was the exception, not the rule). Not surprisingly, this had led to an exponential increase in requests for legal aid, which were taken care of by the local Bar Associations.” [13a] (paragraph 23)

11.20 The CPT 2006 report further noted that:

“However, the delegation heard allegations to the effect that law enforcement officials still do on occasion delay access to a lawyer, so as to enable the person detained to be informally questioned without the presence of a lawyer, prior to the taking of a formal statement (in the lawyer’s presence). The CPT must once again recommend that all necessary steps be taken to ensure that the right of access to a lawyer for persons in police/gendarmerie custody, as guaranteed by law, is fully effective in practice as from the outset of custody.” [13a] (paragraph 23)

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11.21 Furthermore the report noted that:

“A ‘Suspect’s Rights Form’ (SRF) reflecting the latest legal situation was in use in the three Provinces visited. However, many detained persons claimed they had been informed of their rights only some time after having been brought to the detention facility, often after an initial ‘informal’ questioning session. It was also clear that a copy of the signed SRF was frequently not given to detained

persons, despite the requirement in the Regulation on Apprehension that this be done.” [13a] (paragraph 24)

12 PRISON CONDITIONS

12.01 The EC 2005 report noted that:

“According to official sources, in May 2005 there were 58,670 persons in prisons and detention houses. Of these 31,812 were convicted prisoners and 26,858 were prisoners detained on remand. By May 2005, 14,431 prisoners had been released as a result of changes to the law brought about by the adoption of the new Penal Code. Regarding prison conditions in Turkey, there has been significant progress in recent years, but there is a need to continue expanding best practice to all prisons throughout the country as some remain overcrowded and under-resourced.” [71d] (p24)

12.02 As stated in the European Commission 2006 report:

“With regard to the prison system, Turkey has adopted regulations to implement the 2004 legislative reforms in this area. Physical infrastructure has also continued to be improved and training is being strengthened. Outstanding problems in prison facilities include a lack of communal activities, limited interaction between custodial staff and prisoners, inadequate health-care and psychiatric resources as well as cases of overcrowded prison cells. Cases of ill-treatment by prison staff have been reported. Civil and military prisons are not open to independent monitoring, pending the ratification of the Optional Protocol to the UN Convention against Torture (OPCAT). The application of a solitary confinement regime to prisoners sentenced to aggravated life imprisonment is too extensive. Such a regime needs to be applied for as short a time as possible and be based on an individual risk assessment of the prisoner concerned.” [71a] (p14)

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12.03 As noted in the International Centre for Prison Studies Prison Brief for Turkey (website information last updated on 14 December 2005), in 2005 the number of establishments/institutions was 446. The official capacity of prison system was 70,131 (at 31 October 2005) while the total prison population (including pre-trial detainees/remand prisoners) totalled 65,458 at 01 August 2006 with 47.7 percent pre-trial detainees/remand prisoners. [78]

12.04 As recorded in the Human Rights Foundation of Turkey (HRFT/TIHV) document ‘Human Rights in Turkey in 2005’, issued on 29 December 2005:

“6 persons started death fast in 2005. According to the figures of Documentation Centre at least 10 persons died in the prisons due to illness, suicide, burning or fights. 233 persons who were released from prisons in 2005 applied to our rehabilitation centres. Most of the applicants were suffering results of isolation and conditions in the prisons...The severe conditions in the

prisons could not be improved, political prisoners were subjected to isolation.” [83a]

12.05 The USSD 2005 report noted that:

“Conditions in many prisons remained poor. Underfunding, overcrowding, and insufficient staff training were problems. Some inmates convicted for nonviolent, speech related offenses were held in high-security prisons. Observers reported that the government made significant improvements in the food provided in the prisons, although there was a lack of potable water in some facilities. According to the medical association, there were insufficient doctors, and psychologists were available only at some of the largest prisons. Some inmates claimed they were denied appropriate medical treatment for serious illness. Despite the existence of separate juvenile facilities, at times juveniles and adults were held in adjacent wards with mutual access. Some observers reported that detainees and convicts were sometimes held together.” [5b] (Section 1c)

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E AND F-TYPE PRISONS

12.06 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey from 7 to 14 December 2005 and their report issued on 6 September 2006, noted that:

“In contrast to all the other prisons visited in December 2005, the delegation heard numerous allegations of the ill-treatment by staff of inmates at Adana E-type Prison. These allegations emanated from both prisoners at the establishment and from persons who had previously been held there. The ill-treatment alleged related for the most part to slaps, punches and kicks, as well as verbal abuse; however, some allegations of falaka [beating the soles of the feet] were also received. NGO representatives met by the delegation in Adana, including members of the Bar Association, also expressed concern about the situation in the E-type Prison. The general picture that emerged was of an establishment in which a very strict code of behaviour was enforced, with any breach – no matter how minor – likely to meet with physical chastisement. Such methods are unacceptable; any prisoner considered to display disobedience should be dealt with only in accordance with prescribed disciplinary procedures. Moreover, Adana E-type Prison was grossly overcrowded at the time of the December 2005 visit, with some 950 prisoners for a capacity of 450. To give an example of the practical effects of this situation, in one unit the delegation found 22 prisoners sharing an upstairs dormitory of some 24 m², ten of them sleeping on the floor on mattresses” [13a] (paragraph 41)

12.07 The CPT September 2006 report noted that:

“The CPT has never made any criticism of material conditions of detention in F-type prisons, and the facts found during this most recent visit confirmed that they are of a good standard. However, the Committee has repeatedly stressed the need to develop communal activities for prisoners outside their living units; it

is unfortunately very clear from the information gathered in December 2005 that the situation in this regard remains highly unsatisfactory. In each of the three F-type prisons visited, the considerable potential of the facilities for activities was far from being fully exploited. a state of affairs openly acknowledged by the staff of the establishments. Admittedly, the continuing reluctance on the part of most prisoners to make use of the workshops was largely responsible for the gross underuse of these particular facilities. However, the very limited possibilities for association (conversation) periods and sport - activities in which an increasing number of prisoners wished to engage - must have another explanation.” [13a] (paragraph 43)

12.08 The CPT September 2006 further noted that:

“According to the relevant regulations prisoners who so wish, can be brought together in groups of up to ten persons for five hours conversation per week. However, this already modest amount of association time was far from being offered in Adana (or elsewhere). Prisoners, in groups of up to nine, had five to six one hour conversation sessions per month. As for sport, prisoners wishing to take part in this activity were being offered four sessions per month (two in the gym and two in the outdoor sports facility). The Prison Director indicated that access to sport would amount to some two hours per week; however, from the activity programmes seen by the delegation, most of the sessions lasted one hour. In contrast, those few prisoners (about a dozen) who went to the two workshops which were operating spent a considerable amount of time engaged in the activities concerned. Those going to the pottery workshop had access to it for up to 10 hours per week, and prisoners attending the drawing workshop could spend there up to 25 hours a week. The only other regular weekly out-of-unit activities consisted of family visits (one hour), and telephone calls (10 minutes). Apparently, no prisoners requested to go to the library, a state of affairs which the CPT finds difficult to comprehend. To sum up, a typical prisoner in Adana F-type Prison would spend at best scarcely 5 hours a week outside his living unit.” [13a] (paragraph 44)

12.09 The CPT 2006 report further stated that:

“The situation in Tekirdağ F-type Prison No 1 was rather similar, though the groups of prisoners taking part in association and sport tended to be smaller than in Adana. Workshop activity was greater than at Adana, with more than 50 prisoners attending six workshops; certain of these prisoners spent up to 30 hours per week in the workshop concerned. A small number of prisoners attended religious classes on a weekly basis, and access to the library was apparently possible, also on a weekly basis...” [13a] (paragraph 45)

12.10 The CPT 2006 continued:

“The Director of each of the F-type prisons visited argued that the limited number of staff at their disposal was a major obstacle in developing activities. The need to keep so many prisoners separate from others for their ‘life security’ was another inhibiting factor. The CPT does not underestimate these difficulties (though as regards staff resources it remains to be seen whether the problem relates to numbers or is rather one of the manner of deployment of the existing

resources). However, the Committee is also convinced that one of the underlying causes of the present situation is a continuing failure on the part of the prison authorities to display a sufficiently proactive, enterprising approach vis-à-vis this subject. The situation observed to date by the CPT in F-type prisons amounts to a missed opportunity. Capable of being rightly regarded as a model form of penitentiary establishment, they currently remain open to the accusation of perpetuating a system of small-group isolation..." [13a] (paragraph 47)

12.11 The CPT 2006 report also elucidated that:

"In the same way as during previous visits to Turkey, the information gathered during the December 2005 visit revealed serious problems related to the availability of health-care resources in prisons and the training provided to doctors called upon to work in such establishments. After having been vacant for some nine months, the post of prison doctor at Tekirdağ F-type Prison No 1 had finally been filled a few weeks before the CPT's visit. However, the doctor concerned had only graduated from medical school in the summer of 2005. At Tekirdağ F-type Prison No 2, the post of prison doctor had been vacant for six months. To fill the gap, doctors came on temporary rotation from the local State Hospital Emergency Department, the doctor in the establishment at the time of the delegation's visit having been there for three weeks." [13a] (Paragraph 55)

12.12 The CPT also clarified that:

"Healthcare services were if anything even more poorly resourced at other prisons to which the delegation went during the visit. For example, at Adana E-Type Prison, there was only one doctor for almost 1,000 prisoners, and at Bayrampaşa Closed Prison only three doctors for more than 3,000 prisoners. As for Van M-type Prison (an establishment accommodating 275 prisoners at the time of the visit, but which had held more than 400 in the recent past), it had been without a full-time doctor for almost two years. Responding to an appeal from the Prison Director, the former prison doctor (who had resigned from the prison service) attended the establishment twice a week." [13a] (paragraph 55)

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12.13 The CPT 2006 further stated that:

"In Tekirdağ F-type Prisons No 1 and 2, the delegation encountered a small number of prisoners who had been placed in single cells on psychiatric grounds. None of them were receiving the care required by their state of health. In this connection it should be noted that neither of the doctors assigned to the establishments had any competence or experience in treating psychiatric disorders, and there were no consultations at the prisons by visiting psychiatrists. The delegation formed the view that the mental state of at least one of the prisoners concerned – held in a single cell in an otherwise completely empty block at Tekirdağ F-type Prison No. 2 – was such that he should be placed in a secure psychiatric establishment." [13a] (paragraph 52)

- 12.14 The EC 2005 report recorded that “The Parliamentary Human Rights Investigation Committee published a report on Tekirdag F-type prison in March 2005 and concluded that there were problems with the structure and administration of the prison.” [71d] (p24)

MONITORING OF PRISON CONDITIONS

- 12.15 The EC 2005 report stated:

“The 131 Monitoring Boards, whose work focuses on living conditions, health, food, education and the rehabilitation of prisoners, continued to carry out inspections. By June 2005, these boards had made 1 247 recommendations, of which 532 had been acted upon. The Boards paid visits to 419 prisons between October 2004 and May 2005. Their composition still does not include a significant representation from civil society and their reports remain confidential. In the last quarter of 2004, the 141 Enforcement Judges received 830 complaints on actions involving prisoners and detainees. Of these applications, 83 have been accepted and acted upon, 4 have been partially accepted and acted upon, 679 have been rejected and 64 have resulted in other decisions, such as non-jurisdiction of the Enforcement Judges. Training of Enforcement Judges is ongoing.” [71d] (p24-25)

- 12.16 As noted in the Amnesty International document ‘Turkey Memorandum on AI’s recommendations to the government to address human rights violations’, dated 1 August 2005:

“Amnesty International welcomes recent steps by the government to allow for greater inspection of places of detention. Article 92 of the new CPC requires State Prosecutors to carry out inspections of places of detention – Amnesty International considers such inspections could be an effective and important measure against torture and ill-treatment if the inspections are carried out on both a regular and an ad hoc basis and the subsequent findings and recommendations made public.

Both the Parliamentary Human Rights Commission and the Provincial and Regional Human Rights Boards have both reportedly carried out recent visits to places of detention. While such extra levels of scrutiny are welcome, these bodies are not demonstrably independent or necessarily possessed of the necessary expertise in evaluating places of detention. At the moment, the only demonstrably independent body which enjoys the right to carry out visits unannounced in Turkey is the European Committee for the Prevention for Torture (CPT) whose findings and recommendations have generated significant change in Turkey regarding detention regulations and an apparently commensurate improvement in patterns of torture and ill-treatment.” [12i] (Section on The need for greater scrutiny of places of detention)

- 12.17 The USSD 2005 report noted that:

“The government permitted prison visits by representatives of some international organizations, such as the European Committee for the Prevention of Torture (CPT); however, domestic nongovernmental organizations (NGOs) did not have access to prisons. The CPT visited in March 2004 and conducted ongoing consultations with the government. Requests by the CPT to visit prisons were routinely granted.” [5b] (Section 1d)

13 DEATH PENALTY

- 13.01 The European Commission reported in 2006 that “With respect to the right to life and, in particular, the abolition of the death penalty, Turkey ratified, in March 2006, the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which aims to abolish the death penalty. Protocol 13 to the ECHR, which abolishes the death penalty at all times, was ratified in February 2006. Turkey abolished the death penalty in its national legislation, in all circumstances, in 2004.” [71a] (p61)
- 13.02 As outlined in the May-June 2005 issue of Newspot (published on the website of the Office of the Prime Minister, Directorate General of Press and Information) in an article on the new Turkish Penal Code, “The new Turkish penal code went into effect on June 1 [2005], along with the penal procedures and the law on the execution of sentences. The new penal code changes the duration and number of penalties in certain cases...Terrorist Abdullah Öcalan and similar criminals will remain in prison indefinitely.” [36j]
- 13.03 The Amnesty International List of Abolitionist and Retentionist Countries (1 January 2006) report noted that the date provided for the last execution carried out in Turkey as being in 1984. [12q] (p4)

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14 POLITICAL AFFILIATION

FREEDOM OF POLITICAL EXPRESSION

- 14.01 The US State Department (USSD) report 2005, published on 8 March 2006, noted that:

“The 2002 parliamentary elections were held under election laws that the Organization for Security and Cooperation in Europe (OSCE) found established a framework for democratic elections in line with international standards; however, the OSCE mission noted that several parties - notably the AKP, the winner of the elections - faced judicial action aimed at closing them down, and many candidates were also prohibited from running. The OSCE reported that, while there were a substantial number of cases of harassment reported by some political parties and by human rights groups, the elections were generally free and fair. Political parties and candidates could freely propose themselves and be freely nominated by various elements in the country. The high court of appeals chief prosecutor could only seek to close political parties for

unconstitutional activities by bringing a case before the Constitutional Court.”
[5b] (p16)

14.02 The USSD 2005 report further noted that:

“During the year police raided dozens of Democratic People's Party (DEHAP) offices, particularly in the southeast, and detained hundreds of DEHAP officials and members. Jandarma and police regularly harassed DEHAP members through verbal threats, arbitrary detentions at rallies, and detention at checkpoints. Security forces also regularly harassed villagers they believed were sympathetic to DEHAP. Although security forces released most detainees within a short period, many faced trials, usually for supporting an illegal organization or inciting separatism.” [5b] (p16)

14.03 As noted in the Amnesty International 2006 report covering events from January to December 2005, “A wide range of laws containing fundamental restrictions on freedom of expression remained in force. These resulted in the prosecution of individuals for the peaceful expression of opinions in many areas of public life. In some cases comments by senior government officials demonstrated an intolerance of dissenting opinion or open debate and seemed to sanction prosecution.” [12d]

14.04 The International Helsinki Federation for Human Rights (IHF) Focus report on Elections noted that:

“Although the OSCE/ODIHR generally deemed the parliamentary elections as a positive sign of the vibrancy of Turkey’s democracy, it noted that there were still strict limits for the scope of political debate. This was seen, for example, in the measures to close down many parties during the election campaign, including the AKP and the People’s Democracy Party (HADEP), and in the banning of many candidates from running as a result of past convictions for non-violent expression, including Murat Bozlak, former chairman of HADEP; Necmettin Erbakan, former prime minister and chairman of the banned Virtue Party; and Akin Birdal, former leader of the Socialist Democratic Party and former chairman of the Human Rights Association of Turkey. Also, by European standards, the threshold of 10% of the nationwide vote for parties to enter the parliament was exceptionally high. The ODIHR also reported harassment of members of some political parties and human rights defenders, although the situation had improved markedly compared with previous elections. Finally, it recommended Turkey to find alternative penalties to the drastic sanctions (closure) of media outlets which violated regulations of media coverage.” [10b]

14.05 The OSCE’s Office for Democratic Institutions and Human Rights (OSCE/ODIHR) in an assessment report for the Turkish parliamentary elections which took place on 3 November 2002 noted that:

“The 3 November elections for the Turkish Grand National Assembly (TGNA) demonstrated the vibrancy of Turkey’s democracy. At the same time, the broader legal framework and its implementation establish strict limits on the scope of political debate in Turkey. Non-violent expression of political views beyond these limits is still restricted by a variety of laws and is rigorously

enforced. Several parties faced action aimed at closing them down during the current elections, notably the Justice and Development Party (AK), the winner of the elections. Many candidates were also banned from running, including AK's leader and leaders of several other parties, generally as a result of past convictions for non-violent political speech. These restrictions on free speech and the practice of dissolving political parties and banning candidates stand in stark contrast to the otherwise pluralist election system in Turkey, as well as its international commitments." [14b]

14.06 The same OCSE report further noted that:

"Parties must win at least 10% of the vote to enter the TGNA; this is an exceptionally high threshold by European standards. Only two of the 18 parties running passed the threshold. As a result, 45% of the electorate cast votes for parties that will not be represented in the TGNA, and a party that drew less than 35% of the total vote will control almost two thirds of the seats in the TGNA. To avoid such distortions, the authorities should consider reviewing the level of the threshold. Other aspects of the law that might be reviewed are the absence of any judicial appeals against the decisions of the Supreme Board of Elections, and the absence of procedures for voting abroad." [14b]

See also paragraph 19:22 [Pro-Kurdish Political Parties](#)

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FREEDOM OF ASSOCIATION AND ASSEMBLY

14.07 As recorded in the International Helsinki Federation (IHF) report of June 2006:

"The 2004 Law on Associations largely removed restrictions on registration and functioning of NGOs. However, restrictions continued to be provided for 'prohibited objectives' (article 30), and article 56 of the law stipulated that no associations will be formed with objectives in contravention of law and morality. Human rights organizations organizations consider these vague terms as potentially threatening. A regulation on the implementation of the law also prohibited NGOs whose names or objectives were considered as unconstitutional, such as promoting a minority culture. According to HRA, the authorities launched prosecutions with the aim of closure against three organizations and security forces intervened in the activities of several NGOs in 2005." [10a] (p439)

14.08 The International Helsinki Federation (IHF) June 2006 report further stated:

"In a case against Turkey's largest teacher's union, Egitim-Sen, initiated upon a complaint by the chief of general staff for closure of the union for defending the right to education in children's mother tongues, the Ankara Labor Court decided in February against the indictment on the basis of the case-law of the ECtHR regarding freedom of expression and of association. The court argued that the Turkish law should be interpreted in line with international human rights obligations. However, the Supreme Court of Appeals decided to close the union

in May, arguing that freedom of association could be restricted because of considerations of territorial integrity and national security. The court stated that Turkish citizens could not be educated in any language other than Turkish and that freedom of association could be restricted for protecting national security and unity.” [10a] (p5)

14.09 The EC 2006 report noted that:

“Concerning freedom of association, the legal framework is generally in line with international standards. The impact on the ground of the legislative reforms concerning associations has been positive, in particular the adoption of a Law on Associations in November 2004. However, the requirement to notify the authorities in case of receipt of finances from abroad results in difficulties and cumbersome procedures for NGOs. Furthermore, unlike associations, foundations still need permission before applying for projects outside Turkey and funded by international organisations. Some difficulties related to the registration of associations remain. The requests of the Diyarbakir Protestant church and of the Jehovah's Witnesses to establish associations were challenged in court. In both cases the court ruled in favour of the associations. In April 2006, a Kurdish association was ordered to close by a Court in Diyarbakir on the grounds that its statute included the objectives of setting up a Kurdish archive, museum and library and that its activities would be carried out also in the Kurdish language.” [71a] (p16)

14.10 The USSD 2005 reported that, “The law requires associations to notify authorities before engaging in activities such as founding an association, interacting with international organizations, and receiving financial support from abroad. Associations are required to provide detailed documents on such activities, and representatives of associations said this placed an undue burden on their operations.” [5b] (Section 2b)

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14.11 The USSD 2005 report further added that: “Foreign associations wishing to conduct programs in the country are required to receive separate permission from the Interior Ministry for each activity. They are also required to submit detailed reports to the government on each activity, despite the fact that local partners are also required to report on the same projects.” [5b] (Section 2b)

14.12 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, noted that:

“The law provides for freedom of assembly; however, the government restricted this right in practice. Significant prior notification to authorities is required for a gathering, and authorities may restrict meetings to designated sites. Police killed demonstrators during the year. For example, in February demonstrators in Mersin Province claimed police shot and killed Umit Gonultas during a protest in support of Abdullah Ocalan, imprisoned leader of the terrorist PKK. According to the HRA, there was no evidence that demonstrators used weapons during the altercation. Interior ministry inspectors determined that police did not shoot Gonultas. Prosecutors opened a case against nine members of the DEHAP for

their role in a statement protesting the shooting. The DEHAP officials were charged with being members of an illegal organization; their trial continued at year's end." [5b] (Section 2b)

14.13 The USSD 2005 report also noted that:

"In March police repeatedly kicked and beat protestors participating in International Women's Day demonstrations in Istanbul. Following an investigation, the Interior Ministry reprimanded three senior-level law enforcement officials and fined six officers, although the ministry in December reportedly promoted one of the senior-level officers. In December prosecutors charged 54 police officers with using excessive force during the incident... Also in March police intervened in Nevruz celebrations [the New Year's Day for the Turks] in a number of cities. HRF reported clashes between police and celebrants in Siirt Province, during which police opened fire, injuring a child. Police in Edirne raided a house and detained a number of local DEHAP officials and students in connection with Nevruz celebrations. During a separate incident in Siirt, police beat juveniles who stoned the police station after police prevented Nevruz celebrations, according to HRF. In Mersin Province police arrested six juveniles for allegedly trying to burn the national flag during Nevruz celebrations. The juveniles faced charges in court." [5b] (Section 2b)

14.14 As confirmed by the British Embassy in Ankara on 22 April 2005, the Law on Associations (law number 5253, also referred to as Associations Law) was approved by the President on 22 November 2004 and published in the Official Gazette on the following day. [4d]

14.15 The USSD 2005 report further noted that:

"In May the Justice Ministry cancelled a seminar on torture prevention for physicians and judicial authorities. Ministry officials announced the cancellation one day before the event was scheduled to start in Istanbul, asserting that organizers had failed to submit the required documents. Representatives of the Turkish Medical Association maintained that all the paperwork had been filed and said the Justice Ministry was involved with the organization of the event." [5b] (Section 2b)

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14.16 As noted in the International Helsinki Federation (IHF) report of June 2006:

"According to the Law on Assemblies Meetings and Demonstrations, which was amended in August 2003, governors were no longer allowed to ban demonstrations. In addition, the previous authority of governors or the Interior Ministry to postpone demonstrations and meetings for 30 days was reduced to ten days. Further, the maximum period for the postponement or ban of a meeting was brought down from three months to one month. While organizers were still required to 'notify' the security authorities before demonstrations or meetings, the police often mistook 'notifying' as an 'authorisation' process. According to HRA, 34 meetings and demonstrations were prohibited by the authorities during the year. Police continued to intervene in demonstrations and

open-air meetings organized by Kurdish activists, students, trade unionists, human rights groups or left-wing groups. Excessive security measures and the negative attitudes of the police toward demonstrators led to tensions. According to HRA, security forces used excessive force in 101 demonstrations and meetings compared to 124 in 2004. Seven persons were killed during demonstrations while more than 330 demonstrators, including political and minority activists, human rights activists, students and journalists, were wounded during intervention in these actions.” [10a] (p438)

14.17 The Human Rights Watch (HRW) World Report 2007, published in January 2007, noted that there was a sharp increase in indiscriminate and disproportionate use of lethal force by security forces in dealing with protestors, as well as during normal policing. In March youths attending the funerals of PKK militants clashed with police, throwing stones and petrol bombs. During the ensuing street battles in Diyarbakır and other cities police fired bullets, gas grenades, and stones at rioters, killing eight people, including innocent bystanders and four children under 10 years of age. In other incidents during 2006, police shot and killed 13 persons either in error or because they were deemed not to have heeded orders to stop. [9b]

14.18 The IHD (Human Rights Association) 2005 Balance Sheet on Human Rights Violations in Turkey recorded that 34 meetings and demonstrations were suspended; 24 subjected to legal action; 101 subjected to the intervention of the security forces and nine subjected to physical attacks. [73a] (Violations of right to meet and demonstrate)

14.19 On 17 February 2006 the *Turkish Daily News* reported that:

“Police with batons held back hundreds of Kurdish demonstrators on Thursday who were throwing bricks and stones at police from atop [sic] a pro-Kurdish political party building in the southern Turkish city of Adana. The demonstration was a continuation of protests a day earlier to mark the seventh anniversary of terrorist Kurdistan Workers’ Party (PKK) leader Abdullah Ocalan’s capture. Some 200 demonstrators were detained after dozens of them threw bricks and stones at police, reports said. Police, wielding truncheons, confronted dozens of protesters at the gates of the pro-Kurdish Democratic Society Party (DTP) building under a shower of stones, CNN-Turk showed. At least two police officials were injured in the clash, the Anatolia news agency said. Elsewhere on Thursday, hundreds of Kurds clashed with police and staged sit-ins in the largely Kurdish Southeast.” [23u]

14.20 The EC 2006 report noted that:

“As regards freedom of assembly, public demonstrations are subject to fewer restrictions than in the past. However, in some cases security forces used excessive force, especially when the demonstrations were carried out without permission. The administrative investigations have been finalised into the incidents during a demonstration promoting women’s rights in March 2005. Three members of the Istanbul Directorate of Security have been punished with a reprimand due to ‘Failure in undertaking the duty of training and supervising members under their command.’ A further six staff members have been

punished with a salary deduction due to ‘disproportionate use of force when dispersing the demonstrators and speaking to or treating the public in a degrading manner’. The investigation launched by the Chief Public Prosecutor’s Office of Istanbul against seven police officers is currently ongoing.” [71a] (p15)

15 FREEDOM OF SPEECH AND MEDIA

- 15.01 As outlined in the Human Rights Watch (HRW) World Report 2007, published in January 2007:

“More than 50 individuals were indicted for statements or speeches that questioned state policy on controversial topics such as religion, ethnicity, and the role of the army. The government failed to abolish laws that restrict speech. In April an Adana court sentenced broadcaster Sabri Ejder Öziç to six months of imprisonment under article 301 of the Turkish Criminal Code for ‘insulting parliament’ by describing a decision to allow foreign troops on Turkish territory as a ‘terrorist act’. Öziç is at liberty pending appeal. In July the Supreme Court upheld a six-month prison sentence against Hrant Dink, editor of the newspaper *Agos* (Furrow), under article 301 for ‘insulting Turkishness’ in an editorial concerning the 1915 massacres of Armenians in Anatolia. The sentence was suspended, but other speech-related charges against Dink are pending. In September British artist Michael Dickinson was imprisoned for two weeks and subsequently deported for publishing a collage showing Prime Minister Erdoğan as US President Bush’s poodle.” [9b]

- 15.02 The EC 2006 report noted that:

“... the prosecutions and convictions for the expression of non-violent opinion under certain provisions of the new Penal Code are a cause for serious concern and may contribute to create a climate of self-censorship in the country. This is particularly the case for Article 301 which penalises insulting Turkishness, the Republic as well as the organs and institutions of the state. Although this article includes a provision that expression of thought intended to criticise should not constitute a crime, it has repeatedly been used to prosecute non violent opinions expressed by journalists, writers, publishers, academics and human rights activists. In July, the General Assemblies of the Civil and Penal Chambers of the Court of Cassation established restrictive jurisprudence on Article 301. The Court confirmed a six-month suspended prison sentence for journalist Hrant Dink. This was on the basis of Article 301 of the new Penal Code for insulting ‘Turkishness’ in a series of articles he wrote on Armenian identity. Against this background, Article 301 needs to be brought into line with the relevant European standards. The same applies to other provisions of the Penal code which have been used to prosecute the non-violent expression of opinions and may limit freedom of expression.” [71a] (p14-15)

- 15.03 The EC 2006 report further noted that “Overall, open debate has increased in recent years in Turkish society on a wide range of issues. Notwithstanding this trend, freedom of expression in line with European standards is not yet guaranteed by the present legal framework.” [71a] (p15)

- 15.04 The EC 2006 report also added that:

“With regard to freedom of expression (including the media), the Ministry of Justice issued a circular in January 2006, regarding cases of freedom of expression in written and visual media. It instructed prosecutors to take into consideration both Turkish legislation and the ECHR. The circular also established a monthly monitoring mechanism of criminal investigations and court cases against the press and media. Some progress can be reported in the area of broadcasts in languages other than Turkish at local and regional level. However, the prosecutions and convictions for the expression of non-violent opinion under certain provisions of the new Penal Code are a cause for serious concern and may contribute to create a climate of self-censorship in the country.” [71a] (p14)

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- 15.05 The International Helsinki Federation (IHF) report of June 2006 noted that:

“The Independent Network for Monitoring and Covering Media Freedom and Independent Journalism reported in July that judicial harassment and political harassment of journalists increased dramatically in April through June 2005. BiaNet also reported that 12 journalist [sic] were charged with ‘disseminating terrorist propaganda’ under the Anti-Terrorism Law, including mainstream journalists who reported on the Kurdish question. According to the annual report of this source, 17 journalists, who discussed current human rights issues and the cancellation of a conference on the Armenian issue by a court in their reports or articles, were prosecuted for ‘influencing the court decision’ and ‘attempting to influence fair trial’.” [10a] (p5)

- 15.06 On 23 December 2005 the *Turkish Daily News* reported that:

“In a new twist in the saga of Article 301 of the Turkish Penal Code (TCK), writer Zülküf Kışanak and journalist Aziz Özer have been found guilty of insulting the Republic of Turkey and sentenced to five months’ imprisonment each... The court decided that the writer had insulted the republic and sentenced him to a prison term of five months, later reduced to a fine only of YTL 3,000. The prosecutor had demanded a sentence of three years in prison. The same court later sentenced Aziz Öner, owner/editor of periodical *Yeni Dünya İçin Çağrı*, to five months’ imprisonment for articles that appeared in his magazine. The sentence was later reduced to a YTL 6,000 fine.” [23m]

- 15.07 The IHD (Human Rights Association) 2005 Balance Sheet on Human Rights Violations in Turkey recorded that 27 people were tried under section 159 of the [old] Turkish Penal Code and section 301 of the new Turkish Penal Code in 18 completed cases. Ten people were acquitted; 15 people were sentenced to 82 months and 3 days imprisonment; a sentence of 45 months and 3 days was converted into a fine and the case against one person was dismissed. A total of 18 additional cases were brought against 39 people under the same articles but

these cases were not completed in 2005. [73a] (Violations of right to free speech, thought and belief)

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- 15.08 The UK Foreign and Commonwealth Office (FCO) Human Rights Annual Report 2006, released in October 2006, noted that:

“The new Turkish penal code limits the range of circumstances in which people can be convicted for the nonviolent expression of opinion. Both official and NGO figures suggest that the number of prosecutions and convictions under the penal code articles traditionally used against individuals for peaceful expressions of opinion has been falling for several years and has continued to fall since the new code came into force.” [4n] (p136)

JOURNALISTS

- 15.09 Reporters without Borders (RSF) in their 2007 annual report on Freedom of the Press Worldwide –Turkey noted that:

“Press freedom is still restricted by article 301 of the criminal code, which is frequently used against journalists, writers and intellectuals mentioning sensitive topics such as the Armenian massacres and the Kurdish question. Negotiations for Turkish membership of the European Union have focused on the need to change this situation and prime minister Recep Tayyip Erdogan said publicly he wants dialogue about it. At least 65 people, including many journalists and writers, have been prosecuted under article 301 of the new criminal code introduced on 1 June 2005. The article, headed ‘Denigration of Turkishness, the republic and state organs and institutions,’ provides for between six months and three years in prison for anyone who openly denigrates the government, judicial institutions or military or police structures” [11c]

- 15.10 The RSF 2007 report further stated that:

“Turks are divided on the issue. The EU enlargement commission’s report on 8 November said press freedom must improve and that freedom of expression in line with European standards is not yet guaranteed by the present legal framework (...) Article 301 and other provisions of the Turkish penal code that restrict freedom of expression need to be brought in line with the European Convention of Human Rights (ECHR).

The strong campaign for and against about Turkish EU membership and the award of the Nobel Prize for literature to a writer being prosecuted for his work forced the prime minister to publicly declare support for amending article 301. Several journalists prosecuted under it said they would take their cases to the European Human Rights Court.” [11c]

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- 15.11 As reported on 28 February 2006 by Reporters without Borders (RSF):

“Reporters Without Borders said today it was very concerned about two women journalists of the pro-Kurdish news agency DIHA, Evrim Dengiz and Nesrin Yazar, accused by police of making fire-bombs allegedly found in their car. They face life imprisonment. Their car was stopped by anti-terrorist police in Mersin (300 km south of Ankara) on 15 February after they had covered a demonstration marking the seventh anniversary of the detention of Kurdish separatist leader Abdullah Öcalan, head of the of PKK/Kongra-Gel party. They were taken away from the car while it was searched, after which a policeman said he had found fire-bombs in it and accused them of making them for the demonstration. They were arrested and a judge later declared the case secret and the Mersin prosecutor called for life imprisonment under article 302-1 of the criminal code for ‘undermining the unity or independence of the state and nation.’ The article excludes any possibility of amnesty.” [11b]

15.12 Reporters without Borders (RSF) in their 2007 annual report further noted that:

“Amendments to the country’s anti-terrorist law that were approved by parliament on 29 June also threatened freedom of expression by allowing imprisonment for printing news about ‘terrorist organisations’ and raised fears of unjustified prosecution of journalists who dared to mention the subject. Rüstü Demirkaya, of the pro-Kurdish news agency Diha, was jailed on 14 June in the eastern town of Tunceli for ‘collaborating with the PKK/Kongra-Gel’ after a former militant reportedly accused him of giving the PKK a laptop and 10 blank CDs and telling the party about an ongoing military operation. He faces up to 12 years in prison.” [11c]

15.13 As reported by BBC News on 19 January 2007:

“A prominent Turkish-Armenian editor, convicted in 2005 of insulting Turkish identity, has been shot dead outside his newspaper’s office in Istanbul... Dink, the editor-in-chief of the bilingual Turkish and Armenian weekly Agos newspaper, was one of Turkey’s most prominent Armenian voices... Dink, 53, was found guilty more than a year ago of insulting Turkish identity after he wrote an article which addressed the mass killings of Ottoman Armenians nine decades ago.” [66f]

15.14 As reported by BIA News Center on 11 July 2006:

“The 2006 2nd Quarterly Report prepared by the ‘Network in Turkey for Monitoring and Covering Media Freedom and Independent Journalism’ - BIA² Media Monitoring Desk and covering the months of April, May and June discloses factual details on the situation of the media in relation to rights and freedoms. The 12-page BIA² report discloses that 56 new ‘Freedom of Expression’ have been launched against 67 individuals from April through June as the government still seeks to impose new restrictions. While the reforms on the road to European Union membership were important steps for freedom of expression the Justice and Development Party (AKP) government has not only ignored the grave consequences created by the Criminal Code in just a year but has even passed a new form of the Anti-Terror Law (TMY) knowing it only brought more sentences at the ECHR in the past and does so today too says the report.” [102a]

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15.15 The BIA News Center further noted that:

“The report contains information on 56 court cases launched against 67 people, four journalists seeking their rights at local courts and 15 individuals who have applied to the European Court of Human Rights. The report cites developments over the past three months that reveal problems with regard to the independence of justice in Turkey. It notes that while the Supreme Council of Judges and Prosecutors has no structural or functional autonomy, the fact that the Office of the Chief of General Staff and the Police force are at top of the list of institutions filing criminal complaints ‘creates a concerning picture for the freedom of media and expression’. Covering a wide section of society from journalists to tradespeople at least 40 people have been put on trial or are still being tried under article 159 of the old TCK and article 301 of the new Code it says.” [102a]

15.16 The BIA News Center reported on 27 October 2006 that:

“Journalists Tuncay Ozkan, Cuneyt Arcayurek and Adnan Bulut have been charged for ‘publicly denigrating Turkish soldiers’ in a program aired by ‘Kanal Turk’ television and face up to 3 years imprisonment each if found guilty under penal code article 301. The charges against all three journalists are linked to views expressed on the ‘Politics Stop’ program on Kanal Turk. The Monitoring Desk of the ‘Establishing a Countrywide Network for Monitoring and Covering for Media Freedom and Independent Journalism-BİA²’ project has disclosed that according to its data from news reports covered, a total of 68 people have been charged in Turkey under articles 301 and 159 of the Turkish Penal Code in 18 months. While article 301 went into force on June 1, 2005, in instances where it has been favorable for the defendants, article 159 has been imposed. Those who have been charged under both articles are journalists, writers, publishers, activists, unionists and, in some instance, ordinary citizens.” [102f]

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MEDIA AND PRESS

15.17 As outlined in the European Commission 2005 report, “As regards freedom of the press, there have been some positive developments, such as acquittals and a number of releases, as a result of the adoption of the new Press Law and the new Penal Code, although, as indicated above, journalists continue to face prosecution and are sometimes convicted for the expression of non-violent opinion...” [71d] (p26)

15.18 The EC 2005 report also noted that:

“In response to fears about restrictions on freedom of the press in the new Penal Code, the Press Council established a new Legal Assistance and

Support Service in June 2005. This Service will reportedly provide a lawyer free of charge to journalists facing charges brought against them under provisions of the new Code. The Service will also designate an observer to follow court cases involving journalists. According to International PEN, there are currently an estimated 60 writers, publishers and journalists under judicial process in Turkey.” [71d] (p26-27)

- 15.19 The Freedom House report ‘Freedom of the press 2006’ published 27 April 2006 noted:

“Constitutional provisions for freedom of the press and of expression exist but are only partially upheld in practice. Although many positive reforms have been passed in recent years in preparation for membership in the European Union—most significantly a new press code in 2004, which mandates heavy fines instead of prison sentences for some press crimes, permits noncitizens to own periodicals and serve as editors, protects against disclosure of sources, and prevents authorities from closing publications or hindering distribution—implementation appeared to lag in 2005 in favor of more restrictive measures.” [62e]

- 15.20 The same report ‘Freedom of the press 2006’ published 27 April 2006 further noted

“The revised penal code passed in September 2004 was scheduled to enter into force on April 1, 2005. However, implementation was delayed in response to protests by journalists in March over provisions that were too broad and that singled out journalists for more severe punishment than others committing the same crime. The code ultimately went into force in June after some revisions. Press groups continued to denounce the new code because provisions remained that could send journalists to prison, in contradiction of the 2004 press code, for crimes such as stating that genocide was committed against the Armenians in 1915, instigating hatred in one part of the population against another (used against journalists who write about the Kurdish population), or calling for the removal of Turkish troops from Cyprus.” [62e]

- 15.21 The Freedom House ‘Freedom of the press 2006’ continued:

“Censorship is not explicit, but self-censorship occurs among editors and journalists, who are concerned about violating the many legal restrictions. Often, the courts rule against journalists, who continue to be jailed and face huge fines for various press offenses. Rights groups estimated that 60 Turkish writers, publishers, and journalists were facing prosecution or incarceration in 2005... Turkey's broadcast media are well developed, with hundreds of private television channels, including cable and satellite, as well as commercial radio stations... Media are highly concentrated in a few private conglomerates, which subtly pressure their editors and journalists to refrain from reporting that will harm their business interests. This could include avoiding criticism of the government or potential advertisers, both of which could have contracts with other arms of the companies. The quality of Turkish media is low, but independent domestic and foreign print media are able to provide diverse views, including criticism of the government and its policies.” [62e]

15.22 In the year 2006, Turkey ranked 103 (out of 194 countries) in the Freedom House Table of Global Press Freedom Rankings and the status of its press was considered 'partly free'. [62b] In the Reporters without Borders (RSF) 'Worldwide Press Freedom Index 2005', published on 20 October 2005, the ranking of Turkey was 98 out of 167 countries (ranging from one for the most free to 167 for the least free). The previous ranking for Turkey was 113. [11a]

15.23 As stated in a press release issued on 7 July 2005:

"The OSCE Representative on Freedom of the Media, Miklos Haraszti, today praised the Turkish authorities for introducing important changes to the new Penal Code, following a legal review his Office produced last May listing 23 provisions that needed to be revoked. However, 'despite some improvements, the amendments do not sufficiently eliminate threats to freedom of expression and to a free press', Mr Haraszti said... Relating to Article 305 on 'offences against fundamental national interests', the Representative noted with satisfaction that two examples in the explanatory 'Reasoning Document' – making it a crime to demand the withdrawal of Turkish troops from Cyprus or to claim that Armenians were exposed to genocide – have been removed. On a negative note, however, Mr Haraszti observed three major areas where media freedom remains endangered: the right of journalists to report and discuss on public-interest issues is not secured; restrictions on access and disclosure of information have not been lifted; defamation and insult provisions remain a criminal rather than a civil offence, thereby leaving the free discussion of public affairs at risk. The Representative expressed his hope that modernisation of the Turkish Penal Code would continue in the spirit of improving the freedom of public scrutiny, while the provisions promoting self-censorship would all be removed." [14a]

15.24 On 5 September 2006, *The Times* reported that:

"The author of this summer's Turkish bestseller is to stand trial for allegedly insulting Mustafa Kemal Atatürk, the country's revered founding father, in her popular revisionist biography of Latife, his wife. The case is the latest in a series of high-profile lawsuits initiated against writers and intellectuals that has brought attention to the shortcomings of the supposedly reformed Turkish legal system with regard to freedom of expression in the European Union candidate country. Mrs Çalısar joins Elif Safak, who will go on trial next month over her popular novel *The Bastard of Istanbul*, in which a fictional Armenian character refers to 'Turkish butchers' who killed large numbers of Armenians in Turkey during the First World War. Similar charges of 'insulting Turkishness' also put Orhan Pamuk, Turkey's most famous author, in the dock this year. Perihan Magden, a journalist, stood trial for her support of conscientious objection." [107]

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15.25 As noted in the European Commission 2006 report, "As regards access to radio/TV broadcasting, progress was achieved on broadcasts in languages other than Turkish at local and regional level. However, in accordance with the

regulation on TV and radio broadcasting in other languages and dialects used by Turkish citizens (2004), TV broadcasts remain limited to 45 minutes per day, 4 hours a week. Radio broadcasts are limited to 60 minutes per day, 5 hours per week. The Radio and Television Higher Council (RTÜK) decided in May 2006 to lift these restrictions as far as music and cinematographic works are concerned. However, as this decision was not officially communicated to broadcasters, they refrained from exceeding the previous limitations for fear of sanctions.” [71a] (p42)

15.26 The EC 2006 report further noted that:

“On the national level, the Public Turkish Radio and Television Corporation (TRT) is broadcasting in Bosnian, Arabic, Circassian, Kirmanji and Zaza. However, these emissions are limited to five days a week, 30-35 minutes daily and only cover news, sports, music and documentaries, and not, for example, children’s programmes. The issue of the independence, including adequate funding, of the Public Service Broadcaster TRT, and the Radio and Television Higher Council (RTÜK) remains a matter of concern.” [71a] (p43)

