

Official general report on Turkey

Directorate for Movements of Persons, Migration and Consular Affairs
Asylum and Migration Division

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1. Introduction

This official general report considers the present situation in Turkey in so far as is relevant in assessing asylum applications by individuals from Turkey, including whether it is reasonable to repatriate rejected asylum seekers from Turkey.

This report updates earlier official general reports on the situation in Turkey (most recently that of 18 September 2000) and the intervening official report of 13 December 2000 on Turkey and Kurdish asylum seekers. Military service in Turkey was dealt with in a separate official report (of 15 June 2000).

In producing this official report, use has been made of information obtained from the Netherlands embassy in Ankara and the Netherlands consulate general in Istanbul as well as documents from sources including Amnesty International, the German Foreign Ministry, the US State Department, the UK Home Office, Human Rights Watch, the Economist Intelligence Unit, the Council of Europe, the United Nations Economic and Social Council, the European Commission, the UNHCR and the Turkish human rights organisations IHD, TIHV and Mazlum-Der. Specialist literature and media reporting have also been drawn upon. Where non-confidential sources are referred to, the text is in many cases also based on confidential intelligence.

Section 2 depicts the domestic political and economic situation in Turkey. Following a general introduction, it considers the position of some political parties. Section 2.4 looks more specifically at the situation in south-eastern Turkey and section 2.5 then gives an account of social and economic conditions.

Section 3 describes the human rights situation in Turkey. After considering constitutional safeguards, national legislation and international conventions to which Turkey is a party, it outlines the scope for monitoring. Section 3.3 goes on to describe the human rights situation proper, including information on religious minorities, while section 3.4 addresses the position of ethnic minorities and other specific groups.

Section 4 discusses displaced persons and internal resettlement, reporting the policy of other western countries and the UNHCR in sections 4.4 and 4.5.

Section 5 sets out some general conclusions.

2. Country information

2.1. Basic details

2.1.1. Country and people

Turkey covers an area of around 780 000 km² and has a population of about 65 million, approximately 60% of whom live in urban areas. The largest conurbation is Istanbul, with a population of 10 million according to the 2000 census, other major cities in western Turkey being the capital, Ankara (3,5 million), Izmir (2,7 million) and Konya (1,7 million).

The main cities outside that region are Adana (just over 2 million), Gaziantep (1,2 million) and Diyarbakır (1 million). Those cities have seen strong population growth in recent years, as a result of a drift away from the countryside.

Turkey has a multiethnic, multi-religious society. Ethnically and linguistically, in addition to Turks and Kurds, Turkey also includes small groups of Armenians, Greeks, Turkmens, Circassians, Laz, Bulgarians, Georgians and Arabs. The Kurds number around 13 million².

Numerically, the main religious distinction is between Sunnis and Alevis. There are also about 100 000 Christians and around 2 000 Yazidis.

Turkey, a NATO member, has common borders with eight countries in the Balkans, the former Soviet Union and the Middle East³. The region is marked by a number of political and religious developments with an impact on the situation in Turkey.

² Kurds are commonly estimated to make up roughly 20% of Turkey's population. That percentage may be arrived at in part by extrapolating from the past.

³ Bulgaria, Greece, Syria, Iraq, Iran, Georgia, Armenia and Azerbaijan.

2.1.2. History

After some 700 years as an Ottoman sultanate, on 29 October 1923 Turkey became a western-style republic, led by Mustafa Kemal, who came to be known by the surname Atatürk. The Treaty of Lausanne, concluded with the western powers (on 24 July 1923), recognised and guaranteed the independence, integrity and sovereignty of the Republic of Turkey ⁴. The borders established in that treaty almost entirely match Turkey's present borders ⁵. The treaty also includes safeguards for three (non-Islamic) minorities living in Turkey: the Jews, Greeks and Armenians.

Western-inspired reforms were carried out in the fledgling republic. Turkey's leaders at the time made a radical break with Islamic-based rule, officially separating religion and state. The Arabic alphabet was abolished and replaced by a Latin script specially adapted to Turkish. Islamic laws were superseded by legislation along European (e.g. Italian, French and Swiss) lines. Dress regarded as religious-based was banned and replaced by western dress. Women working in public service were not allowed to wear headscarves. Traditional music gave way to European classical music. Use of western technology was also encouraged, as was female emancipation.

The Turkish army, seeing itself as the guardian of the Turkish state, has up until the present kept a strict watch over full adherence to Atatürk's basic principles concerning the secular, unitary nature of the republic.

⁴ As a result of that new treaty, the 1920 Treaty of Sèvres, reducing the Turkish state to less than half its present territory and ensuring a state of their own for Kurds and Armenians, among others, ceased to apply.

⁵ The only exceptions being Hatay province (adjoining Syria), which did not become part of Turkey until 1939.

In 1950 the first free elections were won by the Democratic Party, led by Adnan Menderes. In 1960 Menderes' government was overthrown by a military coup. Menderes himself was executed in September 1961, after being accused of betraying Atatürk's secular principles. Following elections in October that year, civilian rule was restored.

In 1971, in response to a flare-up of left and right-wing extremist terrorism, the army intervened once again. The re-establishment of civilian rule in 1973, coupled with the international oil crisis, ushered in a spell of economic problems, instability and political violence. Martial law was proclaimed in 1978. Two years later, on 12 September 1980, another military coup took place, led by General Kenan Evren. The new government managed to curb the political violence, but at the cost of established democratic rights.

The adoption of a new, far tougher constitution in a 1982 referendum was followed a year later by the restoration of civilian rule. The 1983 elections brought in a government led by an ANAP⁶ Prime Minister, Turgut Özal, who became President in 1989. At first, Özal earned considerable credit for the many economic reforms which he carried out. His presidential term also saw a détente in Turkish-Kurdish relations⁷, although this ended after his death in 1993. Following a decline in the popularity of the ANAP (Anavatan Partisi – Motherland Party), the DYP (Doğru Yol Partisi – True Path Party), led by Süleyman Demirel, won the elections in late 1991. Özal's death in 1993 brought in Demirel as President. The newly elected DYP leader, Tansu Çiller, that year became Turkey's first woman Prime Minister.

When the coalition lost its hold on power in September 1995, a general election was called in December that year. The pro-Islamic Refah Partisi (Welfare Party), led by Necmettin Erbakan, was returned as the largest party, with nearly 25% of the votes. In order to prevent the Welfare Party from taking power, in late February 1996 the right-wing DYP and ANAP formed a coalition, which held for only a few months. When the ANAP agreed to an corruption investigation into the DYP leader, Çiller, she reacted in no uncertain terms.

⁶ For a description of the political parties, see sections 2.2.5 and 2.3.

⁷ Özal himself was partly of Kurdish origin.

In order to avoid being investigated, Çiller did in the end consent to form a coalition with the Welfare Party. The coalition took effect on 25 June 1996, with an arrangement that the leaders of the two parties would each hold the post of Prime Minister in turn. The first turn fell to Erbakan, the Welfare Party leader, with the result that Turkey then had its first pro-Islamic Prime Minister.

Pro-Islamic government was not to last long. Not only did the coalition have to cope with a great deal of infighting, but the army also took a hand. Through the National Security Council ⁸, in which it has a very large say, the army forced Prime Minister Erbakan to sign, on 28 February 1997, a memorandum containing recommendations designed to safeguard the secular nature of the Turkish state. While he signed it, Erbakan was not subsequently as prompt as the army leadership would have liked in implementing it. A growing number of members of parliament from the Welfare Party's DYP coalition partner responded by putting an end to their cooperation with Welfare, with the result that on 30 May 1997 the coalition lost its parliamentary majority and Erbakan tendered his resignation under pressure from the army.

President Demirel called on the ANAP leader, Yılmaz, to form a new government. The coalition which he put together consisted of Ecevit's DSP, the Demokratik Türkiye Partisi (DTP), recently established by defecting DYP members of parliament, and a few independent ex-DYP members of parliament. The government was brought down in December 1998 by a parliamentary motion of no confidence, stemming from corruption accusations against Prime Minister Yılmaz.

On 11 January 1999 a minority government took office, led by Bülent Ecevit. Formed in the run-up to elections on 18 April 1999, it consisted of DSP ministers and independents, with the support of both the ANAP and the DYP.

⁸ See section 2.2.

The elections on 18 April 1999 showed that the hand-over to Turkey of the PKK leader, Öcalan, had stood the DSP in no ill stead. The upsurge in the popularity of the transitional Prime Minister, Ecevit, brought his party electoral victory, with 22,1% of the votes. The ultra-nationalist MHP came a surprisingly strong second, with 18,1%. The FP (Fazilet Partisi – Virtue Party), a pro-Islamic party established immediately after the Welfare Party was banned in January 1998, took third place (15,2%). The other parties lost votes, with the following results: ANAP: 13,2%; DYP: 12,1%; CHP: 8,7%; HADEP: 4,7%. The CHP and HADEP failed to clear the 10% electoral hurdle and thus did not qualify for any seats in parliament. The parties did win local victories, however, bringing them the mayorship of a number of towns.

2.2. System of government

2.2.1. Legislature

Parliament

Legislative powers are exercised by the unicameral, 550-member parliament, its members being directly elected for a five-year term. Members of parliament may represent a political party or sit as independents. At least 20 seats are required in order to form a parliamentary group. The present breakdown of seats is as follows ⁹: DSP: 132; MHP: 126; FP: 102; ANAP: 89; DYP: 83; independents: 10; vacant: 8.

One of parliament's main tasks is to enact legislation by debating, amending and passing bills. Once adopted, a law has to be signed by the President within a fortnight. The President is entitled to refer back to parliament a law submitted to him. If parliament again approves the law in unchanged form, the President must sign it. Such a case did arise in late 2000 over the controversial amnesty law ¹⁰.

⁹ As at 1 May 2001, as reported by Associated Press. For a description of the various parties, see section 2.2.5.

¹⁰ On the amnesty law, see section 3.3.6.

Another of parliament's duties is scrutiny of the Council of Ministers. It has various means to this end, such as putting parliamentary questions or, as a last resort, overthrowing the government by means of a no-confidence motion backed by a parliamentary majority. Parliament has lastly to approve the annual budget, rejection of which counts as a motion of no confidence.

2.2.2. Executive

President

The President is elected by parliament, acting on a proposal by at least one fifth of its members, for a non-renewable seven-year term of office. Parliament is currently discussing a constitutional amendment for a five-year term, renewable for a further five years.

Under the Turkish system of government, the President enjoys extensive powers, being able to withhold his signature from a law, convene parliament as he sees fit and make appointments to a number of senior judiciary posts. The present President, Ahmet Necdet Sezer, has repeatedly stated that he considers those powers too far-reaching. The subject is currently under discussion within the coalition.

Council of Ministers

The Council of Ministers consists of the Prime Minister, the departmental ministers and some fifteen junior ministers. The Prime Minister is always drawn from parliament, being designated by the President after elections. The other ministers are appointed by the President, acting on proposals from the Prime Minister. The entire government then has also to secure a vote of confidence in parliament.

The Turkish Council of Ministers has had some of parliament's legislative powers delegated to it. The peculiarity of those powers in Turkey, however, is that in this way the government can even amend or repeal existing laws, by means of a "decree having force of law" (in Turkish: Kanun Hükmünde Kararname, often abbreviated to KHK). Those decrees do still ultimately have to be signed by the President. On a few occasions in 2000, President Sezer referred such a KHK back to the government, without signing it, stating that the matters in question should be dealt with by parliament in a proper law ¹¹.

Local government

Turkey is divided into 80 provinces (il), each headed by a provincial governor (vali). Provinces are subdivided into districts (ilçe), administered by a district governor (kaymakam). Districts may be further broken down into subdistricts (bucak). Governors are appointed for a number of years by the central authorities in Ankara, to which they are directly accountable via a chain of responsibility extending from district governor to provincial governor and on to the central authorities in Ankara. The role of governors is to represent the central authorities in the provinces. For the provinces in the state-of-emergency (OHAL) region as a whole, there is also a "super-governor" with very sweeping powers in that region ¹².

Population records in Turkey are dealt with through the above structure, not at local authority level as in the Netherlands. 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 all citizens have had their own single, nationally registered, inalterable eleven-digit identity number ¹³. Population registers do *not* include details of addresses. Limited records of addresses are kept by village or neighbourhood heads.

¹¹ One case involved provision for large-scale dismissal of pro-Islamic civil servants. See reports by Reuters etc., in late August and early September 2000.

¹² See section 2.4.5.

¹³ Turkey's Anatolia news agency, 24 October 2000.

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, with everyone required to carry it at all times. Births have to be reported to the population registry for the place of birth without delay, so that a nüfus card can be issued straight away.

The nüfus card (blue for men, yellow/orange for women) includes the holder's date of birth, place of birth, father's and mother's names, religion and marital status. The card also states where its holder is entered in the population register. For holders up to 15 years of age, nüfus cards do not need to bear a passport photo. From the age of 15, the holder has to have the card renewed every 10 years. In the event of e.g. marriage, divorce or transfer to the population register for another locality, a new card has to be applied for. Especially in the last case, this is not always done. Loss or theft has to be reported without delay and a new card applied for straight away. There is currently a bill before parliament for a new, credit-card-format identity document, to include the personal identity number introduced in October 2000 ¹⁴.

In addition to centrally administered bodies, there are also decentralised authorities directly elected by the population, the main ones being the mayor and municipal council for a municipality (belediye) and the village or neighbourhood head (muhtar).

Every locality ¹⁵ with over 2 000 inhabitants is entitled to elect a mayor and municipal council. The mayor enjoys limited powers in areas including infrastructure (public transport, water and gas supplies, etc.) and public works (parks and gardens, pavements, refuse collection, etc.). On 19 April 2001 a bill was tabled in parliament to extend the powers of local authorities ¹⁶. In some cases, mayors and provincial or district governors find themselves at odds with one another, with the former being more representative of local interests and the latter of central government interests.

¹⁴ Zaman newspaper, 18 April 2001.

¹⁵ The same applies to areas within large cities.

¹⁶ Turkey's Anatolia news agency, 20 April 2001.

Every village or neighbourhood has its own head, often known by the Turkish name "muhtar". The muhtar acts as an intermediary between the population and the authorities, being the sole keeper of address records. The only official document that a muhtar can issue is thus a residence certificate (ikametgâh ilmühaberi). In theory, anyone taking up residence in or leaving a particular neighbourhood is supposed to report this to the local muhtar. In practice, that is often not done, with the muhtar not being approached until a need arises for a certificate of residence somewhere.

2.2.3. Judiciary¹⁷

The Turkish constitution includes some articles designed to safeguard the independence of the judiciary. Judicial decisions cannot be called into question, nor may judges or public prosecutors have their pay withheld. Judiciary independence has to be put into in perspective, however, since judges and public prosecutors are appointed by a "Supreme Council of Judges and Public Prosecutors" on which sit a number of senior judges appointed by the President and which is chaired by the Minister for Justice.

The Turkish system includes a Constitutional Court to review the constitutionality of legislation. In recent years, legal principles laid down in various international human rights conventions have also been applied as a standard. In 2000 a law was annulled for failing to observe the principle of equality before the law, as enshrined in Article 10 of the constitution¹⁸. Referral to the Constitutional Court is available to public institutions, governing parties and the main opposition party, but any member of the public may also raise a plea of unconstitutionality of a particular law in the course of judicial proceedings. In order for the matter actually to be referred to the Constitutional Court, the judge in those proceedings has to decide that referral is warranted. The Constitutional Court then as a first stage considers the admissibility of the complaint.