THE HIGH BOARD OF RADIO AND TELEVISION (RTÜK)

15.27 The USSD 2005 report noted that:

“The government owned and operated the Turkish Radio and Television Corporation (TRT). According to the High Board of Radio and Television (RTUK), there were 226 local, 15 regional, and 16 national officially registered television stations and 959 local, 104 regional, and 36 national radio stations. Other television and radio stations broadcast without an official license. The wide availability of satellite dishes and cable television allowed access to foreign broadcasts, including several Kurdish-language private channels. Most media were privately owned by large holding companies that had a wide range of outside business interests; the concentration of media ownership influenced the content of reporting and limited the scope of debate.” [5b] (Section 2a)

15.28 The Europa Regional Survey 2005 lists the functions of the Supreme Broadcasting Board or Radio and Television Supreme Council (RTÜK) as responsible for assignment of channels, frequencies and bands, controls transmitting facilities of radio stations and TV networks, draws up regulations on related matters, monitors broadcasting and issues warnings in case of violation of the Broadcasting law. [1d] (p1199-1200)

15.29 The European Commission 2006 report recorded that:

“Recent decisions taken by the government in relation to the appointment procedure of the members of the High Audiovisual Board (RTÜK) are a cause for concern to the extent that they weaken the independence of the media regulatory body. The Law on the Establishment of Radio and Television broadcast also poses problems in terms of definitions, jurisdiction, freedom of reception, major events, promotion of independent works and restrictions on the share of foreign capital in television enterprises. With regard to the administration of the broadcasting sector, the Radio and Television Higher

Council (RTÜK) has so far not been able to reallocate frequencies and review the temporary licences effectively. The issue of the independence, including adequate funding, of the Public Service Broadcaster TRT, and the Radio and Television Higher Council (RTÜK) remains a matter of concern. Progress was made in this area. However, alignment in media and audiovisual policy remain very limited.” [71a] (p42)

15.30 The USSD 2005 report noted that:

“The government maintained significant restrictions on the use of Kurdish and other minority languages in radio and television broadcasts. RTUK regulations limit minority-language news and cultural programming to 60 minutes per day, 5 hours per week on radio, and 45 minutes per day, 4 hours per week on television. The regulations also require that non Turkish radio programs be followed by the same program in Turkish and that non-Turkish television programs have Turkish subtitles. The state-owned TRT broadcasting company provided national programming in Kurdish and three other minority languages.” [5b] (Section 2a)

15.31 On 16 July 2005 the *Turkish Daily News* reported that “The new members of the Supreme Board of Radio and Television (RTÜK) on Friday elected as chairman Zahid Akman, who said they had no intention of imposing penalties such as closures, bans or fines in the coming period. Akman took over as chairman in a ceremony attended by Fatih Karaca, the man he is replacing. Karaca said he always called for RTÜK members to be elected and was happy that Parliament had implemented such a change.” [23aj]

15.32 On 21 February 2006 the *Turkish Daily News* reported that the executives of two Diyarbakır’s local stations Gün Radio-TV and Söz Radio-TV, both of which had applied to RTÜK two years ago to broadcast in the Kırmançi dialect of Kurdish, had met with Supreme Board of Radio and Television (RTÜK) officials. RTÜK was apparently considering allowing the broadcast in local dialects in March 2006. [23w]

15.33 On 10 March 2006 the BIA News Center reported that The Radio and Television Supreme Council (RTUK) has granted permission to three local media organizations in Southeastern Turkey to broadcast programs in Kurdish. After the signature ceremony, the televisions will be able to broadcast programs in the Kırmanchi and Zaza dialects of Kurdish. [102g] On 11 April 2006 BIA News reported that ‘Medya FM’ (Media FM) in Sanliurfa, which began broadcasting programs in the Kırmanchi dialect of Kurdish on March 23 with the permission of the Radio and Television Higher Board (RTUK), is continuing Kurdish broadcasts under difficult conditions. The radio broadcasts Kurdish programs for a total of five hours per week. The ‘Yasamin Merkezi’ (The Center of Life) aired at 6:00 p.m. every day, consists of 15 minutes of news, 15 minutes of music and half-an-hour of traditional culture. To be able to broadcast in line with the Regulation on Radio and Television Programs in Different Languages and Dialects Turkish Citizens Use in Daily Life, the two employees prepare the program until 6:00 p.m., present the program, and begin translating the program into Turkish at 7:00 p.m. The two radio employees, after finishing their translations, prepare copies and transcripts of the program to be sent to RTUK

and the Broadcast Monitoring Unit of the Police Security Station. The weekly package is delivered to the authorities every Monday. Coordinator Arisut complained of not being able to prepare quality programs because of the efforts spent to fulfill the bureaucratic requirements. [102h]

15.34 In addition on 8 November 2006 the BIA News Center reported that:

“A two-day educational seminar organized by the Turkish National Police to show journalists how to cover and report on terror-related developments has drawn fire for being an attempt to dictate security policies on the country's media and further curb the people's limited right to truthful information. Contemporary Journalists Association (CGD) Chairman Ahmet Abakay was among the first to react to the event saying the police would do better with a seminar on how they should treat journalists.’ Instead of explaining to journalists how they should file their news reports’ Abakay said in an exclusive interview with bianet, it would be beneficial for them to hold a seminar on how members of the security forces should treat journalists. In a written invitation sent to the media, print, radio and television, the Police National Directorate specifically asked for the organizations to send persons with influence over editorial and publishing decisions to the event.” [102i]

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INTERNET

15.35 The USSD 2005 report stated that:

“There generally were no government restrictions on the Internet; however, the law authorizes RTUK to monitor Internet speech and to require Internet service providers to submit advance copies of pages to be posted online. The law also allows police to search and confiscate materials from Internet cafes to protect ‘national security, public order, health, and decency’ or to prevent a crime. Police must obtain authorization from a judge or, in emergencies, the highest administrative authority before taking such action.” [5b] (Section 2a)

15.36 As recorded in the European Commission 2006 report, “Internet subscribers increased from 1% to 2% of the population...” [71a] (p30) “The penetration rate for internet services has reached 15.5% as of May. Mainly due to a lack of competition broadband coverage is low, facing persistent quality problems and high pricing.” [71a] (p42)

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16 HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

16.01 The European Commission 2006 report noted that “Throughout the year, the EU Harmonisation Committee and the Human Rights Committee played an

important role in addressing issues arising under the Copenhagen political criteria... [71a] (p5)

- 16.02 The EC 2006 report further noted that, "Overall, Turkey has made progress on the ratification of international human rights instruments and in the execution of ECtHR judgements. However, there is a need to further upgrade the human rights institutional framework." [71a] (p13)

- 16.03 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, reported that:

"A number of domestic and international human rights groups operated in many regions but faced government obstruction and restrictive laws regarding their operations, particularly in the southeast. The government met with domestic NGOs, responded to their inquiries, and sometimes took action in response to their recommendations. The Human Rights Association (HRA) had 34 branches nationwide and claimed a membership of approximately 14 thousand."
[5b] (Section 4)

- 16.04 The USSD 2005 report also noted that:

"Human rights organizations and monitors, as well as lawyers and doctors involved in documenting human rights violations, continued to face detention, prosecution, intimidation, harassment, and formal closure orders for their legitimate activities. The HRA reported that prosecutors opened 47 cases against HRA branches. Amnesty International maintained a headquarters in Istanbul and reported good cooperation with the government during the year. The government also cooperated with international governmental organizations such as the CPT, UNHCR, and the International Organization for Migration (IOM)." [5b] (Section 4)

- 16.05 The International Federation for Human Rights (FIDH) reported in an article published on 10 April 2006 that:

"Mr. Kaboglu, former head of the Human Rights Advisory Council and Mr. Oran, member of this Council, will appear before the Ankara Penal Court of First Instance for the second time. Initially charged under Articles 216/I (inciting hatred and enmity) and 301/II (humiliation of the courts authority) of the new Penal Code, the second count of indictment was cancelled by the judge during the last audience, on 15 February 2006. Mr Kaboglu and Mr Oran still face prison sentences from one year to three years under Art.216/I. This case is an additional example of infringements to the freedoms of opinion and expression and therefore constitutes flagrant violations of the international standards, in particular of the International Covenant on Civil and Political Rights, and of the Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms." [112a]

- 16.06 The FIDH publication further reported that:

"On 4 April 2006, Mr. Ali Oncu and Mr. Edip Yasar, members of the Diyarbakir branch of the Human Rights Association (HRA), were arrested and detained by

an anti-terrorism branch of the security force. On 5 April 2006, they were heard by the Public Prosecutor of Diyarbakir and by the judge who decided to transfer them to Diyarbakir D Type prison. Mr. Oncu and Mr. Yasar were charged with assisting and supporting illegal organisations.” [112b]

HUMAN RIGHTS ADVISORY BOARD (IHDK)

- 16.07 In correspondence from the Foreign and Commonwealth Office dated 5 February 2007 it was noted that:

“Membership of the Human Advisory Board consists of academics, civil society, public sector organisations, representatives of professional organisations. The Board reports directly to the Minister for Human Rights (Gul). Their role as an expert advisory committee to assist the government in its implementation of reforms.” [4c]

- 16.08 The *Turkish Daily News* of 8 February 2005 reported that:

“The Prime Ministry Human Rights Advisory Board (IHDK) chairman Prof. Ibrahim Kaboglu and three of the top members of the board resigned on Monday, noting that they were incapable of continuing with their work, because the government had no intention of listening to them. He said: ‘We weren’t pushed out for neglecting our work; we were pushed out for performing our work properly. Some circles reacted negatively when we made a certain decision or became angry when we proposed something they did not like.’ The government announced on Feb. 3 the term of office had ended for 14 members of the 78-member Board including Chairman Ibrahim Kaboglu, reported CNN-Turk television on its Web site. Speaking at the press conference, Kaboglu said his attorney had filed a lawsuit against the government for terminating the terms of 14 members.” [23s]

- 16.09 As recorded on 28 March 2005 on the website of the Hellenic Resources Network, HR-Net:

“Ozgur Politika news (25/03/05) reported that five members of the Turkish Prime Ministry Human Rights Advisory Board [BIHDK] have resigned. The resigning BIHDK members announced their reasons at a joint press conference held at the Turkish Human Rights Foundation [TIHV] headquarters. TIHV Chairman Yavuz Onen, holding the joint press conference, said that the government had not consulted once with the board despite making many legal changes to the four adaptation packages issued so as to ensure conformity with the EU’s political and economic criteria. Pointing out that the board’s work had been aimed at specific ‘centres’ within the public and had ruffled feathers within the government.” [49a]

- 16.10 The European Commission 2006 report recorded that “The Human Rights Advisory Board under the Office of the Prime Minister has not been operating since the publication of a report on minority rights in Turkey in October 2004. This is a body composed of NGOs, experts and representatives from ministries.” [71a] (p12)

- 16.11 As noted in the Amnesty International Turkey Memorandum of 1 August 2005:

“Turkey has an urgent need for effective and independent National Human Rights institutions which will promote and protect human rights, including through effective investigation of patterns of human rights concerns and individuals’ complaints about human rights violations they have suffered, and through making recommendations accordingly. Present examples of bodies which it is claimed fulfil the function of a National Human Rights Institution include the above-mentioned and ill-fated Human Rights Advisory Board as well as the Provincial and Regional Human Rights Boards attached to the Prime Ministry. The latter bodies have been well-publicized by the government. However, Amnesty International has serious concerns about the operations of these Boards – concerns which are shared by Turkish and international human rights non-governmental organizations” [12i] (Section on The urgent need for independent, resourced and effective national human rights institutions)

REFORM MONITORING GROUP

- 16.12 As confirmed by the British Embassy in Ankara on 5 February 2007 the membership of the (EU) Reform Monitoring Group consists of senior officials and ministers from the Prime Ministry and key government departments. The membership is currently being reformed. The role of the Reform Monitoring Group oversees the passage of all reforms relating to the EU Accession Process, including the planning and timetabling of such reforms. Its role is therefore much broader than human rights, but it does oversee the passage and implementation of human rights related legislation. [4c]

- 16.13 The New Anatolian reported on 15 March 2006 that:

“The Reform Monitoring Group (RMG), the main body responsible for supervising the implementation of the reforms, met yesterday to review the implementation and new reform packages... Officials, following the meeting, told reporters that there is no change in the government's determination to move forward with EU political reforms, and several key reforms will be adopted before the summer holiday as a sign of that. According to the sources, one of the key reforms will be revision of the Military Code of Justice with an aim to put an end to trials of civilians. The Defense Ministry is reportedly finalizing a new draft on the issue.” [113]

- 16.14 The European Commission 2006 reported that “There were no developments as regards the institutions in charge of monitoring and promoting human rights, such as the Human Rights Presidency.” [71a] (p60)

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HUMAN RIGHTS PRESIDENCY AND HUMAN RIGHTS BOARDS/COUNCILS

- 16.15 Information obtained from correspondence on 5 February 2007 from the Foreign and Commonwealth Offices in Ankara stated that:

“Membership: The Presidency is a civil service department.

Role: The Presidency reports directly to the deputy permanent undersecretary equivalent at the Prime Ministry, but is indirectly under the authority of the Minister for Human Rights. It is established by law (no. 4643) and has a number of responsibilities:

- To co-ordinate the work of public bodies on human rights issues
- To follow and assess developments in human rights, ensuring that Turkey is in line with international standards
- To co-ordinate and assess pre-service internments on human rights issues and in-service human rights training for govt departments
- To investigate human rights abuses (it has a standard application form for investigation), assess and advise on preventative measures
- To act as the secretariat within the prime ministry for other groups/councils working on similar issues (e.g. the advisory board).” [4c]

- 16.16 The European Commission 2006 report noted that:

“With regard to the promotion and enforcement of human rights, the Human Rights Presidency and the 931 District Human Right Boards continued to provide training on human rights and process applications on alleged human right violations. Between January and June 2006, 778 applications were received. The vast majority of applications related to health and patients' rights, non-discrimination, right to property, and social security rights.” [71a] (p13)

- 16.17 The EC 2006 report also noted:

“However, the Human Rights Presidency lacks independence from the government, is understaffed and has a limited budget. Furthermore, a new president has not been appointed since the resignation of the previous one in September 2005. The Human Rights Advisory Board under the Office of the Prime Minister has not been operating since the publication of a report on minority rights in Turkey in October 2004. This is a body composed of NGOs, experts and representatives from ministries.” [71a] (p12) Furthermore, “The Human Rights Boards have yet to assume a more prominent role in the on-site monitoring of law enforcement establishments. Since October 2005, the Boards carried out 992 visits to police stations and detention centres.” [71a] (p13)

- 16.18 As noted in the summary of the HRW report ‘Turkey - First Steps Toward Independent Monitoring of Police Stations and Gendarmeries’, published on 6 March 2006:

“Provincial governors’ close identification with the boards may help to establish the boards in the early stages of their monitoring activities, but already there have been instances where it has undermined the perceived or actual independence of a visiting delegation. In the longer term, the independence of monitoring activities should be enhanced, and the involvement of Turkey’s most respected nationwide human rights nongovernmental organizations (NGOs),

even in a consultative capacity, may significantly promote credibility and trust. Reporting of the boards' visiting activities is as yet limited, but the Human Rights Presidency has committed itself to detailed reporting in the near future. Rolling out an interim independent monitoring system based on the human rights boards could ensure that the high standards observed in some police units are applied consistently throughout the country." [9c]

16.19 As noted in the correspondence from the British Embassy in Ankara dated 5 February 2007 the Human Rights Boards / Councils membership consist of the 850 county level boards reporting to 81 provincial boards. They are responsible in turn to the Presidency. Each has at least 16 members, including at least 3 associations or foundations, representatives of local government, local press, trade unions, chambers of commerce, doctors, bar association, universities, political parties (only those represented in Parliament), provincial general assembly. Their role is to provide an organised structure of semi-independent bodies to research, document and champion human rights abuses at a local level. The boards feed into the human rights presidency and use the same application form. [4c]

16.20 The USSD 2005 report also noted that:

"There were government-sponsored human rights councils in all 81 provinces and 850 subprovinces to serve as a forum for human rights consultations among NGOs, professional organizations, and the government. The councils investigated complaints and, when deemed appropriate, referred them to the prosecutor's office. However, many councils failed to hold regular meetings or effectively fulfill their duties. Human rights NGOs generally refused to participate on the councils, maintaining that the councils lacked authority and were not independent, in part because unelected governors and subgovernors served as chairmen." [5b] (Section 4)

16.21 In the European Commission 2005 report it was noted that:

"A number of provincial Human Rights Boards have begun to carry out unannounced visits to places of detention in a number of provinces. Although a positive development, NGOs have raised doubts about the independence of such monitoring and of the Human Rights Boards in general. Nevertheless, it is to be hoped that this monitoring will represent a first step towards establishing fully independent monitoring as recommended by the CPT and the UN. Turkey signed the Optional Protocol to the UN Convention against Torture (OPCAT) in September 2005. This protocol provides for a system of regular visits to places of detention by complementary international and national independent expert bodies." [71d] (p24)

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PARLIAMENTARY HUMAN RIGHTS COMMISSION/PARLIAMENTARY HUMAN RIGHTS INVESTIGATION COMMITTEE

16.22 In correspondence from the British Embassy in Ankara dated 5 February 2007 noted that the membership is MPs only and their role is to oversees all aspects

of human rights in Turkey, including petitions to Parliament on human rights issues, and Turkey's response to international human rights issues (e.g. the bombing of Lebanon, invasion of Iraq). In addition to its scrutiny role, it carries out research visits abroad and in Turkey, making visits to prisons and police stations etc. [4c]

16.23 In the European Commission 2005 report it was noted that:

“The Parliamentary Human Rights Investigation Committee continued to collect complaints on human rights violations and, in relation to some high-profile cases, requested that the relevant authorities follow up and redress the situation when necessary. It received 1 307 complaints between October 2004 and June 2005.” [71d] (p21)

16.24 The EC 2006 report however noted that:

“The Parliamentary Human Rights Committee continued to play an active role in collecting complaints on human rights violations and conducting fact-finding visits to the regions. The Committee received 864 applications between October 2005 and June 2006. It has conducted several investigations and finalised three reports since January 2006. The Committee has no legislative role, and is thus not consulted on legislation affecting human rights.” [71a] (p13)

16.25 The USSD 2005 report recorded that “The parliamentary Human Rights Committee, which has a mandate to oversee compliance with the human rights provisions of domestic law and international agreements, investigated alleged abuses, prepared reports, and carried out detention center inspections.” [5b] (Section 4)

16.26 As outlined in ‘The Activity Report of the Human Rights Investigation Commission from 3 November 2002 – 20 May 2004’ provided by the Turkish Embassy in London, in August 2004 the Human Rights Investigation Commission received 804 applications relating to human rights issues in the period 3 November 2002 to 10 May 2004. Of these 244 (30%) were related to prisons, 142 (15%) to judicial problems and 75 (9%) were related to torture and ill-treatment. During the period 549 of the 804 applications were concluded, 207 were still being processed and 47 were still pending. [60a] (p8-9)

MINISTRY OF INTERIOR’S INVESTIGATION OFFICE

16.27 As confirmed by the British Embassy in Ankara on 5 February 2007 the Ministry of Interior's Investigation Office membership is of Civil Servants and their role is to deal specifically with the investigation of allegations against the police. Anyone can apply, via the on-line application form. [4c]

16.28 The European Commission 2005 report recorded that:

“The Ministry of Interior’s Investigation Office, which was established in February 2004, has received 1,003 complaints of human rights abuses from the public. These complaints are assessed by inspectors, who follow them up with the relevant authorities within the ministry at local or central level. Most

complaints received have been made against the police. To date, on only one occasion has a complaint led to disciplinary action being taken against a public official. This Office has also carried out inspections of a number of the provincial police disciplinary boards and has inspected detention procedures and places of detention in 26 provinces.” [71d] (p21)

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PRISON INSPECTION COMMITTEES/PRISON MONITORING BOARD

16.29 In correspondence from the British Embassy in Ankara dated 5 February 2007 noted that the Prison Inspection Committees / Prison Monitoring Board membership is also set up by law. Their remit does not include military prisons. Each has 5 members, serving a 4 year term. Members must be over the age of 35 and professionally qualified in fields such as law, medicine, psychology, education etc. They cannot be members of a political party. They observe prison conditions, regimes, internal security etc in situ and write reports at least every 3 months which goes to the Justice Ministry and the Parliamentary Human Rights Commission. [4c]

16.30 The Netherlands Ministry of Foreign Affairs report 2002 reported that:

“Special Prison Inspection Committees were set up pursuant to a law adopted in June 2001. An inspection committee has to be set up for the area of jurisdiction of each criminal court. The committee is to be made up of five members chosen for four years by a commission of judges from the relevant area. The members must have university education and practise the profession of doctor, lawyer, psychologist or similar.” [2a] (p67)

16.31 The European Commission 2006 report however recorded that, “Civil and military prisons are not open to independent monitoring, pending the ratification of the Optional Protocol to the UN Convention against Torture (OPCAT).” [71a] (p14)

16.32 The USSD 2005 report noted that:

“The government permitted prison visits by representatives of some international organizations, such as the European Committee for the Prevention of Torture (CPT); however, domestic nongovernmental organizations (NGOs) did not have access to prisons. The CPT visited in March 2004 and conducted ongoing consultations with the government. Requests by the CPT to visit prisons were routinely granted.” [5b] (Section 1c)

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THE GENDARMES INVESTIGATION AND EVALUATION CENTRE FOR HUMAN RIGHTS ABUSE ISSUES (JIHIDEM)

16.33 As noted on the JIHIDEM website (accessed on 17 November 2006):

“Recently human right has become a very important issue in Turkey, as in other countries. The public and NGOs have greatly developed themselves in the field of human rights. As a result of this, public institutions are in great efforts to improve themselves for the prevention of human rights violations. In spite of being well-organized against the human rights violations, some problems can still be seen concerning investigation of complaints and violation applications.” [104] (The Aim of the JIHIDEM)

16.34 The JIHIDEM website (accessed on 17 November 2006) also stated:

“The Gendarmerie Human Rights Violations’ Investigation and Evaluation Center (JIHIDEM) has been founded to investigate and evaluate complaints and applications about the allegations of human rights violations taking place in the Gendarmerie area of responsibility or while carrying out the duties related to Gendarmerie. This is to investigate any allegation about human rights violation, commence a judicial or administrative inspection in case that the allegations are true, inform of applicants about the results or developments of the procedures and ensure that the public will be notified about the current developments. It has been JIHIDEM’s aim to make our citizens sure and avoid the hesitations about allegations of human rights violations by directly getting in touch with the General Command of the Gendarmerie.” [104] (The Aim of the JIHIDEM)

16.35 The JIHIDEM website further added that, “Applications can be made directly in person or by telephone, mail, petition, fax, and internet.” [104] (Application Ways)

16.36 According to information on human rights monitoring provided by the Turkish Embassy in London in August 2004, “The Gendarmes Investigation and Evaluation Centre for Human Rights Abuse Issues (JIHIDEM) became operational on 26 April 2003 within the Gendarmes General Command Headquarters and operating on a 24 hour basis in order to systematically deal with or answer complaints regarding human rights abuse issues that might arise whilst gendarmes are fulfilling their duties.” [60a] (p10)

16.37 According to the information from the Turkish Embassy:

“Within a year of its establishment JIHIDEM received 221 applications of which 65 were deemed to be within the human rights abuse definition of JIHIDEM, 73 were not within its definition and were directly related to Gendarmes’ actions and that 83 were not related to Gendarmes at all. Among the 65 applications that were investigated 19 were for ill treatment, 16 were for ill treatment/unjust custody, 12 for non-effective investigation, 6 for unjust custody, 5 for being pressurised to withdraw complaints, 3 for torture, 2 for not abiding with a suspect’s custody rights, 1 for the abuse of a person’s right to life and 1 for the abuse of a person’s private life.” [60a] (p11)

16.38 The European Commission 2005 report recorded that “Since its establishment in 2003, the gendarmerie’s Human Rights Violations Investigation and Assessment Centre has received 162 direct complaints, the majority of which relate to allegations of ill-treatment or unjust detention. To date, disciplinary measures have been taken in 3 cases.” [71d] (p24)

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EUROPEAN COURT OF HUMAN RIGHTS (ECTHR)

16.39 The European Commission 2005 report recorded that:

“Turkey has made progress in relation to the execution of judgments of the European Court of Human Rights (ECtHR). This has been highlighted notably in several resolutions by the Council of Europe’s Committee of Ministers and several other sources, including the Parliamentary Assembly of the Council of Europe rapporteur on the implementation of judgements of the ECtHR in June 2005. Both the Committee and the rapporteur have, however, noted that a number of issues are outstanding. In general, it is important that the Turkish authorities ensure that direct effect is given to the case-law of the ECtHR in the Turkish legal order so as to implement the constitutional, legislative and regulatory framework created by Turkey in response to the Court’s judgments. New Article 90 of the Constitution should encourage domestic authorities to act accordingly.” [71d] (p19)

16.40 The EC 2006 report recorded that:

“During the first 8 months of the year 2006, the European Court of Human Rights (ECtHR) delivered 196 final judgements finding that Turkey had violated at least one article of the ECHR. In 5 cases the ECtHR ruled that there was no violation of the ECHR. Most of these judgements refer to cases lodged prior to 1999. From 1st September 2005 until 31 August 2006 2100 new applications regarding Turkey were made to the ECtHR. More than 2/3 of the applications introduced to the ECtHR refer to the right to a fair trial (Article 6) and protection of property rights (Article 1 of Protocol No 1). The right to life (Article 2) and the prohibition of torture (Article 3) are referred to in 78 and 142 cases respectively.” [71a] (p11)

16.41 The EC 2006 report further noted that:

“In relation to the situation in the Southeast, the ECtHR found in the İçyer v. Turkey case that the Law on Compensation and Losses Resulting from Terrorist Acts provides adequate redress to the extent that it is undisputed that the applicant could today return freely to his village (see section on Southeast). Approximately 1500 cases relating to the possibility to return to villages have been declared inadmissible by the Court following this decision. The reforms undertaken by Turkey in 2004 and 2005 have had positive consequences on the execution of judgments of the ECtHR. However, Turkish cases still represent 14.4% of the cases pending before the Committee of Ministers for execution control.” [71a] (p11)

16.42 The EC 2006 report also noted that:

“Restrictions in Turkish legislation prevent the re-opening of domestic proceedings following a violation found by the ECtHR under certain circumstances. This prevents the execution of the ECtHR judgement in the

Hulki Güneş case, as well as in 113 cases related to fairness of proceedings before the former state security courts. As regards the Öcalan case, the Court left the question of the reopening largely to the evaluation of domestic authorities under the Committee of Ministers' supervision. In July an Istanbul Court rejected the request for a retrial of Abdullah Öcalan. The Committee of Ministers will evaluate the reasons given by the Istanbul Court for rejecting the appeal at one of its upcoming meetings." [71a] (p11)

16.43 As reported by BBC News on 12 May 2005:

"Turkey's trial of Kurdish rebel leader Abdullah Ocalan was unfair, the European Court of Human Rights in Strasbourg has ruled. Turkey said it would address flaws found by the court – suggesting a retrial would be an appropriate option... 'The applicant was not tried by an independent and impartial tribunal,' the European Court of Human Rights (ECHR) said in a statement. The judges ruled that the presence of a military judge on the panel meant that the Turkish court's judgement could not have been fair. They did not directly call for a retrial but said retrying or reopening Ocalan's case would be 'an appropriate way of redressing the violation'... Turkey is one of the 46 members of the Council of Europe, which set up the ECHR. The Grand Chamber's judgement is final for Council members and cannot be appealed." [66h]

16.44 The EC 2006 report further noted that:

"Finally, with regards to property rights, the ECtHR ruled in the case of Xenides-Arestis v. Turkey that a remedy which secures effective redress for violations must be introduced, in relation to the applicant, as well as in respect of all similar applications pending before the Court." [71a] (p12)

16.45 The EC 2006 report further noted that, "The Court demanded that Turkey introduces a remedy which secures effective redress for violations, in relation to the application, as well as in respect of all similar applications pending before the Court in accordance with the Convention and within the established deadlines. The ECtHR has not yet ruled on the question whether adequate redress was introduced in the meantime." [71a] (p25)

16.46 A report 'Human Rights Defenders in Turkey' by Kerim Yildiz and Claire Bringham for the Kurdish Human Rights Project and the Bar Human Rights Committee of England and Wales reported that:

"The treatment of HRDs in Turkey can be a gauge by which the reform process, and Turkey's long term commitment to democratisation, can be evaluated. The conclusion of this publication, researched and drafted in September 2005, is that while externally the reform process has initiated a great many positive and commendable changes to Turkey's legal system, an internal shift in the state's attitude towards HRDs has yet to take place... In the intervening months since KHRP conducted this research, criminal prosecutions have continued to be instigated against HRDs. Free expression is being stifled by the pursuit of spurious prosecutions against journalists, politicians and academics who put forward opinions considered too unpalatable by the Turkish authorities. Ironically, the justification for many of the prosecutions has been provisions

under the amended Turkish penal code, revised in 2005, with the stated aim to bolster the protection for free expression.” [6b]

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16.47 The same report further stated that:

“The prosecution of Professor Baskın Oran and Professor İbrahim Özden Kaboğlu illustrates how the amendments have clearly not gone far enough. Professor Oran and Professor Kaboğlu were members of the Human Rights Advisory Board of the Prime Ministry (BİHDK), a body set up by the Turkish Government to oversee its own adherence to human rights standards. They were both charged under articles 301 and 216 of the revised penal code following the release of a report from the working group on Minority and Cultural Rights, of which they were both members. This case is emblematic of the mistrust which is shown to the work of HRDs by the criminal justice system in Turkey which the state’s program of human rights training seems to have done little to shift. The irony is that the Human Rights Advisory Board was set up, by the state itself, for view points such as this to be aired and debated. Although the charges against these two eminent academics were eventually dropped, the fact that they were indicted in the first place shows that very little has changed, and that the antipathy shown to HRDs by prosecutors and the judiciary remains firmly entrenched.” [6b]

17 CORRUPTION

17.01 Transparency International ranked Turkey 60th out of the 163 countries (ranging from the least corrupt, ranked one to the most corrupt, ranked 163) its Corruption Perception Index for 2006. [55b] The Index relates to perceptions of the degree of corruption as seen by business people, academics and risk analysts, and ranges between 10 (highly clean) and 0 (highly corrupt). Turkey obtained a score of 3.8 in 2006 – a slight improvement from the 3.5 it received in 2005 [55a]

17.02 The European Commission 2006 Report stated that:

“Concerning transparency in the public administration, the Law on Access to Information was amended in 2006 to enable citizens to dispute all decisions of state agencies regarding denials of requests for information. The Parliamentary investigation commissions on the gasoline smuggling and on the illegal public offering completed their reports. Both reports show a wide range of corruption activities. The first case involved a former Minister of Finance and Minister of State, and has serious economic and financial implications. The reports include recommendations for measures to be taken by the public institutions.” [71a] (p10) (Anti-corruption measures)

17.03 The EC 2006 report further stated that, “However a number of issues remain to be addressed. Corruption remains widespread in the Turkish public sector and judiciary, despite the efforts of recent years. Turkey needs to improve its legislation on financing and auditing of political parties. The wide scope of

parliamentary immunity remains a significant problem in the context of corruption in Turkey.” [71a] (p10 Anti-corruption measures)

17.04 The EC 2006 report also noted that:

“With regard to corruption investigations carried out by the Inspection Boards, the need for a prior authorisation from the hierarchy when investigating some categories of public officials hampers the investigation. There is a need for better co-ordination of the system currently in place for combating corruption. The designation of a body with sufficient independence responsible for the conception and monitoring the implementation of anti-corruption measures could be helpful in this respect.” [71a] (p11 Anti-corruption measures)

17.05 The EC 2006 report also noted that “Overall, there has been some limited progress in the fight against corruption, notably on increasing transparency in the public administration. However, corruption remains widespread and anti-corruption authorities and policies are still weak.” [71a] (p11 Anti-corruption measures)

17.06 The EC 2006 continued:

“There is still no overall strategy and action plan to prevent and fight corruption. However, corruption continues to be a widespread problem in Turkey. The efficiency and effectiveness of the various governmental, parliamentary and other bodies established to combat corruption remains weak and the degree of co-ordination and co-operation amongst these structures is inadequate. Interaction between the public sector, private sector and civil society needs to be improved. Stronger action is required to raise public awareness of corruption as a serious criminal offence. Continuous support at the highest political level for the fight against corruption needs to be ensured.” [71a] (p59)

17.07 The EC 2006 also added that:

“Despite the fact that the application of parliamentary immunity has been identified as a significant problem in the context of corruption in Turkish public life, no development can be reported in this area. Also, no progress can be reported either on financing of political parties...” (p59)

17.08 The EC 2006 report further noted that, “The scope of parliamentary immunity needs to be restricted as a matter of priority and the financing of political parties has to be dealt with.” [71a] (p62)

18 FREEDOM OF RELIGION

18.01 The US State Department report on International Religious Freedom, published on 15 September, 2006 noted that:

“The constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Government imposes some restrictions on Muslim and other religious groups and on Muslim religious expression in government offices and state-run institutions, including

universities. There was no change in the status of respect for religious freedom during the period covered by this report, and government policy continued to contribute to the generally free practice of religion. The generally tolerant relationship among religions in society contributed to religious freedom; however, a sharp debate continued over the country's definition of 'secularism,' the proper role of religion in society, and the potential influence of the country's small minority of Islamists. Some Muslims, Christians, and Baha'is faced a few restrictions and occasional harassment for alleged proselytizing or unauthorized meetings. The Government continued to oppose 'Islamic fundamentalism.' Authorities continued their broad ban on wearing Muslim religious dress in government offices, universities, and schools." [5e] (Introduction)

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- 18.02 The USSD International Religious Freedom Report, published on 15 September 2006, further noted that:

"According to the general perception, Turkish identity is based on the Turkish language and the Islamic faith. Religious minorities said they were effectively blocked from careers in state institutions. Christians, Baha'is, and some Muslims faced societal suspicion and mistrust, and more radical Islamist elements continued to express anti-Semitic sentiments. Additionally, persons wishing to convert from Islam to another religion sometimes experienced social harassment and violence from relatives and neighbors." [5e] (Introduction)

- 18.03 The USSD Report on Religious Freedom 2006 continued:

"The constitution establishes the country as a secular state and provides for freedom of belief, freedom of worship, and the private dissemination of religious ideas. However, other constitutional provisions regarding the integrity and existence of the secular state restrict these rights. The constitution prohibits discrimination on religious grounds. Core institutions of the state, including the presidency, armed forces, judiciary, and state bureaucracy, have played the role of defending traditional Turkish secularism throughout the history of the republic. In some cases, elements of the state have opposed policies of the elected Government on the grounds that they threatened the secular state." [5e] (Section II)

- 18.04 The USSD Report on Religious Freedom 2006 also noted:

"The Government oversees Muslim religious facilities and education through the Diyanet, which is under the authority of the Prime Ministry. The Diyanet is responsible for regulating the operation of the country's more than 77,500 registered mosques and employing local and provincial imams, who are civil servants. Some groups, particularly Alevis, claimed that the Diyanet reflected mainstream Sunni Islamic beliefs to the exclusion of other beliefs; however, the Government asserted that the Diyanet treated equally all who requested services. A separate government agency, the General Directorate for Foundations (GDF), regulates some activities of non-Muslim religious groups and their affiliated churches, monasteries, synagogues, and related religious

property. There are 161 'minority foundations' recognized by the GDF, including Greek Orthodox foundations with approximately 70 sites, Armenian Orthodox foundations with approximately 50 sites, and Jewish foundations with 20 sites, as well as Syriac, Chaldean, Bulgarian Orthodox, Georgian, and Maronite foundations. The GDF also regulates historic Muslim charitable religious foundations, including schools, hospitals, and orphanages." [5e] (Section II)

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18.05 On 24 June 2005 the *Turkish Daily News* reported that:

"The parliamentary Justice Commission decided on Thursday to pass without change two Turkish Penal Code (TCK) articles stipulating penalties for teachers and managers of unlicensed Koran courses. President Ahmet Necdet Sezer had previously vetoed the articles. The articles had been criticized for removing any possibility of those found guilty of such crimes to be imprisoned. One article reduces the sentences accorded to those who teach and manage unlicensed educational courses from between six months to three years imprisonment to between three months and one year. The new penal code allows sentences below one year to be converted into fines." [23aI]

18.06 As noted in the USSD 2006 report on religious freedom:

"According to the Government, approximately 99 percent of the population was Muslim, the majority of which was Sunni. According to the human rights nongovernmental organization (NGO) Mazlum-Der and representatives of various religious minority communities, the actual percentage of Muslims was slightly lower. The Government officially recognized only three minority religious communities—Greek Orthodox Christians, Armenian Orthodox Christians, and Jews—although other non-Muslim communities existed. The level of religious observance varied throughout the country, in part due to the influence of secular traditions and official restrictions on religious expression in political and social life." [5e] (Section I)

18.07 The USSD 2006 report on religious freedom further recorded that:

"There were several other religious groups, mostly concentrated in Istanbul and other large cities. While exact membership figures were not available, these religious groups included approximately 65,000 Armenian Orthodox Christians; 23,000 Jews; and fewer than 2,500 Greek Orthodox Christians. The Government interpreted the 1923 Lausanne Treaty as granting special legal minority status exclusively to these three groups, although the treaty text refers broadly to 'non-Muslim minorities' without listing specific groups. However, this recognition did not extend to the religious leadership organs; for example, the Ecumenical and Armenian Patriarchates continued to seek recognition of their legal status. There also were approximately 10,000 Baha'is; an estimated 15,000 Syrian Orthodox (Syriac) Christians; 5,000 Yezidis; 3,300 Jehovah's Witnesses; 3,000 Protestants; and small, undetermined numbers of Bulgarian, Chaldean, Nestorian, Georgian, Roman Catholic, and Maronite Christians." [5e] (Section I)

18.08 The European Commission 2006 report noted that:

“In April a delegation consisting of the Ministries of Interior, Education, Foreign Affairs, the EUSG and Istanbul governorate visited leaders of non-Muslim communities in Istanbul to discuss their problems and possible solutions. Although the mandatory indication of religious affiliation in some personal documents, such as ID-cards, was abolished in April 2006, such documents still include information on religion, leaving open the potential for discriminatory practices. This is an area of concern.” [71a] (p16)

18.09 The same EC 2006 report found that “Furthermore a number of other problems remain. Non-Muslim religious communities have no access to legal personality and continued to face restricted property rights. They encountered problems in the management of their foundations and in recovering property by judicial means. The June 2005 ruling by the Council of State narrowing the scope for the Directorate General for Foundations to take over the management of foundations was not applied during the reporting period. In this respect, no progress can be reported on the Büyükada Greek Girls’ and Boys’ Orphanage, whose management remains under the control of the DG foundations. The impact of the new law on foundations on the issues above will have to be assessed once it has been adopted.” [71a] (p17)

18.10 The European Commission 2006 report also noted that

“Furthermore, restrictions on the training of clergy and on foreign clergy to work in Turkey remain. Turkish legislation does not provide for private higher religious education for these communities. The Greek Orthodox Halki (Heybeliada) seminary remains closed. The public use of the ecclesiastical title of Ecumenical Patriarch is still banned. Sermons and publications of the Religious Affairs Directorate (Diyanet) and of local religious authorities occasionally appear hostile towards proselytising activities. Attacks against clergy and places of worship of non-Muslim religious Communities have been reported. The court case concerning the murder of the Catholic Priest Andrea Santoro in a church in the Black Sea region province of Trabzon in February 2006 resulted in a heavy penalty for the perpetrator. Several incidents against Syrians also occurred.” [71a] (p16)

18.11 On 10 November 2006, *Zaman Daily* newspaper reported that:

“The Foundations Bill, which is a part of the EU reform package, was approved by the Turkish parliament. The main opposition People’s Republic Party (CHP) proposed putting the bill into effect after Turkey became a full member of the European Union, but the proposal was rejected. The bill allows the return confiscated properties to minority foundations and authorizes the Turkey’s Foundations General Directorate to launch inquiries about properties of Turkish foundations overseas. The directorate will handle legal procedures to help Turkish expatriates file lawsuits at the European Court of Human Rights...” [84b]

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HEADSCARVES

- 18.12 As outlined by Kirsty Hughes, in a paper dated December 2004, entitled 'The political dynamics of Turkish accession to the EU: a European success story or the EU most contested enlargement?'

"The secularism-Islam debate remains a powerful, divisive and contentious theme in Turkish politics... The hijab or headscarf has become the most potent symbol of this debate, which then inevitably spills over into other connected debates on human rights. Many secular human rights and women's NGOs, in asserting and calling for both women's rights and religious rights as part of the wider range of basic rights, do now argue that it is, and must be, a woman's individual choice and right to dress as she likes, and that traditional (mostly male) conservative secularists and Islamists on both extremes should stop focusing their fight and disagreement over the control of what women wear... International human rights organisations have also waded into this debate. Human Rights Watch, has called for women's individual rights to be respected, and for full access to higher education for all women irrespective of their independent decisions on head covering... Overall, to continue banning the headscarf in universities and in parliament and in public offices, amounts to an extensive discrimination against women in the workplace rather than simply reflecting a particular form of secularism and so the status quo may be unlikely to hold." [77] (p13-14)

- 18.13 The thirty-second session of the Committee on the Elimination of Discrimination against Women (CEDAW) in its concluding comments on Turkey dated 28 January 2005 stated:

"The Committee requests the State party to monitor and assess the impact of the ban on wearing headscarves and to compile information on the number of women who have been excluded from schools and universities because of the ban. It also calls on the State party to undertake further awareness-raising on the importance of education or women's equality and economic opportunities, and to overcome stereotypical attitudes." [81] (p7)

- 18.14 On 23 February 2005 the BBC reported that the Turkish parliament had granted an amnesty to 677,000 men and women who have been expelled from university over the past five years.