¹⁷ For a fuller description of the various types of court, see section 3.3.5.

¹⁸ On 21 September 2000 the Court overturned a law granting an amnesty to those guilty of certain offences. The amnesty required the offence to have been committed in the media. The Constitutional Court found that distinction to be unconstitutional.

2.2.4. National Security Council

The National Security Council (in Turkish: Milli Güvenlik Kurulu, often abbreviated to MGK) is a very important body within the Turkish system of government and derives its rationale from Article 118 of the Turkish constitution. The Council is composed of the President (who chairs it), the Prime Minister, the commander-in-chief of the armed forces, the Ministers for Defence, for the Interior and for Foreign Affairs and the commanders of the army, the air force, the navy and the jandarma ¹⁹ (gendarmarie) respectively. If the subjects to be discussed at a Council meeting so require, others may also be invited to attend. As a rule, the National Security Council holds an ordinary meeting in the presidential palace at the end of each month. Extraordinary meetings may also be held as the situation dictates.

In accordance with the relevant article of the constitution, the task of the National Security Council is to "submit to the Council of Ministers its views on taking decisions and ensuring the necessary coordination with regard to the formulation, establishment and implementation of the national security policy of the state". That very broad wording empowers the Council to extend its advisory role to virtually all affairs of state. In practice, the Council appears to make very extensive use of this legal scope and thus has a say in almost all issues arising.

The article goes on to state that: "The Council of Ministers shall give priority consideration to the decisions of the National Security Council concerning the measures that it deems 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 society". From this wording has arisen the practice that, when the Council of Ministers first meets after a National Security Council meeting, government members consider the subjects discussed at that meeting. It is also normal practice for the National Security Council's opinions to be endorsed in full by the government. Where a vote in parliament is required on an issue, too, the Council's opinion almost always results in the passing of an appropriate motion.

¹⁹ On the jandarma, see section 2.4.4.

The EU concluded in late 2000 that, via the National Security Council, the army exerts a disproportionately heavy influence on politics²⁰. The medium-term membership objectives set for Turkey in the EU's "accession partnership" therefore include the need for Turkey to ensure that, in accordance with normal practice in the European Union, the National Security Council is in fact just an advisory body and no more than that.

2.2.5. Political parties

Turkey has over 20 political parties, many of which are of little significance and obtained less than 1% of the votes in the April 1999 elections. The party political scene is very fluid, with parties continually being set up and often quietly dissolved again. Members of parliament do not always show any very strong party attachment and it is not uncommon for members to switch parties. In many cases, provinces' representatives in parliament are thus often voted for by electors on account of their personal qualities rather than their party membership.

Parties in parliament

The five parties represented in parliament at present are, in order of size:

the DSP (Demokratik Sol Partisi – Democratic Left Party), led by the Prime Minister, Bülent Ecevit, with his wife, Rahsan Ecevit, as deputy leader; a nationalist-leaning social democratic party established on 14 November 1985 as a breakaway from Atatürk's CHP;

the MHP (Milliyetçi Hareket Partisi – Nationalist Action Party), led by Devlet Bahçeli; an extreme nationalist party established on 24 January 1992. The party has recently been attempting to move somewhat more towards the centre, but is still often associated with the "Grey Wolves";

²⁰ 2000 regular report from the Commission on Turkey's progress towards accession, European Commission (8 November 2000).

the FP (Fazilet Partisi – Virtue Party), led by Recai Kutan; a pro-Islamic party established on 23 February 1998 as a successor to the banned RP (Refah Partisi – Welfare Party) ²¹;

the ANAP (Anavatan Partisi – Motherland Party), led by Mesut Yılmaz; a liberal conservative party established on 20 May 1983, which enjoys extensive support among major industrialists;

the DYP (Doğru Yol Partisi – True Path Party), led by former Prime Minister Tansu Çiller; a conservative party established on 23 June 1983, engaged in constant rivalry with the ANAP, which shares virtually the same target electorate.

Parties outside parliament

The Turkish electoral system involves a 10% threshold, which has prevented some parties with a reasonable share of the votes from gaining any seats in parliament. The following parties (in order of size) are not represented in parliament:

the CHP (Cumhuriyet Halk Partisi – Republican People's Party), led by Deniz Baykal; a social democratic party established on 9 September 1992 as a successor to the 1923 party of the same name, it sets great store by Atatürk's principles. Its predecessor was founded under the same name in 1923 by Atatürk himself as Turkey's first political party;

the HADEP (Halkın Demokrasi Partisi – People's Democracy Party), led by Murat Bozlak; a left-leaning pro-Kurdish party established in May 1994 as a successor to the previously banned HEP, DEP and ÖZDEP ²².

The other parties all won less than 2% of the votes in the last general election: BBP, ÖDP, ATP, İP, DBP, DEPAR, EMEP, DTP, LDP, BP, MP, SİP, YDH, YDP, DKP, YP, DP and AP.

²¹ See section 2.3.1.

²² See section 2.3.2.

2.3. Political developments

Six weeks after the elections on 18 April 1999, following what were by Turkish standards protracted negotiations, agreement was reached on a new coalition government, led by Prime Minister Ecevit and consisting of the MHP and ANAP, which each provided a deputy prime minister, in addition to the DSP. In spite of various internal wrangling, the coalition has so far held together.

On 10 December 1999, at its Helsinki summit, the European Union finally confirmed Turkey to be a candidate for EU membership. There can be no opening of accession negotiations until Turkey fulfils the political criteria for membership, as established in Copenhagen in 1993. On 8 November 2000 the European Commission published a report²³ assessing Turkey's progress in the light of the Copenhagen criteria. The EU summit in Nice in December 2000 approved an accession partnership listing specific targets to be met by Turkey in the short (2001) or medium term. In this way, Europe is increasingly making its mark on Turkish politics. On 19 March 2001, under the accession partnership, Turkey submitted its national programme, stating what it means to do over the years ahead in order to fulfil the conditions²⁴.

With President Süleyman Demirel's seven-year term of office due to expire in May 2000, preparations for his succession were set in hand as from the beginning of that year. Prime Minister Ecevit agreed with his coalition partners on an arrangement whereby the President's term of office would be converted into a five-year term, renewable for five years. That would enable Demirel to remain in power, which in the Prime Minister's view would make for stability.

²³ 2000 regular report from the Commission on Turkey's progress towards accession, European Commission (8 November 2000).

²⁴ *Avrupa Birliği Müktesebatının üstlenmesine ilişkin Türkiye Ulusal Programı* (Turkish national programme for the adoption of the acquis (19 March 2001), also published in English.

This, though, required a constitutional amendment. After three rounds of voting in parliament, however, on 4 April 2000 government members had to abandon their plan. The coalition parties were evidently unable to persuade enough of their members of parliament to vote in favour of the proposal. The idea of extending Demirel's tenure thus fell by the wayside.

On 5 May 2000, after three rounds of voting in parliament, Ahmet Necdet Sezer, the 58-year old head of the Constitutional Court, was elected as Turkey's tenth President. Up to then, Sezer had never taken any active part in politics. In his position as head of the Constitutional Court, he had issued strongly worded calls for respect for human rights and for constitutional reform. Sezer was sworn in on 16 May 2000, since when he has already crossed swords with the government on a number of occasions, refusing to sign certain decisions which he considered unconstitutional.

2.3.1. Fazilet Partisi

The FP²⁵, now the largest opposition party in parliament, was established on 23 February 1998 as a successor²⁶ to the RP (Refah Partisi – Welfare Party), dissolved by the Constitutional Court just over a month earlier for undermining the secular system of government. The RP's leader, Necmettin Erbakan, and seven other senior party figures were banned from politics for five years. On 24 February 1998 members of parliament for the banned party transferred en masse to the newly formed FP. Since Erbakan was no longer allowed to engage in politics, a new leader was appointed in the person of Recai Kutan, regarded by many, even within the party, as a figurehead for Erbakan²⁷.

²⁵ Standing for Fazilet Partisi – Virtue Party.

²⁶ Not officially as a successor. It is not possible in Turkey to establish a party as a successor to a banned party. The FP is thus at pains to try and avoid giving that impression.

²⁷ On 10 March 2000 Erbakan was sentenced to one year in prison for infringing Article 312 of the criminal code (incitement to hatred on religious grounds). He was due to report in January 2001 in order to serve his sentence, but escaped punishment as a result of the amnesty law of 21 December 2000.

A modernising wing within the party is strongly opposed to the former leader's extensive interference. This has led to the formation of two distinct factions within the party: a progressive one and a conservative one. Up to now, the conservative wing has managed to retain power within the party, with the conservative Kutan narrowly re-elected leader over the progressive candidate, Abdullah Gül, at the party congress on 14 May 2000. Some political observers expect the party to split²⁸. The leadership within any new party to be formed has not yet taken shape. One obvious candidate, the former mayor of Istanbul, Tayyip Erdoğan, faces the problem that, owing to a criminal conviction, he is officially no longer allowed to take an active part in politics. The ban in principle lasts for life, but may possibly be lifted after five years.

Like its predecessor, the RP, the FP is also an Islamic-based party, as reflected especially in its rhetoric, including calls for closer relations with other Islamic states and for removal of the ban on wearing the veil in public buildings²⁹. The party advocates a form of religious freedom in which the state would refrain from any form of intervention in religious affairs³⁰. Left-wing critics in particular, however, wonder whether, in arguing for religious freedom, the party also envisages scope to follow a religion other than Islam or not to follow any religion.

Owing to its Islamic leanings, the party attracted considerable support, especially in the 1990s, among migrants to the cities from the countryside, who have always tended to be looked down upon by the secular establishment. The party succeeded in projecting itself as representing that group in particular. One slogan of which the party makes extensive use is "just order"³¹. This is taken by the FP to mean combating corruption and poverty and introducing social reforms. The term is thought by sceptics, however, to refer to Islamic law as couched in the Islamic legislation (shari'a) based on the Koran and on tradition.

²⁸ Turkish Daily News, 11 October 2000.

²⁹ See section 3.3.3.

³⁰ Not at present the case. See section 3.3.3.

³¹ In Turkish: Adil Düzen.

Those sceptics also include Vural Savaş, the former public prosecutor at the Constitutional Court. On 7 May 1999 he brought proceedings against the FP, seeking to have the party closed down on the grounds that it constituted a continuation of the banned RP and a focus of anti-secular activities³². Savaş' successor, Kanadoğlu, has sought a ban on political activity by the party's founders and by some of its other members of parliament.

On 7 February 2001 the case was joined with another case against the FP, involving evidence that before its congress in May 2000 the party unlawfully made some changes to its rulebook so as to squeeze out the liberal wing within the party. Slogans expressing support for the former RP leader, Erbakan, were also heard at the congress, thus in the public prosecutor's contention showing a structural continuation of the Refah Partisi. On 24 April 2001 the FP lodged its written defence with the Court, which stated that it would hear the prosecution and the defence on 8 and 15 May 2001 and then shortly hand down its judgment³³.

There are some straws in the wind to suggest that a ban may be in the offing. The Constitutional Court has also ruled unconstitutional and overturned an amendment to Article 103 of the law on political parties, which was to raise the threshold for the closure of parties.

2.3.2. HADEP

The pro-Kurdish HADEP³⁴ was established in 1994 as a successor to the HEP, DEP and ÖZDEP parties, each in turn banned. The party has around 60 000 members and draws its support mainly from among Kurds, enjoying a considerable following in south-eastern Turkey especially. The 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.

³² Cumhuriyet newspaper, 9 July 2000.

³³ Zaman and Cumhuriyet newspapers, 25 April 2001, and Turkish Daily News, 2 May 2001.

³⁴ An acronym for Halkın Demokrasi Partisi (People's Democracy Party).

In the run-up to the elections on 18 April 1999, the chief prosecutor at the Constitutional Court applied to the Court of Appeals to have the HADEP barred from contesting the elections. The application was rejected on 8 March 1999. An appeal against that finding was dismissed by the Constitutional Court on 14 April 1999, so that the party could in the end take part in the elections.

Some 4,7% of the electorate voted for the HADEP in those elections. The party remains unrepresented in parliament because in April 1999, as in the December 1995 parliamentary elections, it failed to clear the 10% hurdle. In local elections held on the same date, however, HADEP candidates won the mayorship of six main cities³⁵ in south-eastern Turkey as well as of various smaller towns.

The HADEP as well as the IHD human rights organisation reported that the authorities obstructed campaigning for the April 1999 elections in various ways, with the party being allowed inadequate access to the media and finding it impossible to file proper lists of candidates in a number of places. The police also reportedly took insufficient action against attacks on the campaign team and in some cases even themselves helped obstruct it by, for instance, seizing leaflets³⁶.

Back on 29 January 1999 the then chief prosecutor for the Constitutional Court, Vural Savaş, brought a case in that Court against the HADEP, charging it with recruitment of guerrillas for the PKK and seeking to have the party closed down. The case is currently still pending.

Large numbers of HADEP members were arrested in 2000. Many were released again after a short while, with just over 100 HADEP members in all eventually being detained in 2000. According to Human Rights Watch, ill-treatment is common in this connection³⁷. Arrests have also been made in 2001. On 1 and 2 April 2001, for instance, the entire executive of the HADEP branch in Cizre was arrested³⁸.

³⁵ Diyarbakır, Bingöl, Batman, Siirt, Hakkari and Şırnak.

³⁶ IHD press release, 14 April 1999.

³⁷ *World Report 2001*, Human Rights Watch (December 2000).

³⁸ Cumhuriyet and Özgür Politika newspapers, 2 and 3 April 2001.

The cases in question involved charges including separatist propaganda and supporting the PKK. Prosecutions were thus brought not for membership of the HADEP but for activities or comments construed by the authorities as separatist in nature.

Those arrested also included many senior HADEP officials. On 19 February 2000 the HADEP mayors of Diyarbakır and Siirt were arrested, along with 23 others, on suspicion of supporting Öcalan. A few days afterwards they were officially charged by the court, together with the mayor of Bingöl, arrested two days later, but were released on bail.

The first public hearing in the case against the three mayors was held on 26 April 2000, when the mayors stood accused of support for the PKK. The deputy mayor of Diyarbakır, included in the same indictment, was accused of participation in the PKK. At the second hearing in the case, on 20 June 2000, a ban on leaving the country, imposed on the mayors at the previous hearing, was lifted. At the hearing on 18 October 2000, the case was adjourned until 5 December 2000, when it was once again adjourned.

Other HADEP officials against whom criminal proceedings were brought in 2000 include the chairman of the Şırnak provincial branch, the mayor of Batman, the mayor of Küçükdikili, in Adana province, and the mayor of Kızıltepe, in Mardin province.

On 24 February 2000 Ahmet Turan Demir, the HADEP's ex-leader who had given up the leadership for health reasons, and the present leader, Murat Bozlak, were sentenced to imprisonment for three years and nine months for a hunger strike in solidarity with the PKK leader, Öcalan, in 1998. On 1 June 2000 Demir was further sentenced to one year's imprisonment for disseminating separatist propaganda. A third case was brought against Demir and 16 other HADEP executive members on 4 October 2000, charging him with propaganda against the indivisible unity of the state, with a three-year sentence sought. On 15 November 2000, in another case, Izmir State Security Court sentenced Demir to ten months' imprisonment for a speech he had given in 1998.