"The amnesty includes those expelled from university because their refusal to remove the Islamic headscarf. However, the regulation restricting the scarf remains in place. Turkey maintains a division between religion and state which includes a ban on the headscarf in universities and the civil service. Only a small minority of those expelled from Turkish universities over the last five years fell foul of the headscarf ban, but such is the controversy over it that the ban dominated debate before the amnesty issue came to parliament. Nearly 10 years after the restriction came into force, the two sides – religious Muslims and the secular establishment – are no closer to consensus. The secular establishment insists that the ban maintains the separation of religion and state enshrined in the constitution. More orthodox Muslims and human rights campaigners complain that it is an abrogation of freedom of expression and

worship. A clear majority in Turkey, which is overwhelmingly Muslim, would like to see the ban lifted.” [66r]

18.15 The USSD 2005 report noted that:

“In May [2005] Constitutional Court president Mustafa Bumin and speaker of parliament Bulent Arinc engaged in a public dispute over the headscarf ban. Bumin asserted in a speech that the Constitutional Court would annul any parliamentary legislation aimed at lifting the ban; Arinc replied that parliament has the authority to close the court. In November the ECHR Grand Chamber upheld a 2004 ECHR ruling that the ban on Islamic headscarves in the country’s universities was not unlawful.” [5b] (Section 2c)

18.16 As noted in the USSD Report on Religious Freedom 2006:

“Authorities continued to enforce a long-term ban on the wearing of headscarves at universities and by civil servants in public buildings. Women who wear headscarves and persons who actively show support for those who defy the ban have been disciplined or have lost their jobs in the public sector as nurses and teachers. Students who wear head coverings are officially not permitted to register for classes, although some faculty members permit students to wear head coverings in class. Many secularists accuse Islamists of using advocacy for wearing the headscarf as a political tool and say they fear that efforts to repeal the headscarf ban will lead to pressure against women who choose not to wear a head covering.” [5e] (Section II)

18.17 As noted in the Human Rights Watch (HRW) World Report 2007, published in January 2007:

“Women who wear the headscarf for religious reasons are still denied access to higher education, the civil service, and political life. However, during 2006 the ban was applied much more broadly than only to state institutions. In late 2005, the Administrative Supreme Court upheld a ruling that Aytaç Kılınc, a teacher, could not be promoted because she wore a headscarf when she was not on school premises. Officials also barred mothers who wear the headscarf from accompanying their children to school ceremonies and swimming pools; lawyers and journalists were ejected from courtrooms and public meetings at universities because they refused to remove their headscarf.” [9b]

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ALEVIS INCLUDING ALEVI KURDS

18.18 The MRGI report ‘Minorities in Turkey’ published in July 2004 estimates that the Alevi population is 12–15 million. [57b] (p7) The European Commission 2005 report also stated that there is an estimated Alevi population of 12-20 million. [71d] (p31)

18.19 The European Commission 2006 report recorded that:

“There have been no developments in relation to the situation of the Alevi community. Alevi face difficulties for opening their places of worship (Cem houses). Cem houses are not recognised as places of worship and receive no funding from the authorities. Alevi children are subject to compulsory religious instruction in schools, which fails to acknowledge their specificity. A case on compulsory religious education is pending before the ECtHR. References to Alevi are planned to be introduced in the secondary school curricula as from next year. Overall, freedom of worship continues to be generally respected. However, no progress can be reported with regard to difficulties encountered by non-Muslim religious communities on the ground. Furthermore, the Alevi continue to face discriminatory practices.” [71a] (p16-17)

BELIEF AND PRACTICES OF ALEVIS

- 18.20 The Middle East Review of International Affairs (MEDIA), in an article dated 1999 by David Zeidan on the beliefs and practices of “The Alevi of Anatolia” stated that:

“Alevi belong to the extremist Shi’a branch and like all extreme Shi’a, their reverence for Ali (Muhammad’s cousin and son-in-law, and according to the Shi’a tradition, his rightful heir) verges on deification. Alevi accept Ali as the only legitimate successor to Muhammad. Alevi interpret the Quran in an esoteric, allegoric, and symbolic (rather than literal) manner and repudiate the external forms of Islam and its five pillars. In addition to the Quran, Alevi have their own holy books called ‘buyruk’ that contain doctrine and ritual and are claimed to have been written by important leaders. Alevi also have many liturgical hymns called nefes attributed to Shah Ismail and Pir Sultan Abdal.” [105]

- 18.21 The MEDIA article also noted that:

“Observers note that Alevi society is divided into two separate endogamous groups: the ocak are the spiritual and social elite who claim descent from Ali, Hussein, or religious warriors (ghazi) and constitute a priestly caste, and the talips (disciples), the majority lay members. Religious knowledge is passed down orally in the ocak families who were responsible for the religious and social leadership of the community. Alevi rituals (ibadet) are communal, with the aim of fostering unity (birlik) and love (muhabbet) within the community. Alevi rituals differ markedly from Sunni rituals. Alevi, for example fast in the month of Muharram for 12 days in memory of Hussein’s death at Karbala.” [105]

- 18.22 The MEDIA article further stated that:

“The central ritual of Alevi religious life is the ayn-i cem (cem for short) celebration, which includes a sacrificial meal (lokma), a ritual alcoholic drink, nefes hymns accompanied by music on the saz, dance (sema), and the ritual lighting and extinguishing of candles. In the villages of Anatolia the ayn-i cem takes place only in the absence of distrusted outsiders, and is held at night under great secrecy. The ceremony is held once a year under the leadership of a dede assisted by a rehber in a private house and women are included on an equal footing with men. Other Alevi holy days are Nevruz, the Persian

New Year celebrated on the 9th March, the Khidirellez day on the 6th May in honour of Khidr (Elijah, St. George), and the twelve day Muharram fast culminating in Ashura.” [105]

18.23 The MEDIA article further commented that:

“Alevism does not possess a tradition of authoritative religious scholarship and official carriers of formal learning. Rather, it is more a flowing together of various related movements, doctrines, ideas and rituals. Other differences distinguishing Alevis from Sunnis: the use of wine for religious ceremonial functions; non-observance of the five daily prayers and prostrations (they only bow twice in the presence of their spiritual leader), Ramadan, and the Haj (they consider the pilgrimage to Mecca an external pretense, the real pilgrimage being internal in one’s heart); and non-attendance of mosques. Alevis were forbidden to proselytise, and to regenerate themselves internally by paternal descent. To prevent penetration by hostile outsiders, the Alevis insisted on strict endogamy.” [105]

18.24 The USSD 2006 report on Religious Freedom recorded that:

“In addition to the country’s Sunni Muslim majority, there were an estimated fifteen to twenty million Alevis, followers of a belief system that incorporates aspects of both Shi’a and Sunni Islam and draws on the traditions of other religions found in Anatolia as well. Some Alevis practice rituals that include men and women worshipping together through oratory, poetry, and dance. The Government considered Alevism a heterodox Muslim sect; however, some Alevis and radical Sunnis maintained Alevis are not Muslims.” [5e] (Section I)

18.25 The USSD 2006 report on Religious Freedom further reported that:

“The constitution establishes compulsory religious and moral instruction in primary and secondary schools. Religious minorities are exempted. However, some religious minorities – such as Protestants – faced difficulty obtaining exemptions, particularly if their identification cards did not specifically list membership in a minority religion. The Government claims that the religion courses cover the range of world religions; however, religious minorities said the courses reflected Sunni Islamic doctrine, which, they maintained, explains why non-Muslims are exempt. In January 2004, an Alevi parent filed suit in the European Court of Human Rights (ECHR), charging that the mandatory religion courses violate religious freedom; the case is ongoing. In a June 2004 report, the European Commission against Racism and Intolerance recommended that the Government either make the courses optional, or revise the content so that they genuinely and fairly cover all religions. In April 2006, an Istanbul court announced its ruling in favor of an Alevi father who requested that his son be exempt from the religion courses at school; in May [2006], however, a higher court overturned the ruling on appeal. Officially recognized religious minorities may operate schools under the supervision of the Ministry of Education. Such schools are required to appoint a Muslim as deputy principal; reportedly, these deputies have more authority than their nominal supervisors. The curriculum of

these schools includes Greek Orthodox, Armenian Orthodox, and Jewish instruction.” [5e] (Section II)

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DIFFICULTIES AND PROBLEMS

18.26 The USSD 2006 report on Religious Freedom also noted that:

“Alevi freely practiced their beliefs and have built ‘cem houses’ (places of gathering), although cem houses have no legal status as places of worship. Representatives of Alevi organizations maintained that they often faced obstacles when attempting to establish cem houses. They said there were approximately one hundred cem houses in the country; a number that they claimed was insufficient to meet their needs. Alevi in the Kartal district of Istanbul continued to fight a court battle against a decision by local authorities to deny them permission to build a cem house. In January 2005, Alevi in the Cankaya district of Ankara applied to acquire property to open a cem house. Municipal authorities consulted the Diyanet, which issued a letter stating that Alevi in Cankaya did not need a cem house because they could worship at a local mosque. Also in January 2005, the Diyanet issued a letter to authorities in the Sultanbeyli district of Istanbul stating that cem houses violate Islamic principles and Turkish law.”[5e] (section II)

18.27 The USSD 2006 report on Religious Freedom further noted that:

“In May 2006, authorities in the Istanbul municipality of Sultanbeyli reportedly halted the construction of a cem house on the grounds that the Pir Sultan Abdal Association, an Alevi group, had not acquired the necessary construction permits. Association officials said the local mayor and his staff had attended the groundbreaking ceremony and had promised not to interfere with the project. The Diyanet covers the utility costs of registered mosques, but not of cem houses and other places of worship that are not officially recognized. In May 2006, Diyanet President Ali Bardakoglu said the Diyanet could not provide such support to cem houses as it did not have funds for ‘supporting mystical worship.’ Many Alevi alleged discrimination in the Government’s failure to include any of their doctrines or beliefs in religious instruction classes in public schools. They also charged a bias in the Diyanet, which does not allocate specific funds for Alevi activities or religious leadership.” [5e] (Section II)

18.28 As reported by the *Turkish Daily News* on 22 June 2005:

“Turkey’s Alevi, who follow a moderate interpretation of Islam, warned Tuesday that they would go to the courts to fight for equality if the government fails to recognize their rights. Cem Foundation Chairman Prof. Izzettin Doğan said, ‘We will present our petition to the Prime Ministry and the National Education Ministry today and if we don’t receive a positive response, thousands of Alevi will file suit against the government.’ Izzettin Doğan held a press conference yesterday with members of the newly founded Federation of Alevi Foundations and a lawyer, to state the demands of Alevi and what they plan to

do. Doğan said their main demands were the inclusion of the Alevi faith in school textbooks, financial support from the government for the construction of Alevi places of worship and the allocation of funds for the community from the state budget... Although they account for about a fifth of Turkey's 70-million population and their religious practices differ significantly from those of the Sunni majority, Alevis are denied the status of a separate sect and, unlike the Sunnis, receive no financial support from the government." [23am]

MYSTICAL SUFI AND OTHER RELIGIOUS SOCIAL ORDERS AND LODGES

- 18.29 As noted in the USSD 2006 report on Religious Freedom "Mystical Sufi and other religious-social orders (tarikats) and lodges (cemaats) have been banned officially since the mid? [sic] 1920s; however, tarikats and cemaats remain active and widespread. Some prominent political and social leaders continue to associate with tarikats, cemaats, and other Islamic communities" [5e]

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NON MUSLIM MINORITIES

- 18.30 As noted in the USSD 2006 report on Religious Freedom:

"According to the general perception, Turkish identity is based on the Turkish language and the Islamic faith. Religious minorities said they were effectively blocked from careers in state institutions. Christians, Baha'is, and some Muslims faced societal suspicion and mistrust, and more radical Islamist elements continued to express anti-Semitic sentiments. Additionally, persons wishing to convert from Islam to another religion sometimes experienced social harassment and violence from relatives and neighbors." [5e] (Introduction)

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- 18.31 The USSD 2006 report on Religious Freedom continued:

"Under the law, religious services may take place only in designated places of worship. Municipal codes mandate that only the Government can designate a place of worship, and, if a religion has no legal standing in the country, it may not be eligible for a designated site. Non-Muslim religious services, especially for religious groups that do not own property recognized by the GDF, often take place on diplomatic property or in private apartments. Police occasionally bar Christians from holding services in private apartments, and prosecutors have opened cases against Christians for holding unauthorized gatherings.

"The law prohibits imams, priests, rabbis, or other religious leaders from 'reproaching or vilifying' the Government or the laws of the state while performing their duties. Violations are punishable by prison terms of one month to one year, or three months to two years if the crime involves inciting others to disobey the law." [5e] (Section II)

- 18.32 The USSD 2006 report on Religious Freedom also noted that “Government authorities do not interfere in matters of doctrine pertaining to non-Muslim religions, nor do they restrict the publication or use of religious literature among members of the religion. There are legal restrictions against insulting any religion recognized by the Government, interfering with that religion's services, or debasing its property.” [5e] (Section II)
- 18.33 The European Commission 2005 report stated that, “In practice non-Muslim religious communities continue to encounter significant problems: they lack legal personality, face restricted property rights and interference in the management of their foundations, and are not allowed to train clergy. [71d] (p29)
- 18.34 The EC 2005 report also stated that, “In January 2005, Governors’ Offices under the Ministry of Interior assumed responsibility for a number of issues related to non-Muslim minorities – including their health, social, cultural and educational institutions – which had previously fallen under the responsibility of the Provincial Security Directorates. The transfer of relevant documents to the Governors’ offices is reportedly ongoing.” [71d] (p36)
- 18.35 The EC 2005 further noted that, “Although freedom of conscience is guaranteed by the Turkish Constitution and freedom of worship is generally not hindered, non-Muslim religious communities continue to encounter serious problems, particularly in terms of legal personality, property rights, the training of clergy, and the management of their foundations. The current legal framework does not recognise the right of religious communities to establish associations with legal personality in order to promote and protect their religions.” [71d] (p109)
- 18.36 The Economist Intelligence Unit (EIU) 2007 country report published January 2007 noted that:
- “On November 9th 2006 the Turkish parliament appeared to have met part of the EU's demands for improvement of the rights of Turkey's small non-Muslim minorities, by passing a law allowing foreign citizens to establish charitable or pious foundations in Turkey, to permit the return of properties of non-Muslim foundations that had been seized by the state, to permit them to acquire new property and to open branches abroad. On November 29th parts of the bill were returned to the parliament by the president, Ahmet Necdet Sezer, on the grounds that they conflicted with the constitution. However, it can be assumed that the ruling Justice and Development Party (AKP) will be able to use its large majority in parliament to re-pass the bill unchanged, in which case the president would be constitutionally obliged to promulgate it as law, but could then appeal to the constitutional court to review the law.” [108] (p17)

See also Section 18.19 on situation of the [Alevi](#) community

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CHRISTIANS

18.37 As noted in the European Commission 2004 report “The unofficial estimated Christian populations are: 60,000 Armenian Orthodox Christians; 20,000 Roman Catholics; 20,000 Syriac Orthodox Christians; 3,000 Greek Orthodox Christians; 2,500 Protestants; 2,000 Syriac Catholics; 2,000 Armenian Catholics; 500 Armenian Protestants; and 300 Chaldean Catholics.” [71c] (p43)

18.38 The European Commission 2005 report noted that:

“The continued ban on the training of clergy means that non-Muslim religious minorities are likely to encounter difficulties in sustaining their communities beyond the current generation... Nationality criteria restrict the ability of non-Turkish clergy, such as the Syriacs and Chaldeans, to work for certain churches. Public use of the ecclesiastical title of Ecumenical Patriarch is still banned and the election of the heads of some religious minority churches is still subject to strict conditions. Non-Turkish Christian clergy continue to experience difficulties with respect to the granting and renewal of visas and residence and work permits. Religious textbooks have been redrafted in order to address the concerns of Christian minorities. However, it is still not possible for clergymen and graduates from theological colleges to teach religion in existing schools run by minorities.” [71d] (p31)

18.39 As recorded by the EC 2005 report “In June 2005 the Protestant church in Diyarbakir was finally able to register as a place of worship and in March 2005 a Protestant church was established as an association in Ankara.” [71d] (p30)

18.40 The USSD 2006 report on Religious Freedom outlined that:

“No law explicitly prohibits proselytizing or religious conversions; however, many prosecutors and police regard proselytizing and religious activism with suspicion. Police occasionally bar Christians from handing out religious literature. Proselytizing is often considered socially unacceptable; Christians performing missionary work are sometimes beaten and insulted. If the proselytizers are foreigners, they may be deported, but generally they are able to re-enter the country. Police officers may report students who meet with Christian missionaries to their families or to university authorities.” [5e] (Section II)

18.41 The USSD 2006 report on Religious Freedom continued “By the end of the reporting period, there was no verdict in the trial proceedings in the case of three members of the Nationalist Movement Party who severely beat Yakup Cindilli, a convert to Christianity, for distributing New Testaments in Bursa Province in 2003.” [5e] (Section II)

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18.42 The USSD 2006 report further noted that:

“In January 2006, five assailants severely beat Protestant church leader Kamil Kiroglu in Adana. One attacker wielded a knife and threatened to kill Kiroglu unless he renounced Christianity. In February 2006, an assailant shot and killed

Catholic priest Andrea Santaro in a church in Trabzon. A witness said the gunman shouted 'God is great' as he shot Santaro from behind. A sixteen-year-old was charged in the case; his trial was ongoing at the end of the reporting period. The suspect reportedly told police he was angry about the caricatures of the Prophet Muhammad that had been published in a Danish newspaper. Prime Minister Erdogan and other government officials condemned the killing. Also in February, a group of young men beat and threatened to kill a Catholic friar in Izmir. The attackers shouted anti-Christian slogans and said they wanted to 'clean Turkey of non-Muslims.' A variety of newspapers and television shows regularly published and broadcasted anti-Christian messages, and government officials asserted that missionary activity was a threat to the state and was not covered under the concept of religious freedom." [5e] (Section III)

JEWS

18.43 As recorded in the USSD report on religious freedom 2006, there are approximately 23,000 Jews in Turkey [5e] (Section I) and Jewish foundations with 20 sites. [5e] (Section II) Jews freely practised their religion. [5e] (Section III)

18.44 As outlined by the Council of Europe European Commission against Racism and Intolerance (ECRI) in its 'Third report on Turkey - Adopted on 25 June 2004 and made public on 15 February 2005':

"The Jewish community in Turkey is not very large. Until recently, it enjoyed a relatively peaceful existence in Turkey, aside from a few isolated antisemitic [sic] incidents. In the opinion of representatives of the Jewish community, the climate has suddenly changed, mainly in the wake of a series of international terrorist attacks in November 2003, targets of which included two synagogues in Istanbul. There is now a feeling of insecurity in the Jewish community because of these and other incidents, such as physical assaults on individuals purely because they are Jewish, at least one of which proved fatal." [76] (p25)

18.45 The ECRI report continued:

"Anti-Semitic propaganda continues to appear in certain sections of the media and it is apparently not unusual to come across sweeping statements in the press in which Turkey's Jewish community is equated with the policies of the state of Israel. It also appears that legal proceedings are not always instituted under Article 312 in order to punish those who make antisemitic remarks in public, although this article prohibits incitement to racial hatred. However, ECRI notes with satisfaction that the police are working with the Jewish community to improve security and that antisemitic remarks made by the son of one of the perpetrators of the aforementioned attacks have been condemned by the government and that legal proceedings were instituted against him by the judicial authorities." [76] (p25)

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19 ETHNIC GROUPS

- 19.01 As noted in the European Commission Turkey 2006 Progress Report released on 8 November 2006:

“Turkey’s approach to minority rights remains unchanged. According to the Turkish authorities, under the 1923 Treaty of Lausanne, minorities in Turkey consist exclusively of non-Muslim religious communities. The minorities associated in practice by the authorities with the Treaty of Lausanne are Jews, Armenians and Greeks. However, there are other communities in Turkey which, in the light of the relevant international and European standards, could qualify as minorities.” [71a] (p20)

- 19.02 The EC 2006 report continued:

“The February 2005 visit of the OSCE High Commissioner on National Minorities (HCNM) to Ankara has not been followed up and no progress has been made in starting a dialogue on the situation of national minorities in Turkey. The deepening of such a dialogue between Turkey and the HCNM is necessary. It needs to include relevant areas such as minority education, minority languages, the participation of minorities in public life and broadcasting in minority languages. This would facilitate Turkey’s further alignment with international standards and best practice in EU Member States to ensure cultural diversity and to promote respect for and protection of minorities.” [71a] (p20)

- 19.03 The US State Department (USSD) report 2005, published on 8 March 2006 recorded that “The law provides a single nationality designation for all citizens and does not recognize ethnic groups as national, racial, or ethnic minorities.” [5b] (Section 5)

See also Section 16.01 [Government monitoring of human rights](#)

- 19.04 The EC 2006 report further noted that:

“Turkey’s reservation towards the UN Covenant on Civil and Political Rights (ICCPR), regarding the rights of minorities – to which a number of EU Member States objected as being incompatible with the object and purpose of this Covenant – and its reservation to the UN Covenant on Economic, Social and Cultural Rights (ICESCR), regarding the right to education, are of concern. Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages.” [71a] (p21)

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KURDS

- 19.05 A recently published report on human rights violations against Kurds in Turkey prepared by the Kurdish Human Rights Project (KHRP) reported that:

“Since the foundation of the Turkish Republic in 1923, Turkey has not recognised the existence of a separate Kurdish ethnic community within its borders. Over 20 million Kurds presently live in Turkey, who for decades have

been subjected to economic disadvantage and human rights violations which bear the hallmarks of systematic persecution intent on destroying Kurdish identity. Over the past year, Turkey has made some gains in the quest for equality for the Kurds, but much work remains.” [6c] (p1)

19.06 The same KHRP report further stated that:

“In its goal to join the EU, Turkey has enacted reforms that it says were designed to liberalise and open its political system. However, during the last year as Turkey has slid into its old habits of torture, repression, the denial of freedom of expression and association and discrimination against Kurdish people, concerns have been raised that Turkey’s reforms were merely superficial and designed to give the appearance of change, without any substantive alterations to either the political system or the everyday lives of Kurds living in the country.” [6c] (p1)

19.07 As noted in the USSD 2005 “Although the number was unknown, some minority groups were active in political affairs. Many members of parliament and senior government officials were Kurds.” [5b] (Section 3) The USSD report in addition noted “Citizens of Kurdish origin constituted a large ethnic and linguistic group. Millions of the country’s citizens identified themselves as Kurds and spoke Kurdish. Kurds who publicly or politically asserted their Kurdish identity or publicly espoused using Kurdish in the public domain risked censure, harassment, or prosecution.” [5b] (Section 5)

19.08 As outlined by the Council of Europe European Commission against Racism and Intolerance (ECRI) in its ‘Third report on Turkey - adopted on 25 June 2004 and made public on 15 February 2005’:

“According to estimates, there are between twelve and fifteen million Kurds living in Turkey. There are no official statistics as national censuses do not take account of people’s ethnic origins. The Kurds live mainly in the South-East, although many of them have left the region as part of the drift to the towns and also because of the armed conflict that went on for several years between the authorities and the PKK.” [76] (p20)

19.09 The ECRI report also stated:

“ECRI is pleased to note that the constitutional and legislative changes in the field of human rights and fundamental freedoms should help to give the Kurds greater freedom of expression, freedom of assembly and freedom of association. It notes, however, that in the case of the Kurds, such freedoms are still severely curtailed, especially in practice. ECRI notes in particular reports that Kurdish students have been arrested and/or expelled from university for having signed petitions or demonstrated in support of the teaching of Kurdish in universities... In some cases, however, persons who have expressed their Kurdish identity by peaceful means have been acquitted. ECRI hopes that the new laws will pave the way for a rapid improvement in this area. It notes that parents are now permitted by law to give their children Kurdish first names, even though a circular prohibits them from choosing names incorporating the

letters Q, W or X, which exist in the Kurdish language but not in the Turkish alphabet.” [76] (p22)

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KURDISH LANGUAGE

19.10 The European Commission 2006 report stated that:

“As regards cultural rights, permission was granted to two local TV channels in Diyarbakır and to one radio in Şanlıurfa to broadcast in Kurdish. However, time restrictions apply, with the exception of films and music programmes. All broadcasts, except songs, must be subtitled or translated in Turkish, which makes live broadcasts technically cumbersome. Educational programmes teaching the Kurdish language are not allowed. The Turkish Public Television (TRT) has continued broadcasting in five languages including Kurdish. However, the duration and scope of TRT's national broadcasts in five languages is very limited. No private broadcaster at national level has applied for broadcasting in languages other than Turkish since the enactment of the 2004 legislation.” [71a] (p21)

19.11 The Human Rights Watch (HRW) World Report 2007, published in January 2007, recorded that “The Supreme Council for Radio and Television finally took the important step of permitting television and radio broadcasting in Kurdish, although only for one hour a day. Other restraints on minority languages in the public arena remain. In April, for example, a Diyarbakır court closed the Kurdish Democracy Culture and Solidarity Association (Kürt-Der) for infringing the Associations’ Law by conducting its internal business in Kurdish.” [9b]

19.12 The USSD 2005 recorded that “The government maintained significant restrictions on the use of Kurdish and other ethnic minority languages in radio and television broadcasts and in publications.” [5b] (Section 5)

19.13 As noted in the UK Foreign and Commonwealth Human Rights Annual Report 2006, released in October 2006:

“Government reforms have already led to improvements in the cultural rights of the Kurdish community. For example, following legal changes to broadcasting rights and the launch of national broadcasting in Kurdish in 2004, two local TV channels and one local radio station began broadcasting in Kurdish on 23 March 2006. In June 2006, the Turkish broadcasting authority, RTUK, announced that they were further loosening broadcasting restrictions on certain types of non-Turkish language broadcasting. Cultural programmes, such as films and music concerts, would no longer be bound by time restrictions. However, non-cultural programming in languages other than Turkish remains tightly regulated.” [4n] (p137)

19.14 On 20 September 2005 the *Turkish Daily News* reported that “Rights and Freedoms Party (Hak-Par) officials are being tried at the Ankara Third Criminal Court for violating the Political Parties Law by using Kurdish to address party members at the first party convention held two years ago and sending

invitations to state officials in Kurdish.” [23i] On 26 October 2005 the same newspaper reported that a court had fined 20 people YTL 100 for using the letters Q and W on placards at a Kurdish new year’s celebration in 2004. “The letters Q and W do not exist in the Turkish alphabet but are used in Kurdish... The 1928 Law on the Adoption and Application of Turkish Letters changed the Turkish alphabet from Arabic script to a modified Latin script and required all signs, advertising, newspapers and official documents to only use Turkish letters.” [23k]

- 19.15 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey’, published in December 2004 noted that “The legalization of these [non-Turkish language] broadcasts was a major step for Kurdish rights and freedom of expression... The broadcasts have been criticized for being too short and being limited to the national station, and liberalization still has a long way to go. However, the significance of the changes cannot be overstated.” [62c] (p16)

See also Section 15.33 [High Board of Radio and Television](#) (RTÜK)

TEACHING IN KURDISH

- 19.16 The USSD 2005 report recorded that:

“A number of private Kurdish language courses closed during the year, citing a lack of students. Kurdish rights advocates said many Kurds could not afford to enroll in private classes. They also maintained that many potential applicants were intimidated because authorities required those enrolling in the courses to provide extensive documents, including police records that were not required for other courses. They maintained that the requirements intimidated prospective applicants, who feared police were keeping records on students taking the courses.” [5b] (Section 5)

- 19.17 The European Commission 2006 report noted that:

“Children whose mother tongue is not Turkish cannot learn their mother tongue in the Turkish public schooling system. Such education can only be made by private education institutions. As concerns Kurdish all such courses were closed down in 2004. Therefore, there are no possibilities to learn Kurdish today in the public or private schooling system. Furthermore, there are no measures taken to facilitate access to public services for those who do not speak Turkish.” [71a] (p21)

- 19.18 The UK Foreign and Commonwealth Human Rights Annual Report 2006, released in October 2006, however noted:

“The private Kurdish language courses launched in 2004 closed down in 2005 due to ‘lack of demand’. According to former course administrators, the unaffordable course fees and restrictions on curriculum and participation were also important contributing factors. In 2005, the pro-Kurdish political party DEHAP (now merged with the DTP) ran a campaign demanding non-Turkish mother-tongue language teaching at ordinary state schools and asking for the constitution to be amended to enable this. The constitution currently states that

only Turkish can be used as a mother tongue in schools, and political campaigning in languages other than Turkish is still illegal.” [4n] (p137)

19.19 As reported by the *Turkish Daily News* on 26 May 2005:

“The Supreme Court of Appeals’ General Board on Legal Matters has unanimously decided to reverse a lower court decision not to close the Education Personnel Labor Union (Eğitim-Sen). Charges filed against Eğitim-Sen were based on constitutional articles stipulating Turkey’s official language as Turkish and prohibiting the state from teaching other languages at the expense of Turkish. Eğitim-Sen’s charter allows the teaching of local dialects and languages.” [23an]

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19.20 On 3 June 2005 the *Turkish Daily News* reported that “The Education Personnel Labor Union (Eğitim-Sen) will appeal to the European Court of Human Rights today on a supreme court ruling to reverse a lower court decision not to shut down the labor union, said Eğitim-Sen Chairman Alaaddin Dinçer yesterday, as reported by the Anatolia news agency.” [23t]

19.21 As recorded in the EC 2005 report:

“In May 2005, the Court of Cassation ruled to close the teachers’ union Eğitim Sen, on the grounds that a clause in its statute calling for education in mother tongue languages was in contravention of the Turkish Constitution. The legal action against the union was initiated by the Ministry of Labour and Social Security, under pressure from the General Staff, in June 2003. In September 2004 and February 2005 the Ankara Labour Court ruled in favour of Eğitim Sen, arguing that the Turkish Constitution should be interpreted in accordance with the ECHR, and that a decision to close down the union was not in compliance with Articles 10 (freedom of expression) and 11 (freedom of association) of the Convention. The May 2005 decision of the Court of Cassation reversed this ruling, stipulating that ‘freedom of association can be limited for the protection of national security, integrity of the country and public order’ and that ‘Turkish citizens cannot be provided education in a language other than Turkish’. The union has withdrawn the clause on mother tongue education pending the outcome of an application to the ECtHRs for an interim measure to block the union’s closure.” [71d] (p28-29)

PRO KURDISH POLITICAL PARTIES

See also [Annex B](#) for details of political parties

19.22 As outlined by the Council of Europe European Commission against Racism and Intolerance in its ‘Third report on Turkey (adopted on 25 June 2004 and made public on 15 February 2005):

“On the subject of freedom of association, ECRI notes that the bans on parties representing the interests of the Kurdish community have remained in place

despite rulings by the European Court of Human Rights, which has frequently found against the government for violating freedom of association in this area. ECRI notes with approval that, following the constitutional and legislative amendments, it will be more difficult to ban a political party in future. In addition, cautions and ancillary penalties such as the removal of financial support may replace or precede outright bans on political parties.” [76] (p22)

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HADEP

19.23 The Netherlands Ministry of Foreign Affairs 2002 reported that:

“The pro-Kurdish HADEP [People’s Democracy Party], was established in 1994 as a successor to the successively banned HEP, DEP and ÖZDEP.... HADEP campaigns for greater cultural rights for Kurds and a peaceful solution to the Kurdish issue. It has kept to that position by never resorting to violence. The party runs local branches in many provinces and districts, as well as women’s and youth wings in a large number of localities. The Turkish authorities regard HADEP as the PKK’s political wing. They therefore view this party with suspicion. The HADEP has no direct ties with the PKK, but relies largely on the same supporters.” [2a] (p131)

19.24 As reported by the BBC on 13 March 2003:

“Turkey’s constitutional court has banned the country’s main pro-Kurdish party [HADEP] for alleged links with rebel groups... The court also banned 46 members of the party, including former chairman Murat Bozlak, from politics for five years. HadeP did not stand in last November’s [2002] elections, but its candidates stood under the umbrella of the Democratic People’s Party (Dehap)... Neither HadeP nor Dehap describe themselves as Kurdish parties, but both say they defend the rights of people living in the south-eastern, Kurdish-populated, part of the country.” [66q]

RELATIVES OF HADEP

19.25 The Netherlands Ministry of Foreign Affairs 2002 reported that “Relatives of HADEP members need not fear persecution by the Turkish authorities solely because one or more of their relatives is a member of HADEP. In certain cases, however, it cannot be ruled out that, for example, first or second degree relatives of HADEP members who are active at local level are closely watched by the State because of their relatives’ activities.” [2a] (p136)

DEHAP

19.26 As recorded in the document ‘Political Structure of Turkey’ dated November 2005) available in the References section in the website of the Office of the Prime Minister, Directorate General of Press and Information (website accessed on 19 January 2006) in the November 2002 elections the AKP and the

Republican People's Party (CHP) were the only two parties out of 18 to attain the 10% threshold required to enter parliament. DEHAP obtained 6.22% of the total votes. [36i] (Section on political parties and election system)

19.27 The USSD 2005 report noted that:

"During the year [2005] police raided dozens of DEHAP offices, particularly in the southeast, and detained hundreds of DEHAP officials and members. Jandarma and police regularly harassed DEHAP members through verbal threats, arbitrary detentions at rallies, and detention at checkpoints. Security forces also regularly harassed villagers they believed were sympathetic to DEHAP. Although security forces released most detainees within a short period, many faced trials, usually for supporting an illegal organization or inciting separatism. For example, in October [2005] police raided DEHAP offices in the Konak district of Izmir Province, detaining party officials Mehmet Taras and Mahmut Celik; police released Taras the same day and Celik the next day. The raid was reportedly related to plans for holding demonstrations in Bursa Province to protest the prison conditions of Abdullah Ocalan. According to DEHAP, authorities have opened more than 60 investigations and court cases over the past 3 years against party Chairman Tuncer Bakirhan, and jailed 3 party provincial chairman and dozens of party administrators. In March [2005] an Ankara prosecutor opened a case against 12 current and former leaders of the Rights and Freedoms Party for using Kurdish in connection with the party's first congress. Party members were charged with sending invitations to the congress in Kurdish and speaking Kurdish at the event... The Constitutional Court deliberations in the legal case seeking the closure of DEHAP on charges of separatism were ongoing at year's [2005] end." [5b] (Section 3)

19.28 The USSD 2005 report also recorded that:

"In July [2005] assailants killed Hikmet Fidan, a former DEHAP vice chairman, in Diyarbakir. Prosecutors investigating the murder maintained that PKK leaders ordered Fidan's murder because he had criticized the PKK. Trial proceedings against four suspects in the case continued at year's end. [5b] (Section 1a)

19.29 The USSD 2005 report further noted that:

"In July a Halfeti court convicted DEHAP officials Handan Caglayan and Ahmet Dagtekin of using the Kurdish language during a 2004 campaign event. The court sentenced Caglayan to a 7 month prison term and a fine of \$380 (513 lira) and Dagtekin to a 6 month prison term and a fine of \$326 (440 lira). The rulings were under appeal at year's end... In October a Sanliurfa court sentenced local DEHAP official Resit Yardimci to a 6-month prison term and fined him \$1,214 (1,640 lira) for greeting the audience in Kurdish during a 2003 party convention. The ruling was under appeal at year's end. [5b] (Section 2a)

19.30 As noted in the Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' made public in February 2005:

“The Head of DEHAP in the province of Diyarbakır, Mr. Celalettin Birtane, claimed that members and officials of DEHAP and its predecessor HADEP (which was banned in March 2003) had been subject to regular harassment by security officials in recent years. The scope of harassment ranged from verbal threats, arbitrary detention and arrest to different forms of criminal and judicial persecution. Mr. Birtane pointed out that the attitude of the authorities against his party had become ‘more relaxed’ in 2004. (He made it clear that he only referred to the situation in the province of Diyarbakır and that he could not comment on the situation in other parts of South-Eastern Turkey.)” [16] (p25)

19.31 The Norwegian report further noted:

“While intervening in public party activities, security forces do still use force, for example in order to disperse demonstrations. Persons who are arrested on such occasions might face trials, usually for ‘supporting an illegal organisation’, ‘inciting separatism’, or for violations of the Law on Meetings and Demonstrations. The Human Rights Foundation stated that people who wish to exercise their right to express their dissent in a peaceful way still risk being harassed, beaten or facing criminal prosecution.” [16] (p25-26)

19.32 On 21 November 2005 the Turkish Daily News reported that “Pro-Kurdish Democratic People’s Party (DEHAP) was dissolved at their party congress over the weekend, the Anatolia news agency said. Party delegates decided to dismantle the party at the extraordinary party congress during which a committee was formed to deal with the procedures concerning the abolition of the eight-year party.” [23h]

19.33 The EC 2006 report noted that, “As regards political parties, court cases against several parties, including DEHAP and HAKPAR, are still ongoing. There has been no progress regarding aligning the Turkish Law on Political Parties with EU practice. Parties are not allowed to use languages other than Turkish.” [71a] (p15)

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DEMOCRATIC SOCIETY MOVEMENT (DTH)/DEMOCRATIC SOCIETY PARTY (DTP)

19.34 As reported on the website of the Office of the Prime Minister of Turkey Directorate General of Press and Information on 27 December 2004 (quoting the Turkish Daily News):

“A group of 14 activists, including four former Democracy Party (DEP) deputies Leyla Zana, Orhan Dogan, Selim Sadak and Hatip Dicle, held their first meeting in Diyarbakir this weekend to lay the groundwork to form a new political party. Dogan, reading from a 12-page manifesto outlining the new movement’s principles, said that they planned to found a new party called the Democratic Society Movement (DTH) that would campaign for policies based up on the will of the people. Dogan said, ‘For now, the DHT will limit itself to voicing its opinion on Turkey’s democratization and the Kurdish problem.’ He added that the DTH fully supported Turkey’s efforts to join the European Union.” [36g]

19.35 On 22 February 2006 Kurdishinfo.com reported that:

“Provincial chairman of Democratic Society Party (DTP) from Van, Hasan Ciftci, who was taken into custody [on 21 February] with 22 persons after the press statement which was made by Democratic People Initiative on 18th February in front of Blue Plaza, was arrested yesterday night by Van High Criminal Court, because of his declaration which was published on [the pro-PKK] ROJ TV before, with a reason of ‘forwarding people to grudge and enmity’. 22 persons; among them there was county commissioner of Van Central Bazi Bor and a child, [were] released and they will judge [sic] without being prisoner.” [40a]

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19.36 As reported on 24 February 2006 by NTV television:

“Democratic Society Party [DTP] members and sympathizers reacted to the police, who searched the party building in Dogubeyazit in Agri this morning. There were skirmishes between the police and the demonstrators. This morning, the police raided the party building after receiving a search warrant from the prosecutor’s office. The police searched the premises for about one hour. Party members and sympathizers gathered in front of the building during that time and tried to enter it. The arguments between the police and the demonstrators turned into skirmishes. The demonstrators threw stones and injured some policemen. Another group of people joined in and the crowd grew. Police fired in the air but they were able to leave the building only after gendarmes who came to the area took security measures.” (Text of report by Turkish commercial NTV television of 24 February 2006, through BBC Monitoring made available to the Home Office by the British Embassy in Ankara) [61a]

19.37 On 7 March 2006 the same NTV television reported that:

“The Democratic Society Party [DTP] has proposed a two-stage solution for disarming the PKK. DTP Co-chairman Ahmet Turk has said: We must succeed in that for the sake of the unity and bright future of the people of Turkey. Turk held a news conference in Istanbul with the participation of DTP mayors. He stressed that as the first step towards a lasting solution, the PKK [Kurdistan Workers’ Party] must put an end to its armed actions in line with a decision it reached last August. The second stage, he added, would be to move the PKK’s armed forces outside the country. In this way, we can augur a new period where the PKK can be disarmed within the framework of a democratic solution plan, he said. [According to Amsterdam Firat News Agency, FNA, which is supportive of the Kurdish cause and the PKK, Ahmet Turk made a ‘three-stage’ proposal, the first stage of which was: ‘The ban on the Kurdish language must be lifted, and Kurdish must gain an official status just like Turkish in areas populated by Kurds. The Political Parties Law and the election threshold must be reorganized and everyone must have the right to political representation. The DTP considers a general amnesty for political prisoners to be essential for the development of social peace and democracy.’ The second and third stages of the solution as reported by FNA are identical to the proposed solution as

reported by NTV.]” (Text of report by Turkish commercial NTV television of 7 March 2006, through BBC Monitoring made available to the Home Office by the British Embassy in Ankara) [61b]

PKK/KADEK/KONGRA-GEL AND THE CONFLICT IN THE SOUTH EAST

- 19.38 On 4 April 2002 PKK changed its name to the Kurdistan Freedom and Democracy Congress (KADEK). (The Washington Institute for Near East Policy Focus #48, October 2005) [42a] In November 2003 the party assumed the name of Kongra-Gel (Kurdistan’s People’s Congress). (Europa) [1d] (p1194) On 4 April 2005, the pro-Kurdish online newspaper *KurdishMedia* (quoting AFP) reported that:

“Turkey’s armed rebel Kurdish movement has decided to revert back to its original name of PKK after two name changes in three years, a pro-Kurdish news agency reported on Monday. The MHA news agency said a ‘congress’ of 205 members of the organisation, considered terrorist by Turkey and many Western countries, met in ‘the mountains of Kurdistan’ and decided to once again go by its original name of the Kurdistan Workers’ Party, whose Kurdish acronym is PKK.” [93b]

- 19.39 As noted in the European Commission 2006 report:

“The situation in the South-East has deteriorated since the resumption of violence by the PKK, which is on the EU list of terrorist organisations. During the period between November 2005 and June 2006, there were 774 terrorist attacks reported, which led to 44 military, 5 police and 13 civilian casualties. In the aftermath of the funerals of some PKK terrorists at the end of March, riots took place in Diyarbakir and spread to other cities in the region. Demonstrators attacked the police, civilian residents and shops. Ten civilians were killed during clashes with the police and security forces, including three children. Many civilians suffered bullet wounds. There are widespread reports of excessive and arbitrary use of force by the security forces, even against ambulances. Investigations are ongoing to determine the causes of these deaths” [71a] (p22)

- 19.40 The EC 2006 report continued:

“The November 2005 Şemdinli bombing, which killed one person and injured others, also had a negative impact on the situation in the region. A court in Van imposed heavy prison sanctions on two gendarmerie officers and a former PKK member reported to work as gendarmerie informers who were found responsible for the bombing. A Parliamentary Committee was established in November 2005 to investigate the Şemdinli events. The Committee has not published its report.” [71a] (p22)

- 19.41 The USSD 2005 report stated that in February 2005 demonstrators in Mersin Province had claimed police had shot and killed Umit Gonultas during a protest in support of PKK’s imprisoned leader Abdullah Ocalan.