The appeal by Demir, Bozlak and others against their conviction on 24 February 2000 came to court on 15 November 2000. Judgment was given on 31 January 2001, when the Court of Appeals found the offence to be covered by the amnesty law ³⁹ in force since late December 2000. Demir, Bozlak and 16 others thus escaped punishment in that case.

On 25 January 2001 the chairman and secretary of the HADEP branch in Silopi, in Şırnak province, disappeared without trace. They had reported to the local jandarma post that day, at their request, and have never been seen again since. Once the two officials' disappearance became known, the jandarma leadership at first denied that they had ever been summoned to appear. Only after some days was it admitted that they had been questioned, but later released. They are feared dead. According to the IHD in Diyarbakır and statements by HADEP members and relatives, the individuals in question had long been subjected to threats by the local authorities.

Frequent press reports refer to obstruction and arbitrary treatment of the HADEP by the authorities. Permission to set up a HADEP branch in Şırnak province was reportedly withheld for eight months ⁴⁰ and the HADEP mayor of Özalp, in Van province, dismissed from office by the Ministry of the Interior without any reason being given ⁴¹. According to HADEP officials, hundreds of members were also prevented from attending the party's national congress in Ankara on 26 November 2000 by security forces ⁴² along the way ⁴³. In the first few months of 2001 the HADEP branch in Silopi came under increased pressure from the authorities on account of organised protests at the disappearance of two of its officials ⁴⁴.

³⁹ See section 3.3.6.

⁴⁰ Yeni Gündem newspaper, 19 June 2000 and 6 July 2000.

⁴¹ Kurdish Observer, 17 June 2000.

⁴² The term "security forces" is used throughout this report to refer to the police, army and/or jandarma as a whole.

⁴³ BBC News on the Internet, 25 November 2000.

⁴⁴ *Monthly Report of Human Rights in Turkey – February 2001*, Human Rights Foundation of Turkey Documentation Centre (February 2001), p. 44.

A number of raids are known to have been made on HADEP offices by the security forces. A synchronised set of raids were carried out on HADEP offices in various parts of Istanbul in June 2000 and raids conducted at branch offices in Istanbul, Diyarbakır, Van, Adana and Mersin on 15 September 2000. On 11 and 12 January 2001 HADEP offices in Erzurum province and in Osmaniye district (Adana province) were raided by the security forces⁴⁵. In the course of those raids, a certain amount of material was seized, with arrests also made. Pressure on the party, which according to sources in the HADEP leadership had eased somewhat in late 2000, seems to have been stepped up again, partly as a result of events in connection with prison hunger strikes⁴⁶.

Politically, too, the HADEP meets with resistance. In June 2000 Prime Minister Ecevit launched a blistering attack on the HADEP in a speech suggesting it to be a party based on racial segregation, which is prohibited in Turkey⁴⁷. In September that year Ecevit went on to comment that desirable changes had not yet taken place in the HADEP⁴⁸. However, some political signs of rapprochement with the HADEP have also been observable. President Demirel, as he then was, did receive HADEP mayors at his residence in August 1999 and the leader of the nationalist MHP, Devlet Bahçeli, visited the south-east in September 2000, even holding talks with HADEP mayors⁴⁹, something unthinkable for a nationalist politician up until recently.

⁴⁵ *Monthly Report of Human Rights in Turkey – January 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), p. 34.

⁴⁶ See section 3.3.6.

⁴⁷ *Milliyet* newspaper, 13 June 2000, and *Özgür Politika* newspaper, 14, 15 and 16 June 2000.

⁴⁸ Superonline Nethaber Turkish Internet site, 11 September 2000.

⁴⁹ Reuters, 5 September 2000.

2.4. Security situation

The security situation is marked chiefly by the Turkish state's longstanding conflict with the PKK. The cessation of that armed struggle has brought a significant improvement in the situation. Turkey faces considerable problems with drug smuggling and transit of refugees from countries including Iraq and Iran, as well as related organised crime⁵⁰. Particularly in south-eastern Turkey, moreover, the social fabric is such as to entail blood feuds and forms of traditional dispute settlement and rough justice. Kurdish clan customs result in frequent loss of life in vendettas, against which the local Turkish authorities cannot always provide effective protection.

2.4.1. Conflict with the PKK

The longstanding conflict between the PKK and the Turkish armed forces forms a decisive factor in the security situation, particularly in south-eastern Turkey, having a noticeable impact right up to the present.

The PKK, standing for Partîya Karkerên Kurdîstan (Kurdish Workers' Party), was founded by Abdullah Öcalan in 1978 with the aim of establishing an independent, socialist Kurdish state. The PKK was the only Kurdish organisation able to remain in operation after the military coup in 1980. Its leader, Öcalan, then settled in Damascus, from where he ran the PKK up to the end of 1998 with the Syrian authorities' knowledge and approval.

⁵⁰ A car accident near the small town of Susurluk in November 1996 showed the Turkish intelligence service to have links with organised crime by right-wing extremists. Those involved in the accident included a member of parliament, a mafia boss and a senior police officer. An investigation into the affair, opened in 1997, reportedly revealed a connection with political killings by organised criminal groups at the authorities' instigation. In February 2001 a senior police officer and a senior security service officer were convicted in the case. Many others, however, are believed to have wrongly gone unpunished.

The PKK's armed operations in south-eastern Turkey, starting in 1984 and peaking from 1990 to 1994, involved attacks on civilian (in many cases Kurdish) and military targets, causing around 30 000 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 ⁵¹ 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 informers 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 ⁵².

In order to cut off the PKK's roots and hamper supplies to PKK guerrillas in the mountains, numerous villages in south-eastern Turkey were cleared of their inhabitants and burned down by the armed forces, compelling many (Kurdish) families to resettle elsewhere in Turkey ⁵³. The combat against the PKK was often also accompanied by various other kinds of human rights violations.

⁵¹ See section 2.4.4.

⁵² *Human Rights Reports for 1999: Turkey*, US State Department (24 February 2000).

⁵³ See section 4.2.

The Turkish army has in the past entered northern Iraq on a number of occasions, in order to combat the PKK there as well ⁵⁴. In April and May 2000 a force of a few thousand troops with air support again penetrated into northern Iraq. When they withdrew on 10 May 2000, the military authorities reported that 53 PKK fighters had been killed in action ⁵⁵. In May 2000 ⁵⁶ and in late 2000 and early 2001 the Turkish armed forces once again crossed the border into Iraq. Despite various newspaper reports on 6 January 2001 of a 10 000-strong force entering Iraq ⁵⁷, the true strength according to northern Iraqi parties was only 700 to 800, a figure confirmed by international observers. According to those sources, the force comprised a few artillery units supporting the PUK for a while to the north of Qala Diza in its conflict with the PKK. The Turkish army withdrew almost entirely from northern Iraq in March 2001, apart from one unit reportedly still stationed in KDP territory.

According to information from the Turkish authorities ⁵⁸, a total of just over 23 000 PKK fighters and around 5 000 members of the armed forces and security forces have been killed since 1987 in the conflict with the PKK. Just over 4 400 civilians in all are reported to have been killed. The injured number just over 11 000 for the armed forces and security forces and around 5 400 civilians. No figures are given for injured PKK fighters.

The transfer of the PKK leader, Öcalan, to Turkey from Kenya in February 1999 dealt the PKK a fresh blow, however, with ensuing demonstrations, hunger strikes and some actual or attempted attacks by PKK fighters in places such as Istanbul. Turkish newspapers accused the PKK of a bomb attack on a supermarket in Istanbul on 13 March 1999, in which 13 people were killed ⁵⁹. In mid-March 1999 the PKK announced that it would be attacking the tourist industry and urban centres. On 12 April 1999 three police officers and one civilian were killed in a bomb explosion in the southern town of Osmaniye. A number of suicide attacks were carried out in the south-east, for the first time since 1997.

⁵⁴ See also the official general reports on northern Iraq.

⁵⁵ Turkey's Anatolia news agency, 1 April 2000, Associated Press, 3 April 2000, and Reuters, 10 May 2000.

⁵⁶ Associated Press, 24 May 2000.

⁵⁷ Associated Press and the Washington Post and Hürriyet newspapers, 6 January 2001.

⁵⁸ Details given on the state-of-emergency region super-governor's web site (www.ohal.gov.tr) as at 31 January 2001.

⁵⁹ Hürriyet newspaper, 14 March 1999.

Since the elections on 18 April 1999, there has been no recurrence of the PKK bombings suffered by Turkey following Öcalan's arrest in Kenya and hand-over to Turkey in February 1999.

Öcalan's situation

On 29 June 1999 Abdullah Öcalan was sentenced to death, for high treason, by Ankara State Security Court in his trial on the island of İmralı. The Court of Appeal, which for all death sentences is automatically required to review the lower court's judgment, upheld the death sentence on Öcalan on 25 November 1999. The judgment had then still to be confirmed by parliament. Öcalan's lawyers stated that they would be appealing to the European Court of Human Rights against the judgment.

On 12 January 2000 Prime Minister Ecevit announced that, following seven hours of consultations between coalition party leaders, it had been agreed to postpone the vote in parliament on whether to enforce the sentence until after the ECHR in Strasbourg had given a ruling, thereby putting off an eventual decision on Öcalan's fate for another few years. In November 2000 the ECHR held a preliminary hearing in Öcalan's case, at which it decided to admit the case for consideration. In January 2001 Turkey lodged an objection to that decision.

Öcalan is being held in a prison on the island of İmralı in the Sea of Marmara, where he is the only inmate. On 2 March 1999 the Council of Europe Committee for the Prevention of Torture visited the prison. According to the Committee's report ⁶⁰, published in December 2000, Öcalan was in good physical health in February/March 1999, his cell was suitably equipped, he had access to books, newspapers, radio and television and he was allowed outdoor exercise twice a day. The report goes on to state that his mental health will be endangered if he does not have sufficient contact. His freedom of movement is said by the report to be limited, with the exercise yard being small and Öcalan not free to move between his cell and the surrounding area. According to the report, it is not entirely clear how much contact Öcalan has each day and in what way he has access to the media mentioned above.

⁶⁰ *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 February to 3 March 1999, Council of Europe (7 December 2000).*

According to press reports, Öcalan's state of health is not at all good and he suffers from asthma and failing eyesight ⁶¹.

There is still a second case pending against Öcalan, in which he stands charged, along with a hundred other defendants, of offences committed before the 1980 coup, with another death sentence sought against him. That case was adjourned by the court on 26 March 2001 ⁶².

Cessation of armed conflict

On 3 August 1999 Abdullah Öcalan called on PKK fighters to end their armed struggle and withdraw to beyond Turkey's borders as of 1 September that year. On that date his brother Osman, a member of the PKK's command council, announced that the PKK would in fact lay down its arms with immediate effect and withdraw from Turkey.

The extent to which Öcalan's call has been followed by PKK fighters can be seen from figures in a report by the Turkish army high command in May 2000, showing only 500 out of 5 500 PKK fighters still to be in Turkey. According to the same report, for the first five months of 2000, the number of clashes between the army and guerrillas had fallen to 18, as against 3 300 at its peak in 1994 and 488 in 1999 ⁶³.

⁶¹ Associated Press, 7 February 2001.

⁶² Turkey's Anatolia news agency, 26 March 2001.

⁶³ Turkey's Anatolia news agency, 25 and 26 May 2000.

In the Turkish periodical *Ulusal Strateji* (National Strategy), a former jandarma general reported a total of 40 clashes in 2000⁶⁴. In its report for 2000, the US State Department refers to a Turkish army figure of 45 armed clashes in all for 2000⁶⁵. Two armed clashes reportedly took place in Şırnak in January and March 2001⁶⁶. On 15 April 2001 armed fighting occurred in Bingöl, with nine PKK fighters and five soldiers killed⁶⁷. A few clashes also took place in Hakkari and Şırnak in April 2001, with four PKK fighters killed on 26 April⁶⁸.

The Turkish human rights organisation IHD reported for the first eight months of 2000⁶⁹ that the number killed in fighting had fallen to 109, as against 735 in 1999, a drop of just over 85%. The IHD's Diyarbakır branch reports a total of 12 deaths in armed clashes in February and March 2001⁷⁰.

The decline in violence and the shift in PKK activities away from the military to the political sphere have not brought any change of heart towards the PKK on the part of the Turkish authorities. PKK members who have taken part in armed conflict and wish to give themselves up cannot avail themselves of the provisions of the law on turning state's evidence⁷¹, which exclude former members of armed groups. This was borne out once again when two delegations of PKK members, described by the PKK as a peace mission, voluntarily gave themselves up as a gesture of goodwill. They were immediately taken into custody, with long prison sentences subsequently being called for and imposed on them.

⁶⁴ Quoted in *Zaman* newspaper, 14 February 2001.

⁶⁵ *Country Reports on Human Rights Practices, 2000: Turkey*, US State Department (26 February 2001).

⁶⁶ Reuters, 11 January 2001, and *Milliyet* newspaper, 16 March 2001.

⁶⁷ BBC World Service, 15 April 2001, and *Turkish Daily News*, 16 April 2001.

⁶⁸ *Turkish Daily News*, 27 April 2001.

⁶⁹ *Balance Sheet of Human Rights Violations for the first six months of 2000*, IHD (2000), and *Balance Sheet of Human Rights Violations for July and August 2000*, IHD (11 October 2000).

⁷⁰ As quoted in *Human Rights Yesterday and Today*, Human Rights Foundation of Turkey Documentation Centre, 3 April 2001.

⁷¹ Article 6 of Law No 3419 of 30 August 1988 on provisions applicable to certain criminal offenders. That law applied until 1996, but its application has subsequently been extended a number of times, most recently in 2000.

South-eastern Turkey has seen much more peaceful times since the PKK laid down its arms and largely withdrew its fighters. There has thus been a distinct improvement in the security situation there, compared with before 1999. Previously closed roads have now been reopened and new roads built in former danger zones. The number of checkpoints has decreased, although many controls still remain in place. Woods systematically destroyed in the fight against the PKK are also being replanted. Repopulation of evacuated villages, however, is not yet making any real headway ⁷².

A fatal attack on the chief of police in Diyarbakır on 24 January 2001, the disappearance of two HADEP officials the next day ⁷³ and the discovery of half a dozen unidentified bodies in Şırnak province seem to have somewhat shaken public confidence in the permanence of the improved security situation. Ali Ürküt, chairman of the HADEP provincial branch in Diyarbakır, saw the incidents as related and put them down to underworld figures with an interest in an unstable security situation in the south-east ⁷⁴.

2.4.2. Hezbollah and other pro-Islamic groups

With a raid on a home in the Üsküdar area of Istanbul on 17 January 2000, the Turkish security forces launched a large-scale campaign against Hezbollah ⁷⁵, a pro-Islamic group advocating establishment of an Islamic state. In the Üsküdar raid, the movement's founder and leader, Hüseyin Velioğlu, was killed and two others arrested. On the basis of evidence found in the home, a large number of premises were searched, revealing the bodies of thirteen missing businessmen. With many more corpses being uncovered in ensuing months, the public prosecutor was able to press charges on 156 counts of murder in the major Hezbollah trial which opened on 10 July 2000 ⁷⁶.

⁷² See section 4.2.

⁷³ See section 3.3.8.

⁷⁴ Turkish Daily News, 13 February 2001.