“Interior ministry inspectors determined that police did not shoot Gonultas. Prosecutors opened a case against nine members of the DEHAP for their role

in a statement protesting the shooting. The DEHAP officials were charged with being members of an illegal organization [PKK]; their trial continued at year's end. In August the body of Hasan Is was discovered following clashes between security forces and demonstrators during funeral ceremonies for PKK militants in Batman Province. Relatives and other witnesses claimed police shot and killed Is during the altercation. However, law enforcement authorities denied that police were responsible. In October [2005] Istanbul police shot and killed Atilla Gecmis during demonstrations in support of Abdullah Ocalan. Demonstrators reportedly threw Molotov cocktails and rocks at police, causing police to open fire." [5b] (Section 2b)

- 19.42 On 6 April 2005 Zaman reported that the operation that Turkish Armed Forces had launched against the terrorist organization the Kurdish People's Party (PKK/Kongra-Gel) continued at the border surrounding the southeastern Turkish cities of Sirnak and Hakkari:

"During the five-day operations, nine terrorists died and their weapons seized and an experienced sergeant was executed. According to information supplied by security units, the largest and most extensive operation in the last six-years is underway. The operation is being conducted from both land and sea. Two brigades and 2000 interim village guards have also participated in the operation. As the operation has shifted to the border, arms equipment and barracks belonging to the terrorist [sic] have reportedly been seized. It is assumed that 1,500 terrorist [sic] remain in hiding in the region. The operation began on March 31 on the steep rocky Cudi Mountain, a place used by PKK terrorists as a passage to Turkey from Iraq. The PKK, which is constantly changing its name in order not to be included among the terrorist organization lists of the European Union (EU) and the US, had held a restructuring congress between March 28 and April 4 and declared the founding of the new PKK and requested the new structure be celebrated with action until May 6." [84a]

- 19.43 The BBC reported on 15 April 2005 that "Turkish security forces have killed 21 members of the Kurdish paramilitary group, the PKK, in south-eastern Turkey, officials in the area say. Three members of the Turkish armed forces also died in the three-day operation in Siirt province, they said. It is reported to be the biggest clash in the area since the PKK declared a unilateral truce in 1999." [66k]

- 19.44 As reported by the BBC on 2 July 2005: "A bomb attack on a passenger train in eastern Turkey has killed six people and injured at least 12...The train was carrying 45 passengers between the towns of Elazig and Tatvan in Bingol province...Officials blamed Kurdish paramilitaries of the PKK. Military officials said those killed were security guards." [66j]

- 19.45 As recorded by the *Turkish Daily News* on 9 July 2005:

"Interior Minister Abdulkadir Aksu said 65 terrorists were killed, 43 captured and 41 others surrendered to security forces in 2005 until May, the Anatolia news agency reported. The minister was responding to an official parliamentary questionnaire. 'Security forces increased their intelligence gathering and operations to obstruct the attacks of the terrorist organization,' said Aksu. 'A

total of 99 terrorists were killed and 139 captured in 2004.' He also mentioned that two PKK members, one of whom was female, were recently captured in Mersin while attempting to conduct attacks following training in PKK camps abroad." [23y]

19.46 On 10 July 2005 the *Turkish Daily News* reported that:

"Beefing up its positions in the southeast, the army has redeployed specialized commando units from western Turkey and is reinstalling checkpoints on roads guarded by soldiers and armored [sic] vehicles... Fighting remains confined largely to remote areas and is of far lower intensity than the conflict that raged here between 1984 and 1999 and resulted in about 37,000 deaths. Although reforms by Ankara to expand Kurdish freedoms have eroded popular support for the PKK, the funerals of killed militants, increasingly marred by violence, have shown that unrest may easily spill over into urban areas... The militants, estimated at about 5,000, retreated to neighboring northern Iraq in 1999 after they declared a truce following the capture of their leader Abdullah Öcalan. At least 1,500 of them are believed to have crossed back into Turkey, bringing along arms and explosives." [23v]

19.47 As reported by Aljazeera.net on 17 July 2005:

"After years of relative calm, Turkey's southeastern region is once again witnessing armed clashes between soldiers and ethnic Kurdish rebels. In the past month, 20 Turkish soldiers have been killed in the region by mines or in ambushes, while the military has conducted operations against the rebels of the Kurdish Workers Party (PKK) involving up to 10,000 troops... 'The terrorist threat is even more serious now,' Buyukanit told the press back in May [2005]. 'Terrorists are infiltrating into the country.' This was a reference to the PKK's bases next door in northern Iraq – territory nominally under the control of the US-backed Baghdad government... The fighting has returned after the PKK abandoned its unilateral ceasefire last year... 'People are very anxious,' says Selahattin Demirtas, chair of the Diyarbakir Human Rights Association (IHD). 'They are afraid that the killing will go on like before.' Many in the region are also disappointed and angry that while the PKK declared a ceasefire for more than five years, the authorities did not do likewise." [68]

19.48 On 12 September 2005 the *Turkish Daily News* reported that five soldiers had been killed in separate clashes with PKK in the southeast and east. [23af] On 23 September 2005 the same newspaper reported that security forces had killed three PKK terrorists and captured two more in the eastern city of Van only hours after PKK extended its 'cease-fire' to 3 October. [23ae] On 27 September 2005 it was reported by the *Turkish Daily News* that "Two temporary village guards died in an armed attack carried out by the terrorist Kurdistan Workers' Party (PKK) against a military unit in charge of security on the Şırnak-Hakkari highway in southeastern Turkey, a statement from the local Governor's Office said yesterday." [23ad]

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- 19.49 The USSD 2005 recorded that “According to the HRF [Human Rights Foundation], landmines and unattended explosives killed 19 civilians and injured 49 during the year [2005]. Both security forces and the PKK used landmines. According to the government, 34 civilians, 100 members of the security forces, and 160 terrorists were killed in armed clashes during the year through November. Most of the clashes occurred in the southeast.” [5b] (Section 1a)
- 19.50 The IHD (Human Rights Association) 2005 Balance Sheet on Human Rights Violations in Turkey recorded 316 deaths amongst the Security Forces; 179 armed militants and one civilian as well as 69 people killed by landmines. The figures for those injured were respectively 243 for the security personnel; one for armed militants; nine for civilians and 161 for injuries caused by landmines. [73a] (Violations of right to live - Mines and free explosive incidents)

NEWROZ/NEVRUZ CELEBRATIONS

- 19.51 As outlined by the Netherlands Ministry of Foreign Affairs report 2002 Newroz (or in Turkish Nevruz) is the New Year celebrated by Kurds, Persians and in Central Asia on the 21 March. [2a] (p87)
- 19.52 The USSD 2005 report recorded that in March 2005 police had intervened in Nevruz celebrations in a number of cities. Clashes between police and celebrants were reported by HRF in Siirt Province. In Edirne a number of local DEHAP officials and students were detained in connection with Nevruz celebrations. According to HRF in Siirt police beat juveniles who had stoned the police station after police had prevented Nevruz celebrations. [5b] (Section 2b)
- 19.53 The European Commission 2005 report recorded that “While this year’s [2005] Newroz celebrations in March were authorised and peaceful in most provinces, an incident in Mersin related to the tearing of the Turkish flag by two children ignited certain nationalist reactions.” [71d] (p38)
- 19.54 As noted in a Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa dated 20 April 2005, entitled ‘Turkey: The situation of Kurds, including the extent to which legislative reform packages have been implemented (August 2004 - April 2005)’, one Turkish-language newspaper (Ozgur Politika 21 March 2005) reported that large celebrations were held on 21 March 2005 in cities throughout Turkey by Kurds on the occasion of the Newroz festival and that these celebrations were carried out without incident, except in Tunceli, Mersin and the Ulus district of Siirt. [7g]

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ARABS

- 19.55 According to World Directory of Minorities (1997) “There are probably about one million Arabs in the provinces of Urfa, Mardin, Siirt and Hatay (Alexandretta). Unlike the Turkish Sunni Majority Sunni Arabs belong to the Shaf’i tradition (which they share in common with most Sunni Kurds). They are denied the

opportunity to use their language except in private, and the use of Arabic is forbidden in schools.” [57a] (p382)

- 19.56 The World Directory of Minorities continued “About 200,000 Alawi, or Nusayri Arabs live in the northern most settlements of the larger Alawite community in Syria. They are a distinct religious community from Alevis but have in common reverence for Ali, the prophet’s son-in-law, as an emanation of the divinity. Alawites have an uneasy relationship with Sunnis, but are more comfortable with Christians.” [57a] (p382)
- 19.57 The World Directory also stated that “There are still about 10,000 Orthodox and Melkite (uniate with Rome) Christians (or, as they call themselves, Nasrani) in the Hatay.... They feel under pressure, like other Arabs, to ‘Turkicize’.” [57a] (p382)

CAUCASIANS

- 19.58 The World Directory of Minorities (1997) estimated that there are probably about one million people of Circassians or Abkha descent in Sakariya, Bolu, Bursa, Eskişehir, Sinop, Samsun, Tokat and Kayeri. There are also about 80,000 Sunni Georgians and 10,000 Orthodox Christian Georgians located mainly in the Artvin province in the north east and around 150,000 Laz (a south Caucasian language related to Georgian) speakers in Turkey. [57a] (p382-383)

ARMENIANS

- 19.59 The World Directory of Minorities (1997) reports that “Although the State respects their minority status, they are regarded as foreigners by most Turks even though they have inhabited the land of modern Turkey for well over 2,000 years, substantially longer than the Turks. Armenians still find it hard to register their children as Armenian. However, the community successfully operates its own schools, old peoples’ homes and its own press.” [57a] (p380)
- 19.60 The European Commission 2005 report recorded that “The training of Armenian language teachers is still not possible pending acceptance by the Turkish authorities of an Armenian department within an Istanbul university for the study of the Armenian language.” [71d] (p37)

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GREEKS

- 19.61 The USSD Report on International Religious Freedom 2006 estimates that there are fewer than 2,500 Greek Orthodox Christians in Turkey. [5e] (Section 1) The World Directory of Minorities (1997) states that “There are probably 3,000 ageing Greek Christians, mainly in Istanbul, the residue of 80,000 still there in 1963. Formal expulsions police harassment and a climate of fear and popular animosity have since then reduced the community to its present number.” [57a] (p381)

- 19.62 As noted in the EC 2006 report, “The Greek minority continues to encounter problems. These are particularly related to education and property rights. The Greek minority properties on the island of Gökçeada (Imvros) and Bozcaada (Tenedos) are under threat of confiscation and tender by the Turkish authorities.” [71a] (p21)
- 19.63 The EC 2006 report further noted that, “The June 2005 ruling by the Council of State narrowing the scope for the Directorate General for Foundations to take over the management of foundations was not applied during the reporting period. In this respect, no progress can be reported on the Büyükada Greek Girls’ and Boys’ Orphanage, whose management remains under the control of the DG foundations.” [71a] (p16)

ROMA

- 19.64 A 2005 European Commission against Racism and Intolerance (ECRI): Third report on Turkey (adopted on 25 June 2004 and made public on 15 February 2005), noted that:
- “ECRI is concerned to learn that the situation of the Roma in Turkey remains largely unchanged. The authorities have not, it appears, carried out any research to determine the actual situation of the Roma in Turkey and official information on this subject is lacking. According to the European Roma Rights Center, however, the Roma communities in Turkey experience major difficulties due to social exclusion. They encounter discrimination in employment, housing and access to public places. They live in difficult conditions in camps from which they are often forcibly evicted without being offered alternative accommodation. There is inequality of opportunity in terms of access to health care, employment and also education, in that parents often cannot afford to send their children to school.” [76] (p15)
- 19.65 As recorded in the EC 2005 report the Roma population is estimated between 500,000 and 2,000,000. [71d] (p37)
- 19.66 The EC 2006 report noted that:
- “As concerns the Roma, amendments to the Law on Settlement adopted in September 2006 repealed discriminatory provisions against the Roma. However, discriminatory provisions remain in the Law on Movements and residence of aliens. Recent research by the Bilgi University suggests the Roma population in Turkey is around two million. Roma experience discriminatory treatment in access to adequate housing, education, health and employment. There are frequent forced evictions. Urban regeneration projects of historical districts have led to displacing Roma population residing in those districts (i.e. Ankara-Çinçin, Zonguldak-Ere, Istanbul-Sulukule). During the reporting period more Roma-led advocacy organisations and two Roma Federations were established. Several NGO projects were carried out aimed at capacity building of Roma organisations and establishing a clearer picture of the problems they encounter. Overall, Turkey made little progress on ensuring cultural diversity and promoting respect for and protection of minorities in accordance with international standards.” [71a] (p23)

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20 LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

LEGAL RIGHTS

- 20.01 As noted in the Amnesty International document 'Turkey Memorandum on AI's recommendations to the government to address human rights violations', dated 1 August 2005:

"Article 122 of the draft of the new TPC which forbids discrimination on the basis of 'language, race, colour, gender, political thought, philosophical belief, religion, denomination and other reasons' was amended at the last moment so that 'sexual orientation' was removed from the draft. Amnesty International is therefore concerned that discrimination on the basis of sexuality was not criminalized in the new TPC. This is coherent with Article 10 of the Constitution which states that 'Everybody is equal before the law without making any distinction on the basis of language, race, colour, gender, political thought, philosophical belief, religion, denomination and other reasons.' Amnesty International considers that both these articles should be amended to ensure full equality in law and practice of individuals of different sexual orientation."
[12i] (Section on Minority rights and discrimination)

- 20.02 The website of KAOS GL ('Brochure for KAOS GL' accessed on 1 October 2005) states that "KAOS GL is a group founded in September 1994 with the purpose of bringing Turkey's homosexuals together to struggle against discrimination. The group's underlying philosophy is that liberation of homosexuals will also free heterosexuals. KAOS GL has been publishing the journal KAOS GL (now a quarterly) since it was founded." **[96]**

- 20.03 The website of KAOS in an overview of issues affecting the Lesbian, Gay, Bisexual and Transgender (LGBT) of Turkey in September 2005, noted that:

"The new Turkish Penal Code, which does not recognize the existence of Turkish lesbian, gay, bisexual or transgender (LGBT) people, went into effect on June 1, 2005. None of the demands Kaos GL and Lambda Istanbul brought up during their face-to-face meetings with the Justice Commission members were considered... The Turkish LGBT Community urges the government to take the necessary action to amend the Turkish Penal Code to: Ban and criminalize discrimination based on sexual orientation and gender identity. Remove the article penalizing consensual sexual relations between young people of 15 – 18 years of age. (which conflicts with the Children's Rights Protocol and the Global Declaration on Human Rights, both ratified by Turkey). Amend the obscenity article by clearly defining acts of obscenity." **[96e]**

- 20.04 The KAOS website also noted that although it is legal in Turkey to be lesbian, gay, bisexual or transgender, discrimination and persecution are also prevalent.

It is too early to be optimistic about the future when it comes to LGBT rights. There is still massive discrimination in both the public and private sector. It is very difficult for someone to press charges when he/she faces discrimination based on sexual orientation; Turkish laws do not recognize crimes of discrimination based on sexual orientation or gender identity. Transgenders, who are often the most visible part of the LGBT community, continue to face discrimination and physical harassment by society. Just like gays and lesbians, they have little legal recourse. Although security forces have been very harsh to transgenders in the past, with the considerations regarding human rights by the European Union (EU) and the Turkish public, the situation is slowly improving. [96f]

GOVERNMENT ATTITUDES

20.05 The European Commission 2005 report recorded that:

“In September 2005, the registration of Kaos GL Gay and Lesbian Cultural Research and Solidarity Organisation was temporarily blocked by Ankara’s Deputy Governor. In a letter to the association and to the local prosecutor, he noted that the Civil Code proscribes the establishment of an association which is ‘contrary to law and morality’. However, the prosecutor decided not to pursue the case, concluding that homosexuality cannot be equated with immorality.” [71d] (p28)

20.06 As reported on 13 October 2005 on the website of the Kaos GL:

“An official demand to ban Turkey’s first gay rights association was rejected by a prosecutor on Wednesday, allowing the KAOS Gay and Lesbian Cultural Research and Solidarity Association to continue to operate, reports Agence France-Presse. The decision was hailed by gay rights activists as a big step in combating discrimination in the country, which hopes to join the European Union. The Ankara governor’s office had informed KAOS last month that it had asked a court to dissolve the group because ‘associations against law and morality cannot be established.’ But the prosecutor reviewing the demand decided not to proceed with a court case on the grounds that the words ‘gay’ and ‘lesbian’ are used both in daily life and scientific research with no inhibitions and that homosexuality does not amount to immorality. ‘This is a big step in efforts to remove sexual discrimination in all areas of social life and allow Turkish homosexuals the equality and justice they deserve,’ KAOS said in a statement.” [96b]

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20.07 In a recent press release ‘Cancellation of the LGBT March in Bursa’ by the international Lesbian and Gay Association (ILGA) accessed on 22 August 2006, it was reported that:

“Our legal march has been suspended with the reason of an illegal aggressive protest! Our legal demonstration with a legal permission on 06.08.2006, called Homosexuals do have Associations; in front of the city museum has been

hindered. With our friends from the organizations of Lambdaistanbul, Kaos GL, Pembe Hayat and from other cities who came to support the demonstration we have organized, we were surrounded by some aggressors and stuck in our building of Rainbow Association. About one hundred transvestites, transsexuals, gays, lesbians and bisexuals coming from Istanbul Ankara and Bursa have been cursed and have not been let out of the building, moreover our building has been stoned. While aggressors were using even carrying guns with fake bullets the officials who confirmed the legal permissions only watched our fundamental human right to peacefully march and demonstrate being violated. In that sense the civilian authorities are collaborators of the illegal lynch atmosphere experienced outside the building.” [27c]

20.08 As reported on the website of the Kaos GL on 4 October 2006:

“Belgin still vividly remembers the night, more than a quarter of a century ago, when police herded her and dozens of other transsexuals and transvestites on to a train as part of a campaign to clean up Istanbul. We did not know where the train was taking us. The police beat us and locked us up in the wagons. They gave us no water or food, she said, evoking scenes reminiscent of World War Two... Rights groups say transsexuals face increasing violence and this reflects a wider trend in Turkish society -- the growing influence of Islam in daily life since the centre-right AK Party, which has Islamist roots, came to power in 2002. Now the police raid their bars and take these people into detention more frequently, said Huseyin Ayyildiz, branch secretary of the Human Rights Association in Istanbul. He said this reflected the AK Party's promotion of more Islamist-minded police officers keen to defend conservative family values.” [96d]

20.09 As reported on 9 December 2006 on the website of the Kaos GL News:

“A criminal court case has been filed in Ankara, Turkey against the chief editor and owner of Kaos GL Magazine which is the only LGBT Turkish magazine that has been published since 1994. Umut Guner, who is the owner of the magazine on behalf of Kaos GL and vice president of Kaos GL Association, is being accused of publishing pornographic issues based on Turkish Penal Code, Article 226. If he is convicted, he may face up to three years of jail sentence. Turkish Penal Code, Article 226, Part 2 says: A person who broadcasts or publishes obscene images, printed or audio material or who acts as an intermediary for this purpose shall be sentenced to imprisonment for a term of six months to three years.” [96c]

20.10 The KAOS website however stated that the Turkish government provides neither positive programs to employ women, nor shelters for lesbians who are subjected to violence. Although some women’s shelters still exist, most have been closed due to financial problems. [96e]

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20.11 The KAOS also noted that the most important problem of lesbians living in Turkey is perhaps the difficulty of coming out. Even though lesbianism (along with gays and transgenders) is not considered a crime and not forbidden by law in Turkey, it's very hard to come out because of the fact that discrimination against sexual orientation is not forbidden. During the discussions about the New Turkish Penal Law, the LGBT organizations like Kaos GL and Lambda Istanbul made campaigns with feminist organizations in order to make discrimination on the grounds of sexual orientation a crime. Yet, the article making discrimination against sexual orientation a crime has been removed from the draft by the instruction of the Minister of Justice. Turkey still does not have any LGBT rights. [96e]

20.12 The KAOS website continued to note that:

"In Turkey, because of some religious and cultural facts, the education level of women is low compared to that of men. Since most women are not as educated, [sic] The number of women who have a chance to have a career is less than men. Unemployment rate is high in Turkey and men are more likely to occupy the available jobs... It is very hard for women who went through only obligatory education to find a job. They can only find under-paid jobs in metropolitan areas with almost no social security. Because only people who had a prior job can benefit from unemployment insurance, women, who mostly deal with housework or unregistered house oriented jobs, cannot access this benefit... Most women are forced to marry because of societal and economic pressure. Consequently many lesbians are forced into marriage. There has been a recent case that can give an idea of the degree of violence to which lesbians are exposed. In that case, a husband who killed his wife's girlfriend, because of the fact that she was a lesbian, was given a diminished punishment for 'unjust provocation'." [96e]

SOCIETAL ILL-TREATMENT OR DISCRIMINATION

20.13 KAOS further noted that some lesbians who come out to their families are punished in several ways. Some are not allowed even to go out and some families force them to go to psychiatrists in order to be treated. Contrary to the acceptable professional rules, some of the psychiatrists accept homosexuality as an illness and try to rid gays and lesbians of their sexual orientation. Kaos GL has some projects regarding this issue and is currently providing workshops in order to raise the understanding of psychiatrists regarding LGBT issues and to educate them that being a lesbian, gay, bisexual or transgender is not an illness. [96e]

20.14 The same website also adds that even working lesbians cannot come out in work places because the law does not forbid discrimination against sexual orientation. Being a lesbian is not forbidden by law but there are some articles in labor laws which allow the employees to fire people based on immorality. If a person is fired because of the fact that she/he is gay, the employee can claim that she/he has a right to fire the worker because she/he leads an immoral life.

In such a case, only the judge who works on that particular case can decide if that person's life-style is immoral or not. [96e]

- 20.15 KAOS also noted that one of the reasons that make coming out a major challenge is religion. In Islam, homosexuality, as well as premarital sex, is a sin. Because of these facts, women's sexuality is rarely spoken in families and community. The prevailing culture in Turkey is based on fear of women's sexuality which forces them to live with men. That is why it is very hard for a woman to accept herself as a lesbian and to build a lesbian life. Women in Turkey represent the 'honor' of their families and community. [96e]

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TRANVESTITES

- 20.16 The Netherlands Ministry of Foreign Affairs 2002 reported that "Turkish law does not prohibit transvestism. Nor does government policy discriminate against transvestites in any way. Attitudes to transvestites in Turkey are also ambivalent. Some nationally known transvestites from the world of show-business are highly regarded in Turkey. Huysuz Virjin is a famous transvestite who presents a popular talk show on television. The transvestite singer Zeki Müren, who died in 1996, was given a state funeral for his services as a singer." [2a] (p142)

- 20.17 On 4 April 2005 ILGA (International Lesbian and Gay Association) reported that on November 17 2004 a transvestite called Hulya was threatened with a gun by a man, with whom she had paid sex, who alleged that he was a police officer.

"He then drove her to a place where there were other policemen and left her with them. ... They began to beat her and took her to a police station. Once at the station they continued to beat her and broke her arms and injured one of her feet. Then they wrote a report stating that she had refused their demands and based on that the District Attorney of Kadikoy had her arrested and sent to Umraniye prison...The representatives from Lambda Istanbul Homosexual Civil Initiative and the Human Rights Association of Istanbul conducted a press conference in front of Sultanahmet Court Building on November 25, 2004 demanding the end of oppression towards transgender individuals. The same day they filed a lawsuit against the police officers that committed this crime." Hulya was acquitted in January 2005 and the first trial of these police officers was scheduled for 6 April 2005. [27b] However, as at March 2006 no information could be found on the outcome of this trial.

TRANSSEXUALS

- 20.18

According to the Netherlands Ministry of Foreign Affairs 2002:

"Transsexual operations are legally permitted and may be performed in Turkey subject to a number of conditions. The new Civil Code, which entered into force on 1 January 2002, imposes stricter conditions than in the past. Candidates

must submit a medical certificate stating that the sex change is necessary for the mental health of the person concerned. Persons who have undergone a sex change can record this fact in the civil register and are allowed to marry afterwards. The ambivalent social attitude towards transvestites also applies to transsexuals. The famous singer, Bülent Ersoy, who had a sex change in 1980 and married as a woman in 1999, is idolised, but less well-known transsexuals face the same difficulties as transvestites. Their position in Turkish society is also generally comparable to that of transvestites.” [2a] (143)

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21 DISABILITY

PEOPLE WITH DISABILITIES

21.01 The USSD 2005 report recorded that:

“The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Although they suffered from a lack of economic opportunity, there was no societal discrimination. The law does not mandate access to buildings and public transportation for persons with disabilities. The Presidency Administration for Disabled People, under the Prime Ministry, is responsible for protecting the rights of persons with disabilities.” [5b] (Section 5)

21.02 The *Turkish Daily News* reported in December 2003 that according to a survey carried out by the Turkish Institute of Statistics and the State Planning Organisation disabled people in Turkey number nearly 8.5 million which equates to 12.29% of the population. [23h] Another article in December 2003 stated that Turkey has a large physically handicapped population estimated to be around 500,000. Ten to 15 people are injured every day in traffic accidents alone. Turkey has 14 physical rehabilitation centres with a total bed capacity of 1,931, an increase on the 1,295 beds available in 2002. [23j]

21.03 The European Commission 2006 report recorded that:

“As regards the rights of disabled people, several implementing legislation were issued following the entry into force of the Law on People with Disabilities in 2005. These cover areas such as workplaces and educational services for disabled people. More needs to be done to establish decentralised structures and services for disabled people and also to facilitate access to education of children with disabilities.” [71a] (p19)

21.04 The European Commission 2006 report further stated that “An action plan for employment of people with disabilities has been prepared, and several implementing regulations were issued related to the Law on People with Disabilities. These cover areas such as workplaces and educational services for disabled people.” [71a] (p97)

- 21.05 As noted in a report by the Mental Disability Rights International (MDRI) entitled 'Behind Closed Doors: Human Rights Abuses in the Psychiatric Facilities, Orphanages and Rehabilitation Centers of Turkey' (released on 28 September 2005):

"Behind Closed Doors describes the findings of a two-year investigation in Turkey by Mental Disability Rights International (MDRI) and exposes the human rights abuses perpetrated against children and adults with mental disabilities. Locked away and out of public view, people with psychiatric disorders as well as people with intellectual disabilities, such as mental retardation, are subjected to treatment practices that are tantamount to torture. Inhuman and degrading conditions of confinement are widespread throughout the Turkish mental health system. This report documents Turkey's violations of the European Convention for the Prevention of Torture (ECPT), the European Convention on Human Rights (ECHR), the UN Convention on the Rights of the Child (CRC) and other internationally accepted human rights and disability rights standards."

[90] (Executive Summary)

- 21.06 The MDRI report continued:

"There is no enforceable law or due process in Turkey that protects against the arbitrary detention or forced treatment of institutionalized people with mental disabilities. There are virtually no community supports or services, and thus, no alternatives to institutions for people in need of support. As a result, thousands of people are detained illegally, many for a lifetime, with no hope of ever living in the community. Once inside the walls of an institution, people are at serious risk of abuse from dangerous treatment practices. In order to receive any form of assistance, people must often consent to whatever treatment an institution may have to offer. For people detained in the institution, there is no right to refuse treatment. The prison-like incarceration of Turkey's most vulnerable citizens is dangerous and life-threatening." **[90] (Executive Summary)**

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22 WOMEN

LEGAL RIGHTS

- 22.01 The USSD 2005 report recorded that, "Under the law, women enjoy the same rights as men; however, societal and official discrimination were widespread. The Directorate General on the Status and Problems of Women, under the State Ministry in Charge of Family Affairs, is responsible for promoting equal rights and raising awareness of discrimination against women." **[5b] (Section 5)**
- 22.02 The Women for Women's Human Rights (WWHR) website (undated) accessed on 26 September 2006 noted:

"The new Civil Code (No. 4721), which puts an end to the supremacy of men in marriage, was ratified by the Turkish Parliament. 126 women's groups organized a collective effort that resulted in the new Civil Code, which, except

for a few shortcomings, institutes fundamental positive changes regarding the domestic status of women. The revised Civil Code defines the family as a partnership based on equality between men and women. The husband is no longer the head of the family; spouses govern the family union as equal partners with equal decision-making powers. Spouses have equal rights over the family residence. Spouses have equal rights over property acquired in the course of the marriage. The concept of 'illegitimate' children has been abolished; mothers now have custody of children born out of wedlock." [95b]

- 22.03 As noted in the Amnesty International's document 'Turkey: Implementation of reforms is key', dated 11 March 2005:

"In recent months the government has undertaken several reforms towards meeting its responsibilities in this area. On 26 September 2004, a new Penal Code was passed. It is a positive step towards the better protection of women's rights in Turkey and takes into account many of the recommendations made by groups and activists working in this area. In addition, legal status has been given to a Directorate on the Status of Women attached to the Prime Ministry which will work to strengthen the position of women in Turkish society. On 24 December 2004 legislation came into force which obligates municipalities with a population of more than 50,000 inhabitants to establish shelters for women. However, in meetings with Amnesty International, Turkish government representatives have not been able to give any information about a long-term implementation plan for establishing women's shelters". [12g]

- 22.04 As noted in the Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' made public in February 2005:

"All sources consulted on the issue considered the recent changes in both the Civil Code and in the Penal Code to be crucial steps in the campaign to further equality between women and men and to eliminate the use of violence against women. Among other regulations, Article 159 of the Civil Code (stating that women needed their husbands' consent to work outside the home) and Article 438 of the Criminal Code (providing for a reduction in the punishment for rapists under certain conditions) have both been abolished." [16] (p32)

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POLITICAL PARTICIPATION OF WOMEN

- 22.05 The USSD 2005 report recorded that, "There were 24 women in the 550-seat parliament. There was 1 female minister in the 23-member cabinet. There were no female governors but more than 20 female subgovernors." [5b] (Section 3)
- 22.06 The EC 2006 report recorded that "The level of participation of women in the parliament and in local representative bodies remains very low and prevailing discrimination exists in the labour market. Participation by women in the workforce is among the lowest in OECD countries." [71a] (p19)

- 22.07 A *Turkish Daily News* article dated on 26 January 2007 'Turkish woman's election to gender equality chair meaningful' stated that:

"It is significant when a Turkish woman (Ankara deputy Gülsün Bilgehan) becomes head of a Council of Europe committee in charge of gender equality and women rights. She was unanimously elected on Monday head of the Parliamentary Assembly of Council of Europe (PACE) committee on equal opportunities for women and men." [23n]

- 22.08 The *Turkish Daily* news also reported on 26 January 2007 that Arzuhan Doğan Yalçındağ, yesterday elected chairman of the Turkish Industrialists and Businessmen's Association (TÜSİAD), is the acting CEO of Doğan TV and a Doğan Holding board member. [23i]

SOCIAL AND ECONOMIC RIGHTS

- 22.09 As noted in the UK Foreign and Commonwealth Office (FCO) Human Rights Annual Report 2006, released in October 2006:

"The joint UNICEF and Ministry of Education campaign to increase girls' attendance at school continued to yield positive results throughout 2005–06. The campaign, which now covers the whole of Turkey, continues to address shortages in classroom space, school materials and teacher training, and to encourage members of the community to identify girls who are not going to school and to discuss the issue with their parents. As a result of the campaign, enrolment and attendance have dramatically increased among primary age girls." [4n] (p138)

MARRIAGE

- 22.10 The European Commission 2006 report further noted that "The Law on the Protection of the Family is only partially applied. Despite the provisions in the new Penal Code that lists moral killings as an aggravated circumstance for murder crimes, the sentences issued by courts reflect a mixed picture. While in some cases courts imposed maximum sentences (life imprisonment), in others they opted for lighter sentences, especially if a minor had committed the murder." [71a] (p18)

- 23.05 The USSD 2005 report noted that:

"Child marriage occurred. The legal age of marriage in the country is 18 for both boys and girls. A judge can authorise a marriage at age 17 under 'extraordinary circumstances'; the law requires judges to consult with parents or guardians before making such a decision. However, children as young as 12 were at times married in unofficial religious ceremonies. Families sometimes engaged in 'cradle arrangements,' agreeing that their newborn children would marry at a later date, well before reaching the legal age. Women's rights activists say underage marriage has become less common in the country in recent years, but is still practiced in rural, poverty-stricken regions. Activists maintained that girls who married below the legal age often had children shortly thereafter and

suffered physical and psychological trauma as a result. Arranged marriages have been cited as a cause of suicides among girls, particularly in the southeast.” [5b] (Section 5)

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VIOLENCE AGAINST WOMEN

- 22.11 Stop Violence against Women (stopvaw) stated in their country page updated on 3 May 2005:

“Gender discrimination and violence against women are a widespread problem throughout Turkey. In a recommendation on Turkey’s accession to the European Union, the European Commission noted that discrimination and violence against women, including honor killings, remains a major problem. Women face setbacks with regard to education, employment and public representation. The illiteracy rate for women in Turkey is nearly twenty percent, while female employment is under 30 per cent. In addition, women are poorly represented in the political sector, and only four per cent of parliamentary seats are occupied by women.” [97]

- 22.12 As noted in the Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ made public in February 2005:

“According to Ms. Nebahat Akkoç and the other women’s rights activists consulted, violence against women is endemic all over Turkey and not limited to ‘backward’ parts such as Eastern Anatolia. It appears, however, that the problem is especially grave in traditional areas, where tribal customs still play an important role in every day life. Ms. Zülal Erdogan and Ms. Remziye Tanrıyıkulu from the Diyarbakır Bar Association supported this view and pointed out that there are more cases in conservative, Kurdish families in the Southeast and among migrants from the Southeast living on the outskirts of the metropolitan areas.” [16] (p32)

- 22.13 The USSD 2005 report noted that:

“Violence against women, including spousal abuse, was a serious and widespread problem. The law prohibits violence against women, including spousal abuse; however, the government generally did not effectively enforce the law. Police were reluctant to intervene in domestic disputes and frequently advised women to return to their husbands. Spousal abuse was considered an extremely private matter involving societal notions of family honor [sic], and few women went to the police”. [5b] (Section 5)

- 22.14 The USSD 2005 report further added that:

“The Directorate General for the Status of Women reported that 147,784 women were victims of domestic violence from 2001 to 2004. These incidents included 4,957 cases of rape and 3,616 cases of attempted rape. In 2003 6,543

women suffered beatings from family members, and in the first eight months of 2004, 5,214 women suffered beatings. The law prohibits rape, including spousal rape; however, laws and ingrained societal notions made it difficult to prosecute sexual assault or rape cases. Women's rights advocates believed cases of rape were underreported." [5b] (Section 5)

22.15 The European Commission 2006 report noted that:

"As concerns women's rights, the report of the ad hoc Parliamentary Committee on 'crimes in the name of honour, violence against women and children' has been finalised. The report puts forward practical recommendations, which received wide media coverage. A circular by the Prime Minister's Office in July follows up on these, by giving priority to the fight against violence, listing the activities to be undertaken and naming the state bodies responsible. The Directorate General for the Status of Women is given the task of overall co-ordination of activities." [71a] (p18)

22.16 Amnesty International's report 'No turning back – full implementation of women's human rights now 10 year review and appraisal of the Beijing Declaration and Platform for Action' published in February 2005 stated that:

"At every level of the criminal justice system in Turkey, the authorities fail to respond promptly or rigorously to women's complaints of rape, sexual assault or other violence within the family. The police are reluctant to prevent and investigate family violence, including the violent deaths of women. The police force's own record of human rights violations makes victims of domestic violence reluctant to seek their help. Prosecutors refuse to open investigations into cases involving domestic violence or to order protective measures for women at risk from their family or community. The police and the courts do not ensure that men, who are served with court orders, including protection orders, comply with them. In most cases the authorities fail to ensure that the perpetrators of violence in the home are brought to justice in accordance with international standards for fair trial." [12m] (p4)

22.17 As reported by BBC News on 7 March 2005:

"The European Union has expressed shock and concern at the 'disproportionate force' used by Turkish police during a protest in Istanbul. Police used truncheons and tear gas to break up Sunday's demonstration ahead of International Women's Day. The EU, which has told Turkey it must continue with political reforms, said: 'On the eve of a visit by the EU during which the rights of women will be an important issue, we are concerned to see such disproportionate force used.' 'We were shocked by images of the police beating women and young people demonstrating in Istanbul,' the three EU representatives said in a joint statement. 'We condemn all violence, as demonstrations must be peaceful.'... About 300 people gathered for the unauthorised demonstration on Sunday, chanting anti-government slogans and demanding equal rights for women. After about 100 refused to follow police orders to disperse, officers armed with tear gas and truncheons charged on the crowd, say reports. Police were seen beating and kicking the men and women trying to flee." [66i]

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22.18 The European Commission 2005 also reported that:

“During a demonstration marking international Women’s Day in Istanbul on 6 March 2005, police intervened with disproportionate force, using tear gas and truncheons and injuring a number of participants. The government quickly conveyed the message that such behaviour on the part of the police is unacceptable. Following the incident, the Ministry of Interior demoted and fined 6 policemen and reprimanded 3 senior officials. A judicial investigation, launched by the Istanbul Public Prosecutor, is ongoing.” [71d] (p29)

22.19 The EC 2005 report further recorded that:

“Following this incident, in April 2005 the Ministry of Interior issued a circular, reminding governors of the importance of implementing the August 2004 circular, which sought to prevent the use of disproportionate force by members of the security forces and ensure appropriate sanctions when excessive force is used. The new circular emphasises the need for the inspection body within the Ministry of Interior to exercise more vigilance in ensuring consistent implementation. In practice the implementation of such circulars varies considerably from province to province. In practice the implementation of such circulars varies considerably from province to province.” [71d] (p29)

22.20 The EC 2006 report further recorded that:

“The administrative investigations have been finalised into the incidents during a demonstration promoting women's rights in March 2005. Three members of the Istanbul Directorate of Security have been punished with a reprimand due to Failure in undertaking the duty of training and supervising members under their command. A further six staff members have been punished with a salary deduction due to disproportionate use of force when dispersing the demonstrators and speaking to or treating the public in a degrading manner. The investigation launched by the Chief Public Prosecutor’s Office of Istanbul against seven police officers is currently ongoing.” [71a] (p15)

22.21 Amnesty International USA, in an article posted in May 2006 ‘Turkey establishes initiatives to prevent violence against women’ said that:

“Turkey's State Minister in Charge of Women Affairs Nimet Cubukcu announced two initiatives to prevent violence against women and raise awareness among men. One of the initiatives, the ‘Platform to Prevent Violence,’ intends to educate 800,000 soldiers to prevent violence through military service. The Turkish government initiatives are in part a response to the substantial rise of female suicides in the country. It is reported that thirty-six women have attempted suicide in the south-eastern region this year, already exceeding last year's total. BBC's Sarah Rainsford stated: changing the mentality that drives such killings is an enormous task.” [12c]

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22.22 A *Turkish Daily News* article dated 8 September 2006 stated that:

“The Women's and Children's Affairs Ministry will hold a summit at the Prime Ministry on violence against women and ‘honor killings’ today, with representatives of relevant state bodies, unions, nongovernmental organizations and universities present. The summit aims to draft an action plan to prevent violence against women and honor killings and to implement the measures as soon as possible. Çubukçu had previously said that laws and mechanisms protecting women from violence and punishing abuse were already in place. State Minister for Women's and Children's Affairs Nimet Çubukçu, speaking on Wednesday, said they would be discussing what had been done up until now and what could be done in the future to stop this social disease.” [23e]

22.23 As reported by BIA News Center in September 2006, ‘Women Seek Help Most for Domestic Violence’:

“Istanbul Bar Association Women's Rights Enforcement Center (KHUM) records show that most applications made to this legal counsel service come from women seeking a divorce and 95 out of every 100 women applying last year have complained of being subjected to violence at home. KHUM records for the year 2005 show that 2,827 women applied to the Bar Association's women's rights center. 71 percent of them were complainants, 15.8 percent defendants. The data shows that 59.9 percent of applicants were seeking a divorce and 12.8 percent were seeking assistance in enforcing alimony payments. 9.7 percent of the applicants came to the center for violations of Law 4320 while 8.6 percent applied for alimony.” [102d]

Women's Organisations in Turkey

22.24 As noted in the Amnesty International's document ‘Turkey: Implementation of reforms is key’, dated 11 March 2005:

“It is vital that the government takes urgent steps now to ensure that the recent legislative changes become real and that they are fully implemented by ensuring that adequate funding is available from their central budget; otherwise there is the risk that the reforms will be meaningless. The need for shelters is especially pressing as they are critical in situations where women's lives are at risk. Despite the legal changes introduced, there is still a drastic shortage of shelters in Turkey - there are only 13 shelters in a country with a population of approximately 70 million.” [12g]

22.25 The USSD 2005 report also noted that:

“The government's Institution for Social Services and Orphanages operated 14 shelters for female victims of domestic violence and rape with a total capacity of 259. Municipalities and NGOs also operated a number of shelters. Under legislation adopted in July [2005], municipalities with populations greater than 50 thousand were required to establish shelters for women. During the year a

number of municipalities opened shelters, or prepared to do so, in accordance with the legislation.” [5b] (Section 5)

22.26 In an article by Amnesty International News (undated) stated that:

“According to a recent European Union report there should be one shelter per 10,000 head of population. Turkey, with a population of 70 million people should therefore have approximately 7,000 shelters. In reality, there are approximately 14 ‘guesthouses’ and 19 community-based services to support women experiencing violence at home... Women in Turkey want shelters. According to one study in which 33 per cent of women reported being beaten by their husbands, and 26 per cent reported being beaten by their father before marriage, 91 per cent of women stated that in the difficult times that they encountered ill treatment, they wanted to be able to find shelter from a social foundation.” [12b]

22.27 The Amnesty International News article further stated that:

“At present, the role of women’s rights activists is crucial to ensure that at least a small proportion of women obtain protection – some of these organizations are the:

- Women’s Support and Solidarity Centre in Antalya,
- the Purple Roof Foundation in Istanbul,
- the Women’s Centre (Ka-Mer) in Diyarbakır,
- the Women’s Solidarity Foundations (KADAV) in Ankara and Izmit.

A worker at an NGO told Amnesty International, “Everyone sends women who have experienced violence to us. Everyone. [sic] The government, the police, everyone. We don’t have the facilities to meet the demand’.” [12b]

22.28 The EC 2006 report however recorded that:

“There is still a need to further increase the provision of shelters for women subjected to domestic violence. (Footnote: according to official sources there are 17 shelters for women established under the Social Services and Child Protection Institution (SHÇEK) growing to 30 if those established by other institutions are included. However, these figures are considered tentative.) The provision in the Law on Municipalities, adopted by Parliament in July 2004 is not yet fully implemented. All municipalities with a population greater than 50 000 should provide a shelter.” [71a] (p18)

22.29 A recent Amnesty International article on Turkey: Shelters need government support stated that, “In 2005, a legal provision came into force in Turkey for municipalities with more than 50,000 inhabitants to open at least one shelter for survivors of domestic violence. According to this law, over 3,000 shelters should be opened around the country. To date, not a single municipality has established a new shelter because of limited budgets and a lack of political will.” [12p]

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Virginity testing

22.30 The European Commission 2004 report noted that “As regards virginity testing, the new [Penal] Code foresees a prison sentence for those ordering and conducting such tests in the absence of a court order. However, contrary to the request of women’s NGOs, the consent of the woman on whom the test is to be conducted is still not required.” [71c] (p45)

22.31 Amnesty International reported in June 2004 that:

“Even when laws change, practices persist that restrict women’s options. After the passage of a law forbidding forced ‘virginity testing’, a study at an Istanbul hospital found that 208 women ‘voluntarily’ underwent a virginity test for ‘social reasons’. We live in a society in which some women consider their own lives to be less important than a tiny membrane, Hülya Gülbahar, lawyer and women’s activist, told Amnesty International.” [12]

22.32 As noted in the document ‘Turkish Civil and Penal code reforms from a gender perspective: the success of two nationwide campaigns’, published in February 2005 by the Turkish NGO Women for Women’s Human Rights (WWHR) – New Ways:

“The new Penal Code includes an inadequate provision regarding virginity testing. Despite the efforts of the women’s movement, the actual term ‘virginity testing’ is not employed in the Penal Code. Instead, Article 287 entitled ‘Genital Examination’ has been included in the new law. The article stipulates that anyone who performs or takes a person for a genital examination without the proper authorization from a judge or a prosecutor can be sentenced to between three months to one year of imprisonment. Women’s groups are protesting this article as it fails to explicitly name and ban the practice, and also because the article does not require the woman’s consent for genital examination, thereby leaving room for forced examination and human rights violations.” [95a]

Honour killings

22.33 As noted in the USSD 2005 report:

“Honor killings – the killing by immediate family members of women suspected of being unchaste – were a problem. Women’s advocacy groups reported that there were dozens of such killings every year, mainly in conservative Kurdish families in the southeast or among migrants from the southeast living in large cities. Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform the killing.”