⁷⁵ Also known as Hizbullah. Unrelated to the Lebanese Hezbollah.

⁷⁶ Turkey's Anatolia news agency, 10 July 2000 and 25 May 2000 (the list of charges having been finalised on the latter date).

Established in Batman in 1983, Hezbollah used to operate mainly in south-eastern Turkey. The organisation came to prominence and achieved notoriety as the adversary of the PKK, with which it repeatedly clashed violently, causing perhaps an estimated 400 deaths. Its present leader, İsa Altsoy, is wanted by Interpol and reportedly living in Germany ⁷⁷.

Hezbollah has been held responsible for a large number of disappearances and killings ⁷⁸. Its victims included a former DEP member of parliament, Mehmet Sincar, and an Islamic feminist writer, Konca Kuris. After not being heard of for some years, Hezbollah found itself in the news in 1997 on account of a number of extortion cases in Istanbul. This showed it no longer to have its sights set solely on south-eastern Turkey. From that time on, the Turkish authorities began taking tougher action against the organisation, with a reported 130, 250 and 3 300 Hezbollah supporters arrested in 1998, 1999 and 2000 respectively ⁷⁹.

Prosecutions in such cases are brought mostly under Article 146 or Article 168 of the criminal code ⁸⁰. The first of those articles relates to attempted armed subversion of the established constitutional order, punishable by the death penalty, and the second to membership of a banned armed organisation, punishable by a prison sentence of up to life imprisonment. Those accused of involvement in Hezbollah's many killings are also charged with murder, the maximum sentence for which, under Article 450 of the criminal code, is the death penalty.

⁷⁷ Turkey's Anatolia news agency, 5 March 2001.

⁷⁸ In its *Monthly Report of Human Rights in Turkey – January 2001*, the Turkish human rights organisation TİHV states that the Turkish authorities gratefully seized upon the campaign as a way of also blaming Hezbollah for disappearances in which they themselves had a hand (see p. 21 of the report).

⁷⁹ The figure for 2000 was given at a press conference by the chief of police regarding police work in 2000. Source: Turkey's Anatolia news agency, 9 January 2001.

⁸⁰ Turkey's Anatolia news agency, 21 June 2000, and Cumhuriyet newspaper, 10 July 2000.

According to Human Rights Watch, while the army's conflict with the PKK was at its height, Hezbollah enjoyed at least passive support from the authorities ⁸¹, as being useful in combating the PKK. This is in fact denied by the Turkish authorities. Once the PKK no longer posed any threat, the time was ripe for a serious effort to tackle Hezbollah. The scale of operations can be seen from the number of Hezbollah members arrested in the first six months of 2000: over 2 000, according to the super-governor of the state-of-emergency region ⁸².

The security forces' many operations against Hezbollah have inflicted heavy setbacks on it, as also on the İBDA/C group, discussed below. The number of bomb attacks carried out by the group has therefore fallen considerably of late. The Turkish human rights organisation IHD reports the number of bombings to have dropped from 302 for the first eight months of 1999 to 94 for the corresponding period of 2000, a decrease of nearly 70% ⁸³. On 8 October 2000 the provincial governor of Diyarbakır stated that, in spite of those serious setbacks, Hezbollah could certainly not be considered to have been eliminated. There are said to be many teachers and religious officials involved in the organisation ⁸⁴.

Up to the time of the security forces' major action, there are no known instances of Hezbollah having targeted the authorities in its operations. Since the first raid, in Üsküdar on 17 January 2000, however, armed incidents have taken place. In Diyarbakır on 11 October 2000 a policeman was killed in a gunfight with Hezbollah and the party has been linked with the attack on the province's chief of police, Gaffar Okkan, riddled with bullets in January 2001 ⁸⁵. In April 2001 a Hezbollah member was arrested on suspicion of involvement in that attack.

⁸¹ *What is Turkey's Hizbullah? A Human Rights Watch Backgrounder*, Human Rights Watch press release, 16 February 2000.

⁸² Turkey's Anatolia news agency, 9 July 2000.

⁸³ *Balance Sheet of Human Rights Violations for the first six months of 2000*, IHD (2000), and *Balance Sheet of Human Rights Violations for July and August 2000*, IHD (11 October 2000).

⁸⁴ Superonline Nethaber Turkish Internet site, 8 October 2000.

⁸⁵ Cumhuriyet Turkish newspaper, 26 January 2001.

İslami Büyük Doğu Akıncılar – Cephe (İBDA/C)

The "Islamic Great Eastern Raiders' Front" is a fairly small, pro-Islamic group opposed to the secular structure of the state and reportedly organised in small, isolated cells ("fronts"). The organisation 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.

In recent years, the İBDA/C has again attracted attention, having been linked with the fatal bomb attack in October 1999 on a secular professor, Ahmet Taner Kışlalı, best known as a journalist for the Cumhuriyet newspaper. In December 1999 and February 2000 members of the organisation 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 the İBDA/C⁸⁶, which also laid claim to the fatal attack on two police officers in Istanbul on 1 April 2001⁸⁷.

Proceedings were brought against the İBDA/C's leader, Salih İzzet 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's sixth section⁸⁸.

⁸⁶ Associated Press, 23 February 2000. On the situation in Turkish prisons, see section 3.3.6.

⁸⁷ Turkey's Anatolia news agency, 3 April 2001, and Milliyet newspaper, 4 April 2001.

⁸⁸ Turkey's Anatolia news agency, 3 April 2001.

Malatyalılar

The radical splinter group Malatyalılar, 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. Its leadership is said to be engaged in talks with Hezbollah, with a view to assembling forces⁸⁹. In October 2000 the security forces carried out a large-scale operation against the group, arresting some 250 people in 28 provinces⁹⁰. Although there have been no known Malatyalılar acts of violence up to now, a large number of arms were found in that swoop by the security forces.

Splinter groups

In connection with bomb attacks on the secular journalist Uğur Mumcu and Professor Ahmet Taner Kışlalı in 1993 and 1999 respectively, the finger has also been pointed at the Tevhid-Selam and Jerusalem Fighters (in Turkish: Kudüs Savaşçıları) splinter groups, said to have links with Iran⁹¹. Police operations in May 2000 brought the arrest of some members and the discovery of various arms caches⁹².

2.4.3. Revolutionary groups

Left-wing revolutionary groups spring into action from time to time, attracting attention by means of attacks, shoot-outs etc., with incidents in 2000 in places such as Istanbul, Tokat and Tunceli⁹³. In early 2001 a number of attacks were carried out on police officers in Istanbul and elsewhere.

⁸⁹ Turkey's Anatolia news agency, 2 October 2000.

⁹⁰ Associated Press, 4 October 2000.

⁹¹ Associated Press, 14 May 2000, Milliyet, 15 May 2000, and Hürriyet, 9 June 2000.

⁹² Turkey's Anatolia news agency, 24 May 2000

⁹³ As stated by the Turkish chief of police at a press conference. Source: Turkey's Anatolia news agency, 9 January 2001.

Recruits to these groups, which operate in small cells, are drawn in particular from the poorer parts of Istanbul and from among inmates of the various prisons⁹⁴. There has no been change of late in the Turkish authorities' attitude towards such (often militant) organisations, whose members, including a sizeable percentage of women, still face prosecution, in particular under Articles 168 and 169 of the criminal code and Article 5 of the anti-terrorism law. More serious cases may also be prosecuted under Article 125 or Article 146 of the criminal code. The largest such groups are outlined below.

DHKP/C

The DHKP/C, standing for Devrimci Halk Kurtuluş Partisi/Cephe (Revolutionary People's Liberation Party/Front), was formed in 1993 as a splinter faction of the Devrimci-Sol (Revolutionary Left), founded in 1978, which went out of existence following the split. The other splinter faction, known as the THKP/C Devrimci Sol, is on hostile terms with the DHKP/C, but constitutes a far more minor group in scale and significance. Although the DHKP/C has long had a difficult relationship with the PKK, it has repeatedly expressed its solidarity with the Kurdish armed struggle⁹⁵.

The DHKP/C seeks to overthrow the existing Turkish system of government by armed revolution and 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 injured⁹⁶. In 1999 the authorities struck a major blow at the DHKP/C, arresting 160 members and seizing a large quantity of arms and explosives⁹⁷. In August 2000 the police caught seven DHKP/C members trying to plant a bomb at an airforce base⁹⁸. The DHKP/C has also been 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.

⁹⁴ San Francisco Chronicle, 9 January 2001.

⁹⁵ *Verfassungsschutzbericht Bayern 1999* [1999 Bavarian anti-subversion report], Verfassungsschutz Bayern [Bavarian Office for Protection of the Constitution] (2000), pp. 139-140.

⁹⁶ *Verfassungsschutzbericht Hamburg 1999* [1999 Hamburg anti-subversion report], Verfassungsschutz Hamburg [Hamburg Office for Protection of the Constitution] (2000), section 4.2.1.

⁹⁷ *1999 Report on Global Terrorism*, US State Department (2000).

⁹⁸ Turkey's Anatolia news agency, 28 August 2000.

Many of those involved in the hunger strikes in Turkish prisons in late 2000 and early 2001⁹⁹ came from among the 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 death of 30 prisoners in the prison clearance operation¹⁰⁰. Turkey's Anatolia news agency reported that, according to a circular distributed to police stations in Istanbul, the organisation had planned further attacks¹⁰¹.

TKP/ML-TİKKO

The TKP/ML, standing for Türk Komünist Partisi/Marksist Leninist (Communist Party of Turkey/Marxist-Leninist), founded in 1972, split into two wings in 1994: a partisan wing, retaining the old name TKP/ML, and an Eastern Anatolian regional committee, assuming the almost identical name TKP(ML) (with the ML in brackets). Talks have been under way since late 1999 concerning reunification of the two wings.

Both wings regard themselves as the original TKP/ML's rightful heirs and thus share precisely the same ideology. In both its manifestations, the TKP/ML advocates doing away with the present Turkish system of government and establishing a people's democratic republic along Marxist-Leninist lines, with some Maoist trappings.

In order to achieve that aim, in 1972 the TKP/ML set up armed guerrilla units, known as the TİKKO (Türk İşçiler Köylüler Kurtuluş Ordusu – Turkish Workers' and Peasants' Liberation Army), which are used by both wings alike in common for their terrorist operations.

⁹⁹ See section 3.3.6.

¹⁰⁰ San Francisco Chronicle, 9 January 2001.

¹⁰¹ Turkish Daily News, 19 January 2001.

In March 1999 two car bombs were planted in Istanbul and in Çankırı province respectively. In April 2000 an armed clash took place with the security forces in Tunceli province, killing eight people¹⁰². In September 2000 a police operation against the TIKKO in Istanbul brought the arrest of the head of its local section¹⁰³. On 6 October 2000 a suicide squad attacked the military training college in the Harbiye district of Istanbul¹⁰⁴. The TKP/ML also claimed responsibility for an attack on a police car on 11 December 2000, in which two policemen were killed¹⁰⁵. February 2001 saw two armed clashes between the TIKKO and the security forces¹⁰⁶. The attack on a jandarma general in Çorum on 22 March 2001 was said by the authorities to have been carried out by the TIKKO¹⁰⁷, which reportedly itself on 28 March 2001 laid claim to the attack¹⁰⁸.

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 the TIKKO in the Black Sea region¹⁰⁹. In October 1999 the TKP/ML announced its complete disagreement with Öcalan's call to end the armed struggle¹¹⁰. There are reported still now to be a few dozen armed TIKKO fighters in the mountains of Tunceli province.

¹⁰² NTV Turkish news channel on the Internet, 26 April 2000, and Özgür Politika newspaper, 27 April 2000.

¹⁰³ Turkey's Anatolia news agency, 25 September 2000.

¹⁰⁴ Turkey's Anatolia news agency, 6 October 2000.

¹⁰⁵ Turkey's Anatolia news agency, 12 December 2000.

¹⁰⁶ *Monthly Report of Human Rights in Turkey – February 2001*, Human Rights Foundation of Turkey Documentation Centre (February 2001), p. 8.

¹⁰⁷ Turkey's Anatolia news agency, 23 March 2001.

¹⁰⁸ Özgür Politika newspaper, 29 March 2001.

¹⁰⁹ *Verfassungsschutzbericht Nordrhein-Westfalen 1999* [1999 North Rhine-Westphalia anti-subversion report], Verfassungsschutz Nordrhein-Westfalen [North Rhine-Westphalia Office for Protection of the Constitution] (2000), section 4.1.4.

¹¹⁰ *Verfassungsschutzbericht Hamburg 1999* [1999 Hamburg anti-subversion report], Verfassungsschutz Hamburg [Hamburg Office for Protection of the Constitution] (2000), section 4.2.3.

MLKP

The MLKP (Marksist Leninist Komünist Partisi – Marxist-Leninist Communist Party), formed by a merger of two other groups in 1994, likewise seeks the armed overthrow of Turkey's present political system. The party 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-18 ¹¹¹.

2.4.4. Security forces

The various forces engaged in maintaining security are the police, the jandarma, the army and the village guards. There is also an intelligence service: the MİT (Milli İstihbarat Teşkilatı – National Intelligence Organisation).

The sphere of operation of the police, coming under the Ministry of the Interior, is confined to urban areas. For all cases involving political offences, with or without violence, each local police force has a special anti-terrorist section (Terörle Mücadele Şubesi). There are also mobile units, known in Turkish as Çevik Kuvvet (flying squad), to deal with demonstrations and disturbances of public order.

In the countryside, policing is performed by the jandarma ¹¹², who take their orders from more than one source. For training and special duties, the jandarma come under the General Staff, for arms and equipment under the army and for security and public order under the Ministry of the Interior. In addition to policing, the jandarma also have to combat smuggling, guard the outside of prisons and trace fugitives evading military service. Conscripts make up over 90% of their strength. The jandarma have their own intelligence service: the JİTEM.

¹¹¹ *Verfassungsschutzbericht Hamburg 1999* [1999 Hamburg anti-subversion report],
Verfassungsschutz Hamburg [Hamburg Office for Protection of the Constitution] (2000),
section 4.2.5.

¹¹² Also known as the gendarmes or gendarmerie.

For the purposes of combating the PKK, the armed forces have some 200 000 troops stationed in the south-east, including highly trained commandos. There are also special teams (Özel Tim, plural: Özel Timler), coming under the army, police or jandarma, involved in combating the PKK. Some 15 000 to 20 000 members of such teams, all of whom have volunteered upon completion of their national service, are heavily armed and specially trained in anti-guerrilla warfare ¹¹³. According to the Turkish military authorities and international observers, the Özel Timler have been completely withdrawn from the south-east since 2000, a claim contradicted by the IHD. Attempts are currently being made to reintegrate those teams into society, partly by assigning them posts in the police. This is said to be a very laborious process.

For auxiliary tasks and provision of information, the security forces have made extensive use of "village guards" ¹¹⁴, recruited from among the local population.

2.4.5. State of emergency

A state of emergency ¹¹⁵ (in Turkish: Olağanüstü Hal, often abbreviated to OHAL) has applied in some eleven provinces in south-eastern Turkey since being introduced in the mid-1980s. It remained in force in six provinces in 1999. The state of emergency was lifted the Siirt province in late 1999 and in Van province as well in June 2000, thus now remaining in force in four provinces: Diyarbakır, Tunceli, Şırnak and Hakkari. As recommended by the National Security Council on 26 February 2001, the government decided to renew the state of emergency in those provinces for a further four months as from 30 March 2001, which parliament agreed to in 27 March 2001 ¹¹⁶.

¹¹³ For a fuller description of the army, see also the official general report of 15 June 2000 on Turkey and military service, a new version of which is to be issued in summer 2001.

¹¹⁴ See section 3.4.2.

¹¹⁵ Also referred to as emergency powers.

¹¹⁶ Turkey's Anatolia news agency, 26 February and 27 March 2001.

The provinces in the state-of-emergency region as a whole are administered by a super-governor, based in Diyarbakır, who takes precedence over individual provincial governors and is vested by law ¹¹⁷ with very sweeping powers, such as imposition of a night-time or daytime curfew, restrictions on press freedom, introduction of special identity checks, sealing off or evacuation of particular areas, control of theatre and cinema performances, searches of organisations' offices or closure of organisations, without specifying any reason, for up to three months. That governor also has special security powers in what are termed adjacent provinces ¹¹⁸, of which there are currently seven: Batman, Bingöl, Bitlis, Mardin, Muş, Siirt and Van.

Application of the state of emergency or otherwise also has legal implications. Under the Turkish code of criminal procedure, for instance, the period for which a suspect may be held in pre-trial detention in areas covered by the state of emergency is longer than in provinces not covered by it ¹¹⁹.

Coverage by the state of emergency brings a province additional public financial assistance. Some provincial authorities have even on that account opposed the lifting of the state of emergency.

¹¹⁷ The powers are laid down in Law No 2935 of 1983, as amended in 1990.

¹¹⁸ *Country Reports on Human Rights Practices, 2000: Turkey*, US State Department (26 February 2001).

¹¹⁹ Article 128 of the Turkish code of criminal procedure. For a fuller account of the administration of criminal justice, see section 3.3.5.

2.5. Social and economic developments

Turkey has a free market economy, although many public enterprises operate within it, around half of heavy industry and banking being state-run. 45% of the labour force work in the agricultural sector. The official unemployment rate stood at 7,3% for 1999. The Economic Intelligence Unit has estimated unemployment at 8,3% for 2000. In February 2000 the Minister for Labour and Social Security quoted an unemployment rate of 11,2% ¹²⁰. The true unemployment figure is likely to be higher.

The economy, which since a crisis in 1994 had grown every year, showed a serious downturn in 1999, with 5,1% negative economic growth that year. The main reasons for this lay in the major earthquake in August 1999 and in disappointing tourism earnings as a result of publicity surrounding incidents following the arrest of the PKK leader, Öcalan, in late 1998. The fall was offset by 6,1% economic growth in 2000 ¹²¹.

One of the Turkish economy's main problems is high inflation. Consumer-price inflation averaged 65% for 1999. The Turkish authorities' stabilisation programme brought a significant fall in the figure for 2000, with average consumer-price inflation of 56% for the year and a twelve-month average inflation rate down to 39% by December 2000.

Another factor adversely affecting the Turkish economy is corruption. Some corruption scandals involving a number of private-sector banks and energy contracts in late 2000 and early 2001 showed that the authorities are making serious efforts to tackle corruption. Those scandals triggered an economic crisis in November 2000, with confidence in banking strongly shaken.

¹²⁰ Turkey's Anatolia news agency, 18 February 2001.

¹²¹ Figure from the national statistical institute (DİE), as reported in Milliyet newspaper, 1 April 2001.

A fresh economic crisis arose in February 2001. Public awareness of a disagreement between the President and the Prime Minister at a National Security Council meeting, after the Prime Minister walked out of the meeting, caused a loss of public confidence in the Turkish authorities and a flight from the currency. This brought a sharp upsurge in interest rates, prompting the authorities to let the Turkish lira's exchange rate float freely. The lira thereupon lost 30% of its value against the dollar. Individual purchasing power suffered heavily from the crisis.

Following that crisis, Turkey abandoned the IMF programme referred to earlier and on 14 April 2001 announced a new – national – programme, under Kemal Derviş from the World Bank, as a junior minister, to put the economy back on an even keel. The programme includes reform of banking, redemption of public debt and extensive privatisation. As part of the programme, the central bank was made independent of central government, by law, on 25 April 2001 ¹²².

Average health care standards in Turkey fall far behind those in western Europe. Provision of suitable health care facilities is restricted by chronic budget deficits and hampered by the fact that 40% of the population live in less accessible areas. The social security system is available to only 60% of the population. Social security institutions face huge financial difficulties. The minimum wage, adjusted every two years, is inadequate to make ends meet, particularly for families. The needy often have to rely on assistance from relatives and other acquaintances. They can also turn to religious institutions.

Prosperity in Turkey is unevenly distributed. According to a survey carried out in 2000 ¹²³, about 15% of the population have an average monthly disposable income of over USD 2 750, while about 18% of the population have less than USD 266 a month to live off. In July 2000 the United Nations Food and Agriculture Organisation (FAO) stated there to be around 13 million Turks living below the poverty line ¹²⁴.

¹²² BBC World Service, 25 April 2001.

¹²³ Quoted in *Turkey, Country Profile, 2000*, the Economist Intelligence Unit (14 August 2000), p. 20.

¹²⁴ Reuters, 6 July 2000.

Disproportionately large income differentials are to be found not only between social classes but also between regions, western Turkey being far more prosperous than the east of the country. Incomes and living standards in eastern Turkey contrast sharply with those in the industrialised north and west. In 1998 the per capita income of the population of Kocaeli (İzmit) in the industrialised north-west stood at USD 7 601 a year, while annual income in Ağrı province in the far east of Turkey amounted to USD 827 ¹²⁵. Another divide separates town and countryside, with the countryside coming off worse.

The east-west divide is also reflected in differences in public facilities. Education and health care in south-eastern Turkey are in a sorry state, partly on account of staff shortages. Some 450 schools currently stand closed in the south-eastern region as a direct result of the conflict with the PKK. There have been no reports of further school closures in 1999 ¹²⁶, nor in 2000. Kurdish-speaking rural communities have a very high illiteracy rate.

In south-eastern Turkey the combat against the PKK has had a disastrous effect on the development of the local economy. The unemployment rate is extremely high, partly owing to the poor economic situation in neighbouring Iraq. Another reason for unfavourable economic conditions and high unemployment in the south-east lies in "grazing bans", introduced during the state of emergency (OHAL), preventing any access to the high pastures, as a result of which many livestock farmers could no longer pursue their livelihood.

In spite of the cessation of armed struggle in late 1999, there has been no kind of economic development of Turkey's south-eastern region. While the authorities have taken a variety of steps to attract business investment in the south-east, their efforts have proved of little avail ¹²⁷.

¹²⁵ *Turkey, Country Profile, 2000*, the Economist Intelligence Unit (14 August 2000), p. 35.

¹²⁶ *Country Reports on Human Rights Practices, 1999: Turkey*, US State Department (24 February 2000).

¹²⁷ Associated Press, 20 November 2000.

2.6. Conclusions

Having come to power following the elections in April 1999, a DSP, MHP and ANAP coalition currently remains in government. In December 1999 Turkey was finally confirmed to be a candidate for membership of the European Union. In May 2000 Ahmet Necdet Sezer, a former judge, became Turkey's new President.

The Turkish system of government is highly centralised, with only a small role for local authorities. The army has a large say in the country's politics, via the National Security Council.

Legal proceedings have been brought against the Islamic Fazilet Partisi, to have it banned. Should a ban actually be imposed, some members of parliament will lose their seats.

Many officials from the legal HADEP party have recently been arrested. Prosecutions were brought in just over 100 cases in 2000, not for membership of the party but for those individuals' comments or acts construed by the authorities as separatist. The HADEP is the subject of legal proceedings seeking a ban on it, and commonly suffers harassment and obstruction by the authorities. Party offices were raided a number of times in 2000. According to HADEP sources, pressure on the party had eased somewhat for a few months but seems to have been stepped up again since the beginning of 2001.

The security situation in south-eastern Turkey is mainly affected by the longstanding conflict between the security forces and the PKK. A great deal of infrastructure has been destroyed and many villages were cleared of their inhabitants by the army. The rural population have moved in droves to the cities, where they live on the outskirts under what are often poor conditions.

Following a call to his fighters by the PKK leader, Öcalan, to end the armed struggle as of 1 September 1999, the security situation in south-eastern Turkey has improved considerably, with work under way to restore infrastructure there. There is little improvement to be seen as yet economically, with the south-east still lagging far behind the western part of Turkey. Repopulation of evacuated villages is not making any real headway. The cessation of hostilities has brought no change of heart towards the PKK on the part of the Turkish authorities. Some incidents in early 2001 seem to have rather shaken public confidence in the permanence of the improved security situation.

There are a few militant revolutionary and pro-Islamic groups active in Turkey, attracting attention chiefly by means of bomb attacks. Large-scale campaigns by the security forces over the last two years have deprived pro-Islamic groups of much of their impact. Following the prison clearance operation in December 2000, revolutionary groups launched a number of attacks in retaliation for it.

Despite the cessation of armed struggle and the more political line taken by the PKK, the Turkish authorities' attitude towards the PKK has shown no change. The PKK leader, Öcalan, sentenced to death by Turkey's highest court, remains in his prison cell, awaiting a ruling by the European Court of Human Rights.

3. Human rights

3.1 Guarantees

3.1.1 Constitution

The Turkish constitution, which dates from 1982, recognises fundamental rights such as freedom of expression, press, religion, association and assembly, freedom of movement, freedom of communication, the right to privacy and the right of property, the right to a fair trial, protection from torture, inhuman treatment, house searches, arrests without warrant, arbitrary arrests, etc.

However, the constitution does allow for those freedoms to be restricted. Pursuant to Article 13, restrictions of fundamental rights may not conflict with the principles of a democratic social order. Although the basic principle is that fundamental rights may only be restricted by order of the judiciary, in emergencies the executive is also accorded such powers. The constitutional provisions in question allow of tight restrictions on fundamental rights in regions where a state of emergency has been declared. Article 119 of the constitution provides, for instance, that in a region in which a state of emergency is in force, fundamental rights and individual freedoms are governed by law. Pursuant to Article 148, decrees of the Council of Ministers issued during a state of emergency are not subject to examination of their constitutionality by the Constitutional Court.

3.1.2 Other national legislation

Articles 243 and 245 of the Turkish Criminal Code make torture by police officers an offence. Article 254 of the Criminal Code provides that evidence obtained illegally by the prosecuting authority may not be admitted to trial. The Regulation on Apprehension, Police Custody and Interrogation ¹²⁸ issued by the Prime Minister's Office on 1 October 1998 contains provisions which are intended to curb human rights violations in pre-trial detention.

¹²⁸ Resmi Gazete (Turkish Law Gazette), 1 October 1998.

Article 11 of Law No 2935 on the State of Emergency greatly restricts, *inter alia*, the freedom of movement, the freedom of association and assembly and the freedom of expression by granting the governor of the region in which a state of emergency has been declared extensive powers in those fields ¹²⁹.

Articles 155, 159 and 312 of the Criminal Code and Article 8 of the Anti-Terror Law are used to make verbal statements of opinion an offence. Public prosecutors have long tried to make such statements an offence by virtue of Article 169 of the Criminal Code (support for an illegal organisation) but the courts have made it apparent in a number of acquittals on such charges that they will not acquiesce.

3.1.3 Conventions

Turkey has acceded to most international conventions on the protection of human rights. In a number of cases Turkey entered a partial reservation when ratifying the treaties. In August 2000 Turkey signed the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Since ratification has not ensued to date, it is not yet clear whether reservations will be made in this connection. On 18 April 2001 Turkey signed Protocol No 12 to the European Convention on Human Rights concerning the prevention of all forms of discrimination ¹³⁰.

There are some instruments for the protection of human rights which Turkey has not signed. These include Protocol No 6 to the European Convention on Human Rights on the abolition of the death penalty, the Council of Europe Framework Convention for the Protection of National Minorities, the Statute of the International Criminal Court and the UN Convention on the Elimination of All Forms of Racial Discrimination. In its National Programme of 19 March 2001, Turkey declared its intention to sign the latter Convention in the near future ¹³¹.

¹²⁹ See section 2.4.5.

¹³⁰ Turkish Anatolia News Agency, 18 April 2001.

¹³¹ *Avrupa Birliği Müktesebatının üstlenmesine ilişkin Türkiye Ulusal Programı* (Turkish National Programme for the Adoption of the Acquis of the European Union), 19 March 2001, p. 13.

Turkey recognises the jurisdiction of the European Court of Human Rights. Turkish subjects who have exhausted all other national legal remedies may bring an action concerning violations of the European Convention on the Protection of Human Rights and Fundamental Freedoms before the European Court of Human Rights in Strasbourg. The number of actions brought before the Court by Turkish subjects in the period from 1 November 1998 to 29 June 2000 exceeds 2 500 ¹³². In 1999 Turkey lost all eighteen cases against her that were dealt with and was condemned twelve times by the European Court of Human Rights in 2000, being ordered to pay considerable compensation to the victims in all cases. To date Turkey has refused to comply with the verdict in one case ¹³³.

Almost all of the 1999 verdicts concerned violations of the right to freedom of expression in cases from the early 1990s. The verdicts in 2000, which concerned cases from 1992-1996, include disappearances, extra-judicial executions, deaths in custody, torture and the repression of freedom of expression.

3.2 Monitoring

Government

In June 1997 a junior minister for human rights was appointed, who is also chairman of the High Council for Human Rights. The Council is also comprised of parliamentary under-secretaries from the Ministries of General Affairs, Justice, Interior, Foreign Affairs, Education and Health. The Council's secretariat is housed in the Ministry of General Affairs. The Council investigates violations nationwide and maintains contact with social organisations. Its work is taken as a basis for advising the government on human rights policy and possible amendments to legislation.

¹³² Statistics from the ECHR quoted by Aslan Gündüz, "The land of many crossroads. Human Rights and Turkey's future in Europe" in *Orbis*, year 45, issue No 1 (winter 2001), p. 18.

¹³³ This was the Loizidou case of 1998 in which Turkey was ordered to pay compensation to Mrs Loizidou for violating her right to the peaceful use of her property in Northern Cyprus. Turkey claims not to be competent to implement the verdict.

At the end of 2000 the junior minister responsible for human rights was charged with creating a "petition bureau for human rights" ¹³⁴ in the offices of all separate province governors to which citizens may address complaints about violations. Bureaux have been opened in, among others, the provinces of Diyarbakır and Şanlıurfa. As part of the same scheme a special telephone number has been set up in the province of Gaziantep for reporting human rights violations ¹³⁵. For administrative purposes the bureaux come under the provincial governor. The head of the jandarma, directors from the Department of Education, Health and Social Security, a lawyer and some NGOs are among the members of the executive councils which investigate the complaints closely. However, human rights NGOs are not represented. The distribution of powers within the new bureaux is still uncertain. Whether the bureaux will really make a contribution to monitoring of the human rights situation remains to be seen.

A Parliamentary Human Rights Commission set up by the Turkish parliament started work in December 1990. The Commission monitors compliance with national law and international treaties on human rights at home and abroad. The Commission also visits prisons and reports to the parliament on torture, ill-treatment and abuse. The Commission is composed of 25 members of parliament from government and opposition benches ¹³⁶.

¹³⁴ Turkish Daily News, 6 December 2000.