The USSD 2005 quoted cases of life imprisonments given in October 2005 by two different courts to relatives of women who had been victims of ‘honor killings’. [5b] (Section 5)

22.34 The USSD 2005 report noted that:

“In May a 14-year-old boy shot his mother, Birgul Isik, in Elazig as she returned from Istanbul, where she had discussed being beaten by her husband on a television talk show. Her son allegedly shot her for ‘disgracing the family’. Isik died from her wounds in June. Authorities charged the 14-year-old with murder and also charged Isik’s husband and a stepson with incitement. The trial continued at year’s end.” [5b] (section 5)

- 22.35 The USSD 2005 report further noted that, “Dicle University in Diyarbakir conducted a survey on honor killings during the year [2005]. The university polled 430 persons in the southeast; 78 percent of those surveyed were men. The survey revealed that 37.4 percent of the respondents believed honor killings were justified if a wife committed adultery, and 21.6 percent believed infidelity justified punishments such as cutting off a wife’s ear or nose.” [5b] (Section 5)

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- 22.36 The IHD (Human Rights Association) 2005 Balance Sheet on Human Rights Violations in Turkey reported a total of 68 deaths (39 women; 29 men) and 29 cases of people being injured (15 women; 14 men). (Honour related attacks) [73a]

- 22.37 The International Helsinki Federation (IHF) for Human Rights June 2006 Turkey report noted:

“Thirty-nine women and 29 men fell victim to ‘honor killings’, and 116 women and at least 45 children were killed as a result of domestic violence. The year was also characterized by increased government and public awareness of the violence against women and children, a women’s rights NGO working in the southeast and among IDP communities in other parts of Turkey preventing a substantial number of ‘honor killings’.” [10a]

- 22.38 The Norwegian Country of Origin Information Centre ‘2004 Report of fact-finding mission to Turkey noted that:

“Like other forms of violence against women, honour killings happen in all parts of the country. They appear to be more frequent in the Black-Sea Region and in Kurdish inhabited areas in the Southeast, where tribal customs play an important role in everyday life. From the sunni-dominated areas of central-Anatolia (such as Konya) however, fewer cases are reported...Just like other kinds of violence within the family, no comprehensive recording or statistical monitoring is conducted as to the prevalence of honour killings. Most of the NGO’s representatives I talked to, estimated that the number of unreported or undetected cases was significantly higher than the official numbers. Honour killings are often hushed up and some women who have apparently committed suicide have in fact been killed or even forced to kill themselves by their family.” [16] (p33-34)

- 22.39 The European Commission 2006 report recorded that:

“Crimes in the name of honour and suicides committed by women due to the influence of the family continue to occur, especially in the regions of the East

and Southeast. Nonetheless, there is still a lack of reliable data on such events as well as on domestic violence more generally. According to the preliminary results of the UN Special Rapporteur on Violence against Women, causes of suicides are early and forced marriages, domestic violence and denial of reproductive rights. Poverty, urbanisation, displacement and internal migration, and thus changing socioeconomic situation of women are the contexts within which suicides occur. Women's suicides are not always properly investigated, especially in the Southeast. In parts of the South East it still occurs that girls are not registered at birth. This hampers the fight against forced marriage and crimes in the name of honour since these girls and women cannot be properly traced" [71a] (p18)

22.40 Amnesty International's report of June 2004 reported two of cases of those found guilty of honour crimes being sentenced to life imprisonment. According to the report "These cases have shown the positive steps that have been taken and the efforts being made within the Turkish judicial system to treat 'honour killings' as seriously as other murders... However, although some courts appear to have begun implementing the reforms, the discretion accorded to the courts continues to permit the perpetrators of domestic violence unwarranted leniency." [12j] (p17)

22.41 In February 2004 the BBC reported that "A Turkish women had been murdered in an Istanbul hospital where she was already being treated for injuries sustained in a so-called honour attack. Guldunya Toren 24, was being treated after being shot and left for dead, when the second attack happened. Early on the morning of the 26 February 2004, a man claiming to be a relative told staff he wanted to visit her, before shooting her dead." [66s] The BBC reported in March 2004 that in response to the killing Muslim clerics across Turkey were told by the government to deliver sermons upholding women's rights and condemning so called honour killings. [66t]

22.42 As noted in the UK Foreign and Commonwealth Office (FCO) Human Rights Annual Report 2006, released in October 2006:

"Honour killing remains an issue of concern. The new penal code, which came into force in June 2005, has made progress in addressing this issue by removing the sentence reductions for murders motivated by 'honour', thus treating 'honour killings' as seriously as any murder. Turkish Prime Minister Erdogan issued a directive on 17 July 2006 aimed at reducing honour killings and domestic violence and calling for 'new and urgent' action. The directive includes setting up a free helpline for victims of domestic violence and a number of educational and awareness-raising initiatives about 'honour crimes'. This builds on the work of a parliamentary commission set up in November 2005 to investigate the incidence and causes of honour killings in Turkey which produced a number of recommendations." [4n] (p138)

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Women suicides in Turkey

- 22.43 An article by Amnesty International USA “High rate of women suicides in Turkey” published in May 2006 stated that:

“The U.N. is investigating a surge in the number of young women committing suicides in Turkey. The U.N. special rapporteur on violence against women, Yakin Erturk, arrived yesterday to the Turkish city of Batman to review the recent reports. Since the beginning of the year 36 women had committed suicide, surpassing the number for the entire year before. According to the reports the alleged cause is ‘forced suicides’ or suicides where the victim is pushed to kill herself by her husband or relative to restore family honor – to cleanse a perceived offense such as adultery or sex before marriage.

“Ertuk has expressed her horror at the number of deaths but states that there is still no direct evidence supporting ‘forced suicides’. Ertuk states this trend is the reverse of what we’ve found in the rest of the world and is a great concern. At this stage I’ve got more questions than answers.” [12a]

- 22.44 The Independent Online Edition also reported a United Nations envoy having arrived in Turkey to investigate a reported surge in the number of young women committing suicide. 36 women had killed themselves since the start of the year [2006]. This figure is already much higher than the number for the whole of last year [2005]. [85]

- 22.45 The Child Rights Information Network also reported in May 2006 that:

“A UN envoy is to visit Batman in south-east Turkey to investigate reports of an alarming rise in the number of women committing suicide. Yakin Erturk, will visit four cities during a 10-day fact-finding mission to the country. The Turkish government has begun work to raise awareness about domestic violence and the mosques have been instructed to preach against honour crimes in particular, but changing the mentality that drives such killings is an enormous task. In the meantime in Batman there is still no shelter women in danger can run to and no local hotline number they can call.” [94a]

- 22.46 An *International Herald Tribune* article dated 12 July 2006 noted that:

“Every few weeks in this Kurdish area of southeast Anatolia, which is poor, rural and deeply influenced by conservative Islam, a young woman tries to take her life. Turkey has tightened the punishments for ‘honor crimes’. But rather than such deaths being stopped, lives are being ended by a different means. Parents are trying to spare their sons from the harsh punishments associated with killing their sisters by pressing the daughters to take their own lives instead.” [82]

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- 22.47 *The International Herald Tribune* article further stated that:

“In an effort to bring honor killings out from underground, Ka-Mer, a local women's group, has created a hotline for women who fear their lives are at risk. Ka-Mer finds shelter for the women and helps them to apply to the courts for

restraining orders against relatives who have threatened them. Ayten Tekay, a caseworker for KaMer in Diyarbakir, the regional center, said that of the 104 women who had called Ka-Mer this year, the laws have been changed, but the culture here will not change overnight.” [82]

22.48 The EC 2006 report documented that:

“According to the preliminary results of the UN Special Rapporteur on Violence against Women, causes of suicides are early and forced marriages, domestic violence and denial of reproductive rights. Poverty, urbanisation, displacement and internal migration, and thus changing socioeconomic situation of women are the contexts within which suicides occur. Women’s suicides are not always properly investigated, especially in the Southeast.” [71a] (p18)

22.49 As noted in the UK Foreign and Commonwealth Office (FCO) Human Rights Annual Report 2006, released in October 2006:

“We are concerned by reports of a sharp rise in female suicides since the introduction of the new penal code. Yakin Erturk, the UN Special Rapporteur on Violence against Women, visited Turkey in June 2006 to investigate this trend and is currently preparing a report; we look forward to reading her findings and recommendations. Local initiatives, led by women’s NGOs, include setting up advice centres and specialist suicide units for women.” [4n] (p138)

Treatment of women in detention

22.50 The International Helsinki Federation (IHF) for Human Rights 2006 Turkey report noted:

“Since 2003, the government has improved the legislation and regulations concerning detention conditions and the rights of detainees, in connection with the EU accession process. The government declared a ‘zero-tolerance’ policy on torture but rejected any debate with human rights organizations on the issue, and reacted negatively to arguments and initiatives by these organizations. CPT commended the Turkish normative framework as one of the most elaborate in combating torture while pointing to deficiencies in the implementation. Torture and ill-treatment was still widespread and the government extended impunity to the police and gendarmerie accused of torture. Turkish human rights organizations stated that the safeguards provided by the government were not always respected in practice by the security forces despite progressive improvement.” [10a] (p440)

See also Section 11 [Arrest and Detention-Legal Rights](#)

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22.51 The 2006 IHF report further stated that:

“The case opened against four police officers for torturing two young girls, Fatma Deniz Polattas and Nazime Ceren Samanoglu, in Iskenderun in 1999

was concluded in 2005. While the officers remained in their duties and received promotions, Polattas and Samanoglu were convicted on the basis of their confessions reportedly extracted under torture. The two girls were released in December 2004 due to an amendment to the law. In April, Iskenderun Aggravated Penal Court acquitted the police officers on the basis of insufficient evidence since the Forensic Institute reported that the girls objected to virginity test which was supposed to obtain evidence on their rape claims.” [10a] (441)

22.52 The 2006 IHF report also added that:

“Derya Orman, Gülselin Orman and Seyhan Geylani Sondas were arrested by the police in Istanbul in April because one of them did not have an identity card with her. They stated that the police requested them ‘sexual favors’ in the station in order to release them. They reported that they were stripped naked, sexually harassed and forced to sexual intercourse by the officers on duty, including a policewoman. HRA officials reported that the applicants were mistreated by the prosecutor when they went to his office to file complaints against the police officers.” [10a] (441)

22.53 As reported in a recent BIA News article dated 2 November 2006:

“A recent study of violence against women by state security forces has shown that at least 70 women were raped while under detention between 1997 and 2006 while 166 others were sexually harassed. The total number of women who have sought legal support and assistance in this period is 236. A report issued by the Judicial Assistance Project for Sexual Harassment and Rape Under Detention said that only two of the 236 applications made for support came from Germany while the rest of the incidents were recorded in Turkey... The project’s lawyer Eren Keskin told bianet that harassment and rape were specifically employed as deterrent methods in east and southeast Turkey while kidnapping of women concentrated in the cities of Tatvan and Mardin. Keskin acknowledged that women subject to this form of violence had ‘great difficulties’ in applying for judicial aid and said that as most women faced such incidents at very young ages, there was a need for a new institution other than the coroner’s office, which could deal with psychological reports.” [102j]

EMPLOYMENT AND GENDER EQUALITY

22.54 The European Commission 2005 report outlined that “In spite of various legal and practical initiatives, the problem of discrimination on the basis of gender remains a cause for concern. Women remain vulnerable to discriminatory practices, due largely to a lack of education and a high illiteracy rate (about 20% of women in Turkey are illiterate and in the Southeast this figure is considerably higher).” [71d] (p33)

22.55 The European Commission 2006 report stated:

“Women remain vulnerable to discriminatory practices, due largely to a lack of education and a high illiteracy rate. The girls’ education campaign conducted by the Ministry of National Education and UNICEF ensured the enrolment in primary schools of 62 000 girls in 2005, which would otherwise have been out of school. In 2006 the campaign was extended to all 81 provinces. Private

sector campaigns to increase school enrolment and to improve the physical condition of schools have continued. The level of participation of women in the parliament and in local representative bodies remains very low and prevailing discrimination exists in the labour market. Participation by women in the workforce is among the lowest in OECD countries.” [71a] (p18)

22.56 The EC 2006 report further added that “Overall, there has been growing public attention on the issue of women's rights in Turkey. However, full respect of women's rights remains a critical problem, particularly in the poorest areas of the country. While the legal framework is overall satisfactory, its implementation remains inadequate.” [71a] (p19)

22.57 As noted in the USSD 2005 report

“The Directorate General on the Status and Problems of Women, under the State Ministry in Charge of Family Affairs, is responsible for promoting equal rights and raising awareness of discrimination against women. Women continued to face discrimination in employment to varying degrees and were generally underrepresented in managerial-level positions as well as in government. Women generally received equal pay for equal work in professional, business, and civil service positions, although a large percentage of women employed in agriculture and in the trade, restaurant, and hotel sectors worked as unpaid family labor.” [5b] (Section 5 Women)

22.58 The Human Rights Watch on ‘Essential Background: overview on human rights issues on Turkey’ March 2005, noted that, “Women who wear the headscarf for religious reasons continue to be excluded from higher education, the civil service, and political life. Female lawyers who wear the headscarf are not permitted to enter courtrooms, and in July the Ankara Bar took disciplinary action against a lawyer who wore a headscarf while carrying out her duty to a client in a bailiff’s office.” [9e]

See also Section 18.12 [Headscarves](#)

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23 CHILDREN

BASIC INFORMATION

23.01 The United Nations Children's Fund (UNICEF) Turkey 2004 reported that:

“With 1.5 million babies born each year in Turkey, the need to ensure that basic health, welfare and education services are maintained for this and future generations of children has never been more pressing. UNICEF has committed its resources globally to create ‘A World Fit for Children’ by working in the five priority areas of girl’s education, early childhood development, immunisation ‘plus’, fighting HIV/AIDS and protecting children from violence, exploitation, abuse and discrimination. We believe that gains for children in these five areas will contribute significantly to the full realisation of children’s rights.” [91c]

23.02 The USSD 2005 report noted that:

“The government was committed to furthering children’s welfare and worked to expand opportunities in education and health. The Children’s Rights Monitoring and Assessment High Council monitored compliance with the Children’s Rights Convention... The government provides health services to citizens who lack health insurance. Children of parents with health insurance are covered under their parents’ plans. Boys and girls have equal access to health care. Child abuse was a problem. There were a significant number of honor killings of girls by immediate family members, sometimes by juvenile male relatives... In October [2005] police arrested five employees of the Malatya state orphanage in connection with an investigation into the alleged torture and abuse of children at the institution.” [5b] (Section 5)

23.03 The European Commission 2005 report recognised that:

“Some steps were taken to address the persistent problem of street children. A Parliamentary Committee for Street Children was established in November 2004 and issued several reports with policy recommendations. Following the establishment of this Committee, a circular was issued by the Prime Minister’s Office in March 2005 introducing a pilot scheme for such children in eight provinces. The model aims at providing medical care, rehabilitation and education for these children and at their re-integration into society.” [71d] (p34)

23.04 The EC 2006 report stated that “The incidence of street children, child poverty and child labour remains significant. The Turkish Labour Law prohibits the employment of children under the age of 15. However, there are shortcomings regarding the application of the law.” [71a] (p19)

23.06 The USSD 2005 report noted that:

“There are comprehensive laws and policies to protect children from exploitation in the workplace the government generally sought to implement them but was hampered by lack of personnel and resources. The law prohibits the employment of children younger than 15 and prohibits children under 16 from working more than 8 hours a day. At age 15 children may engage in light work provided they remain in school...The law prohibits children attending school from working more than 2 hours per day or 10 hours per week. The Ministry of Labor effectively enforced these restrictions in workplaces that were covered by the labor law, which included medium and large-scale industrial and service sector enterprises. A number of sectors are not covered by the law, including small-scale agricultural enterprises, maritime and air transportation, family handicraft businesses, and small shops. Nonetheless, child labor was widespread. The State Statistical Institute reported that the number of child laborers between the ages of 12 and 17 dropped from 948 thousand in 2003 to 764 thousand in 2004; however, some observers claimed that there were no reliable statistics in this field and that the actual number of working children was rising.” [5b] (Section 6d)

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- 23.07 The European Commission 2006 report noted, “The Law on the Protection of Children, adopted in July 2005 establishes a legal framework aimed at safeguarding the rights and well-being of both children with particular problems and children under legal investigation or who have been convicted of crimes. Further implementation of the Law is needed, in line with the relevant ILO conventions.” [71a] (p19)

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- 23.08 The European Commission 2005 report noted that regarding asylum seekers, “The children of applicants for asylum have the right to attend Turkish primary schools. Unaccompanied child asylum seekers are cared for by the Social Services Child Protection Agency. Turkey has continued to train officials on asylum issues.” [71d] (p112)
- 23.09 The BIA News Center article Children get Police & Courts, no Schools published 5 July 2006 reported:
- “The Diyarbakir Bar Association has revealed that out of 10,193 suspects that were brought before courts in the city last year, 2,197 were children, describing the situation as ‘grave’. Citing data with the Diyarbakir Bar Association Criminal Procedures Law (CMK) Enforcement Centre, association president Sezgin Tanrikulu said the figures showed how grave the situation was in the city and warned that it would become worse unless effective social policies to the advantage of children are enforced in a short time. Diyarbakir Bar Association CMK Enforcement Centre Coordinator Baris Yavuz explained, meanwhile, that the most important cause for every one out five people being put on trial in the city being a minor is internal migration and the poverty this has led to. Both Tanrikulu and Yavuz told bianet that by continuing to treat child offenses as only an issue of public order and security, the government was ignoring the community and social dimensions of the problem and making the situation worse.” [102k]

EDUCATION

- 23.10 UNESCO in their 2006 report ‘Early Childhood Care and Education’ stated that:
- “In Turkey preschool education is optional and includes the education of children in the 3-5 years of age group. Preschool education is given in kindergartens, preparatory classrooms, application classrooms, day nurseries, nursery schools, day-care homes, and childcare homes. Pre-primary education for which the Ministry of National Education is responsible is provided in Ana Okulları (kindergartens) for 36-72 months Sınıfları (nursery classes) for 60-72 months children or Uygulamalı Anasınıfı (‘practical’ nursery classes) for 36-72 months children. Aside from a parental contribution to expenditure on meals and cleaning materials, all public pre-primary institutions are free of charge, regardless of the type of setting or the year concerned.” [75]

- 23.11 The Child Information Network in Turkey, an undated website accessed on 3 October 2006 noted that under Article 28:

“States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity; they shall, in particular

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.” [80]

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- 23.12 The USSD 2005 report stated that:

“Government-provided education through age 14 or the eighth grade is free, universal, and compulsory. The maximum age to which public schooling was provided was 18. Traditional family values in rural areas placed a greater emphasis on education for sons than for daughters. According to the government, 95.4 percent of girls and 99.2 percent of boys in the country attended primary school; however, the UN reported during the year that in the eastern and southeastern regions of the country more than 50 percent of girls between 6 and 14 did not attend school.” [5b] (Section 5)

- 23.13 As highlighted by UNICEF, the main barriers to girls’ education were the followings:

“Shortage of schools and classrooms; schools are often situated far from home and many parents do not want their children, especially girls, to travel far; parents do not want to send children to schools that are in a poor physical state with no toilets or running water; many families suffer economic hardship; the traditional gender bias of families favours the needs of men and boys over those of women and girls; the need to augment domestic income by keeping children at home to work; many parents consider the early marriage of their girls to be more important than their education; female role models in rural communities are scarce – or entirely absent; opportunities for secondary education are rare, discouraging interest at primary level.” [91a]

- 23.14 As recorded on the UNICEF website on 29 December 2005:

“Only sixty-nine percent of girls attend primary school in Turkey. But thanks to a major education drive, over a quarter of a million more children have enrolled in school since 2003 – and 175,000 of these are girls. The campaign, dubbed ‘Hey Girls, Let’s Go to School,’ depends on a vast network of volunteers who go door-to-door to lobby parents on the value of education. Volunteers from a wide variety of professions are signing up and the programme has received support from prominent politicians, including the Prime Minister and First Lady of Turkey. In Van, where the nationwide campaign was launched over two years ago, poverty and cultural traditions have historically kept girls at home. Up to half of all girls in this eastern province are estimated to be out of school. Through the efforts of the campaign, 20,000 girls have enrolled for the first time.” [91b]

- 23.15 UNICEF further reported that “Persistent poverty and insufficient resources continue to plague the educational system in Turkey. Schools are scarce and overcrowded; conditions in urban slums and rural areas are especially bad. And for families that are struggling to afford food, even the most basic school supplies can be well out of reach.” [91b]

RELIGIOUS EDUCATION

- 23.16 The USSD 2005 report also noted that:

“The law establishes eight years of compulsory secular education for students. After completing the eight years, students may pursue study at imam hatip (Islamic preacher) high schools. Imam hatip schools are classified as vocational, and graduates of vocational schools faced an automatic reduction in their university entrance exam grades if they applied for university programs outside their field of high school specialization. This reduction effectively barred imam hatip graduates from enrolling in university programs other than theology. Most families that enrolled their children in imam hatip schools did so to expose them to more extensive religious education, not to train them as imams.” [5b] (Section 2)

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- 23.17 The USSD 2005 report further stated that:

“Only the Diyanet is authorized to provide religion courses outside of school, although clandestine private courses existed. Only children 12 and older could legally register for official Koran courses, and Mazlum-Der reported that police often raided illegal courses for younger children...” [5b] (Section 2) “According to UNHCR, there were indications that Chechens suffered economic hardship because of their lack of a clearly defined legal status made it difficult for them to find employment. The lack of legal status also prevented most Chechen children from enrolling in public schools...” [5b] (section 2)

- 23.18 The European Commission 2006 report however noted that:

“With respect to children’s rights, the right to education for children, particularly girls, remains a problem in some areas. The newly initiated 'conditional cash transfer' programme implemented by the Social Support and Solidarity Fund provides incentives and compensation to targeted families by offering cash transfers on the condition that they send their children to school if they are of school age. Enrolment campaigns need to be sustained and consolidated to address the low level of school attendance, in particular in rural areas of the South East.” [71a] (p19)

23.19 The BIA News Center however reported that:

“Turkey's new school term started this Monday with 14 million primary and secondary school students heading off to school where only 595 thousand teachers are available to teach them, while the lack of a sufficient number of classrooms to do so remains to haunt the country's education system. A report prepared by the Education and Science Workers Union (Egitim-Sen) on the situation of education at the beginning of the 2006-2007-school term, has identified a shortage of teachers and classrooms as the primary problems continuing to face this sector. The report also stressed that problems created by the ongoing shortage of both were only compounded with other obstacles in front of education, among them school reconstructions and repairs that could not be finalized in time to open the facilities for education. Even more important though was the political staffing at schools, which came parallel to procedures such as internal exile, penalties and layoffs where thousands of education workers were aggrieved despite the shortages problem.” [102 I]

CHILD CARE

23.20 The Netherlands Ministry of Foreign Affairs 2002 reported that “Children whose parents for whatever reason are unable to exercise custody are usually looked after by the family.” However, if the relatives are unable to do this, the Netherlands report stated that:

“Turkish law (Law No. 2828 of 24 May 1983, on the Social Services and Child Protection Agency) provides for state care for unsupported minors. Only if care is not possible elsewhere may the case be referred to the Social Services and Child Protection Agency (Sosyal Hizmetler ve Çocuk Esirgeme Kurumu) coming under the Ministry of General Affairs. The Agency refers the minor’s case to the court, which takes the ultimate decision on care.” [2a] (p152-153)

23.21 The report continued:

“Under Turkish law, depending on the length of their education unsupported minors can be taken into care at least up to the age of 18 and at most up to the age of 25. Children up to the age of 18 may register or be registered with the Social Services Directorate (Sosyal Hizmetler Müdürlüğü), to be found in every province. There are children’s homes (Çocuk Yuvaları) for children up to the age of 12 and training institutions (Yetiştirme Yurtları) for children aged 12-18. There are currently an estimated 70 children’s homes in Turkey with a total of roughly 7,000 children, and 91 training institutions with 5,000 young adults. In

some cases young adults who do not have their own home on reaching the age of 18 may be allowed to stay longer.” [2a] (p153)

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23.22 In addition the Netherlands report 2002 also stated that:

“The quality of care in homes varies from province to province. In some parts of the country there are fewer facilities for the placement of minors than in others... It is difficult to judge how far care in general is adequate by Turkish standards since levels of care vary so much. Turkish authorities responsible for care and assistance to unsupported minors often have to cope with a lack of funding.” [2a] (p153)

23.23 The report continued “According to law, care and assistance to unsupported minors are provided by the state, but various charitable organisations also provide care for minors. The Social Services Directorates are responsible for authorising the establishment of and monitoring such institutions. The Directorates regularly consult such organisations in order to streamline care. UNICEF and other international organisations are also active to some extent in the field of care for unsupported minors.” [2a] (p154)

23.24 The USSD 2005 report noted that in October 2005, broadcast media outlets had aired footage of employees abusing children at the Malatya State Orphanage. “Images included employees beating children who were stripped naked and sitting in a bathtub. Several of the children told police their caretakers had forced them to eat excrement. Physicians subsequently examined the children and reported finding evidence that 21 of 46 had been subject to torture, including severe beatings and hot water burns. Authorities pressed charges against five employees and removed four others from their posts. The trial and investigation continued at year’s [2005] end.” [5b] (Section 1c)

23.25 A Human Rights Association (IHD/HRA) press statement issued on 27 October 2005 noted that:

“The practices carried out by public officials and caretakers against children between the ages 0 and 6 at a childcare center in Malatya are torture. Children, in the childcare center were subjected to practice of systematic torture such as punishment and intimidation by public officials... Torturous acts that children in Malatya childcare center were subjected to have brought to the agenda the violent treatment that has been maintained in such institutions.” [73j]

23.26 The European Commission 2006 report also noted that “In late 2005, ill-treatment of children in an orphanage of the Social Services and Child Protection Institution (SHÇEK) in Malatya revealed the shortcomings of the child protection system in Turkey.” [71a] (p20)

23.27 As reported by BIA News Center in July 2006, ‘Overhaul Needed in Child Protection’:

“Diyarbakir Bar Association Children’s Rights Center lawyer Cengiz Analay has appealed for children’s homes to be opened for civilian inspection with an overhaul of the legislation protecting children in wake of confirmation that at least 34 minors had gone missing from such homes over the past 3 years in Diyarbakir province alone. It was revealed that 34 children listed at children’s homes in Diyarbakir were unaccounted for, investigation launched by the Diyarbakir Governor’s Office Human Rights Provincial Board on request of the Prime Ministry Human Rights Supreme Board. The investigation was launched after independent allegations of disappearances were made from social services operated children’s homes and showed that 34 minors, including 18 girls, were missing from homes for 0-12 and 13-18 age group children.” [102b]

HEALTH ISSUES

23.28 The European Commission 2005 report noted that:

“Regarding communicable diseases, the Ministry of Health is closely following up the WHO strategies for the elimination of measles in the country. Through this effort, nine million children under six received an additional dose of measles vaccine in addition to the school children vaccinated in the last year [2005]. Turkey has made some progress in most areas of consumer and health protection. In the area of public health a network for the epidemiological surveillance and control of communicable diseases is being set up and alignment with tobacco control has progressed swiftly.” [71d] (p123)

23.29 The USSD 2005 report stated that “The government provides health services to citizens who lack health insurance. Children of parents with health insurance are covered under their parent’s plans. Boys and girls have equal access to health care.” [5b] (section 3)

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23.30 The EC 2006 report noted that:

“In the field of social protection, Parliament adopted legislation on social security reform in May and June 2006, providing for a complete overhaul of the Turkish social security system. This will be simplified and bureaucracy reduced, benefits-liabilities will be equal for everybody, free healthcare will be provided to all children under 18. The reform aims to ensure the long-term financial stability of the social security system and to regulate assistance to the poorest. Upgrading of the administrative capacity of the newly established Social Security Institution is ongoing. The inspection capacity of the social security system requires strengthening.” [71a] (p53)

See also Section 25.01 [Medical Issues](#)

TORTURE AND MISTREATMENT UNDER DETENTION

23.31 The Child Rights Information Network (CRIN), in an article posted in April 2006, emphasised that:

“A total of 202 children had been detained in relation to the incidents in Diyarbakir between March 28 and April 1, 2006 and 91 of them were arrested after their initial custody period. As result of an appeal made by the Diyarbakir Bar Association, 34 of the imprisoned children were later released. The Bar Association Center had disclosed then that 95 percent of the children detained by security forces had been subject to torture and mistreatment.” [94b]

- 23.32 BIA News Center reported in July 2006, ‘34 Torture Investigations in Diyarbakir’ that:

“A total of 34 preparatory investigations have been launched against police officers in Diyarbakir related to allegations of torture and mistreatment of children and adults during and after the March 28-April 1 disturbances in the city this year. Diyarbakir Bar Association Children Rights Center lawyer Cengiz Analay welcomed the investigations and told Bianet that even if with a delay it appears for now that what should be done against torture and mistreatment is being done. But the 24 torture files that have been opened should not end up inconclusive like the others. Analay said that as the city Bar Association they are following this issue closely and are waiting for the result of the 34 investigations with interest. He said they insisted that torturers not be left unpunished.” [102e]

- 23.33 As reported by BIA News Center in September 2006, ‘Lawyer Investigated to Reveal Child Torture’:

“The Izmir Public Prosecutor’s Office has launched an investigation against attorney Nalan Erkem who in 2003, as an executive of the city Bar Association Group to Prevent Torture, publicly disclosed the existence of torture and mistreatment of children held at the local Buca prison. Erkem had passed on information and allegations to the press related to incidences of torture of children at the Buca prison children’s ward, their denied access to legal counsel and refusals by prison authorities to requests of transfers.” [102c]

- 23.34 In the Human Rights overview of Turkey 2005, Human Rights Watch noted that “In January 2005, the Turkish parliamentary human rights commission reported that, during a visit to Saray Rehabilitation Center, a psychiatric institution in Ankara, it had discovered children tied to their beds and imprisoned naked in cold rooms. Mental Disability Rights International reported in September that psychiatric hospitals in Istanbul and Izmir were inflicting electroconvulsive treatment (ECT) on patients without muscle relaxants and anesthesia. The Council of Europe’s Committee for the Prevention of Torture had already condemned this painful and dangerous practice in a 1997 visit to Turkey. The report also described how children were subjected to ECT, and had their hands and feet bound to their beds for long periods.” [9e]

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24 TRAFFICKING

- 24.01 As noted in the USSD 2005 report:

“The law prohibits trafficking in persons; however, there were reports of trafficking in women and children to, from, and within the country for the purpose of sexual exploitation. There were allegations that police corruption at all levels contributed to the trafficking problem. The law punishes trafficking with prison terms ranging from 8 to 12 years’ imprisonment in addition to heavy fines. The new penal code came into effect in June [2005] and specifically addresses trafficking as a crime. However, prosecutors have mostly tended to use other articles that regulate prostitution, rather than the new law on trafficking, which has rendered the new law nearly ineffective.” [5b] (Section 5)

24.02 The USSD 2005 report continued:

“The government reported that prosecutors opened 75 cases against alleged traffickers during the year through September. Courts convicted 29 defendants and acquitted 75 on trafficking charges during that period. Several cases were ongoing at year’s end... The country was a destination and source for trafficked persons. The government placed at 235 the number of identified trafficking victims during the year. Various NGOs operating in the country and in neighboring source countries estimated the number of trafficking victims to be nearly 10 times that figure.” [5b] (Section 5)

24.03 The European Commission 2005 report stated:

“Articles 79-80 of the Penal Code, which came into force in June 2005, substantially increase penalties for smuggling and trafficking persons. When the offences are committed by an organisation, the penalties are increased further. The Penal Code also provides for the freezing and confiscation of assets of smugglers and traffickers. The Turkish authorities arrested several members of organised human trafficking gangs in the first nine months of 2005.” [71d] (p112)

24.04 The EC 2005 also recorded that “54,810 illegal migrants were apprehended in Turkey in 2004 (compared to 48,055 in 2003). The Turkish authorities apprehended 7,470 illegal migrants in the first quarter of 2005.” [71d] (p111)

24.05 As noted in the US Department of State ‘Trafficking in Persons Report’, released on 5 June 2006:

“Turkey is a major destination and transit country for women and children trafficked primarily for sexual exploitation and, to a lesser extent, forced labor. In 2005, IOM’s office in Turkey reported that 60 percent of cases identified involved victims from Ukraine and Moldova; other victims are trafficked from throughout Eastern Europe and the former Soviet Union. Reports of trafficking within Turkey continued. Turkish traffickers used violence to control their victims, often using threats against victims’ families as a powerful form of coercion.” [5d] (Country narratives – Turkey)

24.06 The USSD ‘Trafficking in Persons Report’ continued:

“The Government of Turkey does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The Turkish Government actively investigated cases of trafficking in 2005 and

continued to screen potential trafficking victims, increasing the number of identified and repatriated victims during the year. However, the application of this screening appeared uneven; IOM reported that many trafficking victims were not identified prior to their deportation by Turkish authorities. The number of government prosecutions decreased in 2005 and courts acquitted or dismissed cases against a significant number of suspected traffickers. The Turkish Government should improve the screening of potential victims and ensure they are fully informed of their rights. The government should take steps to improve its investigations and judicial awareness of trafficking, fully implement the revisions to the penal code to strengthen punishments for trafficking, and encourage victims to assist in investigations.” [5d] (Country narratives – Turkey)

24.07 The Trafficking in Persons Report 2006 continued:

“The Government of Turkey made modest, but uneven, progress in its efforts to punish trafficking crimes over the last year. Turkish authorities investigated 166 trafficking cases against 241 suspects in 2005. The government prosecuted 48 cases involving 144 suspects during the reporting period, a decrease from 142 cases in 2004. Turkish courts increased the number of trafficking convictions to a total of 29 traffickers in 2005, nine of whom received sentences of four to five years’ imprisonment. The remaining 20 convicted traffickers received probation or fines. Seventy-five of the suspected traffickers prosecuted were acquitted and 40 other cases were dismissed or remanded to other courts. Of the 379 suspects arrested for trafficking, 134 were released and 105 escaped in 2005.” [5d] (Country narratives – Turkey)

24.08 On 10 August 2006 the Turkish Daily News reported:

“Criminal courts in Turkey over the last year settled almost 200 cases involving the crime of human trafficking, with 687 people appearing before the courts. In response to an official question from Justice and Development Party (AKP) Balıkesir deputy Turhan Çömez, Justice Minister Cemil Çiçek said yesterday in a written statement that 116 of those cases are still pending this year. Thirty-seven out of 210 people who were tried concerning 66 cases were sentenced, Çiçek said. The number of aggrieved people who have been trafficked in 182 cases is 683, he noted, and added that those people were from Iraq, Iran, Russia, Ukraine, Belarus, Uzbekistan, Palestine, Romania, Bangladesh, Moldova, Kyrgyzstan, Azerbaijan, Georgia and Dagestan.” [23o]

24.09 The BIA News Center reported that:

“A joint study conducted by the International Organization for Migration (IMO) and Turkey’s Security General Directorate has revealed a significant increase in human trafficking victims being brought to Turkey, a majority of them by force... In the first three months of 2006, IMO revealed eight forced kidnapping cases all from former East Block countries involving women aged 19 to 29. A statement from IOM said eight of the women involved were kidnapped from the Istanbul Airport by persons speaking Russian and proposing to assist them in transport arrangements... Despite the concentrated efforts of the IOM and Turkey’s National Police Directorate, there is a significant increase in

documented kidnap cases. The police department against Smuggling and Organised Crime (KOM) figures shows that following the abolishment of the Soviet Union and the subsequent economic crisis in the region, human trafficking to Turkey has reached “dangerous proportions.” [102m]

24.10 The European Commission 2006 report further stated that:

“Overall, some progress can be reported, particularly in the areas of asylum, border management, fight against trafficking in human beings, customs and police cooperation. Alignment with the acquis in this chapter is underway but considerable and sustained efforts are required in areas such as migration, the fight against organised crime, money laundering and judicial cooperation in civil and criminal matters.” [71a] (p65)

See also Section 28.01 [Foreign Refugees](#)

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SUPPORT AND ASSISTANCE

24.11 The Trafficking in Persons Report 2006 further noted:

“The Turkish Government improved protection for victims of trafficking over the last year. In October 2005, Ankara authorities renovated and opened a second trafficking shelter in the country. Local government officials continued to provide the rent and administrative costs for its shelter in Istanbul. Combined, both shelters reported assisting 134 victims in 2005. International organizations and NGOs reported repatriating a total of 220 victims in 2005, a significant increase from 62 in 2004. The government issued eight humanitarian visas to allow victims to stay in Turkey and receive government services, a decrease from 13 issued the previous year. The government continued to provide full medical assistance to victims of trafficking. Although the government has a screening and referral system in place, IOM reported 249 trafficking victims were identified outside Turkey after their likely deportation in 2005. Notably, the Ministry of Interior is investigating IOM’s claims that some victims of trafficking are not provided with legal alternatives to their removal to countries where they face hardship or retribution.” [5d] (Country narratives – Turkey)

24.12 As recorded on the website of the Turkish Ministry of Foreign Affairs last updated on 16 September 2005:

“157 the toll free, tip-off number/emergency helpline for the victims of trafficking, open 24 hours a day, seven days a week, accessible throughout Turkey including mobile phones will be operational soon. A shelter in Istanbul has been established for the victims of trafficking. Victims can benefit from this service free of charge.” [60c]

24.13 As recorded on the website of the Turkish Ministry of Foreign Affairs last updated 16 September 2005:

“Ministry of Foreign Affairs is responsible for national coordination of issues related to Trafficking in Human Beings (THB) in Turkey. The National Task Force has prepared an ‘Action Plan on Combating Trafficking in Human Beings’ which was approved by the Prime Ministry. In accordance with this Action Plan, under the guidance of the Ministry of Foreign Affairs, a shelter in Istanbul is established for the victims. A protocol regarding the shelter was signed between Istanbul Metropolitan Municipality and Human Resources Development Foundation (HRDF) during the NATO Summit in June 2004, with the participation of Deputy Prime Minister and Minister of Foreign Affairs Abdullah Gul and former Secretary of State of the USA Colin Powell. Establishment of shelters in Ankara, Izmir, Antalya and Adana / Mersin is also planned.” [60d]

24.14 The same website also noted that:

“In order to inform the foreigners visiting Turkey regarding THB issue, leaflets including necessary info and helpline number ‘157’ have been designed, within the framework of the project aiming to assist victims of trafficking which has a budget of 700.000 USD. These inserts will be distributed at the border gates, primarily Istanbul Ataturk and Antalya Airports. In conjunction with this project that is realized in cooperation with the International Organization for Migration (IOM), there will be spot programs in Turkish national TV Channel TRT. Furthermore, trainings for law enforcement officials are also planned in this context. Within the framework of the National Action Plan, financial support from the Social Aid and Solidarity Fund is available for the victims of trafficking.” [60d]

24.15 A Country profile by Migration Research. Com dated April 2006 stated on the topic of human smuggling and trafficking that:

“Turkey has made some significant legislative changes in an effort to combat human smuggling and trafficking. First, it has amended its penal code to reflect the UN’s Convention against Transnational Organised Crime (Palermo Convention) and its two protocols related to human smuggling and trafficking. Migrant smugglers now face penalties of three to eight years’ imprisonment and a judicial fine, a penalty that increases by half if the perpetrators are acting as an organisation. The new penal code also provides an official definition of trafficking and a punishment of eight to ten years’ imprisonment and judicial fine for the offense. The Ministry of Health has ordered the provision of free medical treatment at state-owned hospitals for individuals who have been identified as victims of human trafficking. Additionally, the Ministry of the Interior now allows authorities to issue humanitarian visas and temporary residence permits for up to 6 months to those victims of human trafficking who wish to stay in Turkey for rehabilitation and treatment.” [19] (p6)

TRAINING ACTIVITIES

24.16 The Turkish Ministry of Foreign Affairs noted that:

“In 2004, 516 police officers, 266 gendarmerie personnel, 164 judges and prosecutors have received training on counter trafficking. Combating trafficking

in human beings is also included in the curriculum of the Gendarmerie Schools.” [60d]

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25 MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

25.01 As noted in the United Nations Development Programme (UNDP) Human Development Report 2005 (Country Fact Sheets, Turkey) “Turkey is ranked 94th in the 2005 Human Development Report, with an HDI value of 0.750.” The HDI rank for 2003 (177 countries) was 94, with an HDI value of 0.750. [35a]

25.02 As noted in a letter from the British Embassy in Ankara to the Home Office dated 11 April 2006 “According to the Turkish Health Ministry, in 2003 there were 1,130 hospitals with a bed capacity of 164,897. The total number of physicians was 93,200 with 748 people per physician.” [4m]

25.03 The Foreign and Commonwealth Office reported in 2001 that if the patient has contributed to a social security scheme (SSK, BAG KUR, EMEKLI or SANDIGI), his or her cost of treatment will be met. A person who has not made social security contributions and who does not have his/her own financial means and can show that he/she is penniless, is provided with free treatment by the state. [4a]

25.04 On 21 February 2005 the Turkish Daily News reported that a law to transfer ownership of Social Security Authority (SSK) hospitals to the Health Ministry had come into effect over the weekend.

“The law also transfers health facilities owned by Postal and Telecommunications General Directorate (PTT) and Ziraat Bank to the ministry. SSK hospitals will from now on be run like other state-owned medical facilities. SSK members will still have to obtain referrals from their local hospital for treatment at university hospitals... Numerous political parties, nongovernmental organizations and labor groups criticized the government decision to transfer the hospitals to the Health Ministry. Those opposing to the law said the government intended to privatize the health sector, with many people only getting the treatment they could afford. The government decision is a small part of the social security reform process currently under way to ease the burden on taxpayers. Despite being owned by the SSK, hospitals are a drain to the state because of the huge losses they incur.” [23p]

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25.05 As reported in the letter from the British Embassy in Ankara to the Home Office dated 11 April 2006 “AKP contacts recently told the Embassy that the government would shortly pass two critical pieces of legislation regarding the

health and social security system. One would bring three separate social security institutions under a single roof and the other would introduce general health insurance and a GP system in Turkey. These two pieces of legislation were cleared through the Parliamentary Committee stages in March 2006.” [4m]

- 25.06 The US State Department’s Consular Information Sheet on Turkey dated 3 August 2006 and current at 04 October 2006, stated:

“Turkish hospitals vary greatly. The new, private hospitals in Ankara and Istanbul have modern facilities and equipment, and numerous U.S.-trained specialists, but still may be unable to treat certain serious conditions. Those planning to remain in Turkey should consider bringing a six-month supply of necessary chronic medications (e.g., heart medications, birth control pills). Nursing care and diagnostic testing (including mammograms) are not up to American standards. Health care standards are lower in small cities in Turkey in comparison to bigger cities such as Ankara, Istanbul, Izmir and Adana.” [5f]

- 25.07 The Emergency Medicine in Turkey website last updated on 14 June 2006 noted that:

“More than 5000 public health care clinics are located in cities and villages around the country. Many people visit one of these or a pharmacist directly, for care of simple illnesses. If a person obtains a certificate from the neighborhood representative, he or she can receive free health care from government hospitals. Most of the almost 1300 hospitals belong to the government and are known as government hospitals, social insurance hospitals, or university hospitals. Persons are bound to receive care at one type of hospital on the basis of their health insurance type; however, approximately one third of the population has no health insurance. Recent efforts have been started to centralize the care given by the government and social insurance hospitals. The government is required by law to only provide primary medical care to Turkish citizens in the government hospitals.” [59] (EMedicine)

PHARMACIES

- 25.08 The Middle East Expats Online Community Resources & Forums website last updated on 6 January 2006, recorded:

“Eczanes (Pharmacies) are open from 09:00 -19:00 on weekdays and Saturdays. They are closed on Sundays but there is always one, open 24 hours in each neighbourhood. Every pharmacy will have a display in its window (which is posted each evening, on Sunday, and on statutory and religious holidays) listing the name and location of the pohen pharmacy, or Nöbetçi Eczane.” [50]

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- 25.09 The same website also recorded:

“Private hospitals are preferred by patients of middle and upper classes. Despite the fact that state hospitals are sometimes better equipped than the some of private hospitals, many patients prefer going to a private hospital because of the personal and friendly care offered.

- Acibademköy – Istanbul. Website: <http://www.acibadem.com.tr/English/>
- Acibadem Hospital, Carousel, Istanbul - Website: <http://www.acibadem.com.tr/English/>
- Acibadem Hospital, Kadıköy - Website: <http://www.acibadem.com.tr/English/>
- Amiral Bristol American Hospital - Güzelbahçe Sokak, 20 Nişantaşı Istanbul.
- German Hospital, Siraselviler Caddesi, 119 Taksim Istanbul.

State Hospitals – due to limited funding, Turkish state hospitals don’t have the best sanitary conditions. They are always full of patients and have endless queues. The lack of hygiene, lack of staff and lack of care is easily felt. Ironically however, they have some of the most well-known and respected doctors on staff, particularly at the university hospitals.” [50]

HIV/AIDS – ANTI-RETROVIRAL TREATMENT

- 25.10 The Turkish Ministry of Health (MOH) Country report of February 2006 accessed via the UNAID in their country progress report noted that:

“The prevalence of HIV/AIDS in Turkey is at a reasonable level; the first case of HIV infection was reported in 1985, and by the end of 2004, a total of 1,922 cases had been identified. The rate of increase for the reported number of HIV/AIDS cases has been more or less constant over the last three years (about 190 reported new cases annually) and the estimated prevalence is 3,700 cases out of a population of over 70 million.” [39a]

- 25.11 UNAIDS/WHO AIDS Epidemic Update: December 2006 however noted that:

“The epidemics in Central Europe remain small in comparison with the rest of Europe. Only four countries reported more than 100 new HIV diagnoses in 2005: Poland (where 652 people were newly diagnosed with HIV), Turkey (332), Romania (205), Serbia and Montenegro⁸ (112) and Hungary (110) (EuroHIV, 2006a).” [39b]

- 25.12 The United Nations Programme on HIV/AIDS reported in December 2003 that “At the end of 2002, Turkey had a cumulative total of 1,515 reported HIV/AIDS cases. 1.98% are among children under 15 and 33% are among women... To ensure blood safety, commercial blood donation has been fully abolished. The government ensures that all HIV infected patients receive antiretroviral treatment.” [39]

- 25.13 In December 2001 the Foreign and Commonwealth Office contacted Hacettepe University, Ankara, which provides world-standard treatment for HIV and AIDS. The University confirmed that such drugs such as thyroxine, sequinavir, D4T,

3TC, acyclovir, zirtek, diflucon and metoclopramide, or their substitutes, are available in Turkey. [4a]

CANCER TREATMENT

- 25.14 The International Observatory on End of Life Care website, dated 2006, stated that:

“Turkey is an area where supportive care with hospice/ palliative care is linked to the development of other services, particularly within hospital based oncology units... There are no specialist palliative care services in Turkey. Medical oncology units and departments of algology (pain) at major hospitals in the country provide pain control and symptom relief. Oncologists and pain specialists in seven hospitals report actively working to establish the concepts of palliative care... The majority of cancer patients are treated in university hospitals that support units with pain specialists and medical oncologists... Some specialist cancer state hospitals such as the Dr Ahmet Andicen Oncology Hospital and Demetevler Oncology Hospital will provide pain relief and symptom management. No information, however, is currently available about the development of palliative care services in the state hospital system or the development of training in the 57 medical schools around the country. There are around 30 specialist ‘pain centres’ and 20 medical faculties with departments of algology in Turkey. There are no reported activities for paediatric palliative care.” [33] (current palliative services)

- 25.15 The same website also noted that:

“Individual physicians (and their colleagues) have reported active involvement in developing the concepts of palliative care within departments and units in three main areas of the country; in Ankara, a pain specialist at Hacettepe University Hospital, three oncologists, one at Başkent University Hospital, one in the Gulhane Military Academy, (GATA) and one at Gazi University Hospital; in Istanbul, a pain specialist at the Istanbul University Medical Faculty and two oncologists at the Marmara University Medical Faculty; there is one pulmonary specialist developing concepts of palliative care at the Pamukkale University Medical School, Denizli. Medical and nursing professionals have also expressed interest in palliative care at Ankara University Faculty of Medicine.” [33] (current palliative services)

KIDNEY DIALYSIS

- 25.16 The Oxford Journal dated 2002 stated that “The majority of dialysis treatments in Turkey are carried out in centres belonging to the Ministry of Health and in private centres. In the last decade, private centres have played an important role in providing sufficient beds for haemodialysis patients.” [32] Some of the dialysis centres listed by The Middle East Expats Online Community Resources & Forums website are:

Kidney Health & Dialysis Hospital
Address: Osmaniye Mevkii E-5 Karayolu Üzeri

Bahçelievler, Istanbul

Elmalik Dialysis Center
Elmalik Köyü Elmalik, Ankara, 06490 Turkey

Alanya Hospital And Dialysis Center
Saray Mah.Yunus Emre Cad.No:1, Alanya, 07400 Turkey
[50]

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MENTAL HEALTH

- 25.17 As recorded in the World Health Organisation's (WHO) Department of Mental Health and Substance Dependence Mental Health Atlas 2005 the country has disability benefits for persons with mental disorders. "After being approved by a mental health board as a chronic mental health patient, the patient can benefit from the social security services... Mental health is part of the primary health care system. Actual treatment of severe mental health is available at the primary level... Mental health in primary care is available in only some provinces... Regular training of primary care professional [sic] in the field of mental health is present and the approximate number of personnel trained over the last two years totalled 3,000." [37a] (Section on Mental Health Financing)
- 25.18 The WHO Mental Health Atlas 2005 further states that there are 1.3 psychiatric beds per 10,000 population, one neurosurgeon, one neurologist, one psychologist and one social worker per 100,000 population. [37a] (Section on Mental Health Financing)
- 25.19 The Foreign and Commonwealth Office contacted Hacettepe University Hospital Psychiatric Department in April 2002 and confirmed that antipsychotic and antidepressant medication is available in Turkey. [4b]

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- 25.20 The WHO Mental Health Atlas 2005 recorded that "The following therapeutic drugs are generally available at the primary health care level:

carbamazepine,
ethosuximide,
phenobarbital,
phenytoin
sodium valproate,
amitriptyline,
chlorpromazine,
diazepam,
fluphenazine,
haloperidol,

lithium,
biperiden,
carbidopa,
and levodopa.” [37a] (Section on Therapeutic Drugs)

25.21 The WHO Mental Health Atlas 2005 continued:

“The mental health department was established within the Ministry of Health in 1983 with the primary tasks of improving mental health services, development and dissemination of preventive mental health services, integration of mental health with primary care, community education and protection of the community from harmful behaviours. The means of achieving these aims were through determination of standards, training programmes, data collection, research, creation of counselling and guiding units, creation of psychiatric clinics in state hospitals, assigning proper tasks to personnel, developing rehabilitation facilities, carrying out public education through the help of media, educating the public on harmful behaviour, and taking care of those who succumb to those behaviours.” [37a] (Section on Other Information)

25.22 As noted in a report by the Mental Disability Rights International (MDRI) entitled ‘Behind Closed Doors: Human Rights Abuses in the Psychiatric Facilities, Orphanages and Rehabilitation Centers of Turkey’ (released on 28 September 2005):

“There is no enforceable law or due process in Turkey that protects against the arbitrary detention or forced treatment of institutionalized people with mental disabilities. There are virtually no community supports or services, and thus, no alternatives to institutions for people in need of support. As a result, thousands of people are detained illegally, many for a lifetime, with no hope of ever living in the community. Once inside the walls of an institution, people are at serious risk of abuse from dangerous treatment practices. In order to receive any form of assistance, people must often consent to whatever treatment an institution may have to offer. For people detained in the institution, there is no right to refuse treatment. The prison-like incarceration of Turkey’s most vulnerable citizens is dangerous and life-threatening.” [90]

25.23 The EC 2006 report acknowledged that, “As regards mental health, there are significant discrepancies in the quality of services, which is particularly poor in some rural areas. The largest psychiatric hospital in Turkey abolished the use of unmodified electroconvulsive therapy (ECT). However, Turkey has yet to ban this practice throughout the country and establish written guidelines regarding the administration of modified ECT as part of an individualised treatment plan.” [71a] (p19)

25.24 The EC 2006 report further noted that:

“Ongoing work, in co-operation with the World Bank, to establish a strategy in this area needs to be intensified, with a view in particular to establish a mental health law. Rehabilitation centres generally lack adequate infrastructure, resources and qualified personnel. Mentally disabled living with family members receive little assistance from the state.” [71a] (p19)

See also Section 21.01 [Disability](#)

HOME HEALTH CARE

- 25.25 The International Observatory on End of Life Care website dated 2006 stated that:

“Home health care is a low-cost alternative to traditional inpatient care and an appealing alternative for developing countries such as Turkey, where financial resources for health care are particularly scarce. Availability is generally limited to the bigger cities such as Istanbul and Ankara. These benefits include keeping families together, keeping the elderly independent, preventing institutionalisation, promoting healing, allowing a maximum amount of freedom for the individual, involving the individual and family in the care that is delivered, reducing stress, improving the quality of life, and extending life.” [33]

General Overview of the Public Health Sector in Turkey in 2006
http://www.europarl.europa.eu/comparl/envi/pdf/expert_panels/public_health_panel/public_health_in_turkey_by_reig_and_valverde.pdf

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26 FREEDOM OF MOVEMENT

- 26.01 With regard to freedom of movement within the country, foreign travel, emigration and repatriation, the USSD 2005 report noted that:

“The law provides for these rights; however, at times the government limited them in practice. The law provides that a citizen’s freedom to leave the country could be restricted only in the case of a national emergency, civic obligations (military service, for example), or criminal investigation or prosecution. The government maintained a heavy security presence in the southeast, including numerous roadway checkpoints. Provincial authorities in the southeast, citing security concerns, denied some villagers access to their fields and high pastures for grazing.” [5b] (Section 2d)

- 26.02 A senior official in the Passport Office, Ministry of Interior, explained to the Immigration and Nationality Directorate’s fact-finding mission to Turkey in 2001 the passport issuing procedures in Turkey:

“All Turkish citizens are entitled to a passport. An applicant must apply in person; an application cannot be made through an agent. The application must be made in the local area where the applicant resides. The regional passport office makes checks to verify his or her identity. These checks include establishing whether the applicant has criminal convictions and/or is wanted by the authorities. The applicant is always asked why the passport is wanted.” [48] (p10)

26.03 An interlocutor advised the IND fact-finding mission that the issue of a passport would not be withheld if the applicant had not completed his military service; this is because there are provisions in law to defer military service. [48] (p11)

26.04 However, the Netherlands Ministry of Foreign Affairs' 'Turkey/military service' report published in July 2001 records that "Persons of call-up age are not usually issued with passports, and cannot have passports renewed. In a small number of cases, and with the consent of the military authorities, a passport with a short period of validity is issued. The entry 'yapmıştır' (done) or 'yapmamıştır' (not done) in the passport indicates whether the holder has completed military service or not." [2b] (p15)

26.05 The IND fact-finding mission was also told that there are four different types of passport:

Red (diplomatic) passports.

Grey (service) passports. Issued to lower rank government officials who are being sent abroad for a short time on official duty.

Green (officials') passports. Issued to government officials, who have reached a certain level, the qualification for these passports is based on hierarchy and length of service in government.

Blue. Issued to ordinary citizens. [48] (p10)

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26.06 The Immigration and Refugee Board of Canada reported in July 2003 that:

"Turkish citizens wishing to enter or exit Turkey are also required to have valid and appropriate travel documents. In the absence of such documents, airport and land border authorities will request that the individual present other documentation to assist in proving their Turkish citizenship, for example a drivers license, school records, birth registration card etc. However, since Turkish citizens are required to report their lost or stolen passports to the nearest Turkish embassy while abroad, Turkish border authorities must ask why the citizen does not have the appropriate travel documents. In addition to the inquiry, any information and all documents provided to the authorities by the individual are verified with the Turkish Ministry of Internal Affairs." [7d] (p1-2)

FREEDOM OF MOVEMENT FOR WORKERS

26.07 The European Commission 2006 report stated that, "There are no developments on access to labour market. Several laws, as well as the role of professional organisations, contain restrictions on the free movement of foreign workers. Modernisation of the Public Employment Services continued. Staff training for future participation in the EURES (European Employment Services) network requires attention." [71a] (p33)

26.08 The EC 2006 further added that:

“As regards co-ordination of social security systems, the new social security reform laws contain elements regulating the conditions of work and social security rights of foreign nationals. Foreign nationals residing in Turkey for more than a year will be covered under the Universal Health Insurance Law. Limited progress has been achieved on this chapter. Progress was mainly realised in the area of co-ordination of social security systems. Alignment is at an early stage. The administrative capacity needs to be strengthened.” [71a] (p34)

NÜFÜS CARD/IDENTITY CARD

26.09 The Netherlands Ministry of Foreign Affairs 2002 reported that:

“Each district has a population registry, also known as the population office, ultimately coming under the Ministry of the Interior, where all the district’s inhabitants are supposed to be registered. In practice, many people are entered in the population register for their place of birth or even their parents’ place of birth. Since 28 October 2000 each citizen has had his/her own single, nationally registered, unalterable eleven-digit identity number. Population registers do not include details of addresses. Limited records of addresses are kept by neighbourhood heads.” [2a] (p19)

26.10 The Netherlands report continued “The population registry also has responsibility for issue of identity cards (in Turkish: nüfus cüzdanı) often referred to in other languages too as nüfus cards. The nüfus card is the only valid domestic identity document, and everyone is required to carry it at all times. Births have to be registered to the population registry for the place of birth without delay, so that a nüfus card can be issued straight away.” [2a] (p19)

26.11 The USSD 2005 report stated that:

“Religious affiliation is listed on national identity cards. Some religious groups, such as the Baha’i, are unable to state their religion on their cards because their religion is not included among the options; they have made their concerns known to the government. There were reports that local officials harassed some persons who converted from Islam to another religion when they sought to amend their cards. Some non Muslims maintained that listing religious affiliation on the cards exposes them to discrimination and harassment.” [5b] (Section 2c)

26.12 As outlined by the Council of Europe European Commission against Racism and Intolerance in its ‘Third report on Turkey’ – adopted on 25 June 2004 and made public on 15 February 2005 – “There is still room for improvement in the matter of religious freedom, in particular as regards removing the reference to religion on identity cards and abolishing compulsory religious education in schools.” [76] (p6)

26.13 As confirmed by the British Embassy in Ankara on 22 July 2005:

“Under Turkish law citizens are obliged to produce an official ID card if requested by police or jandarma. If you cannot produce identification when required, or refuse to do so, you can be held in detention until your identity is proved. The maximum standard detention period in Turkey is 24 hours,

extendable for a further 12 hours to allow time for transfer between custody and the nearest court. (Suspects can be held up to 48 hours for organised crime offences, illegal drug production/sale, and certain crimes against the State). Under the Law on Misdemeanours those who refuse to give ID information, or who give false information, to civil servants conducting their duty are liable to a small administrative fine.” [4e]

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27 INTERNALLY DISPLACED PEOPLE (IDPs)

- 27.01 As noted in the Human Rights Watch (HRW) World Report 2007, published in January 2007:

“The Turkish government has failed to facilitate the return of the estimated 378,335 internally displaced persons (IDPs) from the southeast who were forced by the army to flee their villages during the armed conflict with the PKK in the 1980s and 1990s. The government has failed to rehabilitate the basic infrastructure of most villages destroyed by the army during the conflict; many villages have no electricity, telephone access, or schools. What is more, the security situation in some regions remains poor; the 58,000 village guards—Kurds armed and paid by the government to fight the PKK—often occupy or use vacated lands, and have killed 18 people, including would-be returnees, in the past four years. IDPs who do return to their villages cannot afford to rebuild their homes or re-establish agriculture. A 2004 compensation law, which could have provided the financial means to support IDPs who want to return to their villages, has been interpreted and applied by some provincial compensation commissions so as to pay derisory sums (often as low as US\$3,000) or exclude eligible IDPs from compensation altogether.” [9b]

- 27.02 As recorded in the May 2006 Turkish Economic and Social Studies Foundation (TESEV) report entitled “Overcoming a Legacy of Mistrust: Towards Reconciliation between the state and the displaced”:

“The Turkish government’s policy on internal displacement has so far neglected the specific problems of urban IDPs. Likewise, the European Commission, which monitors Turkey’s progress on this issue in its annual Progress Reports, has focused mostly on returns and has not paid much attention to IDPs’ current conditions. Therefore, the adoption of the Framework Document and the Hacettepe Survey are positive steps by the national authorities for the purpose of addressing the current conditions of the displaced.” [98a] (p26)

- 27.03 The same report continued to note that:

“According to government figures, two thirds of the displaced population (approximately 240,000) have not returned to their original homes. The actual numbers of the displaced currently living in cities may in fact be much higher. Some of these urban IDPs no longer consider returning to their original homes; others are currently unable to return although they would eventually like to do so. IDPs received almost no aid during the initial years of displacement from the

authorities for resettlement in other areas in terms of assistance for housing, food, cash, access to education, health care, and employment opportunities. Therefore, the displaced have often joined the ranks of the urban poor in south-eastern cities (such as Diyarbakır, Batman, Hakkâri and Van) as well as western metropolises (such as Istanbul and Ankara). Urban IDPs suffer from a host of interrelated problems, including poverty and joblessness; inadequate access to education for school-age children; use of child labour as a coping strategy; poor housing; and insufficient access to health and psychosocial care. Coming from agricultural backgrounds and hence lacking skills for urban employment, the majority of displaced adult men and women are unemployed.” [98a] (p26)

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27.04 The TESEV report however also noted that:

“Despite the lack of specific projects addressing the current conditions of the displaced, many IDPs have benefited from a number of nationwide programmes targeting the poorest segments of the Turkish population. Chief among these is the ‘green card’ which provides free health care and medication to the poor; one time only food, fuel, clothing, stationery and cash grants given by the local chapters of the Social Aid and Solidarity Fund; bi-monthly conditional cash transfers to families who keep their children in school and have their vaccinations done regularly; and annual direct income support to farmers independent of agricultural production... The ‘green card’ may deserve special attention in this context as the farthest-reaching programme among IDPs. Currently, more than 3 million people have the ‘green card’ in 14 provinces in the eastern and south-eastern regions (those provinces from where displacement originated and where the RVRP is being implemented) among a total of 10 million ‘green card’ holders across the nation. Although the number of IDPs within these figures is not known, TESEV Working Group’s interviews suggest that access to the ‘green card’ is relatively widespread among the displaced.” [98a] (p27)

27.05 The European Commission 2006 report recorded that:

“The situation of internally displaced persons (IDPs) remains an issue of concern. There has been no further progress on the establishment of a new governmental body responsible for implementing the “Return to Village and Rehabilitation Programme and to developing policy on IDP return. A study on IDPs carried out by the Hacettepe University should provide a thorough analysis and policy guidance, however its publication has been delayed.” [71a] (p24)

27.06 The EC 2006 report continued:

“Several factors affect negatively the return of IDPs: the absence of basic infrastructure, the lack of capital, limited employment opportunities and the security situation. In particular, large numbers of [landmines](#) constitute a strong disincentive to return. Moreover, the discretion of the governor plays a crucial

role in the implementation of the legal and administrative provisions regulating return. No progress has been made in addressing the problem of village guards. No action was taken to phase them out.” [71a] (p23)

27.07 The EC 2006 report further noted that:

“A return to normality in the Southeast can only be achieved by opening a dialogue with local counterparts. A comprehensive strategy should be pursued, to achieve the socio-economic development of the region and the establishment of conditions for the Kurdish population to enjoy full rights and freedoms. Issues that need to be addressed include the return of internally displaced persons, compensation for losses incurred by victims of terrorism, [landmines](#) as well as the issue of village guards.” [71a] (p23)

27.08 The BIA News Center reported that:

“There is still no official data on mined land and mine numbers in Turkey said Muteber Ogreten of the Initiative for a Mine-Free Turkey adding that this is one the most serious obstacles for relocating the internally displaced persons. Muteber Ogreten pointed out that displaced persons would live on a life threat on their return as both are consequences of the 20 year long conflict in southeastern Turkey. Ogreten noted that Turkey should abolish all mine stocks till March 2008 and clear all mined land till 2014. According to United Nations reports, there are 984 thousand 313 mines already laid on Turkish soil. Stock numbers go up to 2 million 979 thousand. Initiative for a Mine-Free Turkey research shows that there are mines fitted around 182 settlements which are depopulated. At least 68 people died in 62 incidents related to land mines in 2005. 28 of those were civilians, of whom 9 were children.” [102n]

27.09 On 29 September 2006 the *Turkish Daily News* reported that:

“The eastern Anatolian province of Van will today host a meeting at which senior government and U.N. officials will together announce Turkey's first action plan on the issue of internally displaced persons (IDPs). The plan, drawn up by the governorship of Van, will be launched at the meeting, which will be attended by Interior Minister Abdülkadir Aksu as well as UNDP Resident Representative in Turkey Mahmood Ayub and U.N. Representative on Internally Displaced Persons Walter Kälin.

This action plan concerning the IDPs displays Turkey's determination for contributing to the entire reform process in the country including fulfillment of the European Union's political criteria, the UNDP Turkey office said yesterday in a statement... This summer, the long-awaited results of independent research conducted by Ankara's Hacettepe University reflected the gravity of forced migration in Turkey by revealing that the country's displaced population was no less than 800,000 a figure that is above the figure released by the government of around 350,000. At least 800,000 people have been internally displaced since 1986 as a result of the conflict between security forces and PKK members in the country's Southeast, according to research by Hacettepe University's Institute of Population Studies obtained by Turkish daily *Milliyet*.” [23r]

COMPENSATION

- 27.10 As noted in the Human Rights Watch (HRW) report dated 14 December 2006, Turkey: Displaced Villagers Denied Fair Compensation:

“Despite its compensation law, the Turkish government is failing to provide fair compensation for hundreds of thousands of mainly Kurdish villagers displaced by the military’s brutal counterinsurgency campaigns in the southeast,... Payments under the Compensation Law to this group were intended to cover losses arising from the original displacement, as well as those incurred during the decade or more that families were unable to return to their property. The Turkish government stated that the intent of the law was to “to deepen trust in the state, to strengthen the state-citizen relationship, to contribute to social peace and the fight against terrorism.” [9f]

- 27.11 The European Commission 2006 report recorded that:

“The conditions attached to the eligibility for compensation could leave a large number of potential beneficiaries outside the scope of the Law. There is also a heavy burden of proof on applicants to provide documentation, including property titles, which in many cases have never existed. The issue of ‘reconciliation’ is not addressed in the compensation approach in relation to past human rights violations committed against internally displaced persons – such as the burning and destruction of property, killings, disappearances and torture.” [71a] (p23)

- 27.12 However the USSD 2005 report recorded that “The Interior Ministry reported that the review commissions received a total of 177,085 applications for compensation under the law through November [2005]. By year’s [2005] end the commissions had processed 12,642 of these applications, approving 4,514 and rejecting 8,128.” [5b] (Section 2d)

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28 FOREIGN REFUGEES

Treatment of foreigners seeking asylum in Turkey

- 28.01 As noted in the European Commission 2006 report:

“With regard to migration, only limited progress has been made. The National Action Plan on Asylum and Migration is being implemented. However, it does not provide details on deadlines for transposition of the acquis or improve administrative capacity, in particular setting up a specialised body. Negotiations to conclude a readmission agreement with the EC continued at a slow pace. For a timely and successful conclusion of the negotiations, Turkey’s efforts need to be considerably increased.” [71a] (p63)

28.02 The EC 2006 report continued, "With regard to apprehension of illegal migrants, in 2005, 57 428 illegal migrants were apprehended in Turkey compared to 61 228 in 2004, where in the first six months of 2006, 18 441 were apprehended. Considerable efforts are still required to align with the *acquis* and to strengthen the required administrative capacity for implementation." [71a] (p63)

28.03 The EC 2006 report further noted:

"Some progress has been achieved in the area of asylum, with the introduction of amendments to the main legislation. The 10-days time limit for lodging an asylum claim was lifted. The possibility to empower selected Governorates to decide on asylum application was introduced, whereas before only the Ministry of Interior held this authority. However, no ad hoc forum was set up gathering all relevant stakeholders for an effective implementation of the Action Plan on Migration and Asylum and to clarify the future institutional structures. In order to ensure that all asylum seekers have access to a fair procedure and to ensure uniform implementation, new legislation is required, in particular, on procedures at international airports." [71a] (p63)

28.04 The EC 2006 report further added:

"The capacity at the reception centres for asylum seekers needs increasing and facilities need upgrading. Institutional responsibility for the management of these centres is not clear. The full implementation of the 1951 Geneva Convention and its 1967 Protocol is under preparation, with the intention to lift the geographic limitation by 2012. Preparations for alignment and the required administrative capacity is at a very early stage." [71a] (p63)

28.05 The USSD 2005 report noted that:

"An administrative regulation provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, the government exercised its option under the convention of accepting obligations only with respect to refugees from Europe. The government has established a system for providing protection to refugees. The Office of the UN High Commissioner for Refugees (UNHCR) reported that the government did not return any recognized refugees to a country where they feared persecution during the year; however, the government deported three registered asylum seekers to their country of origin while UNHCR was reviewing their refugee status. The government deported eight Syrian nationals who indicated that they wished to seek asylum in the country but who were not registered with UNHCR at the time they were deported. According to the government, Europeans recognized as refugees could remain in the country and eventually acquire citizenship; however, it was not clear how often this happened in practice. The government offered non-European refugees temporary protection while they were waiting to be resettled in another country. The UNHCR conducted refugee status determination for applicants from non European countries and facilitated the resettlement of those recognized as refugees." [5b] (Section 2d)

28.06 The USSD 2005 report continued:

“The government generally cooperated with the UNHCR and other humanitarian organizations in assisting the small number of European refugees and asylum seekers. Chechens, many of whom arrived in 2001, reported problems making asylum applications with the government and renewing temporary residence permits. According to UNHCR, there were indications that Chechens suffered economic hardship because of their lack of a clearly defined legal status made it difficult for them to find employment. The lack of legal status also prevented most Chechen children from enrolling in public schools. Detained illegal immigrants found near the country’s eastern border areas were more likely to be questioned about their asylum status and referred for processing than those caught while transiting or attempting to leave the country. Even along the eastern border, however, access to the national procedure for temporary asylum was hindered by the lack of reception facilities for groups of interdicted migrants, potentially including asylum seekers, and a lack of interpreters to assist security officials. The UNHCR experienced difficulty gaining access to some persons who expressed a wish to seek asylum while in detention and facing deportation. According to the UNHCR, the government deported five persons in this situation during the year, in most cases to their country of origin, without giving the UNHCR an opportunity to assess their possible need for international protection.” [5b] (Section 2d)

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28.07 The USSD 2005 report further stated that:

“Regulations require asylum seekers to apply within 10 days of arrival and submit proof of identity in order to register for temporary asylum, although this deadline was not enforced. An appeal can be lodged within 15 days of a decision by authorities not to receive an asylum claim; after the appeal procedure, rejected applicants are issued a deportation order that can be implemented after 15 days. Asylum seekers arriving in the country after transiting through one or more other countries continued to face difficulties in lodging an application. As a result, some of the refugees and asylum seekers registered with the UNHCR were unable to register with the government or otherwise legalize their status in the country.” [5b] (Section 2d)

28.08 As noted in the U.S. Committee for Refugees and Immigrants ‘World Refugee Survey 2005’, Turkey released on 16 June 2005:

“Turkey maintained a geographic reservation on the 1967 Protocol to the Convention Relating to the Status of Refugees (1951 Convention) to limit to Europeans its obligations under the 1951 Convention. Turkish law protected asylum seekers from refoulement if they ‘register their claims within ten days; provide valid identity documentation; and receive resettlement assistance from UNHCR or directly from resettling countries.’... Despite progress in curbing illegal transit migration, Turkey lacked an effective process to screen asylum seekers from the thousands of interdicted migrants it periodically caught in sweeps. The Passport Law of 1950 criminalized entrance into Turkey without valid travel documents.” [92]

28.09 The World Refugee Survey 2005 continued:

"Turkey deported three Iranian asylum seekers registered with the Office of the UN High Commissioner for Refugees (UNHCR) and an additional 41 asylum seekers before UNHCR could assess their applications, including 23 to their countries of origin. Heeding UNHCR's advisory not to return people to Iraq, Turkey deferred repatriation for 945 rejected Iraqis asylum seekers. The Government also permitted about 1,800 Somali and more than a hundred Sudanese failed asylum seekers to remain on humanitarian grounds, pending greater stability in their countries of origin... Turkey detained 193 persons of concern to UNHCR, in addition to the 41 aforementioned deported asylum seekers... Asylum applicants - documented or not - had to register with Turkish authorities within ten days of arrival, and reside in the town closest to their point of entry unless UNHCR recommended their transfer for security or other reasons. Asylum seekers also had to regularly present themselves to the local police, sometimes on a daily basis. Authorities in each city determined the terms of residence, and violators were subject to immediate deportation at the Government's discretion... In April [2004], Turkey offered temporary legal residence, as foreigners, to more than 1,000 Iranian asylum seekers originally holding refugee documentation from UNHCR in Iraq. Re-categorizing them, however, excluded the Iranians from benefits as asylum seekers or refugees, including third-country resettlement, health benefits, and protection from refoulement. UNHCR extended to these refugees some limited financial and medical assistance despite their changed status and did not rule out resettlement as a durable solution. Turkish authorities also granted residence permits to some 375 asylum seekers who entered Turkey illegally in 2004." [92] (p7-8)

28.10 As recorded in the World Refugee Survey 2005 in Turkey there were in total 7,800 refugees and asylum seekers, including 4,000 from Iraq and 2,000 from Iran. [92]

28.11 With regards to the issue of the Iranian refugees Amnesty International commented in October 2005 that:

"...while the group of 1,200 Iranian Kurdish refugees have been recognized as refugees by UNHCR in Turkey, as well as by UNHCR in Northern Iraq, the Turkish authorities have refused to grant protection to these refugees on its territory and have refused permission to the vast majority of this group to resettle in a third country, which has placed them at serious risk of refoulement to Iran." (Amnesty International's concerns at the 56th session of the Executive Committee of the United Nations High Commissioner for Refugees, 3 October 2005). [12e] (Paragraph 3.2)

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29 CITIZENSHIP AND NATIONALITY

29.01 As regards nationality by birth, Introduction to Turkish Law states that:

“Turkish nationality is mainly acquired through the relation to the father or mother. Thus a legitimate or illegitimate, but legally recognised, child of a Turkish father or mother is Turkish. Legitimate children born to a Turkish mother, and not acquiring the nationality of the father by birth, as well as all illegitimate children born to Turkish mothers, are Turkish. Children born of non-Turkish parents do not acquire Turkish nationality by reason of birth on Turkish soil. An exception is the case of children born in Turkey and not acquiring at the time of birth the nationality of either their father or mother; they are Turkish at birth.” [64] (p89)

29.02 Regarding acquisition of nationality other than by birth. Introduction to Turkish Law states that, “Any foreigner may acquire Turkish nationality by means of naturalisation (telsik). Persons who have lived in Turkey more than five years and have all the qualifications required by the law may apply to the Ministry of Interior, and, upon the recommendation of this Ministry, the Council of Ministers may grant Turkish nationality.” [64] (p89)

29.03 As highlighted in the IOM (International Organisation for Migration) document ‘Irregular Migration and Trafficking in Women: The Case of Turkey’, dated November 2003:

“The Amendment to the Turkish Citizenship Law (No. 4866): This amendment, enacted by the Parliament on 4 June 2003, introduced some changes to the Turkish Citizenship Law (Law No. 403 of 1964). Before being amended this law played an important role in the sharp increase of paper marriages and this led to calls for amendments to prevent further abuse. The amendment has made it more difficult for a foreigner to acquire Turkish citizenship through marriage, by imposing a three-year waiting period before a foreign spouse may obtain Turkish nationality. Anyone not living in the same house-hold will not be eligible for Turkish citizenship.” [86] (p27)

See also Section 9.01 on [Military service](#), for information on the deprivation of nationality for evasion of military service

29.04 The EC 2006 report however also noted that, “Nationality requirements for professions such as lawyers, medical doctors, dentists and midwives, as well as for air traffic controllers and private security services are not in line with the acquis...” [71a] (p34)

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30 ENTRY/EXIT PROCEDURES

30.01 The Consulate General for the Republic of Turkey in London, gives information; visa applications, consular matters, useful addresses and general information about Turkey. [31]

<http://www.turkishconsulate.org.uk/en/index.htm>

30.02 The EC 2006 report stated that:

“As concerns visa policy, limited progress can be reported. With regard to alignment with the positive visa list, visa exemption agreements with Venezuela and Paraguay entered into force; one was signed with Colombia and visa-free regime for Andorra was introduced. No progress on alignment with the negative list can be reported. Although harmonisation with the uniform EU visa sticker has started, at present, Turkey allows nationals of 35 countries to apply for a visa at the borders, including citizens of 17 Member States. This practice needs to be progressively replaced and visas should be issued by diplomatic/consular authorities. As far as the capacity of Turkish consulates is concerned, equipment to detect false documents has been distributed, but further training is needed. Alignment with the EU security features and standards for visas requires urgent attention.” [71a] (p63)

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THE PROBLEM OF FALSIFIED DOCUMENTS

30.03 The Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ noted that:

“The Norwegian Directorate of Immigration has repeatedly been presented so-called documents ‘proving’ that an asylum-seeker was wanted by the Turkish authorities. Some of these documents were – according to the applicant – issued either by the Gendarmerie/Police or by the Ministry of Justice. All lawyers I asked about this invalidated the possible authenticity of such documents. Neither law enforcement authorities nor any other Turkish official were entitled to issue such a confirmation. Neither detention-orders, nor warrants were handed out to the suspect or any other third person before the suspect was detained. Both Mr. Islambay and Mr. Demirtaş claimed, however, that it was widely known that such (and other) ‘documents’ could be attained through bribery. Tanrikulu and Demirtaş mentioned that two court ushers from the former State Security Court in Diyarbakir had been arrested in the summer of 2004 and had been charged with corruption for selling fake documents. Such cases could be found all over the country and the two officials from Diyarbakır where only the tip of the iceberg. Demirtaş and Islambay further mentioned that the problem of corruption was widespread and that this also applied to lawyers. One person working at a lawyers’ office told me that they repeatedly had declined requests to produce fake documentary evidence, ‘sufficient’ for asylum applications. One lawyer stated that he had repeatedly rejected offers from Turkish citizens already staying in Western Europe, who offered him between 5,000 and 10,000 Euro for a complete ‘asylum-file’. The same lawyer told me that it was considered ‘easy’ to get fake documents in Turkey and assumed that ‘most of the documents presented to European Migration authorities are fake’.” [16] (p24-25)

30.04 The Norwegian report continued:

“One lawyer stressed that it might prove difficult and unreliable to judge documents only by the looks of it since different types of forms (or only letters) may be used at different prosecutors offices (e.g. Fezlekes). Only a lawyer could conduct a reliable verification, since he/she could compare the document’s contents (such as case-numbers) with the respective registries. Another lawyer told me that he had verified several documents for European Immigration authorities and that most of these documents had proved to be falsified. He had further noticed that most of these documents (some of them being ‘warrants’) referred to article 169 in the (old) Turkish Criminal Code. According to him, this article does not play an important role any more and it rarely leads to punishment: ‘You can send the persons with article 169 back to Turkey, nothing will happen to them’. However, persons who are wanted for activities sanctioned by articles 125 and 168 in the Penal Code might still face severe problems after return, according to Demirtaş. He stressed that some of these persons really might be in need of protection and he suggested that documentation on such cases should be carefully verified.” [16] (p25)

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THE GENERAL INFORMATION GATHERING SYSTEM (GBTS)

30.05 The Swiss NGO Schweizerische Flüchtlingshilfe (Swiss Organisation for Refugees) stated in its report on Turkey published in June 2003 that:

“There are a number of different information systems in Turkey. The central information system is known as the GBTS (Genel Bilgi Toplama Sistemi – General Information Gathering System). This system lists extensive personal data such as information on arrest warrants, previous arrests, foreign travel restrictions, avoidance of military service, desertion, refusal to pay military tax and delays paying tax. Served sentences are as a rule removed from this information system and entered onto the database of criminal records (Adli Sicil).” [8] (p41)

30.06 As outlined in the September 2003 Report on GBTS system by the Turkish Ministry of Interior, the GBTS is operated by the Anti-Smuggling Intelligence and Data Collection Department of the Turkish National Police. The Ministry of the Interior further state that “In the GBT system records of the following are kept as a general rule:

- (i) Persons who have committed a crime but have not been caught;
- (ii) Persons who have committed serious crimes such as organised crime, smuggling, drugs related crimes, terrorism, unlawful seizure, murder, fraud;
- (iii) Persons who have search warrants issued including those who have an arrest warrant issued “in absentia”;
- (iv) Persons who are barred from public service;
- (v) Missing persons;
- (vi) Persons of responsibility within political parties who have been convicted of crimes defined in the Political Parties Law No.2908, article 4/4;
- (vii) Stolen, lost, appropriated motor vehicles, firearms, identification documents.” [17]

- 30.07 The Kurdish Human Rights Project (KHRP) in their 2004 legal review publication on legal developments stated in Hasyer that:

“Torture is still endemic in Turkey. The only recent improvement was an indication that methods of torture were less likely to leave visible marks. The GBTSS system stores various personal data. This includes information on criminal convictions, criminal records, outstanding arrest warrants, previous arrests, official judicial preliminary inquiries or investigations by the police or gendarmerie etc. On return to Turkey and at the point of entry all Turkish nationals, including returning failed asylum seekers, are checked against the GBTSS computer records. Returnees with no documents or temporary travel documents will be perceived as a failed asylum seeker. If a returnee is thought to be a failed asylum seeker or if the GBTSS computer records reveal information which is regarded as suspicious he or she is likely to be detained for interrogation at the point of entry. Interrogation is intended to establish or check personal particulars, reasons for and time of departure from Turkey, grounds for seeking asylum, reasons why the application was rejected, any criminal records at home and abroad, and possible contacts with illegal organisations abroad. These were only examples and the questioning was likely to concentrate on the factor(s) which excited suspicion in the first place. Interrogation at the airport was unlikely to amount to persecution, although there is a risk of ill-treatment if an individual upon transfer to the Police HQ in Bakirkoy or the Political (or Anti-terror) Department headquarters on Vatan Caddesi. If as a result of interrogation and further inquiries there is no continuing suspicion the person is likely to be released after an average of 6 to 9 hours. When individuals are held for interrogation, police at the point of entry are likely to seek further information from police or gendarmerie stations in the birthplace and other places of residence in Turkey. If they hold any information about the individual it will be more detailed than that shown on the central computer records. If it is discovered during the initial computer check, interrogation, or inquiries in the home that area an individual is suspected of membership of ‘separatist’ organisations they are likely to be handed over to the Anti Terror Branch. Once transferred to the Anti Terror Branch there is a real risk of torture.” [6a]

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- 30.08 As stated by the Turkish Ministry of the Interior in September 2003, records are erased from the system under the following circumstances:

- (i) Upon the death of a person convicted of a crime by a court;
- (ii) As soon as a court decision of non-pursuit, acquittal or expiry of time limitation reaches the Turkish National Police (TNP) regarding a person who was previously registered in the GBTS;
- (iii) In case of a crime other than those listed above, when the person is caught;
- (iv) In case of stolen/lost/appropriated property, when the property in question is found. [17]

- 30.09 Only the latest warrant of arrest is held on file. The others are cancelled. Information about convicted persons is stored at the Judicial Registry Office (Adli Sicil Mudurlukleri), rather than on the GBTS. [17]
- 30.10 The Turkish Ministry of the Interior stated in September 2003 that "Only records of people who are under judicial proceedings or judicial examination are kept on the GBTS. No records of people are kept on the system who are detained and [subsequently] released by the security forces." [17]
- 30.11 The Swiss Organisation for Refugees in its report published June 2003 stated that "Experience has shown, however, that despite its name, this [GBTS] system does not by any means contain all the information relating to a given individual. Concrete examples have demonstrated that individuals are generally only entered onto the system following prosecution or issue of an arrest warrant by the public prosecutor or a court." [8] (p41)
- 30.12 However, the Swiss Organisation for Refugees also stated that "In several cases we have discovered that individuals who have been denounced as PKK activists or sympathisers show up as not being sought and therefore do not appear on the register even though authentic police statements prove that they have been denounced by name." [8] (p41)
- 30.13 The report continued "It should be mentioned that in addition to the GBTS central information system, the various security forces each have their own information systems... They include the registers of the police, the anti-terrorist department, the gendarmerie, JITEM, the military secret service etc. It is therefore perfectly possible for someone not to be listed on the central system but to be sought by the anti-terrorist unit." [8] (p41)
- 30.14 The Swiss Organisation for Refugees further stated that:
- "Neither can the absence of a data entry or current investigation or the lack of a passport ban be taken as evidence that an individual is not in danger. Despite the absence of entries in the central information system, the individual concerned might be listed on one of the other information systems. This must certainly be assumed in the case of individuals who have already been taken into custody by the police, gendarmerie or some other branch of the security forces in the past." [8] (p41)
- 30.15 In a fax sent to the British Embassy in Ankara on 7 October 2005, the Assistant Director of the Trafficking and Organised Crime Directorate of the Turkish Ministry of Interiors confirmed that:
- "In our country the GBT system is governed by the Trafficking Intelligence and Information Gathering Directorate attached to the Ministry of Internal Affairs. Law enforcement units such as the police and the gendarme can use the GBT system. While the customs officers stationed at international ports and borders cannot use the GBT system police units stationed at all land, air and sea borders are able to use the said system. Foreign establishments cannot use this system in any way whatsoever. The offence of leaving the country through illegal means can only be detected when the offenders are captured abroad. It

is impossible to know who left the country through illegal means and therefore no records are being kept in relation to such matters. Draft evaders are also being registered in the GBT system. Records relating to individuals who are being prosecuted or are subject to investigation are being kept in the GBT system. Records relating to individuals who have been taken into custody and subsequently released are not registered in the GBT system.” [4f]

31 EMPLOYMENT RIGHTS

31.01 As stated in the USSD 2005 report:

“The law provides some but not all workers with the right to associate and form unions subject to diverse restrictions; some workers exercised this right in practice. The government maintains some restrictions on the right of association. Unions are required to obtain official permission to hold meetings or rallies and to allow government representatives to attend their conventions and record the proceedings; however, these requirements were not always enforced. Prosecutors could ask labor courts to order a trade union or confederation to suspend its activities or to go into liquidation for serious infractions based on alleged violation of specific legal norms. Approximately 25 percent of the wage and salary workers in the labor force was unionized.” [5b] (Section 6a)

31.02 The USSD 2005 report further noted that:

“The ability of unions to conduct their activities, including collective bargaining, is subject both in law and in practice to diverse government restrictions and interference... The law provides for the right to strike; however, the law requires a union to take a series of steps, including negotiations and nonbinding mediation, before calling a strike... The law allows the government to suspend strikes for 60 days on national security or public health and safety grounds... The law prohibits strikes by civil servants, public workers engaged in the protection of life and property, the mining and petroleum industries, sanitation services, national defense, and education; however, many workers in these sectors conducted strikes in violation of these restrictions with general impunity. The majority of strikes during the year were illegal; while some illegal strikers were dismissed, in most cases employers did not retaliate.” [5b] (Section 6b)

31.03 The European Commission 2006 report recorded that:

“As regards employment policy, little progress can be reported. Low labour force participation and employment rates, in particular of women, high levels of youth unemployment, the large size of the informal economy and the strong rural/urban labour market divide remain the main challenges. The overall employment rate in 2005 decreased to 43.4%, whereas unemployment rate remained at 10.3%. The scale of unregistered employment continues to be of concern. It constitutes 50.1% of overall employment, and 88.2% of employment in the agriculture sector. The Turkish employment agency (İŞKUR) continued efforts to improve its institutional capacity. Progress was made in preparing the Joint Assessment Paper of Employment Policy Priorities (JAP) between the European Commission and the Turkish authorities.” [71a] (p53)

31.04 The European Commission 2006 report also stated that, “As regards social dialogue, no progress can be reported on the pending draft laws aimed at bringing the currently applicable Trade Union and Collective Bargaining, Strike and Lockout Laws in line with ILO and EU standards. Full trade union rights remain to be established in Turkey. Social dialogue is weak; the performance of the Economic and Social Council needs improvement.” [71a] (p53)

31.05 The EC 2006 report further noted that:

“No progress can be reported in the area of labour law. Shortcomings in the transposition of some directives remain. These include the limited scope of application of the Labour Law. On administrative capacity, some additional qualified personnel were recruited to the Ministry of Labour and Social Security. Turkey needs to continue efforts to reduce child labour with the support of the International Labour Organisation (ILO).” [71a] (p52)

31.06 The EC 2006 report also noted that:

“In the field of health and safety at work, Turkey has reached a good degree of alignment with the acquis, but outstanding shortcomings reported last year remain. In particular, the regulation transposing the Framework Directive is still suspended, although other regulations in this area remain in force. Legislation does not cover all workers in the private sector nor the public sector. The National Occupational Health and Safety Council, an advisory body composed of public institutions, social partners and relevant stakeholders, has adopted a national policy in the field of health and safety at work. Activities relating to the enforcement and implementation of health and safety at work legislation have been undertaken throughout the reporting period. However, further efforts in this respect are needed, including through awareness-raising, training and strengthening the capacity of the inspection bodies.” [71a] (p52-53)

31.07 The BIA News Center article reported that:

“A press conference scheduled to be held by executives and members of the Izmir branch of Turkey's Transport Workers Union (Nakliyat-Is) was attacked by police using gas bombs and there were many injured in the incident including union leaders. Nakliyat-Is Union headquarters issued a written statement after the incident protesting the police intervention. The incident was sparked by an industrial dispute stemming from the layoff of 35 workers after 330 workers joined Nakliyat-Is following a purchase of their employing company Tansas A-Lojistik by Koc Holding.” [102o]

MAJOR TRADE UNION CONFEDERATIONS

31.07 As recorded in Europa Regional Survey of the World: The Middle East and North Africa 2005, the major trade union confederations were TÜRK-İŞ (Confederation of Turkish Labour Unions) and DISK (Confederation of Progressive Labour Unions). [1d] (p1204)

31.08 The EC 2006 progress report recorded that:

“There is no progress to be reported on trade union's rights. The government submitted to social partners two legislative proposals aimed at amending the two currently applicable laws in this area. However, no further progress was made and no formal legislative initiative has been taken by the government. As a result, the current significant shortcomings on the right to organise and the right to collective bargaining, including the right to strike remain in place. The thresholds at company and sector levels required for signing a collective agreement, and the cumbersome procedures to enrol in trade unions are still in force. Journalists continue to encounter specific problems in organising and collective bargaining.” [71a] (p19-20)

- 31.09 The EC 2006 report added that, “Turkey still falls short of ILO standards, particularly in relation to conventions No 87 (freedom of associations and protection of the right to organise) and No 98 (right to organise and collective bargaining). Turkey ratified the revised European Social Charter in September 2006 but maintains reservations on Article 5 (right to organise) and Article 6 (right to bargain collectively).” [71a] (p20)
- 31.10 The EC 2006 report further detailed that, “In April 2006, the Ministry of Labour and Social Security sued the Gıda-İş Trade Union on the grounds that some of the elected representatives of the union do not have 10 years seniority, as required by the Law on Trade Unions. The labour court decided to close down the union but the Court of Cassation overturned this ruling on procedural grounds.” [71a] (p20)

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MAIN EMPLOYERS' ASSOCIATIONS

- 31.11 As recorded in Europa the main employers' associations are TÜSIAD (Turkish Industrialists' and Businessmen's Association) TISK (Turkish confederation of employers' Associations). [1d] (p1202)
- 31.12 The Turkish Industrialists' and Businessmen's Association (TUSIAD) undated website noted that:

“This is the highest advisory board. All members of the Association are members. The General Assembly shall elect six members from among the members of the High Advisory Council to form the Presidency Board for two years. This Board consists of a chairman, three deputy chairmen and two secretaries. The Council meets at least twice a year as determined by the Chairman of the Council, to debate and decide on issues.