¹³⁵ Turkish Anatolia News Agency, 27 March 2001.

¹³⁶ Law No 3686 of 5 December 1990 on the Parliamentary Human Rights Commission.

In May 2000 the Commission published eight extensive reports on its findings following inspections of various police and judicial institutions in the provinces of Istanbul, Erzurum, Erzincan, Şanlıurfa, Elazığ and Tunceli in 1998 and 2000 ¹³⁷. According to the reports, instruments of torture were found in various interview rooms and a large number of detainees interviewed by the Commission stated that they had been victims of torture. The Commission repeatedly concluded in the various reports that torture and inhuman treatment are widespread, that suspects' right of access to a lawyer is regularly denied, that physical conditions in prisons still leave a great deal to be desired and that many torturers are not prosecuted. The reports maintain that those really responsible for this state of affairs are the provincial governors and public prosecutors. The Commission noted major improvements in the province of Tunceli over the last two years.

In October 2000 the chairwoman of the Commission, Sema Pişkinsüt, who oversaw the drafting of the reports, was replaced by Hüseyin Akgül, a Member of Parliament for the nationalist MHP, which has broad support in police circles. Observers link her replacement to her progressive and critical attitude. The new chairman, Mr Akgül, declared that the Commission would continue to work in the same manner, but added that torture was not the only subject the Commission should deal with. In January 2001 a Subcommission was set up to investigate the prison raids at the end of 2000 and "F-type" prisons.

Local NGOs

In Turkey various non-governmental organisations are active in the field of human rights. Two of the most prominent are the Turkish Human Rights Foundation (TİHV ¹³⁸) and the Human Rights Association (İHD ¹³⁹).

¹³⁷ *Kovuşturma, Yargılama, Ceza ve İnfazı Tunceli (resp. Elazığ, Şanlıurfa, Erzurum, Erzincan) Raporu. 1998 ve 2000* (Report on Investigation, Prosecution, Trials, Punishment and Enforcement in Tunceli, Elazığ, Şanlıurfa, Erzurum, Erzincan), *Bakırköy Kadın ve Çocuk Tutukevi Raporu 1998 ve 2000* (Report on the Bakırköy Prison for Women and Children in Bakırköy 1998 and 2000), *Elazığ Çocuk İslahevi Raporu 1998 ve 2000* (Report on the Young Persons' Penitentiary in Elazığ 1998 and 2000) and *Çalışma Raporu 1998 - 1999* (Activity Report 1998-1999), Turkish Parliamentary Human Rights Commission (May 2000).

¹³⁸ Türkiye İnsan Hakları Vafkı (TİHV). The abbreviation HRF is used in English.

¹³⁹ İnsan Hakları Derneği (İHD). The abbreviation HRA is used in English.

The IHD was set up in 1986 with the general aim of promoting human rights in Turkey. The organisation's main activities are to collect and verify information on human rights violations. It publishes monthly reports and press releases on arrests, torture, disappearances in custody, violations of the right to freedom of expression and so on. With financial support from EU Member States the IHD organises courses for teachers and lawyers which also cover procedures for the right of individual petition. The IHD has over 50 local branches spread throughout Turkey. Within the IHD there is a strong Kurdish current which maintains close ties to the Turkish-Kurdish opposition.

The TİHV, which splintered from the IHD in 1990, has five medical centres in Turkey in the cities of Adana, Ankara, Diyarbakır, Istanbul and Izmir where victims of torture can receive treatment. The foundation uses the services of doctors who document traces of torture or abuse. The TİHV has a documentation centre and publishes daily and monthly reports on the human rights situation in Turkey.

There are many human rights organisations active in addition to the IHD and TİHV. The Turkish Democratic Foundation (TDV ¹⁴⁰) and the Helsinki Citizens' Assembly (HCA) work from Istanbul and Ankara respectively. In mid-April 2001 the HCA decided to close its office in Istanbul temporarily as a result of police intimidation for suspected support to the hunger strikers in F-type prisons. The directors of the organisation themselves decided on the temporary closure of a few weeks.

Mazlum-Der ¹⁴¹ is an organisation with Islamic leanings and has sixteen branches in the whole of Turkey. A sixth human rights organisation is the Association of Contemporary Jurists (ÇHD ¹⁴²). There are also human rights centres associated with Turkish universities.

¹⁴⁰ Türkiye Demokrasi Vakfı.

¹⁴¹ Mazlum-Der is an acronym of "İnsan Hakları ve Mazlumlar İçin Dayanışma Derneği" which means: Organisation for Human Rights and Solidarity for Repressed People.

¹⁴² Çağdaş Hukukçular Derneği.

The IHD is regularly harassed and obstructed by the authorities, namely the security forces. In recent years some IHD regional offices have been shut down and criminal proceedings have been brought against various IHD workers for separatist propaganda or support for illegal organisations. In late 2000 the Turkish General Staff admitted in response to a number of newspaper articles that it had initiated a smear campaign against human rights activists, among others, including the IHD and its then President, Akın Birdal. The army added that the plan for the campaign was never carried out ¹⁴³.

In March 2000 IHD President Akın Birdal returned to prison to serve a sentence dating from 1998. Because he was still very weak after an assassination attempt in 1998 the authorities did not find him in sufficiently good health to serve the sentence until 2000. On 23 September 2000 Birdal was released after having completed his sentence. Other criminal proceedings are currently pending against him. In all cases the charges concern public statements made by Birdal. There is at least one case in which Birdal could benefit from the amnesty decreed in December 2000 ¹⁴⁴. In February 2001 Nazmi Gür, secretary-general of the IHD, was acquitted of charges of "support for a terrorist organisation" by the first chamber of the State Security Court in Ankara.

On 10 April 2001 Amnesty International reported that Eren Keskin and Osman Baydemir, lawyers and chairmen of IHD branches in Istanbul and Diyarbakır respectively, had repeatedly been receiving death threats by phone from anonymous callers ¹⁴⁵.

¹⁴³ *Monthly Report of Human Rights in Turkey - January 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), pp. 26 and 27.

¹⁴⁴ Turkish Anatolia News Agency, 30 January 2001.

¹⁴⁵ *Death threats/Fear for Safety*, Amnesty International Urgent Action, 10 April 2001.

In 1999 and 2000 various IHD offices, including the regional offices of Mardin and Gaziantep, were shut down for three months ¹⁴⁶. In the period from 28 November 2000 to 2 January 2001, six IHD regional offices in the provinces Malatya, Gaziantep, Van, Konya, Izmir and Bursa were forced to close. The reason given was alleged IHD involvement in the hunger strikes and prison riots at the end of 2000. Of them, only the branch in Izmir has re-opened since. The Diyarbakir branch, which was closed from 1997 apart from a brief interval in April and May 2000, re-opened on 11 October 2000. The offices in Bursa and Konya have re-opened in the meantime, leaving four offices which are still closed.

Other IHD branches have been raided by the police. On 22 December the police confiscated a large amount of material in a raid on the regional office for Ankara province. In January 2001 it was the turn of the IHD head office in Ankara following media reports that the IHD was receiving funding from arch-rival, Greece.

From the material confiscated during the raids, the Turkish judicial authorities have drawn the conclusion that the IHD was guilty of support for the revolutionary organisations the DHKP/C, TKP/ML and MLKP, which were all involved in the prison riots and hunger strikes at the end of December.

As a result the entire management of the Ankara branch and a few other IHD workers are being prosecuted for infringements of Article 169 of the Criminal Code as regards support for illegal organisations. The first hearing took place on 13 February 2001. The case was adjourned to 19 March 2001, when it was adjourned again to 5 May ¹⁴⁷.

Criminal proceedings at the State Security Court in Ankara have also been commenced against the senior management of the IHD on the basis of Article 169 of the Criminal Code for support to the prison hunger strikers.

¹⁴⁶ *Annual Report 2000*, International Federation for Human Rights (2000).

¹⁴⁷ Newspaper *Yeni Gündem*, 20 March 20001.

In February 2001 the public prosecutor launched proceedings to proscribe the IHD. The charge is that the IHD allegedly dealt with matters that were not included in its statute and aims by conducting activities in connection with the hunger strikes and prison riots. The first hearing was on 22 March 2001.

The above facts give some indication that the government is thus trying to curb the IHD's activities.

Pressure on the TİHV also seems to have intensified recently. Two actions were commenced at the State Security Court in Izmir against doctors working for the TİHV and other workers accused of supporting the PKK. Most of them have been acquitted. The local authorities in Izmir, where one of the foundation's most important medical centres is based, put constant pressure on the organisation.

Mazlum-Der also encounters resistance on the part of the authorities from time to time. For instance, in January and May 1999 the regional offices in Şanlıurfa and Malatya were closed indefinitely¹⁴⁸. The office in Şanlıurfa re-opened in April 2000, but the office in Malatya is still closed¹⁴⁹.

¹⁴⁸ *Annual Report 2000*, International Federation for Human Rights (2000)

¹⁴⁹ *Country Reports on Human Rights Practices 2000, Turkey*. US State Department (26 February 2001).

International

It is possible for diplomats and representatives of international human rights organisations to monitor respect for human rights. The Turkish government cooperates with unannounced visits to prisons, etc. by the Committee for the Prevention of Torture (CPT) set up under the aegis of the Council of Europe. In the past Turkey has repeatedly refused to release CPT reports to the public and has not given permission for publication until years after the visits. This changed in December 2000 when the Turkish government authorised the publication of the CPT report on the visit from 27 February to 3 March 1999 and the preliminary observations by the CPT concerning a visit from 16 to 24 July 2000¹⁵⁰. On 16 March 2001, in addition to the CPT's preliminary observations on a visit in December 2000 and January 2001, a report on a CPT visit in 1996 was made public¹⁵¹.

The Turkish government also cooperates with United Nations special rapporteurs on their visits to Turkey. A ten-year exception to this rule was the UN Special Rapporteur on Extra-Judicial Executions, whom the authorities refused permission to visit Turkey after 1991. In February 2001 this situation changed. Special Rapporteur Ms Asma Jihangir visited Turkey and, *inter alia*, investigated the recent disappearance of two HADEP officials in the town of Silopi¹⁵².

¹⁵⁰ *Report to the Turkish Government on the Visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 February to 3 March 1999*, Council of Europe (7 December 2000) and *Preliminary observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Turkey from 16 to 24 July 2000*, Council of Europe (7 December 2000).

¹⁵¹ *Preliminary Observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Turkey in December 2000 and January 2001*, Council of Europe (16 March 2001) and *Report to the Turkish Government on the Visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 23 August 1996 and Response of the Turkish Government*, Council of Europe (16 March 2000).

¹⁵² See section 3.3.8.

Human rights monitors may, in principle, talk freely to members of the public. In the south-east, the authorities sometimes impose restrictions on monitoring. Particularly in the south-east of Turkey workers in local human rights organisations and their contacts are subject to occasional intimidation.

3.3 Observance and violations

3.3.1 Freedom of expression

The Turkish constitution guarantees the freedom of expression. That freedom is restricted by Article 155 (incitement to civil disobedience and alienating people from the institution of military service), Article 159 (insulting the army, parliament and other state institutions) and Article 312 (incitement to racial or religious hatred) of the Criminal Code and Article 8 of the Anti-Terror Law (propaganda against the indivisible integrity of state and nation). Recently there have been convictions for verbal or written offences pursuant to Article 169 of the Criminal Code (support for an illegal organisation). Statistics from the Turkish Judicial Records (*Adli Sicil*) show that in 1999 there were 480 cases pending for violations of Article 312 of the Criminal Code and 307 cases for Article 159 violations. Only one case was pending with a non-military court for violation of Article 155 in 1999 ¹⁵³.

There is a huge array of media on offer in Turkey. There is a multitude of national newspapers and a wide range of local dailies ¹⁵⁴. In addition to state radio and television there are many local radio stations and television channels which reach almost the entire population in the depths of the country. Internet is widely available.

A substantial part of the media is in the hands of one company, the Doğan media group, which is mostly loyal to the government. Over recent months a number of other media companies have run into financial trouble, leading to thousands of redundancies among journalists.

¹⁵³ Figures from the Website of the Turkish Central Judicial Records (www.adli.sicil.gov.tr). Figures on 2000 are not yet available.

¹⁵⁴ It is known that local newspapers sometimes print articles which have been "ordered" in return for payment. These are sometimes submitted in connection with asylum applications.

The media often openly voice harsh criticism of the government and administrative apparatus. This can go unpunished. There are restrictions on freedom of expression in the two areas regarded by the political and military establishment as the greatest threat to the state, namely Kurdish separatism ¹⁵⁵ and Islamic fundamentalism ¹⁵⁶. Anyone who publicly makes critical statements on either of these subjects runs the risk of prosecution. In 2000 a total of 50 journalists were arrested and released shortly afterwards, and 13 journalists were remanded in custody ¹⁵⁷.

There have been many cases in which human rights activists, politicians, and others who have made public statements about the Kurdish question, the role of Islam in society or other sensitive issues such as the role of the army or the death of thousands of Armenians in the early twentieth century ¹⁵⁸ have been prosecuted on the basis of the aforementioned legal provisions, namely Article 312. Convictions are frequent but acquittals are becoming more common, chiefly in prominent cases with extensive media coverage. On 23 December 2000 Doğu Perinçek, Chairman of the Workers' Party (IP), and former IHD President Akın Birdal were acquitted of (verbal) support for the PKK (Article 169). On 14 December the latter was also acquitted of contravening Article 312.

However, in February 2001 another case was brought against Birdal, this time for speeches he had made concerning the death and deportation of numerous Armenians during the First World War. On 19 April 2001 the trial was adjourned to 31 May.

¹⁵⁵ See section 3.4.1.

¹⁵⁶ See section 3.3.3.

¹⁵⁷ *2001 Annual Report*, Reporters Sans Frontières (3 May 2001).

¹⁵⁸ See section 3.3.3, under Armenian Orthodox Church.

In 2000 proceedings were brought pursuant to Article 312 against the former leader of the RP (Welfare Party), Necmettin Erbakan, and the Syriac Orthodox priest, Yusuf Akbulut. Erbakan was handed down a one-year prison sentence in March 2000. However, before he had begun to serve his sentence he was able to benefit from the amnesty decreed in December 2000 which applies, among others, to all written and oral offences. Akbulut had stated in an interview with a journalist in November 2000 that the Syriac Orthodox Christians had also been victims of the Armenian genocide in the early 20th century ¹⁵⁹. After two earlier hearings he was acquitted on 5 April 2001 on application by the public prosecutor on the grounds that he did not act with the intention of incitement to hatred and that the accused's statements fell within the scope of freedom of expression ¹⁶⁰.

On 12 April 2001 charges were brought against the journalist Fehmi Kuru for infringement of Article 312 of the Criminal Code. In a television programme he had interpreted the earthquake of August 1999 as God's punishment. According to the prosecution this amounted to "incitement to religious hatred". The case has been adjourned to 21 June 2001.

A large number of publications such as books and newspapers have been banned for their contents. An article which gives rise to objections can result in a temporary or permanent ban on publication. Writers and publishers of such publications are regularly prosecuted. In the first eight months of 2000, 211 publications were banned or confiscated. In the first eight months of 1999 there were 217 such cases ¹⁶¹.

¹⁵⁹ See section 3.3.3, under Armenian Orthodox Church.

¹⁶⁰ Associated Press, 5 April 2000.