Principal duties of the council are:

- a) to review the course and problems of Turkish industry and business and to consider long-term policy measures in relation thereto;

- b) to evaluate strategies for the realization of the purpose of the Association and offer advice on such matters.” [26]

31.13 The Turkish Industrialists’ and Businessmen’s Association (TUSIAD) US branch website stated that:

“Founded in 1971 and is an independent, non-governmental organization dedicated to promoting public welfare through private enterprise. TUSIAD supports independent research and policy discussions on important social and economic issues in Turkey and abroad. Much like the US Business Roundtable, TUSIAD is comprised of the CEOs and Executives of the major industrial and service companies in Turkey, including those that are among global Fortune 500 companies.” [25]

31.14 The same website also stated that:

“TUSIAD has expanded its scope to include US-Turkish relations and launched its office in Washington, DC, in November 1998. Within the general framework of the mission of its parent organization, TUSIAD-US strives to:

Be a conduit for exchange of information between Turkey and the United States...

Establish its own line of communication with the US administration and agencies, congressional committees, think tanks, business organizations, media, and international organizations;

Develop suggestions and formulate policy recommendations on ways to strengthen Turkish-US political, economic, and business ties...” [25]

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Annex A: Chronology of major events

(As reported in the BBC's 'Timeline – Turkey, A chronology of key events' unless otherwise sourced) [66a]

- 2000** **January:** The Government agreed to respect an injunction from the European Court of Human Rights calling for the suspension of Öcalan's execution, pending his appeal to the Court. [1d] (p1168)
May: Ahmet Necdet Sezer takes over from Suleyman Demirel as president.
December: During Government action to break up prisoner hunger strikes and violent protests against small-cell F type prisons, 31 prisoners and two security officials were killed. [1d] (p1169)
- 2001** **January:** Diplomatic row with France after French National Assembly recognises the killings of Armenians under the Ottoman Empire as genocide.
May: European Court of Human Rights finds Turkey guilty of violating the rights of Greek Cypriots during its occupation of northern Cyprus.
June: Constitutional Court bans opposition pro-Islamic Virtue Party, saying it had become focus of anti-secular activities. New pro-Islamist party Saadet is set up by former Virtue Party members in July.
October: The Turkish Parliament approved several amendments to the Constitution, notably to articles concerning the use of the Kurdish language. The amendments were intended to facilitate Turkey's accession to the EU. [44a]
November: British construction firm Balfour Beatty and Impregilo of Italy pull out of the controversial Ilisu dam project. Swiss bank UBS follows suit in February 2002.
- 2002** **January:** Turkish men are no longer regarded in law as head of the family. The move gives women full legal equality with men, 66 years after women's rights were put on the statute books.
February: Law No. 4744 adjusting some Turkish laws to the October 2001 constitutional amendments, was adopted by the Turkish Parliament. [71a] (p25)
March: Law No. 4748: further reform package. [71a] (p25)
July: Pressure for early elections as eight ministers including Foreign Minister Cem resign over ailing PM Ecevit's refusal to step down amid growing economic, political turmoil. Cem launches new party committed to social democracy, EU membership.
August: Parliament approves reforms aimed at securing EU membership. Death sentence to be abolished except in times of war, bans on Kurdish education, broadcasting to be lifted.
November: General election the AKP won two-thirds of the seats. President Sezer subsequently appointed AKP Deputy Leader Abdullah Gül as Prime Minister. [1d] (p1171)
December: Constitutional changes allow head of ruling AK, Recep Tayyip Erdogan, to run for parliament, and so to become prime minister. He had been barred from public office because of previous criminal conviction.

- 2003** **January:** The Turkish Government passes the fifth reform package allowing Turkish citizens who are found to have been denied a fair trial by the ECtHR to be retried in Turkey. [1d] (p1171)
March: AK leader Recep Tayyip Erdogan wins seat in parliament. Within days Abdullah Gul resigns as prime minister and Erdogan takes over.
May: More than 160 people, many of them schoolchildren trapped in a dormitory, die in an earthquake in the Bingol area.
June: Eyeing future EU membership, parliament passes laws easing restrictions on freedom of speech, Kurdish language rights, and on reducing political role of military.
July: The Turkish Parliament passes the sixth reform package aimed at improving human rights. [36c] (p1-3)
September: The PKK/KADEK announced an end to their four year cease-fire with the Turkish Government. [1d] (p1171)
November: On the 15 November 2003 two suicide bomb attacks were carried out against two synagogues in Istanbul killing at least 24 people and wounding more than 300. [66m] On the 20 November two further suicide bombings were carried out one against the British Consulate and the other against the headquarters of the British based HSBC bank in Istanbul. [66n]
- 2004** **January:** Turkey signs protocol banning death penalty in all circumstances, a move welcomed in EU circles.
March: Local elections were held and were won overwhelmingly by the ruling AKP. [36i]
May: Passage of constitutional reform package. [1e] (Turkey: The Constitution)
June: PKK ends its five-year unilateral ceasefire begun in 1999. [66g]
Four Kurdish deputies (Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Dogan) released from prison. [44b] First official broadcasts in Kurdish language take place. [4h] (p106)
September: Parliament approves penal reforms introducing tougher measures to prevent torture and violence against women. Controversial proposal on criminalising adultery dropped.
October: European Commission report gives the go ahead for talks to begin on Turkey's accession to the European Union. [66ak]
December: EU leaders agree to open talks in 2005 on Turkey's EU accession. The decision, made at a summit in Brussels, follows a deal over an EU demand that Turkey recognise Cyprus as an EU member.
- 2005** **January:** New lira currency introduced as six zeroes are stripped from old lira, ending an era in which banknotes were denominated in millions.
April: The introduction of the new Turkish Penal Code (due to come into force on that date) is postponed. [66ba]
May: Parliament approves amendments to new penal code after complaints that the previous version restricted media freedom. The EU welcomes the move but says the code still fails to meet all its concerns on human rights.
1 June: A revised version of the new Turkish Penal Code comes into force. [23aa]
2 June: Cabinet mini-reshuffle [23ag]
October: Turkey officially begins membership talks with the European Union. [66bi]

November: DEHAP dissolves. [23h] Democratic Society Movement (DHT) becomes the Democratic Society Party (DTP). [93c]

- 2006** **March:** 14 suspected Kurdish rebels killed by security forces.
 April: At least a dozen people are killed in clashes between Kurdish protesters and security forces in the south-east. Several people are killed in related unrest in Istanbul.
 May: Islamist gunman opens fire in Turkey's highest court, killing a prominent judge and wounding four others.
 July: Baku-Tbilisi-Ceyhan oil pipeline opened at ceremony in Turkey.
 August-September: Bombers target resorts and Istanbul. Shadowy separatist group Kurdistan Freedom Falcons (TAC) claims responsibility for some attacks and warns it will turn 'Turkey into hell'.
 30 September: Kurdish separatist group, the PKK, declares a unilateral ceasefire in operations against the military.
 2006 December: EU partially freezes Turkey's membership talks because of Ankara's failure to open its ports and airports to Cypriot traffic.
- 2007** **January:** Journalist and Armenian community leader Hrant Dink is assassinated. The murder provokes outrage in Turkey and Armenia. Prime Minister Erdogan says a bullet has been fired at democracy and freedom of expression.

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Annex B: Political Organisations

MAIN PARTIES

Further information on political parties in Turkey can be found on

<http://www.byegm.gov.tr/REFERENCES/Structure.htm> [36i]

<http://www.electionworld.org/turkey.htm> [79]

<http://news.bbc.co.uk/1/hi/world/europe/2165837.stm#top> [66p]

Adalet ve Kalkınma Partisi (AKP) (Justice and Development Party)

www.akparti.org.tr

Founded in 2001 by former members of the banned Fazilet (Virtue Party). Islamist-orientated. Current Govt after victory in November 2002 elections. Its leader is Recep Tayyip Erdoğan, who states that AKP is a synthesis of Islam and democracy without any conflict of interest, but is also conservative and democratic. [1a] [3] [66b] [66c]

Anavatan Partisi (ANAP) (Motherland Party)

www.anap.org.tr

Founded 1983. Supports free market economic system, moderate nationalist and conservative policies, rational social justice system, integration with the EU, and closer ties with the Islamic world. Chairman: Erkan Mumcu. [1a] [36i] [41]

Aydınlık Türkiye Partisi (ATP) (Enlightened Turkey Party)

www.atp.org.tr

Centre-right. Leader Tugrul Turkes. On 8 September 2002 formed an alliance with the DYP for the forthcoming general election. Chairman: Ahmet Bican Ercilasun. [36h] [36i]

Bağımsız Türkiye Partisi (BTP) (Independent Turkey Party). [30c]

Bizim Partimiz (Our Party)

Founded August 2004. Chairman: Ahmet Yilmaz. [36i]

Büyük Adalet Partisi (BAP)

Founded April 1995. Chairman: Sabit Batumlu. [36i]

Büyük Birlik Partisi (BBP) (Great Unity Party).

www.bbp.org.tr

Founded 1993. Chair. Muhsin Yazicioğlu. [1a]

Cumhuriyet Halk Partisi (CHP) (Republican People's Party)

www.chp.org.tr

Founded 1923 by Kemal Atatürk, dissolved in 1981 and reactivated in 1992. Merged with Sosyal Demokrat Halkçı Parti (Social Democratic Populist Party) in February 1995. Left-wing. Leader Deniz Baykal. [1a]

Değişen Türkiye Partisi (DEPAR) (Changing Turkey Party)

Founded 1998. Chair. Gökhan Çapoğlu. [1a]

Democratic Society Movement (DHT)/Democratic Society Party (DTP)

Founded in October 2004 by a group of 14 activists, including four former Democracy Party (DEP) deputies Leyla Zana, Orhan Dogan, Selim Sadak and Hatip Dicle. [36g] [42] In November 2005 the DHT became the Democratic Society Party (DTP). [93c] Co-Chairman: Ahmet Turk. [61b] See also section 6.B on [Pro-Kurdish political parties](#)

Demokrasi ve Barış Partisi (DBP) (Democracy and Peace Party)

Founded 1996 to advocate Kurdish autonomy. Pro-Kurdish. Chairman: Yılmaz Çamlıbel [1a] [36i]

Demokrat Partisi (DP) (Democratic Party)

Founded Nov. 1992. Chair. Yalçın Koçak. [30c]

Demokrat Türkiye Partisi (DTP) (Democratic Turkey Party).

www.dtp.org.tr

Founded January. 1997. Chairman: Yaşar Okuyan [1a] [36i] [Not to be confused with the Democratic Society Party mentioned above]

Demokratik Halk Partisi (DEHAP) (Democratic People's Party)

Founded 1997. DEHAP states that it is not organised on an ethnic base, and is not a solely Kurdish party; it is a party of Turkey, and wishes to embrace all the people of Turkey. [24b] In early September 2002 HADEP, EMEP and SDP (Socialist Democracy Party) decided to unite under the roof of DEHAP at the 3 November 2002 general election. [24] Chairman Tuncer Bakırhan, re-elected in January 2005. [69] In August 2005 the party announced that it was dissolving to join the Democratic Society Movement (DHT). [93a] In November 2005 the party dissolved itself at their congress. [23h]

See also section 19.22 on [Pro-Kurdish political parties](#)

Demokratik Sol Partisi (DSP) (Democratic Left Party)

www.dsp.org.tr

Founded 1985. Centre-left. Draws support from members of the former Republican People's Party. Chair. Bülent Ecevit. Sec.-Gen. Zeki Sezer. [1a]

Doğru Yol Partisi (DYP) (True Path Party)

www.dyp.org.tr

Founded 1983. Centre-right. Replaced the Justice Party (founded 1961 and banned in 1981). Chair. Mehmet Agar. [51] Sec.-Gen. Nurhan Tekinel. [1a] [41]

Emeğin Partisi (EMEP) (Labour/ Labourers Party)

www.emep.org

Founded 1996. Stalinist. Legal wing of TDKP. Gained 0.17% of the national vote in the April 1999 general election. Chair. Abdullah Levent Tüzel. Publications - "Evrensel", "Özgürlük Dünyası". In early September 2002 HADEP, EMEP and SDP (Socialist Democracy Party) decided to unite under the roof of DEHAP at the 3 November 2002 general election. Chairman Abdullah Levent Tuzel [1a] [24] [36i] [52a]

Genç Parti (GP) (Young Party)

Founded recently by Cem Uzan, a Turkish businessman. Allegedly espouses a xenophobic brand of nationalism. [23c]

Hak ve Özgürlükler Partisi (HAK-PAR) (Rights and Freedoms Party)

Founded February 2002. A central issue in its manifesto aim of establishing democracy in Turkey is the resolution of the Kurdish question. Chairman Abdulmelik Fırat. [36i] [74] [71a]

İşçi Partisi (IP) (Workers' Party)

www.ip.org.tr

Founded 1992. Maoist, nationalist. Chair. Doğu Perinçek. [1a]

Komünist Parti (Communist Party)

Founded July 2000. Chairman: Yalçın Cerit. [36i]

Kurtuluş Huzur Partisi (Liberation Tranquillity Party)

Founded February 1999. Chairman: Hacer Söğütülen. [36i]

Liberal Demokratik Parti (LDP) (Liberal Democratic Party)

Founded 1994. Observer member of Liberal International. Chairman: Emin Şirin [1a] [36i]

Millet Partisi (MP) (Nation Party). Founded 1992, as successor to the centre-right Reformist Democracy Party (IDP), itself descended from the original MP. Chair Aykut Edibali. [1a]

Milliyetçi Hareket Partisi (MHP) (Nationalist Action Party)

www.mhp.org.tr

Founded 1983. Formerly the Conservative Party. Leader: Devlet Bahçeli who was re-elected at the October 2003 general congress. [1a] [41] [49c]

Özgürlük ve Dayanışma Partisi (ÖDP) [sometimes mentioned as ODP] (Freedom and Solidarity Party)

www.odp.org.tr

Founded 1996. Radical left. Environmentalist. Chairman: Hayri Kozanoğlu. [1a] [36i]

Ozgur Toplum Partisi (OTP) (Free Society Party).

Founded June 2003. Leader Ahmet Turan Demir. [1d]

Saadet Partisi (SP) (Felicity/Happiness/Contentment Party)

www.saadetpartisi.org.tr

Founded 2001 by the traditionalist wing of the banned Fazilet (Virtue Party). Islamist. Leader Recai Kutan. Mr Kutan said that the SP would not challenge the principles of the secular state but would seek to further religious rights, including legalisation of the wearing of Islamic headscarves in schools and public offices. In February 2004, the Constitutional Court ordered the Felicity Party to stop using the abbreviation "SP", which was the abbreviation used by the banned Socialist Party. Acting chairman: Recai Kutan [1a] [3] [5c] [36i]

Toplumcu Demokratik Partisi (TDP) (People's Democratic Party)

Founded January 2002 by Sema Pişkinsüt, former Parliamentary Human Rights Commission Chairperson. [23b]

Türkiye Komünist Partisi (TKP) (Turkish Communist Party)

www.tkp.org.tr

In November 2001 the Socialist Power Party (Sosyalist İktidar Partisi, SIP), which was founded in 1981, changed its name to the Turkish Communist Party, although under the Political Parties Law it is forbidden to establish a party with the word “communist” in its name. [1a] [30a]

Türkiyem Partisi (My Turkey Party)

Founded May 1998. Chairman: Durmuş Ali Eker. [36i]

Ulusal Birlik Partisi (UBP) (National Unity Party)

Founded October 1998. Chairman: Fehmi Kural. [36i]

Yeniden Doğuş Partisi (YDP) (Rebirth Party)

Founded 1992. Right wing. Leader Hasan Celal Güzel. [1a] [30b]

Yeni Parti (YP) (New Party)

Founded 1993. Leader Yusuf Bozkurt Özal. [1a]

Yeni Türkiye (YTP) (New Turkey)

Founded July 2002 by İsmail Cem, and comprised of former DSP politicians. Based on social democratic principles. YTP merged with CHP in October 2004. [1a] [38b] [49b]

Yurt Partisi (YP) (Homeland Party).

Founded 2002. Leader Saadettin Tantın. [36i]

NOW BANNED

Fazilet Partisi (FP) (Virtue Party)

Founded 1997, banned June 2001. Fazilet replaced Refah Partisi (Welfare Party), which was dissolved by the Constitutional Court. Islamic fundamentalist. Interest in free market economy. Leader Recai Kutan. [1c]

Halkın Demokrasi Partisi (HADEP) (People's Democracy Party)

Founded 1994. Pro-Kurdish nationalist party. Chairman Murat Bozlak. [1a] On 20 September 2002 Mr Bozlak was barred from running in the November 2002 general election because of his conviction in the past for sedition. [66b] In March 2003 HADEP was banned by the Constitutional Court on the grounds that it aided and abetted the PKK. [63c]

Refah Partisi (RP) (Welfare Party)

Founded 1983, closed by a Constitutional Court ruling in January 1998 that it had become the focal point of anti-secular activity. Islamic fundamentalist. Chair Prof. Necmettin Erbakan. [1b]

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MAIN LEFTIST AND/OR ILLEGAL POLITICAL ORGANISATIONS

IMPORTANT. This section consists of the names of both legal and illegal organisations. Those organisations which are known to be illegal have this fact recorded in their entry

below. It is not possible to have a fully comprehensive list of illegal parties, because of their constantly changing and clandestine nature.

Information on the current situation regarding leftist Parties in Turkey can be found on www.broadleft.org/tr.htm [52a]
<http://www.electionworld.org/turkey.htm> [79]

For general information on terrorist organisations in Turkey:
<http://www.terror.gen.tr/english/turkey/islamic/organisations/ibdac.html> [65] (now only accessible through:
<http://web.archive.org/web/20050206180202/http://www.terror.gen.tr/english/turkey/index.html>)

The Turkish State sees three main threats: militant Kurdish nationalism/separatism; militant Marxist-Leninist groups; and armed radical Islamic movements. [2a]

Brief glossary
 cephe = front
 devrimci = revolutionary
 emek = labour
 halk = people
 hareket = movement
 işçi = worker
 köylü = peasant, villager
 kurtuluş = liberation
 örgüt = organisation, association
 özgür = free
 özgürlük = freedom, liberty

Aczi-Mendi Group. Radical Islamic group.

Founded by Müslüm Gündüz in Elazığ in 1985. The meaning of Aczi-Mendi is the “Sect of the Helpless Servants of Allah”. All group’s members dress in the same style, with black robes, turbans, and baggy trousers, and they carry sceptres. They hold their meetings in Elazığ and in dervish lodges, which they have established in different cities. Dervish convents in Elazığ, Gaziantep and Izmir have been closed by court order. [65]

Akabe. A radical Islamic group.

Author Mustafa İslamoğlu leads it. The legal branch of the group is AKEV (Akabe Education and Culture Association). [65]

ARGK. See PKK.

BCH (Independent Republic Movement) (Bağımsız Cumhuriyet Hareketi). [52b]

BDGP (United Revolutionary Forces Platform)
 (Birleşik Devrimci Güçler Platformu) (Turkish)
 (Platforma Hezen Soresgeren Yekgirti) (Kurdish)
 Founded 1998. Radical left. [52b]

BP/KK-T (Bolshevik Party/North Kurdistan - Turkey) (Bolşevik Partisi/Küzey Kürdistan - Türkiye)

Illegal. Formed 1981 as TKP/ML (Bolsevik). Ex-Maoist, Stalinist. Publications - "Bolsevik Partizan", "Roja Bolsevik". [52b]

Ceyshullah (Army of Allah).

Founded in Istanbul in 1995. Its aim is to bring about a theocratic regime in Turkey by "holy war". Between 1994 and 1999 the Turkish police conducted six operations against Ceyshullah, and apprehended 33 members, as well as guns, pistols, bombs and other munitions. The members stated that they had been trained in Saudi Arabia and Afghanistan. [65]

Dev Sol See DHKP-C

Dev Yol (Revolutionary Path) (Devrimci Yol). See THKP/C

Founded 1975. Radical left. Part of ÖDP (see Annex B). Publications – "Bir Adim" (One Step), "Hareket" (Movement), "Devrimci Hareket" (Revolutionary Movement). [48] [18c]

Devrim Partisi-Kawa. See PS-Kawa

Devrimci Gençlik See DHKP-C

Devrimci Halk Hareketi (Revolutionary People's Movement).

Split of TKIP in 1999. Radical left. Publication - "Devrimci Halk" (Revolutionary People). [52a]

Devrimci Hareket (Revolutionary Movement). [52b]

Devrimci İşçi Partisi - Insa Örgütü (Revolutionary Workers Party - Build up Organisation).

Trotskyist. Publication - "Enternasyonal Bülten". [52a]

Devrimci Mücadele (Revolutionary Struggle).

Founded 1977 as Devrimci Derleş. Radical left. Publication - "Devrimci Mücadele". [52a]

Devrimci Sosyalist Yön (Revolutionary Socialist Direction) [52b]

DHKP-C / DHKP/C now known as the DHKC (Revolutionary People's Liberation Party - Front) (Devrimci Halk Kurtulus Partisi - Cephesi)

<http://www.dhkc.net> [54]

Illegal. Radical left. It was formed in 1993 as a splinter faction of **Dev Sol** (Devrimci-Sol, Revolutionary Left), which was founded in 1978 and which went out of existence following the split. The other splinter faction, known as THKP/C Devrimci Sol, is on hostile terms with DHKP/C, but constitutes a far smaller group in scale and significance. Although DHKP/C has long had a difficult relationship with the PKK, it has repeatedly expressed its solidarity with the Kurdish armed struggle.

DHKP/C seeks to overthrow the existing Turkish system of government by armed revolution and to replace it with a Marxist-Leninist state. Its terrorist operations are aimed in particular at the Turkish security forces and public figures, as well as at bodies seen by the group as "symbols of imperialism". An attack on a bank in Istanbul in September 1999 left 23 people injured. The authorities struck a major blow at DHKP/C in

1999, arresting 160 members and seizing a large quantity of arms and explosives. In August 2000 the police caught seven DHKP/C members trying to plant a bomb at an airforce base. DHKP/C was in action again in 2001 with various operations, including an attack on a police car on 10 April, in which a passer-by was killed and two police officers injured. The US State Dept. report for 2001 records that DHKP-C suicide bombers attacked police stations in Istanbul in January and September 2001, killing several police officers and civilians.

Many of those involved in the hunger strikes in Turkish prisons in late 2000 and early 2001 came from among DHKP/C's ranks. The group drummed up large-scale support throughout Europe for protests in connection with those events. In Turkey itself the protests included a bomb attack on a police station in Istanbul on 3 January 2001, following which the organisation announced that this was in retaliation for the deaths of 30 prisoners in a prison clearance operation. Turkey's Anatolia news agency reported that, according to a circular distributed to police stations in Istanbul, the organisation had planned further attacks. [2a] Ankara State Security Court prosecutor Talat Salk alleged in a 1999 court case that DHKP/C conducts its activities under the names of HÖP (Haklar ve Özgürlükler Platformu) (Rights and Freedoms Platform), the outlawed Devrimci Gençlik (Revolutionary Youth), and TODEF (Türkiye Öğrenci Dernekleri Federasyonu) (Federation of Turkish Students and Youth Associations). [23a] Publications - "Yaşadığımız Vatan", "Devrimci Sol", "Kurtuluş" (Liberation). [52a] In UK the DHKP-C is part of the List of Proscribed international groups under the Terrorism Act 2000 (Proscribed Organisations). [101]

DHP (Revolutionary People's Party) (Devrimci Halk Partisi)
Founded 1994. Close to the PKK. Publication - "Alternatif" (Alternative). [52a]

Direnış Hareketi (Resistance Movement)
Founded 1978 as THKP/C - Üçüncü Yol. Radical left. Publication - "Odak". [52a]

Dördüncü Sol - Insa Örgütü (Fourth Left - Construction Organisation)
Trotskyist. Publication - "Son Kavga" (Last Fight). [52a]

DPG (Revolutionary Party Forces) (Devrimci Parti Güçleri)
Radical left. Illegal. [52a]

DSIH (Revolutionary Socialist Workers Movement) (Devrimci Sosyalist İşçi Hareketi)
Illegal. Radical left. Publication - "Kaldıraç" (Lever); İşçi Gazetesi [52a] [52a]

DSIP (Revolutionary Socialist Workers Party) (Devrimci Sosyalist İşçi Partisi).
Founded 1997. Legal. Trotskyist. Publication - "Sosyalist İşçi" (Socialist Worker); Enternasyonal Sosyalizm. [52a]

ERNK. See PKK

ESP (Socialist Platform of the Oppressed) (Ezilenlerin Sosyalist Platformu). Founded in 2002. [52a] In December 2004, the group's publication Atilim reported that 46 of its members were arrested as members of the illegal MLKP and that a court claimed that ESP which is a legitimate organisation was in fact the legal branch of the MLKP.

Gerçek (Truth)

Publication – Gerçek. [52b] [52a]

Hareket (Movement) [52b]**HDÖ** (People's Revolutionary Leaders) (Halkin Devrimci Öncüleri)

Illegal. [48] [18c]

Hevgirtin Welatparez (Patriotic Union) [52a]**Hizb-I Kuran**. See Med-Zehra**Hizbullah/Ilim Gruhu and Hizbullah/Menzil Grubu**.

Both are illegal. Hizbullah/Hezbollah is a very shadowy Islamist group which originated in the 1980s in southeast Turkey. It advocates the establishment of an Islamic state by violent means. When a major Hizbullah leader was killed by PKK fighters in 1991, a difference of opinion emerged within the organisation as to whether the time was yet right to wreak revenge on the PKK, and also to take up arms in pursuit of its own objective. One faction, centring on the Menzil publishing house (and known as the Menzil group), took the view that the organisation was not yet sufficiently well-developed to pitch into armed struggle. The other, centred on the Ilim publishing house and known as the Ilim group, thought the time was ripe for armed revenge on the PKK. Its idea was as far as possible to let the Turkish State do the dirty work for it in combating the PKK. The Ilim group bore particular responsibility for the atrocities committed by Hizbullah. The group had an ideological aversion to Iran, which adhered to Shia Islam; the Ilim group was striving for a Sunni Islam state. When the Ilim group managed to kill some of the Menzil group's main leaders in 1996, the Menzil group disintegrated and faded away. Some former Menzil members then joined the Ilim group, and, from 1996, Hizbullah became synonymous with the violent Ilim faction. Rumours were rife that Hizbullah was at least tolerated by the security forces because it was fighting against a common enemy, and it has been held responsible for a large number of disappearances and killings. Its victims included a former DEP member of parliament, Mehmet Sincar, and an Islamic feminist writer, Konca Kuris. President Demirel denied allegations that there were links between Hizbullah and Turkish officialdom, while the general staff of the armed forces issued an angry statement condemning such allegations as slander.

From 1997 onwards the Turkish authorities began to take tougher action against Hizbullah, with a reported 130 supporters arrested in 1998, 250 in 1999 and 3300 in 2000. In a raid on a home in the Üsküdar area of Istanbul on 17 January 2000 Hüseyin Velioğlu, Hizbullah's founder and leader, was killed, and two other people arrested. On the basis of evidence found in the home, many other premises were searched, revealing the bodies of thirteen missing businessmen. With many more corpses being uncovered in the following months, the public prosecutor was able to press charges against 21 people on 156 counts of murder in the major Hizbullah trial which opened on 10 July 2000. During an interrogation, a Hizbullah suspect reportedly confessed to killing moderate Islamic scholar Konca Kuris in the early 1990s. In November 2002 an appeals court acquitted five defendants and sentenced the others to prison terms ranging from life to 45 months. The security forces' many operations against Hizbullah have inflicted heavy setbacks on it, and the number of bombings carried out by the group has fallen from 302 in the first eight months of 1999 to 94 in the corresponding period of 2000. However, the provincial governor of Diyarbakır stated in October 2000 that, in spite of

those serious setbacks, Hizbullah could certainly not yet be considered to have been eliminated. There are said to be many teachers and religious officials involved in the organisation. As of February 2000, Hizbullah was said to have had in Turkey some 20,000 members, who were organised in tight cells and knew a few of their fellow members because they were sworn to strict secrecy. They were said to operate in teams of two or three people, who “would stalk their victim before one member of the group carried out the execution by shooting the target in the neck with a single bullet, while the other kept a watch. A third militant may have assumed the duty of protecting the executioner.” Up to the time of the security forces’ major action in January 2000, there were no known instances of Hizbullah’s having targeted the authorities in its operations. Since then, however, armed incidents have taken place. On 11 October 2000 in Diyarbakır a policeman was killed in a gunfight with Hizbullah, which has also been linked with the shooting dead of the province’s chief of police, Gaffar Okkan, and five of his officers in January 2001. In April 2001 a Hizbullah member was arrested on suspicion of involvement in that attack. The USSD 2004 reported that the Government continued to detain persons, particularly in the southeastern province of Batman, on suspicion of links to Hizballahan that 1,500 political prisoners were alleged members of Hizbullah or other radical Islamist political organizations. On 5 February 2005 Turkish Daily News reported that, acting upon intelligence that the group was trying to regroup the security forces had arrested 22 suspected Hizbullah militants in 18 provinces. [2a] [5a] [5c] [7a] [23r] [32b] [48] [65]

Hizbullah Vahdet

Radical Islamic group, which centred on the Vahdet publisher in the 1980s. The group’s leader is Abdulvahap Ekinici. The group’s legal foundations are Davet Education and Culture Association and Abdulkadir Geylani Trust. The group publishes a periodical called “Vahdet”. [65]

HÖP See DHKP-C

IBDA-C (Islamic Great East Raiders - Front) (İslami Büyük Doğu Akıncılar Cephesi) Illegal Iranian-backed fundamentalist group which seeks the establishment of an Islamic republic based on strict Shariah or religious law. It attacks the PKK as well as the Turkish establishment.

IBDA-C is reportedly organised in small, isolated cells. Members organise independently without any hierarchical authority. Usually each cell does not have information about another cell’s actions. There are two different types of cell. One type carries out propagandist actions, publishing books and periodicals, and organising meetings, conferences or exhibitions. The other type includes such cells as “Ultra Force”, “Altınordu”, “Lazistan”, and “Union of Revolutionist Sufis”. IBDA-C is active in publication, and has many bookstores, websites and print-houses. Meetings are held in bookstores. Some of its periodicals are “Ak-Doguş”, Ak-Zuhur”, Akin Yolu”, “Taraf”, and “Tahkim”. IBDA-C has been linked with a number of terrorist attacks, especially in the early 1990s. It frequently makes use of explosives and Molotov cocktails in its attacks, and has often targeted banks, casinos, Christian churches and Atatürk monuments. IBDA/C has been linked with the fatal bomb attack in October 1999 on a secular professor, Ahmet Taner Kışlalı, who was best known as a journalist for the Cumhuriyet newspaper. In December 1999 and February 2000 IBDA/C members sparked off bloody clashes in Metris prison when they attempted, by armed force, to prevent guards from entering their cell. In the

December riot, 54 soldiers were injured and 100 hostages taken by IBDA/C, which also laid claim to the fatal attack on two police officers in Istanbul on 1 April 2001. Proceedings were brought against IBDA/C's leader, Salih Izzet Erdiş, known by the nom de guerre Salih Mirzabeyoğlu, before Istanbul State Security Court in February 2000, seeking to have the death penalty imposed on him for leadership of an illegal organisation working for the establishment of an Islamic state. On 3 April 2001 he was sentenced to death by that court. [2a] [48] [34] [65]

İHÖ (Islamic Movement Organisation) (İslami Hareket Örgütü)
Illegal. [48]

İlerici Gençlik (Progressive Youth) [52b]

İMO (Islamic Movement Organisation)
Its goal was to found an Islamic State in Turkey. Members were trained in Iran. Usually high level militants were sent abroad for training in guerrilla tactics, using weapons, and producing bombs. İrfan Cagırcı, the director of the operations team, was caught by police in Istanbul in 1996. After the command and control of İMO had been weakened, İMO collapsed, and today most of its members are in prison. [65]

İşçi Demokrasisi (Workers Democracy)
Founded 1998; split of DSİP. Trotskyist. Publication - "İşçi Demokrasisi". [52a]

Jerusalem Fighters See **Kudüs Savaşçıları**

KADEK See **PKK**

Kaplancılar /Sözde Hilafet Devleti.
Illegal. [48]

KDB (Communist Revolutionary Union) (Komünist Devrimci Birlik)
Illegal. [48]

KDH (Communist Revolutionary Movement) (Komünist Devrim Hareketi) Publications - "Maya" (Ferment), "Parti Yolunda" Illegal. [48] [52a]

KDH/L (Communist Revolutionary Movement/Leninist) (Komünist Devrim Hareketi/Leninist)
Illegal. Publication - "Köz". [52b] [52a] [48]

KHK See **PKK**

Kongra-Gel See **PKK**

KKP (Kurdistan Communist Party) (Kürdistan Komünist Partisi)
Illegal. [48]

Kongreya Azadî û Demokrasiya (Kurdistan Freedom and democracy Congress) [52b]

KP(İÖ) (Communist Party (Build Up Organisation)) (Komünist Partisi (İnşa Örgütü))
Illegal. Ex-Maoist, Stalinist. Split of MLKP in 1995. Publication - "Halkın Birliği". [52a] [48]

KSB (Communist Fighters Union) (Komünist Savaşçılar Birliği)
Publication – “İşçi Davası”. [52a]

Kudüs Savaşçıları (Jerusalem Fighters)
Islamic splinter group, said to have links with Iran. Police operations in May 2000 brought the arrest of some members and the discovery of various arms caches. [2a]

KUK (Kurdistan National Liberationists) (Kurdistan Ulusal Kurtuluscuları)
Marxist-Leninist. Established 1978. Its initial aim is to establish an independent Kurdistan in east and southeast Turkey, and then to unite this republic with territories in which Kurds live in Iran, Iraq and Syria. KUK-MK leaders are Dasraf Bilek (General Secretary), Sait Özsoy, Vasfi Özdemir, Mahfuz Yetmen, Şevket Kaçmaz, Lütfi Baksi. KUK-SE leaders are K. Başibüyük, Yalçın Büyük (Gen. Sec.), Abdurrahman Bayram, Abdurrahman Esmer, Yasemin Çubuk, Zeynel Abidin Özalp, and Yusuf Ahmet Bartan. [65]

M-18 See **MLKP**

Malatyalılar (From Malatya/Malatyaaites)
This radical splinter group, also known as Şafak-Değişim, advocates establishment of an Islamic state. The group first attracted attention at demonstrations against the ban on wearing the veil, in 1997 and 1998, and related disturbances in Malatya. Apart from Malatya, the organisation is reported also to be active in Istanbul, Gaziantep, Erzurum and Kayseri. In October 2000 the security forces carried out a large-scale operation against the group, arresting some 250 people in 28 provinces. Although there have (as of May 2001) been no known Malatyalılar acts of violence, a large number of arms were found in that swoop by the security forces. [2a] The group's leader is Zekeriya Şengöz. The group's leading members come from the city of Malatya in southeast Turkey. The group publishes “Değişim” (Metamorphosis) periodical. In addition, it has founded a legal trust named “Islamic Solidarity Trust”, which is active in Istanbul. The group calls itself “Şafak” (Down Group), and in university circles they use the signature of “Muslim Youth”. [65]

Marksist Tutum (Marxist Attitude). [52b]

Mezhepsizler Grubu. Illegal. [48]

Med-Zehra, also called **Hizb-i Kuran** (The Party of Q'uran)
A radical Islamist group, named after the university, Medresetu'z-Zehra, which Said Nursi (who was the originator of the Nurcu movement (probably the most important religious movement in Turkish Kurdistan), and who died in 1969) wished to establish in Kurdistan. Med-Zehra is an important representative of Kurdish Islamic movements. It opposes the Turkish Government, and refuses to employ constitutional methods. [7c]

MIB (Marxist Workers League). (Marksist İşçi Birliği)
Trotskyist. [52a]

MLKP (Marxist Leninist Communist Party) (Marksist Leninist Komünist Partisi)
Illegal. Founded 1995; merger of TKP/ML - Hareketi, TKİH, TKP/ML(YİÖ). Stalinist. It seeks the armed overthrow of Turkey's present political system. It also sees itself as

representing the Kurdish community, and wants to throw off the “fascist colonial yoke” by means of armed struggle, having its own armed wing, known as M-18. In May 1998 MLKP abducted Tacettin Asci, treasurer of the Bursa branch of the Turkish Human Rights Association, and Ahmet Aydin, and on 7 June 1998 it issued a statement saying that the two had been “executed” as police informers. Amnesty International said that it was appalled to learn of the killings, and added that the fact that the bodies had not been recovered suggested that the victims may have been interrogated under torture by their captors. Amnesty urged that the bodies be surrendered, and also that those responsible for the murders be brought to justice. Publications - “Partinin Sesi”, “Atilim” (Progress); Teori’de; Dogrultu. [2a] [12a] [48] [52a] [52b] See also ESP (p187)

MLSPB (Marxist-Leninist Armed Propaganda Unit) (Marksist Leninist Silahlı Propaganda Birliği)

Illegal. Founded 1975 as split from THKP/C; political military. Radical left. Publication - “Barikat” (Barricade). [48]

Müslüman Gençlik Grubu (Muslim Youth Group)

Illegal. [48]

PADEK (Freedom and Democracy Party of Kurdistan)

(Partiya Azadî û Demokrasî ya Kurdistanê) (Kurdish)

(Kürdistan Özgürlük ve Demokrasi Partisi) (Turkish)

Founded 2000 by faction of PYSK (Kurdistan Sosyalist Birlik Partisi). Left, Kurdish nationalist. Illegal. [52b] [52a] [79]

PDK (Kürdistan Demokrat Partisi)

Illegal. [48]

PDK/Bakur (Democratic Party of Kurdistan/North)

(Partî Demokratî Kurdistan/Bakur) (Kurdish)

(Kürdistan Demokrat Partisi/Küzey) (Turkish)

Illegal. Founded 1992 as PDK/Hevgirtin. Left, Kurdish nationalist. It aims to unite Kurds living in Iran, Iraq, Syria and Turkey under the flag of an independent Socialist Kurdistan Republic. Publication - “Dênge Bakur”. [52a] [48] [65] [79]

PDK(T) (Democratic Party of Kurdistan (Turkey)

(Kürdistan Demokrat Partisi (Türkiye) (Turkish)

(Partîya Demokrat a Kurdistan (Türkiyê) (Kurdish)

Left, Kurdish nationalist. Illegal, founded 1965. Publication - “Xebat”. [52a]

PIK (Islamic Kurdistan Party) (Partiya Islamiya Kurdistan)

Founded 1979. PIK’s main aim is to establish an Islamic state, and its members see this as a holy mission. Its strategy is allegedly to create chaos in Turkey, to destabilise government institutions, to start a nationwide revolt, and to establish an Islamic Kurdistan. It is active in eastern and southeastern Turkey, especially in Malatya. It has branches in Ankara and Istanbul. Leaders of the party include Prof. Dr. Muhammad Salih Mustafa (Party President and General Emir/Governor), Osman Caner (Emir of Students and Youth) and Sukuti Evcim (Director of Youth. [65] [79]

PKK also known as **KADEK** and more recently **KHK or Kongra-Gel** (Kurdistan Workers’ Party)

<http://www.kongra-gel.org/index.php?newlang=english>

(Partîya Karkerên Kurdistan) (Kurdish)

(Kürdistan İşçi Partisi) (Turkish)

www.pkk.org and www.kurdstruggle.org/pkk

Illegal. Founded on 27 November 1978. It advocates armed struggle both at home and abroad, to achieve an independent Kurdish state slicing through Turkey, Syria, Iraq and Iran, and launched the struggle in 1984. 57-member directorate. Its components include ERNK (the National Liberation Front of Kurdistan), the PKK's "popular front and propaganda division", and ARGK (the Kurdistan National Liberation Army), the PKK's "popular army". Leadership: Abdullah "Apo" Öcalan. The PKK's armed operations in south-eastern Turkey, starting in 1984 and peaking from 1990 to 1994, involved attacks on civilians (in many cases Kurdish) and military targets, causing very many deaths. The PKK was guilty of human rights violations, including murders, especially in rural parts of the south-east, but also in other areas. The victims were mainly Jandarma officers, mayors, teachers, imams, village guards and their families, reluctant recruits, young villagers, refusing to fight for the PKK, and (former) PKK members acting as informants for the Turkish authorities. From the outset, the Turkish army took tough action against the PKK. The PKK attempted to make the south-east ungovernable, by systematically destroying economic and social infrastructure etc., and by deliberately polarising the local population. Many village schools were closed down, not least as a result of the PKK's policy, up until 1996, of killing schoolteachers. According to information from the Turkish authorities, a total of just over 23,000 PKK fighters and around 5000 members of the armed forces and security forces have been killed since 1987 in the conflict with the PKK. Just over 4400 civilians are reported to have been killed. The injured number just over 11,000 armed forces and security forces members, and around 5400 civilians. No figures are given for injured PKK fighters. On 3 August 1999 Abdullah Öcalan called on PKK fighters to end their armed struggle and withdraw by 1 September to beyond Turkey's borders. On 1 September his brother Osman, a member of PKK's command council, announced that the PKK would do this with immediate effect. The extent to which Öcalan's call has been followed by PKK fighters can be seen from figures from the Turkish army high command in May 2000, showing only 500 out of 5500 PKK fighters still to be in Turkey. In the first five months of 2000, the number of clashes between the army and guerrillas had fallen to 18, as against 3300 at its peak in 1994 and 48 in 1999. There were few armed clashes in 2001, and a near absence of PKK violence in 2002. In April 2002 the PKK announced that it had ceased activities and had regrouped as KADEK, the Kurdistan Freedom and Democracy Congress (Kürdistan Özgürlük ve Demokrasi Kongresi). The change of name did not affect the policy of the Turkish State towards members of the PKK/KADEK. Publication - "Serxwebûn" (written in Turkish). [1a] [2a] [5a] [18c] [63a] [67] [52a] [48] In the UK PKK is part of the List of Proscribed international groups under the Terrorism Act 2000 (Proscribed Organisations). [101]

On the 29 May 2004 the BBC reported that Kongra-Gel declared that its five-year unilateral cease-fire would end in three days time (on the 1 June 2004) and that it would start to target Turkish security forces. [66g] In January 2005 the Turkish Daily News reported that, according to a report released by the Diyarbakir Human Rights Associations, the number of armed conflict between security forces and the Kurdistan's Workers Party (PKK/Kongra-Gel) increased. While 104 people died and 31 were wounded in armed clashes in 2003, 219 people died and 126 were wounded in 2004. [23q] On 8 October 2005, the Turkish Daily News reported that the PKK had said it ended a unilateral ceasefire against Turkey. [23ac]

PKK-DCS (PKK – Devrimci Çizgi Savaşçıları) (PKK-Serwanên Xeta Soresgerî) (PKK – Revolutionary Line Fighters). Radical leftist, Kurdish-nationalist, illegal, split from PKK 1999. Publication: Devrimci Çizgi. [52b] [52a]

PKK/KKP (Communist Party of Kurdistan)
(Partiya Komunistê Kurdistan) (Kurdish)
(Kürdistan Komünist Partisi) (Turkish)
Founded 1990 by Kurdish section of TKEP. Communist. Publication – “Dengê Kurdistan”. [52a]

PKK Vejin (Resurgence)
As noted in the website Terror Organisation in Turkey:

“After the Fourth [KADEK] Congress, three opposing members Sari Baran, Mehmet Sener and Faik (K) have formed another organisation called Vejin (Resurgence). This organisation was in the same direction with KADEK but it was giving its members more social rights, [such] as marriage and the right to resign from the organisation in [sic] every time the member wished. The leaders of Vejin have stated that their objective is to establish a Federal Kurdistan in the Turkish territories. Mehmet Sener was killed in Syria with A. Ocalan’s command. After Mehmet Sener’s death, Vejin and KADEK began to fight against each other.” [65]

PNBK (National Platform of North Kurdistan)
(Platforma Neteweyî ya Bakûrê Kurdistanê) (Kurdish)
(Kuzey Kurdistan Ulusal Platformu) (Turkish)
Founded 1999. Left, Kurdish nationalist. Illegal. [52a]

PRK/Rizgari (Liberation Party of Kurdistan)
Partîya Rizgariya Kurdistan (Kurdish)
Kürdistan Kurtulus Partisi (Turkish)
Illegal. Founded 1976. Radical left, Kurdish nationalist. The party’s aim is to establish an independent Kurdistan, and extend this to an independent United Socialist Kurdistan with territory which is at present part of Iran, Iraq, Syria and Turkey. Publications - “Rizgari”, “Stêrka Rizgarî”. [52a] [48] [65]

PRNK (National Liberation Party of Kurdistan) (Kürdistan Ulusal Özgürlük Partisi)
Illegal. Probably disbanded. [48]

PS-Kawa (Revolutionary Party) (Partîya Sores)
Illegal. Founded 1998 as split of PYSK (Kurdistan Sosyalist Birlik Partisi). [48] [52a]

PSK (Socialist Party of Kurdistan)
(Partîya Sosyalist a Kurdistan) (Kurdish)
Kürdistan Sosyalist Partisi (Turkish)
Illegal. Founded 1974. Left, Kurdish nationalist. Its legal wing is the DBP (see Annex B). Publications - “Roja Nû”, “psk-bulten”. Leader Kemel Burkay. [48]

PSK- (Kurdistan Revolutionary Party)
(Devrimci Kürdistan Partisi) (Turkish)
(Partîya Soreşa Kürdistan) (Kurdish)
Illegal. [48]

Revolutionary Marxist League

Trotskyist. [52a]

RNK/KUK (Kürdistan Ulusal Kurtuluşçular)

Illegal. [48]

RSDK (Socialist Democratic Organisation of Kurdistan)
(Rêxistina Sosyalîst a Demokratîk a Kurdistanê) (Kurdish)
(Kürdistan Demokratik ve Sosyalist Örgütü) (Turkish)
Split of PYSK (Kurdistan Sosyalist Birlik Partisi). [52a]

Şafak-Değişim See **Malatyalılar**

SED (Social Ecological Transformation) (Sosial Ekolijist Dönüşüm)
Green. Publication – Kara Toprak. [52a]

SEH (Socialist Labour Movement) (Sosyalist Emek Hareketi)
Publication – “Siyasi Gazete” (Political Gazette). [52b] [52a]

Selam Grubu.

Illegal. [48]

Selefi (from the Arabic “Salafi”, referring to an Islamic revivalist movement which seeks to emulate the lives of the earliest Muslims).
The organisation, which was established in 1993 by an imam, supports religious law. In raids in 1999, the Turkish authorities seized eight rocket rifles, one Kalashnikov, and 650 rounds of ammunition. The Turkish State considers the organisation to be terrorist. [20] [30d]

SIP See **Sosyalist İktidar Partisi - Komünist Parti**

Sosyalist Alternatif (Socialist Alternative).
Part of ÖDP (see Annex B). Trotskyist. Publication - “Sosyalist Alternatif”. [52a]

Sosyalist İktidar Partisi - Komünist Parti (Party for Socialist Power – Communist Party)
Founded 1993, Communist, legal, gained 0.12% of the national vote in the April 1999 general election. Changed its name in November 2001 to TKP (Türkiye Komünist Partisi) (Turkish Communist Party); it is unclear whether this is different from, or identical to, the TKP which is listed later in this annex. Gained 0.19% of the national vote in the November 2002 general election. Publications – “Sosyalist İktidar” (Socialist Power), “Sol” (Left). [30a] [52a]

Sosyalist Politika (Socialist Politics)
Part of ÖDP (see Annex B). Publication - “Sosyalist Politika”. [52a]

Spartaküs

Illegal. [48]

TAYAD (the Solidarity Association of Prisoners' Families) (Tutuklu ve Hükümlü Aileleri Yardimlasma Dernegi)

In January 2001 the headquarters and various branches in Istanbul of the TAYAD were closed after it had held weekly demonstrations over a period of months against the introduction of the new cell system in prisons. Various executive members were arrested. The authorities regard TAYAD as a cover for the revolutionary DHKP/C. The organisation was consequently proscribed for a few years in the early 1990s. [2a]

TAK (Kurdish Liberation Hawks/Falcons) a radical Kurdish group said to have carried out various actions including the bombing in Cesme and Kusadasi in July 2005, two bomb explosions in Istanbul in February 2006, an explosion at the Mezitli offices of AKP in the same month, a bomb attack targeting a police building in Izmir in March 2006. The Tak is considered an offshoot of the Kurdistan Workers' Party (PKK) and a cover group for PKK although the PKK denies any links. [23g] [23f] [66az] [66bj] [66bk]

TDKP (Revolutionary Communist Party of Turkey) (Türkiye Devrimci Komünist Partisi). Illegal. Founded 1980. Ex-Maoist, Stalinist. Its legal wing is Emep (Labourers Party) (see Annex B). Publication - "Devrimin Sesi". [47] [52a]

TDP (Revolution Party of Turkey) (Türkiye Devrim Partisi) Illegal. Founded 1978, formerly TKP (Birlik). Radical left. Publication - "Hedef" (Target). [52a] [48] [52a]

Tehvid-Selam

Islamic splinter group said to have links with Iran. The group adopts Hizballahi ideas, and is closely related to the Hizbullah and Menzil groups. It began to publish "Şehadet" (Testimony) and "Tehvid" (Unification) periodicals, and nowadays publishes "Selam" (Greeting, Salute), a weekly newspaper. Police operations in May 2000 brought the arrest of some members and the discovery of various arms caches. [2a] [65]

THKP/C Acilciler (Turkish Peoples' Liberation Party and Front – The Urgent Ones) (Türkiye Halk Kurtuluş Partisi/Cephesi Acilciler) Illegal. Probably disbanded. [52a] [48]

THKP/C- Dev Sol (People's Liberation Party/Front of Turkey - Revolutionary Left) (Türkiye Halk Kurtuluş Partisi/Cephesi - Devrimci Sol) Illegal. Founded 1993 as split of Dev Sol. Political military. Radical left. Publication - "Devrimci Çözüm" (Revolutionary Solution). [52a] [48] [52b]

THKP/C- Dev Yol. Illegal. [48]

THKP-C/HDÖ (People's Liberation Party/Front of Turkey - People's Revolutionary Vanguards) (Türkiye Halk Kurtuluş Partisi ve Cephesi - Halkin Devrimci Öncüleri) Founded 1977. Political military. Radical left. Publications - "Cephe" (Front, Façade), "Kurtuluş" (Liberation), "Kurtuluş Cephesi" (Liberation Front). [52a] [52b]

THKP/C-MLSPB (People's Liberation Party/Front of Turkey – Marxist Leninist Armed Propaganda Unit) (Türkiye Halk Kurtuluş Partisi ve Cephesi – Marksist Leninist Silahlı Propaganda Birliği)

Publication – “Barikat” (Barricade). [52b] [52a]

TIKB (Revolutionary Communists Union of Turkey) (Türkiye İhtilalci Komünistler Birliği) Illegal. Founded 1977. Political military. Ex-Maoist, Stalinist. Publications - “İhtilalci Komünist”, “Orak-Çekiç”, “Devrimci Proletarya”, “Alinterimiz”. [48] [52a]

TIKB - B (Revolutionary Communists Union of Turkey - Bolshevik) (Türkiye İhtilalci Komünistler Birliği - Bolşevik)

Illegal. Split of TIKB. Radical left. Publication - “Devrimci Duruş” (Revolutionary Attitude). [48] [52a]

TIKKO (Turkish Workers’ and Peasants’ Liberation Army) (Türkiye İşçi Köylü Kurtuluş Ordusu or Türk İşçiler Köylüler Kurtuluş Ordusu).

Illegal armed resistance movement, which was set up in 1972 by TKP/ML. It advocates the violent overthrow of the Turkish government and abolition of the entire Turkish political system. Members (a maximum of several thousand people) are scattered in small cells throughout Turkey. The armed guerrilla units are used by both TKP/ML and TKP(ML) in common for their terrorist operations. Amnesty International notes that in the early 1990s TIKKO and other organisations would frequently announce, that this journalist, or that Kurdish villager, had been “punished”. Since then, the numbers of such killings have fallen notably. In September 2000 a police operation against TIKKO in Istanbul brought the arrest of the head of its local section. On 6 October 2000 a suicide squad attacked the military training college in the Harbiye district of Istanbul. TKP/ML also claimed responsibility for an attack on a police car on 11 December 2000, in which two policemen were killed. February 2001 saw two armed clashes between TIKKO and the security forces. The attack on a Jandarma general in Çorum on 22 March 2001 was said by the authorities to have been carried out by TIKKO, which reportedly itself on 28 March 2001 laid claim to the attack. [2a][12a] In June 2002 TIKKO reportedly abducted and killed Muharrem Hız from Sırçalı village, Tokat province. [9a] There used to be a division of labour between PKK and TIKKO guerrillas, with the PKK carrying on the combat in south-eastern Turkey and TIKKO in the Black Sea region. In October 1999 TKP/ML announced its complete disagreement with Öcalan’s call to end the armed struggle. [2a] [12a]

TIP (Workers Party of Turkey) (Türkiye İsci Partisi) [52a]

TKEP (Communist Labour Party of Turkey) (Türkiye Komünist Emek Partisi) Illegal. Founded 1980, part of ÖDP (Özgürlük ve Dayanısme Partisi - see Annex B). Communist. [48] [52a]

TKEP- Leninist (Communist Labour Party of Turkey - Leninist) (Türkiye Komünist Emek Partisi - Leninist)

Illegal. Split of TKEP in 1990. Political military. Communist. Publications - “Devrimci Emek” (Revolutionary Labour), “Devrim İscin Mücadele Birliği. [48] [52b] [52a]

TKIP (Communist Workers Party of Turkey) (Türkiye Komünist İşçi Partisi)

Illegal. Founded 1998. Ex-Maoist, radical left. Publications - “Ekim” (Sowing, Planting), “Kızıl Bayrak” (Red Flag) [52a] [48] [72]

TKKKÖ (Turkey and North Kurdistan Liberation Organisation) (Türkiye ve Kuzey Kürdistan Kurtuluş Örgütü)

Illegal. [48]

TKP (Communist Party of Turkey) (Türkiye Komünist Partisi)
Founded 1980 as TKP - İscinin Sesi. Communist. Publication - "İscinin Sesi" (Workers' Voice). [52a]

TKP/İS (Communist Party of Turkey/Workers Voice) (Türkiye Komünist Partisi/İşçinin Sesi).
Illegal. [48] [52a]

TKP- Kivilcim (Communist Party of Turkey - Spark) (Türkiye Komünist Partisi - Kivilcim). Illegal. Founded 1989 by Socialist Homeland Party (SVP). Communist. Publications - "Kivilcim" (Spark), "Zafere Kadar Direnis", "Yol" (The Way), "Widerstand". [48] [52b]

TKP/ML (Communist Party of Turkey/ Marxist Leninist) (Türkiye Komünist Partisi/ Marksist-Leninist).
Founded 1972. Political military. Based on Maoist ideology. The party has suffered several divisions, with each faction claiming to be "the real party". In 1994 it split into two wings: a partisan wing, retaining the old name TKP/ML, and an Eastern Anatolian regional committee, assuming the almost identical name TKP(ML). Talks have been under way since late 1999 concerning reunification of the two wings. In 1972 TKP/ML set up armed guerrilla units, known as TIKKO (Türk İşçiler Köylüler Kurtuluş Ordusu - Turkish Workers' and Peasants' Liberation Army), which are used by both TKP/ML and TKP(ML) in common for their terrorist operations. In October 1999 TKP/ML announced its complete disagreement with the call by Abdullah Öcalan, PKK leader, to end the armed struggle. TKP/ML claimed responsibility for an attack on a police car on 11 December 2000; two policemen were killed in the attack. Publications - "Partizan", "İsci-Köylü Kurtuluşu", "Özgür Gelecek" (Free Future). [2a] [67] [52a] [52b] [69]

TKP(ML) (Communist Party of Turkey (Marxist-Leninist) (Türkiye Komünist Partisi (Marksist-Leninist)).
Split of TKP/ML in 1994. Political military. Maoist. Publications - "İşçi Köylü Kurtuluşu", "Devrimci Demokrasi" (Revolutionary Democracy), "Öncü Partizan" (Pioneer Partisan). [52a]

TKP/(M-L) DABK (Communist Party of Turkey (Marxist-Leninist) East Anadolu Area Committee) (Türkiye Komünist Partisi (Marksist-Leninist) Doğu Anadolu Bölge Komitesi)
Illegal. [48]

TKP/M-L Kons. Kes (Communist Party of Turkey/ Marxist-Leninist Conferencing Body) (Türkiye Komünist Partisi/Marksist-Leninist Koferansçı Kesim).
Illegal. [48]

TKP/ML (Maoist Parti Merkezi) (Communist Party of Turkey/ Marxist-Leninist (Maoist Party Centre)) (Türkiye Komünist Partisi/ Marksist Leninist (Maoist Parti Merkezi))
Illegal. Split of TKP/ML in 1987. Political military. Maoist. Publication - "İktidara". [48] [52b]

TODEF See **DHKP-C**

Toplumsal Özgürlük Platformu (Social Freedom Platform).

Part of ÖDP (see Annex B). [52a]

TSİP (Socialist Workers Party of Turkey) (Türkiye Sosyalist İşçi Partisi).
Founded 1993. Legal. Communist. Publication - "Kitle" (Mass, Crowd). [52a]

Türkiye'de Marksist-Leninist Parti (Marxist Leninist Party in Turkey).
Founded in 1980 as TKP/ML Spartakus. Stalinist. Publications - "Spartakus", "Bilimsel Komünizmin Sancağı Altında". [52b]

UİC (Union of Islamic Communities)
Founded 1983. Its initial goal is to unite Muslims living in Europe under one roof. Its main goal is to establish a Federal Islamic State in Anatolia. Its founder Cemalettin Kaplan declared himself the "caliph" of all Muslims in 1994, and from then on UIC called itself the "Caliphate State". After he died in 1995, his son Metin Kaplan replaced him as "caliph". Some members of UIC have rejected Metin Kaplan's caliphate, and UIC has divided into three groups. UIC has 200-300 members in Turkey, largely in Istanbul, Konya, Adana, Sivas, Aydın, and Maraş, and 1300 members in Germany. In Germany in 1999 Metin Kaplan declared a holy war against Turkey. The German authorities arrested Metin Kaplan in March 1999. He was extradited from Germany in 2004 after Turkey banned the death penalty. The Turkish police have conducted operations against UIC militants in Sivas, Sakarya, Erzurum, Bursa and Çanakkale. As reported by BBC News on 20 June 2005, Metin Kaplan was sentenced to life in prison for plotting to overthrow Turkey's secular system. However, on 30 November 2005, BBC News reported that the appeals court had ruled that there had been inadequate investigation and procedural deficiencies in the case and Kaplan's conviction was overturned. [65] [66bf] [66bm]

Vasat Grubu/Ehl-i Sünnet vel Cemaat.

Illegal. It claimed responsibility for throwing a grenade at a book fair in Gaziantep on 14 September 1997, killing one person and injuring 24. [56] Today Vasat is inactive. With series of police operations in the June of 1999, in Malatya and in Ankara all the action plans, structure, strategies, educational activities and financial resources of the organisation had been deciphered. [65]

Yeni Yol (New Way)

Part of ÖDP (see Annex B). Trotskyist. Publication - "Yeni Yol" (New Way). [52a]

Annex C: Prominent people: past and present

Aksu, Abdulkadir

Minister of Interiors. [60b]

Atatürk, Kemal (born 1880/1881, died 1938)

(Original name Mustafa Kemal, he was surnamed Atatürk ("Father of the Turks") in 1934). Atatürk was the founder of modern Turkey. He became Turkey's first President in 1923.

Babacan, Ali

Chief negotiator for accession talks with the European Union. [23z]

Bahçeli, Devlet

Leader of MHP (Nationalist Action Party), and Deputy Prime Minister 1999-2002.

Bakırhan, Tuncer

Chairman of DEHAP. [69]

Baykal, Deniz

Leader of CHP (Republican People's Party).

Bozlak, Murat

Chairman of HADEP (People's Democracy Party) until it was banned in March 2003. He is banned from being a founder, member or administrator of another party for five years from March 2003.

Cem, Ismail

Foreign Minister 1997-2002, and founder of YTP.

Çiçek, Cemil

Minister of Justice. [60b]

Çiller, Tansu

Turkey's first woman Prime Minister 1993-96. Was Chairman of DYP (True Path Party).

Derviş Kemal

Formerly a Turkish Vice President of the World Bank. Appointed after the February 2001 crisis as the State Minister responsible for the economy; resigned August 2002.

Ecevit, Bülent

Former leader of DSP (Democratic Left Party), and Prime Minister 1999-2002. Was Prime Minister in 1974 (when Turkey invaded Cyprus, in order, in its perception, to protect the Turkish Cypriot minority), in 1977, and in 1978-79.

Erdoğan, Recep Tayyip

Prime Minister from March 2003 to present. Born in 1954, he was in 1994-1998 the popular and charismatic Islamist (Virtue/Fazilet) mayor of Istanbul. He served four months in prison in 1999 for reciting a poem with an Islamic message (and thereby "inciting religious hatred"). Leader of the Islamist-orientated AK Partisi (Justice and

Development Party), which he led to victory in the November 2002 general election, although he was ineligible to stand for Parliament because of his criminal conviction. The law was changed, he was elected in a by-election, and on 14 March 2003 he was appointed Prime Minister. [66c]

Gül Abdullah

Foreign Minister and Deputy Prime Minister. Prime Minister from November 2002 to March 2003. [60b] [63b]

Öcalan, Abdullah (nickname “Apo”)

Leader of the PKK. Born in 1949 in Urfa. He initiated, with six colleagues, a specifically Kurdish national liberation movement based on Marxism-Leninism. From 1978 the Apocular, or followers of Apo, called themselves the PKK. He was captured, forcibly returned to Turkey in February 1999, put on trial, convicted of treason and sentenced to death. With the abolition in 2002 of the death penalty for offences in peacetime, his sentence was commuted to life imprisonment without conditional release. [30e] [58]

Özcan, Hüsamettin

Deputy Prime Minister 1999-2002.

Özkök, General Hilmi

Born 1940, Chief of the General Staff for a four year term from August 2002.

Sezer, Ahmet Necdet

President of Turkey since May 2000. He is the first President in Turkey's history who is neither an active politician nor a senior military official. He was formerly Turkey's most senior judge, the Chairman of the Constitutional Court.

Yilmaz, Mesut

Prime Minister in 1991, 1996, and 1997-1999, and Deputy Prime Minister 1999-2002. Was Chairman of ANAP (Motherland Party)

Zana, Leyla

Kurdish activist and former MP. She was one of the founders of the Democratic Society Movement (DHT) [5c] [30f] [36b] [36g] [42] [44b] [66l] [77] [93a] [93c]

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Annex D: Administration of Justice

The European Commission Turkey 2005 Progress Report released on 9 November 2005 recorded that “The principle of legality of criminal offences is set out in Article 38 of the Constitution and in Article 2 of the [new] Penal Code. The non-retroactivity of penalties is established in Article 38 of the Constitution and in Article 7 of the Penal Code. Proportionality between the criminal offence and the penalty is guaranteed by Article 3 of the Penal Code.

The principle of ne bis in idem [the right of a person not to be prosecuted twice for the same offence] is established in Article 223 of the Code of Criminal Procedure.”
[71d] (p106)

Judges

1. The position of the judge (hakim, yargıç) is important, especially as there is no jury trial in Turkey. His role is substantially larger than that of a judge in UK or USA. He is actively responsible for the administration of justice. He takes the initiative in finding the law applicable to the facts submitted by the parties. The lawyers have the duty to assist the judge in establishing the facts and determining applicable legal provisions. The independence of judges is safeguarded by Articles 138 and following of the Constitution: “Judges shall be independent in the discharge of their duties. They shall pass judgements in accordance with the Constitution, law, justice and their personal convictions. No organ, office, agency or individual may give orders or instructions to courts or judges in connection with the discharge of their judicial duty, send them circulars, or make recommendations or suggestions. No questions may be raised, debates held, or statements issued in legislative bodies in connection with the discharge of judicial power concerning a case on trial.” [64]

As recorded in Turkey’s Statistical Yearbook 2004, published by the Turkish Statistical Institute, in 2003 there were 6,600 judges. [89a] (Section on Justice)

Public Prosecutors

2. Offences are, in the great majority of cases, prosecuted in the name of the people by public prosecutors (savcılar), who are virtually representatives of the executive branch of the government within the judiciary. The duty of initiating public prosecution rests with the public prosecutor. As soon as he is informed of the occurrence of an offence, the public prosecutor should make the investigation necessary to decide whether public prosecution should be initiated. He investigates evidence both against the accused and in his favour, and helps to preserve proof which otherwise might be lost. If, at the end of his investigation, the public prosecutor decides not to prosecute, he will inform the accused if the accused has testified, or if a warrant of arrest has been issued against the accused. No one may be convicted under an indictment in which he is not named, nor may he be convicted of a crime not specified in the indictment. [64]

As noted in the European Commission 2005 report “The Code establishes the concept of plea bargaining. In order to reduce the number of unmeritorious prosecutions, the Code increases the discretion of prosecutors, who are now

able to assess the strength of the evidence before preparing an indictment. Moreover, judges are given the power to return incomplete indictments.

[71d] (p15) As regards legal guarantees including access to justice, so far as the prohibition of arbitrary arrest is concerned, Article 90 of the Criminal Procedure Code provides that persons who are arrested by the police must be informed of the reason for their arrest.” [71d] (p15)

3. In the case of some lesser offences specified by law, where the injury is deemed more private than public, the injured party may himself institute criminal proceedings by filing a private complaint (şahsi dava) without participation of the public prosecutor. In these exceptional cases, the private party enjoys all the rights given to the public prosecutor by law. Furthermore, the person injured by an offence may intervene in any public prosecution, and he becomes a party to the action by virtue of his intervention (Müdahale yolu ile dava). [64]

As recorded in Turkey’s Statistical Yearbook 2004, published by the Turkish Statistical Institute, in 2003 there were 3,202 prosecutors. [89a] (Section on Justice)

4. The European Commission 2005 report recorded that “The number of judges and prosecutors has remained largely stable; there are currently 5 952 judges and 3 179 prosecutors in service and a further 1 053 judges and prosecutors in training. A law adopted in December 2004 provided for the recruitment of 4 000 additional judges and prosecutors, 100 judicial inspectors and 6 619 court administrative staff.” [71d] (p105)

The defendant

5. The law is designed to protect innocent citizens. The accused is favoured in criminal proceedings by the presumption of innocence. The burden of proof rests on the public prosecutor or the private complainant, and the defendant is not held guilty until his guilt is established by final judgement. When the court is not satisfied by the evidence of the prosecution, or a reasonable doubt exists, the court must give a judgement of acquittal. [64]

The European Commission 2005 report noted that “The right of defence is enshrined in Article 36 of the Constitution. The Code of Criminal Procedure regulates the use of legal counsel and the rights of defence in criminal investigations and during trials. The new Code substantially improves the rights of the defence. Article 150 of the new Code of Criminal Procedure provides that all accused persons may have access to a lawyer and that representation by legal counsel is mandatory, both during the investigation and the trial, for offences punishable by more than five years’ imprisonment ... The new Criminal Code also introduces the principle of cross-examination, which strengthens the rights of the defence. Nevertheless, certain practices undermine equality of arms. The design of the courtroom, in which the prosecutor is seated on a raised platform next to the judges while defence counsel is seated at ground level, places the prosecution in a privileged position vis-à-vis the defence. Defence counsel experience difficulties in communicating with their clients both in the court house immediately before the trial (in part due to lack of suitable facilities) and in the court room during the course of the trial.” [71d] (p106)

Evidence

The European Commission 2005 report recorded that “Under the new Code, criminal investigations must be carried out by a judicial police force under the authority of the public prosecutor.” [71d] (p15)

7. The use of unlawful interrogation methods (such as maltreatment, torture, forcing drugs, causing fatigue, cheating, deceiving, violence, unlawful promises) which may distort free will, is prohibited. Accordingly statements and depositions obtained by unlawful means are considered inadmissible, even if they are of free will (for example, if a person were deceived). [64]

The European Commission 2005 report recorded that “All detainees are entitled to access to justice (i.e a lawyer) and for juveniles the presence of a lawyer during interrogation is obligatory. Moreover, the new Regulation on Apprehension, Detention and Statement Taking [entered into force on 1 June 2005] makes the appointment of a defence lawyer obligatory in cases where the alleged crime carries a sentence of more than 5 years’ imprisonment.” [71d] (p23)

COMMENCEMENT AND CONDUCT OF PROCEEDINGS**Preparatory investigation**

8. The public prosecutor, upon being informed of the occurrence of an alleged offence, makes a preparatory investigation (hazırlık soruşturması) in order to ascertain the identity of the offender and to decide whether it is necessary to institute a public prosecution. If he concludes that a public action is necessary, he institutes a case by an indictment before the competent court. If a public action is unnecessary he decides not to prosecute. The Minister of Justice may, by order, direct the prosecutor to initiate a public prosecution. [64]
9. The public prosecutor may, for the purpose of his enquiry, demand any information from any public employee. He is authorised to make his investigation either directly or through police officers. The police are obliged to inform the public prosecutor immediately of events, detainees, and measures taken, and to execute orders of the prosecutor concerning legal procedures. [64]
10. In cases where a private complaint is submitted to the public prosecutor, and the prosecutor finds no reason for prosecution or decides not to prosecute after a preparatory investigation, he informs the petitioner of his decision. If the petitioner is, at the same time, the aggrieved party the petitioner may, within 15 days of notice, object to the Chief Justice of the nearest court which hears aggravated felony cases. If the court is convinced that the petition is well founded and rightful, it orders a public prosecution; the prosecutor in charge of the case executes this decision. Otherwise, the court refuses the petition, and after such action a public prosecution may be opened only upon production of newly discovered evidence. [64]
11. A public prosecution shall be dismissed when the perpetrator of an offence which is punishable by a fine or a maximum of three months’ imprisonment deposits the minimum amount of the fine prescribed for the specific offence (or,

in the case of imprisonment, the sum which is the amount prescribed by the Law of Execution of Penalties for one day of imprisonment) in the appropriate office before the court hearing. If this amount is paid by the offender before a public prosecution has been initiated, and within ten days of the date of the offence, the perpetrator shall not be prosecuted at all. [64]

12. The preparatory investigation is, in principle, secret, performed without the presence of the parties and in written form. [64]

Final investigation (trial)

13. The European Commission 2005 report noted that “Article 38 of the Constitution provides for the presumption of innocence to be applied in criminal trials. Article 36 and 141 of the Constitution guarantee the right to a fair and public trial. Article 182 of the Code of Criminal Procedure also provides for trials to be held publicly.” [71d] (p106) The final investigation or trial (son soruşturma) begins when the indictment is sent by the public prosecutor to the court which will try the case. The final investigation has two stages: the preparation for trial (duruşma hazırlığı) and the trial itself (duruşma). Its object is to examine all evidence before the court, and to reach a judgement with respect to the guilt of the accused. [64]
14. All phases of final investigation are conducted in the presence of the defendant. At his own request, a defendant may be excused from attending trial, and may send a defence counsel in cases where his presence is not necessary. Trial may also be instituted against an absentee defendant when the offence is punishable by a fine, confiscation, or both. If the suspect has already been heard by the court in an earlier session, or if he has been questioned by a judge on the facts of the case during preliminary enquiries before the trial, the trial may continue in the suspect’s absence. [64]
15. In principal trials are open to the public. This includes cases relating to state security. In political cases the audience usually includes some representatives of human rights organisations, and diplomatic staff from various countries. [2a]

The European Commission 2005 report noted that The Code of Criminal Procedure introduces the requirement that certain trials are to be recorded on audio and videotape. [71d] (p15)

See also 11.01 [The Judiciary](#) which includes the findings of the European Commission 2006 Report

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Annex E: The Court System

THE COURT SYSTEM

“The judicial system is composed of general law courts; specialized heavy penal courts; military courts; the Constitutional Court, the nation’s highest court; and three other high courts. The High Court of Appeals hears appeals for criminal cases, the Council of State hears appeals of administrative cases or cases between government entities, and the Audit Court audits state institutions. Most cases were prosecuted in the general law courts, which include civil, administrative, and criminal courts. In 2004 parliament adopted legislation providing for the establishment of regional appeals courts to relieve the high court’s caseload and allow the judiciary to operate more efficiently. The courts were scheduled to begin operations in 2007.” (USSD 2005) [5b] (Section 1e)

“There is no jury system; a judge or a panel of judges decides all cases. Trials are public. The law requires bar associations to provide free counsel to indigents who request it from the court, and bar associations across the country did so in practice. Defendants have the right to be present at trial and to consult with an attorney in a timely manner. Defendants or their attorneys can question witnesses for the prosecution and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and the right to appeal.” (USSD 2005) [5b] (Section 1e)

According to the Turkish law today, the power of the judiciary is exercised by Judicial (Criminal), and Administrative Military Courts. These Courts render their verdicts in the first instance, and the superior courts examine the verdict for the last and final ruling. The superior courts are: the Constitutional Court, The Court of Appeals, the Council of State, the Military Tribunal of Appeals, the Supreme Military Administrative Court, the Court of Jurisdictional Dispute, the Court of Accounts and the Supreme Council of Judges and Public Prosecutors. [18]

Courts

The courts in Turkey are in fact divided into courts of justice, administrative courts, military courts and Constitutional court. Except the Constitutional Court, they are further divided into lower and higher courts. [18]

A. COURTS OF JUSTICE

An old law dated 1880, which theoretically is still in force but actually has lost its identity because of a various amendments and new laws, was the first law determining the courts’ competence and jurisdiction. The law relating to the organization of the courts determines the competence and jurisdiction of the different categories of courts. [18]

i. Civil Courts of the Peace (Sulh Hukuk Hakimliği)

This is the lowest civil court in Turkey with a single judge. There is at least one in every ilçe. Its jurisdiction covers all kinds of claims where the amount does not exceed 2,000,000 Turkish Liras for the time being; claims of support, requests or minors for permission to marry or to shorten the waiting period of marriage, eviction cases for rentals by lease and all cases assigned to the court

by the Code of Civil Procedure and other laws. There are 846 Civil Courts of the Peace in Turkey. [18]

ii. **Civil Courts of First Instance (Asliye Hukuk Hakimliği)**

This is the essential and basic court in Turkey. Its jurisdiction covers all civil cases other than those assigned to the civil Courts of the Peace. There is one in every il and ilçe, and sometimes divided into several branches according to the need and necessity. There are 958 such Courts in Turkey. [18]

iii. **Commercial Courts (Asliye Ticaret Mahkemesi)**

The Commercial Courts are the specialized branches of all Civil Courts of First Instance, having jurisdiction over all kinds of commercial transactions, acts and affairs relating to any trading firm, factory, or commercially operated establishment. [18]

The Commercial Courts consist of three judges, one presiding judge, and two members. At present, 35 Commercial Courts exist in commercial centers, throughout Turkey. Where there are no Commercial courts, the Civil Courts of First Instance perform the functions of the Commercial Courts. [18]

The competence of the Commercial Courts is clearly described under Article 5 of the Commercial Code. [18]

iv. **Penal Courts of the Peace (Sulh Ceza Hakimliği)**

This is the lowest penal court with a bench of one judge. There is one in every ilçe, but it is sometimes divided into several branches according to the need and population. There are 840 such Courts in Turkey. They have jurisdiction over penal and municipal misdemeanors and all acts assigned by the Criminal Code, the Code of Criminal Procedure, the Code on the Application of the Criminal Code, and by other laws according to the assignment or to the degree of punishment stated by them. [18]

v. **Penal Courts of First Instance (Asliye Ceza Hakimliği)**

Among the penal courts, this Court with a single judge handles the essential local criminal work. Its jurisdiction covers all penal cases excluded from the jurisdiction of the Penal Court of the Peace and the Central Criminal Court. There is one in every il and in every ilçe, sometimes divided into several branches according to the need and population. Therefore, at the moment there are 899 such Courts in Turkey. [18]

vi. **Central Criminal Courts (Ağır Ceza Mahkemesi) (commonly referred to as 'Heavy Penal Courts')**

This court consists of a presiding judge and two members with a public prosecutor. Offenses and crimes involving a penalty of over five years of imprisonment, or capital punishment are under the jurisdiction of this Court of which there is one in every il. But it is sometimes divided into several branches according to the need and population. There are 172 Central criminal courts throughout Turkey. [18]

vii. **State Security Courts (Develet Güvenlik Mahkemesi)/Regional Serious Felony Courts (sometimes referred to as 'Specialised Heavy Penal**

Courts')

As noted in the European Commission Regular Report on Turkey's progress Towards Accession 2004, the State Security Courts have been abolished and replaced by Regional Serious Felony Courts (also referred to as Heavy Penal Courts). According to the previous law, State Security Courts used to handle the criminal offenses described in Article 9 of the said law which were about the security of the state. They consisted of a presiding judge and two members with a public prosecutor. There were 12 such Courts throughout Turkey. [18]

viii. Execution Investigation Authority (İcra Tetkik Hakimliği)

A court with a single judge which has jurisdiction over disputes arising during the execution of all civil sentences and judicial decrees; over all acts obstruction or rendering difficult the execution of all civil sentences and judicial decrees. There is one such Court in every ilçe in Turkey. [18]

ix. Other Lower Courts

In addition to the ordinary courts, there are 72 courts in Turkey which handle labor disputes; 443 courts which handle land registrations and surveys and 6 courts which handle traffic disputes. There are also 5 juvenile courts in Turkey. [18]

x. The Court of Cassation (Yargıtay)

The highest appellate court in Turkey is called the Court of Cassation. It is divided into 30 chambers according to their particular specialized field. There are 20 civil chambers, 10 penal chambers. Each chamber is a five-judge court with a presiding judge and four members. One elected judge by the all judges of the Court of Cassation presides over the entire Court as general President. [18]

All final judgments are appealable, except those less than 400,000 Turkish Liras and, in penal cases, judgments concerning fines up to 2,000,000 Turkish Liras, judgments of acquittal from an offense involving fines not exceeding 10,000,000 Turkish Liras, and judgments which are described in the Criminal Code or other codes as final. [18]

A letter from the British Embassy in Ankara dated 22 April 2005 noted that the Yargıtay only confirms or cancels court verdicts and does not conduct retrials. [4d]

xi. Intermediate Courts of Appeal

As recorded in the European Commission 2005 report: "The Law Establishing the Intermediate Courts of Appeal came into force on 1 June 2005. The establishment of the Courts of Appeal will substantially reduce the case load of the Court of Cassation and enable it to concentrate on its function of providing guidance to lower courts on points of law of general public importance. The Law provides that the Courts are to be established within two years of its entry into force." [71d] (p16)

B. ADMINISTRATIVE COURTS

The administrative courts include the Council of State, subordinate courts at the regions, and the Supreme Military Administrative Court. [18]

- i. **The Council of State (Danıştay)**
The highest court for controversies arising from governmental or public services and action, and for general administrative disputes, having judicial and administrative function, is the Council of State. It is the final court for cases under its own jurisdiction and a court of appeal for the decisions given by subordinate administrative courts. The Council of State has 10 judicial chambers. [18]
- ii. **Subordinate Administrative Courts (Idare ve Vergi Mahkemeleri)**
According to the law, first tier of administrative courts in Turkey are established on regional bases. The courts founded at the regions are, administrative courts (idare Mahkemeleri) and tax courts (vergi mahkemeleri). There are 22 administrative courts and 33 tax courts in Turkey. [18]
- iii. **Supreme Military Administrative Court (Askeri Yüksek Idare Mahkemesi)**
The jurisdiction of the Supreme Military Administrative Court covers cases arising from administrative acts and actions made by military authorities and also cases arising from administrative acts and actions made by civilian authorities but involving military personnel and relation to military services. The Supreme Military Administrative Court is divided into 2 chambers. [18]

C. MILITARY COURTS

- i. **Military Criminal courts (Askeri Ceza Mahkemesi)**
The jurisdiction of these Courts covers all military offenses described in the Military Criminal Code, in the Code Military Criminal Procedure, and in some other laws. There are 37 such Courts in Turkey. [18]
- ii. **The Military Criminal Court of Cassation (Askeri Yargıtay)**
According to the law, this court functions as the court of appeal of all decisions and judgments given by Military courts. It is divided into 5 chambers. [18]

D. THE CONSTITUTIONAL COURT (ANAYASA MAHKEMESİ)

The Constitutional Court is first established by the Constitution of 1961, following the example of certain post-world War II constitutions, a system of judicial control of the constitutionality of laws. This system was maintained with certain modifications by the Constitution of 1982. [18]

The Constitutional Court consists of 11 regular members and 4 substitute members. All judges of the constitutional Court hold office until they retire at the age of 65 like all other judges in Turkey. [18]

As recorded in the document 'Political Structure of Turkey' dated November 2005) available in the References section in the website of the Office of the Prime Minister, Directorate General of Press and Information (website accessed on 19 January 2006) "The decisions of the Constitutional Court are final. These decisions cannot be amended in any manner and their application cannot be delayed." [36i]

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Annex F: List of abbreviations

AI	Amnesty International
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
EU	European Union
EBRD	European Bank for Reconstruction and Development
FCO	Foreign and Commonwealth Office (UK)
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
MSF	Médecins sans Frontières
NGO	Non Governmental Organisation
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organisation of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organisation for Security and Cooperation in Europe
RSF	Reporteurs sans Frontières
STD	Sexually Transmitted Disease
STC	Save The Children
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

Annex G: References to source material

The Home Office is not responsible for the content of external websites.

Numbering of source documents is not always consecutive because some older sources have been removed in the course of updating this document. (If applicable)

[1] Europa Publications

- a "The Middle East and North Africa 2003"
- b "The Europa World Year Book 1997"
- c "The Europa World Year Book 2001"
- d "Regional Surveys of the World: The Middle East and North Africa 2005"
- e Europa World online, Turkey <http://www.europaworld.com>
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