¹⁶¹ *Balance Sheet of Human Rights Violations for the first six months of 2000*, IHD (2000) and *Balance Sheet of Human Rights Violations for July and August 2000*, IHD (11 October 2000).

In May 2000 the Turkish-language pro-Kurdish newspaper, *Özgür Bakış*, was permanently banned. The newspaper was directly succeeded by another, *Yeni Gündem*, which has already been confiscated on multiple occasions since it first appeared and has 45 criminal charges pending as a result of various articles ¹⁶². The publisher of the newspaper decided to stop printing on 31 March 2001 because, by its own admission, circulation was too small and the financial pressure, especially from the fines imposed in all the abovementioned court cases, had become excessive ¹⁶³. In March 2001 the left-wing newspaper *Yeni Evrensel* was banned for a week for an article that referred to torture by the security forces ¹⁶⁴. On 17 April 2001 the newspaper was banned again for 3 days and fined ¹⁶⁵.

Nadire Mater, the author of *Mehmedin Kitabı* (The Book of the Common Soldier), a collection of forty interviews with conscripts who served in south-east Turkey in the period between 1984 and 1998, and her publisher went on trial in 2000 on charges of insulting the army. She was acquitted in September 2000 and her book is once more freely available in Turkey ¹⁶⁶.

On 4 April 2001, Mehmet Uzun and Hasan Öztoprak, the author and the publisher of the book "Light as Love, Dark as Death", originally written in Kurdish and later translated into Turkish, were acquitted of charges of supporting the PKK with their book. Human rights activists who attended the trial were delighted at the verdict ¹⁶⁷.

A number of activists are currently being prosecuted for participating in the publication of a book on freedom of expression entitled "Freedom of Thought 2000". Their case is pending with the State Security Court in Ankara, which has charged them with violating Article 169 of the Criminal Code, support for the PKK. Some 70 000 Turks have signed a petition supporting the book. They have all been summoned to appear before the court. The case is still ongoing

¹⁶² *Monthly Report of Human Rights in Turkey – February 2001*, Human Rights Foundation of Turkey Documentation Centre (February 2001), p. 38.

¹⁶³ *Yeni Gündem* newspaper, 31 March 2001.

¹⁶⁴ *Yeni Evrensel* newspaper, 21 March 2001.

¹⁶⁵ *Yeni Evrensel* newspaper, 18 April 2001.

¹⁶⁶ Agence France Presse, 29 September 2000, and Washington Post, 30 November 2000.

¹⁶⁷ Associated Press, 4 April 2001, and *Hürriyet* newspaper, 5 April 2001.

In 1999 a law was passed releasing all prisoners sentenced for offences committed through the media on condition that they did not commit a similar offence in the following three years. This led to the release of 21 people ¹⁶⁸. On 20 September 2000 the Constitutional Court declared the law unconstitutional, was contrary to the principle of equality. The parliament was instructed to bring forward a new law which was to remove that inequality and be broader in scope ¹⁶⁹.

This was provided for in the form of an article in the "Amnesty Law" of 21 December 2000 ¹⁷⁰. It amended the earlier law by extending the scope to everyone who, prior to 23 April 1999, made statements in public – and consequently not only through the media – which constituted a criminal offence. The probation period of three years was also dropped ¹⁷¹. As a result a large number of people were released at the end of 2000 and charges were dropped in many cases. The former leader of the Welfare Party (RP), Necmettin Erbakan, is one of those who has benefited from the new law.

One of the powers of the Emergency Region Governor is to ban the import, distribution and sale of various publications in the region. The daily newspaper *Yeni Gündem* and other Turkish and Kurdish-language pro-Kurdish periodicals are not available in the state of emergency region. Otherwise such publications can be accessed freely on the Internet, also in that region. The governor of the state of emergency region can apply to the Ministry of the Interior for a ban on the distribution of any news which he thinks does not accurately reflect the situation in the region. This and the threat of prosecution have led to a high degree of self-censorship in the various media.

¹⁶⁸ *Türkiye’de İnsan Hakları. 1999 Yılı Analizi.* (Human Rights in Turkey. 1999 Analysis) Mazlum-Der (2000).

¹⁶⁹ *Turkey 2000 Regular Report from the Commission on Turkey’s Progress towards Accession.* European Commission (8 November 2000), p. 17

¹⁷⁰ See section 3.3.6.

¹⁷¹ Law No 4616 of 21 December 2000 on the conditional release and the suspension of trials and sentences for offences committed up until 23 April 1999, Article 2.

Radio and television broadcasts are regulated by the High Board of Radio and Television (RTÜK). The Board closely monitors broadcasts and often orders the closure of radio stations and television channels for short or long periods on grounds of insulting or coarse language, libel, separatist propaganda and broadcasting in the Kurdish language¹⁷². In 2000 the Board imposed a broadcasting ban of a total of 4 832 days on 143 television channels and 77 radio stations¹⁷³. For reporting on the hunger strikes and prison riots in the end of 2000 many radio stations were shut down, in some cases for 18 days¹⁷⁴.

The RTÜK intends to make another eleven broadcasting frequencies available to commercial television broadcasters, albeit in return for payment, which is a new development. The deadline for applying for licences expired on 26 April 2001. Sixteen national commercial broadcasters applied¹⁷⁵. The RTÜK announced that licence winners must respect the Undertaking for National Broadcasting Licences (*Ulusal Yayın Lisans Taahütnamesi*) which specifies, *inter alia*, that more educational and cultural programmes must be broadcast during prime time¹⁷⁶. On 25 April 2000 a ruling of the Council of State (*Danıştay*) prevented the RTÜK from allocating the frequencies. The RTÜK was given thirty days in which to submit a written defence to the Council of State. Another ruling will then be given which will determine whether the allocation of frequencies goes ahead¹⁷⁷.

¹⁷² See section 3.4.1 on restrictions on the Kurdish language.

¹⁷³ *Monthly Report of Human Rights in Turkey – January 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), p. 32.

¹⁷⁴ *Monthly Report of Human Rights in Turkey – February 2001*, Human Rights Foundation of Turkey Documentation Centre (February 2001), p. 37.

¹⁷⁵ Anatolia News Agency, 23 April 2001.

¹⁷⁶ Zaman newspaper, 11 April 2001.

¹⁷⁷ Radikal newspaper, 25 April 2001, and Turkish Daily News, 26 April 2001.

All education must comply with the principles of the Turkish Republic. The fundamental principles of the Republic must not be challenged in scientific research either. This restricts academic freedom. There is a central Council of Higher Education (YÖK) which, *inter alia*, appoints deans of universities. The Council, at least one of whose members is appointed by the Chief of General Staff¹⁷⁸, also has the power to dismiss lecturers and researchers, for which it has a special ten-member Committee of Experts.

On 16 March 2001 the YÖK prohibited the admission of new students to Fatih University in Istanbul for the coming academic year. The YÖK also announced that the university would be closed if measures "in certain areas" were not taken soon. The university was allegedly too Islamic in tendency¹⁷⁹. The case aroused furious reactions and various members of parliament said that the Council had overstepped its remit. On 22 March 2001 the issue was debated off the record in Parliament.

In the past various professors have been dismissed, *inter alia* for pro-Islamic publications. The universities are free to set their own research programmes but there is a high degree of self-censorship on sensitive topics, in faculties such as political science and history.

¹⁷⁸ *Turkey 2000 Regular Report from the Commission on Turkey's Progress Towards Accession*, European Commission (8 November 2000).

¹⁷⁹ Zaman, Radikal and Milliyet newspapers, 17 March 2001.

3.3.2 Freedom of assembly and association

Freedom of association and assembly is guaranteed by the constitution but is subject to certain restrictions.

According to law ¹⁸⁰ no authorisation must be applied for in order to hold a demonstration but written notice of meetings must be submitted to the governor of the relevant province or district at least 72 hours in advance if they are to be held outside the headquarters of an organisation. The same rule applies to the distribution of pamphlets, giving of press statements and issuing of publications ¹⁸¹. The governor issues the organisers with an acknowledgement of receipt which is sufficient for the demonstration to take place. A refusal to issue a receipt is confirmed in writing by a notary, and the notarial instrument is regarded as acknowledgement of receipt ¹⁸².

However, planned demonstrations are often stopped from going ahead. The governor must inform the organisers of the ban at least 24 hours before the scheduled beginning of the demonstration ¹⁸³. The Turkish authorities may also order that certain meetings be held at designated sites only. A ban on demonstrations for up to a maximum of three months may also be imposed on an entire region. The governor of Ankara province used this power on 11 April 2001 to ban demonstrations for a month ¹⁸⁴. Mass demonstrations had been held shortly before following the economic crisis in Turkey.

¹⁸⁰ Law No 2911 of 6 June 1983 on Assembly and Demonstrations.

¹⁸¹ *Turkey. Human Rights and the European Accession Partnership*, Human Rights Watch (September 2000).

¹⁸² Law No 2911 of 6 June 1983 on Assembly and Demonstrations, Article 10.

¹⁸³ Law No 2911 of 6 June 1983 on Assembly and Demonstrations, Article 18.

¹⁸⁴ BBC World News and Anatolia News Agency, 11 April 2001. See section 2.6 on the economic crisis.

Reasons for banning demonstrations are laid down by law. They include disrupting public order, national security, activities against the character of the republic, potential use of force, threatening the indivisible unity of the Turkish state¹⁸⁵. Associations and trades unions may not organise demonstrations concerning subjects which do not fall within their objectives¹⁸⁶. These provisions leave considerable leeway for banning demonstrations.

Meetings which are held despite a ban are dispersed by the security forces. In the past they have often used force to this end. According to the 2000 report by the US State Department, the use of force by security forces in breaking up demonstrations has fallen considerably since 1999, and by 2000 there were only a few cases in which force was used¹⁸⁷. The staging of unauthorised demonstrations may also lead to prosecution.

The introduction of new types of cell-block prisons in the second half of 2000 has provided recent examples of police intervention involving force¹⁸⁸. On several occasions the riot police were heavy handed in dealing with demonstrators and made numerous arrests. Most of those arrested were released shortly afterwards. Since the end of 1999 scarcely any demonstrations in support of the Kurdish cause have been held. Demonstrations for the release of the PKK leader Öcalan on 5 February 2001, the second anniversary of his arrest, were only a small-scale affair. Arrests were made.

¹⁸⁵ Law No 2911 of 6 June 1983 on Assembly and Demonstrations, Article 17.

¹⁸⁶ Law No 2911 of 6 June 1983 on Assembly and Demonstrations, Article 21.

¹⁸⁷ *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001).

¹⁸⁸ See section 3.3.6.

In previous years the authorities have always taken tough action against public meetings during Newroz¹⁸⁹, the new year celebrated by Kurds, Persians and in Central Asia on 21 March. However, in many cities in 2000 no ban was imposed on demonstrations, which, moreover, seem to have gone off peacefully. More than 80 000 attended in Diyarbakir. Only in Istanbul did the province governor ban a demonstration on the grounds that in the application for the demonstration the word "Newroz" had been spelled with a "w", a letter which does not occur in the Turkish but in the Kurdish alphabet¹⁹⁰.

In 2001 Newroz was also generally calm. Apart from in Siirt and Istanbul, HADEP was allowed to organise large-scale festivities for the second year running. The meetings organised almost everywhere by the HADEP attracted thousands of participants¹⁹¹. There were incidents in Istanbul, Siirt, Antalya and Mersin, where the police reportedly intervened when participants throwing stones at cars or shouting slogans for the PKK or the PKK leader, Öcalan¹⁹². Over 100 people were arrested in Istanbul and 39 in Mersin, 32 of the latter being released shortly afterwards.

Freedom of association is restricted in that associations and NGOs first have to submit their statutes to the authorities for approval. There is a formidable series of bureaucratic obstacles to be negotiated, meaning that applications often take a long time¹⁹³. Associations and NGOs can be banned if they conduct activities which go beyond the scope of those specified in their statutes. They may not accept funds from foreign powers. These are factors in the threatened ban on the human rights organisation IHD¹⁹⁴.

¹⁸⁹ The Turkish spelling is "Nevruz", the Kurdish spelling "Newroz".

¹⁹⁰ *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001).

¹⁹¹ Reuters, 21 March 2001, Agence France Presse, 21 March 2001, and Turkish Daily News, 21 March 2001.

¹⁹² Turkish news channel NTV via Internet (www.ntvmsnbc.com), 21 March 2001.

¹⁹³ *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001).

¹⁹⁴ See section 3.2.

In its 2000 Annual Report, the International Federation for Human Rights notes that under this rule a large number of NGOs have been banned for political activities or the contents of speeches given on public occasions¹⁹⁵. NGOs may associate with international NGOs only after authorisation from the Council of Ministers, and NGOs from outside Turkey may operate in Turkey only after authorisation from the Ministry of the Interior.

On 12 January 2001 the *Danıştay*, the Turkish administrative court of appeal, ruled that the Directorate of Associations had wrongfully closed down branches of the Islamic youth movement *Milli Gençlik Vakfı* (MGV)¹⁹⁶. The authorities had shut down all 60 branches of the MGV – an organisation which had formerly been adopted by the Welfare Party (RP) leader Erbakan and in fact functioned as a training centre for senior RP staff – in the second half of 2000¹⁹⁷.

The right to form political parties without prior permission is enshrined in law¹⁹⁸. Political parties must, however, obey the basic principles of the constitution which, *inter alia*, guarantee the secular nature of the state, and the Political Parties Law, which forbids parties to place one social class above another or discriminate on the grounds of religion, race or region. Furthermore, party names which contain words such as communist, anarchist, fascist or the name of a religion, region or ethnic group are forbidden¹⁹⁹. Parties which violate this law come into conflict with the authorities and are proscribed by them²⁰⁰. The Turkish Communist Party was compelled to change its name for that reason. Members of the armed forces and public servants are not allowed to join political parties.

¹⁹⁵ *Annual Report 2000*, International Federation for Human Rights (2000).

¹⁹⁶ *Monthly Report of Human Rights in Turkey – January 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), p. 36.

¹⁹⁷ Sabah newspaper, 22 June 2000, and Anatolia News Agency, 25 September 2000.

¹⁹⁸ Law No 2820 of 22 April 1983 on Political Parties, Article 5.

¹⁹⁹ Law No 2820 of 22 April 1983 on Political Parties, Article 96.

²⁰⁰ In December 1999 the ECHR in Strasbourg ruled that Turkey had violated the freedom of association by proscribing the ÖZDEP, a precursor of the HADEP, in 1993. See *Turkey 2000 Regular Report of the Commission on Turkey's Progress Towards Accession*, European Commission (8 November 2000).

Anyone is free to join a trade union. Workers have the right to strike, although this right does not apply to civil servants. Collective bargaining, which can only be conducted through trades unions with a certain number of members, must precede any strike action. Demonstrations for higher pay and better working conditions are also permitted in principle. However, such demonstrations are sometimes banned by province governors. For instance, in February 2001 in the province of Bingöl the civil service trade union, KESK, was allowed to give a press statement in public about the recent economic crisis, but the same was forbidden in the provinces of Ankara and Samsun, leading to various arrests²⁰¹. Since July 1995 trades unions and professional associations have been allowed to be involved in political activities, and university staff and students have been able to join political parties.

In some cases, trades unions have been suspected of supporting illegal movements such as the PKK or DHKP/C. In such cases, arrests have been made, criminal charges brought and administrative sanctions imposed. Siyami Erdem, former chairman of the civil service trade union KESK, and Salim Uslu, chairman of the trade union Hak İş, are among the group being prosecuted in relation to the book "Freedom of Thought 2000". In the first two months, 33 teachers who were members of the teachers' trade union Eğitim-Şen were transferred from the state of emergency region to schools elsewhere in Turkey. The trade union members claimed that the transfers were politically motivated²⁰².

In regions in which a state of emergency has been declared, the authorities responsible for security may search the premises of political parties and organisations out of hand. This has frequently occurred in recent months, with archives being confiscated in some cases.

²⁰¹ Özgür Politika newspaper, 28 February 2001.

²⁰² *Monthly Report of Human Rights in Turkey – January 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), p. 7.

The repression of dissident NGOs, political parties and trade unions intensified in the period around the prison incidents at the end of 2000 and the beginning of 2001²⁰³. In January 2001 the headquarters and various branches in Istanbul of the TAYAD, the Solidarity Association of Prisoners' Families, was closed after it had held weekly demonstrations over a period of months against the introduction of the new cell system in prisons²⁰⁴. Various executive members were arrested²⁰⁵. The authorities regard TAYAD as a cover for the revolutionary DHKP/C²⁰⁶. The organisation was consequently proscribed for a few years in the early 1990s.

3.3.3 Freedom of religion

The Turkish constitution describes Turkey as a secular state and provides guarantees for the freedom of belief, worship and the expression of personal religious convictions. Although there is no law explicitly prohibiting proselytising or religious conversions, prosecutions sometimes take place on the basis of Article 312 of the Criminal Code on incitement to religious hatred. To our knowledge charges brought for acts of conversion have, however, never actually led to a conviction by the courts.

The secular character of the state, laid down as one of the cornerstones of the state structure (often referred to as secularism in the context of Turkey), also means that government policy may not be based on religious considerations. The authorities are very much on the alert with regard to anyone who advocates a role for Islam in the state. So as to short-circuit people who entertain such notions, the Turkish state provides for a sort of state-controlled Islam. Secularity in Turkey does not mean a strict division of "church" and state, but rather state control of the official form of Islam. The state body set up for that purpose is the Directorate for Religious Affairs (Turkish: *Diyanet İşleri Müdürlüğü*, often abbreviated to *Diyanet*), which answers directly to the Office of the Prime Minister.

²⁰³ *Monthly Report of Human Rights in Turkey – January 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), p. 33.

²⁰⁴ See section 3.3.6.

²⁰⁵ *Monthly Report of Human Rights in Turkey – January 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), p. 36, and Associated Press, 15 January 2001.

²⁰⁶ See section 2.4.3.

Anyone arguing in favour of a greater role for Islam in the Turkish state structure can expect a reaction from the authorities. Criminal charges are often brought in such cases, even if no forced was involved.

Almost the entire Turkish population is Muslim. Only the Jews, Greek Orthodox and Armenians, in accordance with the Turkish interpretation of the 1923 Treaty of Lausanne, have official status as recognised minorities in Turkey, although that is not explicitly laid down in the Treaty. Other minorities do not exist in this scheme of things. The right to freedom of religion for the remaining non-Muslim population is guaranteed by law in the article of the constitution which states that all citizens are equal before the law.

There is no persecution solely on religious grounds in Turkey. In general it can be said that the legal guarantees for freedom of religion are respected in practice. However, religious minorities can encounter practical restrictions such as administrative difficulties in managing church buildings or other real estate. It has also been known for a difference in religious background to induce a discriminatory attitude on the part of the local population or (lower) government officials. In such cases the authorities can usually be contacted.

Although the education system is supposed to be secular, Islamic religious and moral instruction is compulsory for Muslims. For years now, members of the Armenian, Greek and Jewish minorities have been able to gain exemption from compulsory instruction on presentation of a written declaration of their non-Muslim background. In recent years this possibility has been increasingly open to Christians of other denominations²⁰⁷. Alevi are regarded as Muslims by the government and, despite the fact that their beliefs differ from those taught in the lessons on almost every point, they must attend religious instruction.

²⁰⁷ *Interim report of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of religious intolerance and of discrimination based on religion or belief. Addendum I: Situation in Turkey, United Nations (11 August 2000)*

The real estate of the three officially recognised minorities belongs in its entirety to foundations set up in 1936 (singular *vakif* and plural *vakiflar* in Turkish). The councils of those foundations are appointed from local religious communities. If for five successive years a community does not manage to select a council or cannot demonstrate that there are enough adherents to use the buildings, the property reverts to the Turkish state, which continues to administer them under the Office of Foundations. The property can be returned to the community when the conditions have been fulfilled again. This has actually happened several times.

Leaders of the Armenian and Greek religious communities claim that the authorities have created a whole series of administrative hurdles to overcome when electing a council for a foundation, with the result that no council can be formed and the property reverts to the state. The foundations formed by the recognised minorities are not allowed to acquire immovable property as an inheritance or gift, nor are they allowed to buy any. The reasons given by the Turkish authorities are that foundations did not include the acquisition of property as a possible activity in their 1936 statutes.

In 1998 legislation was adopted which formally puts checks on the building and administration of mosques. For the construction of new mosques permission must be obtained from the Directorate of Religious Affairs, which also has full authority over the mosques and the training and appointment of religious officials.

A ban dating back 50 years on the wearing of head coverings in government offices and public buildings is being increasingly enforced. Secularists view head coverings as a symbol of political Islam and a threat to the secular nature of the Turkish constitution. This sensitive question in Turkey has already been the subject of national debate for some time. Nurses, teachers and other women in the public sector have been dismissed for wearing headscarves. Students, lecturers and other staff in universities have suffered similar fates.

The Turkish member of parliament Merve Kavakçı caused a national outcry when on 2 May 1999 she wore a headscarf to her swearing-in at parliament, which was generally viewed as a deliberate challenge to the secular system. When it was discovered not long afterwards that she had applied for US nationality without the consent of the Turkish authorities, she was stripped of her Turkish nationality in February 2000, losing her parliamentary seat on 14 March 2001 ²⁰⁸.

Members of the Turkish armed forces who have a demonstrable involvement in Islamic fundamentalist activities are mostly dismissed, but suspicion of an Islamic outlook, which the military authorities deem incompatible with Kemalist principles, can give cause for dismissal. Fear of Islamic infiltration into the military apparatus plays a role here. The Turkish army, which is viewed as the guardian of the secularity of the Turkish state, is strict in making sure that no threats to the secular system arise within its own ranks.

Apparently in some cases the wearing of the headscarf by a woman can lead to her husband's dismissal from the armed forces. Public and frequent praying can also result in dismissal. Officially, a lack of discipline is frequently given as grounds. Twice a year there is a group dismissal procedure in which the military authorities dismiss a reported total ranging from tens to hundreds of career soldiers.

Alevis

The Alevis or Alawis form a heterodox current within Islam in which Ali, the son-in-law of the prophet Mohammed, plays a central role. Some Muslims think that they are very far removed from the Sunni current of Islam, which is widespread in Turkey, to the extent that they are recognised as Muslims at all and not regarded as heretics.

²⁰⁸ *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001), and Anatolia News Agency, 14 March 2001.

In any event, the Turkish state does not regard the Alevi faith as a separate religion, and the Alevis are not an officially recognised religious minority. Alevis' identity cards have "Islam" indicated as religion. According to a February 2001 report on Alevitism from the Directorate for Religious Affairs, Alevis are counted as Sunni Muslims and at first simply attended the mosques but have recently replaced them with *cemevleri* (see below)²⁰⁹. Some Alevis think that the Turkish government does not do them justice by regarding them merely as a cultural group.

Alevis do not have any mosques but use houses of worship instead (*cemevi* in the singular and *cemevleri* in the plural), which also act as socio-cultural centres. In smaller communities meetings are also held at home. In general, Alevis are considered very liberal on a religious level. Politically they have a traditional tendency to associate with groups which endeavour to curtail Sunni domination. In recent decades this has also been evident in associations with left-leaning political parties and left-wing resistance movements.

There are no official Turkish estimates of the number of Alevis. According to their own information, there are twelve to twenty million Alevis living in Turkey, which would make almost one third of the Turkish population Alevi. Other sources report that a considerably smaller proportion of the Turkish population is Alevi. A fully accurate estimate is difficult if not impossible²¹⁰.

Alevis live across the whole of Turkey, with concentrations in the western provinces of East Anatolia. In addition to the communities in Kahraman Maraş there are sizeable Alevi communities in the provinces of Hatay, Sivas, Tunceli, Erzincan, Malatya, Çorum and Elazığ. An estimated 4,5 million Alevis live in Istanbul. There are also large numbers of Alevis in other big cities.

²⁰⁹ Özgür Politika, 5 March 2001.

²¹⁰ See also *International World Directory of Minorities*, Minority Rights Group (London, 1997), p. 379.

The paradox in the position of the Alevis, who are by Turkish standards liberal, is that they generally support the secularism advocated by Atatürk yet believe that cultural and religious rights in the current state system are not adequately respected. For instance, many Alevis accuse the Turkish Directorate for Religious Affairs of being geared solely towards the Sunni faith. Nor does Turkish education system allow any room for the Alevi interpretation of Islam. Alevis are increasingly in favour of making religious instruction more objective.

In recent years the degree of organisation within the Alevi community has increased. In 1995 the Alevi organisation Cem Evi was set up. The foundation does not experience any problems or opposition from the government as regards its publications and activities. The same applies to the small number of other Alevi organisations.

Alevis occasionally have a tense or even polarised relationship with the Sunni majority. Since the end of the 1970s Alevis have sometimes felt poorly protected by the authorities. This is related to three incidents directed against Alevis in 1978, 1993 and 1995 in Kahraman Maraş, Sivas and Istanbul. There were 30 deaths in the incident in Sivas. No further incidents overtly victimising Alevis are known to have occurred since these three.

Christians

An estimated 100 000 Christians live in Turkey, most of whom belong to the Armenian Orthodox and Syriac Orthodox denominations. The Christian minorities are largely concentrated in Istanbul. The economic situation of Christians in Istanbul does not greatly differ from that of their Islamic counterparts.

Members of the Christian minorities and parishes are slightly disadvantaged. Certain professions are not open or are more difficult to access for some. Harassment of Christians in the army cannot be ruled out. The practice of posting them to units held in low esteem and other forms of discrimination against conscripts have recently ceased. Christian schoolchildren often hide their religious background for fear of repercussions as a result of possible discrimination by Islamic teachers.

Activities such as the restoration of Christian churches are not subsidised by the Turkish government. Until 1999 permission had to be sought from the authorities for construction work exceeding USD 200 000. This rule was abolished in the end of 1999 ²¹¹.

The following different Christian churches exist in Turkey.

Syriac Orthodox

Turkey has 17 000 to 21 000 Syriac Orthodox Christians, of whom approximately 15 000 to 16 000 live in Istanbul and 2 000 to 5 000 in Tur Abdin. A few live in Ankara, İzmir, İskenderun and Antalya.

The number of Syriac Orthodox Christians who traditionally lived in the villages near the city of Midyat in Tur Abdin has fallen significantly as a result of steady migration by Christians. In 1998 numbers were quoted estimating 70 Syriac Orthodox families in Midyat and 60 in Mardin. Spokesmen of the Syriac Orthodox church say that the population has remained fairly stable in the last two years.

The Patriarch of the Syriac Orthodox church, whose official title is the Syriac Orthodox Patriarch of Antioch and All the East, took up his seat in Damascus in 1959. The current Patriarch (since 14 September 1980) is Mor Ignatius Zakka I Iwas. Other spiritual leaders are Bishop Filüksinos Yusuf Çetin, Archbishop of Istanbul and Ankara, and Archbishop Timoteyos Samuel Aktaş in Tur Abdin. Syriac Orthodox Christians in Istanbul are divided into seven parishes. Church buildings of other Christian communities are sometimes used. The community in the Kadıköy district in the Asian part of Istanbul is the most thriving.

Syriac Orthodox Christians are not a recognised minority in Turkey. Only the Greek Orthodox, Armenian and Jewish communities are officially recognised minorities. Syriac Orthodox Christians are therefore not allowed their own schools, for example. A limited amount of religious instruction and teaching takes place in church language and in the vernacular in Istanbul. In 1998 such instruction was prohibited in the monasteries in Midyat and Mardin. In reality, however, instruction simply continues and is tolerated by the local authorities.

²¹¹ *Annual Report on International, Religious Freedom for 1999: Turkey*, US State Department (9 September 1999).

The relative peace brought about by the cessation of armed hostilities by the PKK at the end of 1999 (as described earlier) has also had a positive impact on the position of the Syriac Orthodox Christians living in Tur Abdin. While in the past they were caught between the Turkish government and the PKK, the situation is now reasonably calm. The situation of Syriac Orthodox Christians has not suffered any negative influence from the recent prosecution of Syriac Orthodox priest, Yusuf Akbulut²¹².

Syriac Catholic church

The Syriac Catholic community in Turkey consists of a few hundred people who live mainly in Istanbul and Tur Abdin. Vice Patriarch Sağ resides in Istanbul.

The Syriac Catholic Church assumed its final form in 1783 when the Syriac Orthodox Archbishop of Aleppo, Michail Jarweh, and four other bishops converted to the church of Rome. The centre of the Church is in Charfeh monastery in Lebanon, which is the residence of the head of the Church, Ignatius Mûsa I Da'ûd, who has the title Patriarch of Antioch. He took up office in October 1998.

There are a fair number of affluent people among the members of the Syriac Catholic Church in Istanbul. They allow the Syriac Orthodox community, with which they otherwise seem to have little contact, to use their only church in Kumkapi²¹³. This community has nothing to do with the population growth from the south-east of Turkey. The Church has a strong Latin influence²¹⁴.

Assyrian Church

There are an estimated 1 000 to a maximum 4 000 Assyrian Christians in Turkey, also known as Nestorians. Until the First World War some hundreds of thousands of Assyrians lived mainly in the south-east provinces of Van and Hakkari. In the period after 1915, they were either killed or emigrated to what are now Syria and Iraq.

²¹² See section 3.3.1 regarding Akbulut.

²¹³ J. Roldanus, *De Syrisch Orthodoxen in Istanbul. Een volk uit een ver verleden overgebleven.* (The Syriac Orthodox in Istanbul. A people from a distant past.) (Kampen: Kok, 1985), p. 112.

²¹⁴ H. Teule, "Istanbul, (As)Syrische kerken en de mogelijkheden van een binnenlands vluchtalternatief" (Istanbul, (AS) Syrian churches and the possibilities of an internal flight alternative) in *Het Christelijk Oosten* 47 (1995), p. 244.

The Assyrian Church came into being in 431, when teachings which were later to become the official doctrine in Persia were condemned by the Council of Ephesus. This group/Church is often called "Nestorian" after bishop Nestorius, who was an important advocate of that doctrine. For a long time its centre was just to the east of the East Roman Empire and it is therefore also known as the Church of the East.

In 1968 the Church splintered once more. The reason was a dispute over which calendar should be used. One faction wanted to use the "western" calendar as a guide for the church year. This group, led by Patriarch Mar Dinkha IV, who resides in Detroit, Chicago, and occasionally in Tehran, is known as the New Calendarists. The other group, led by Patriarch Mar Adday in Baghdad, wanted to keep the classical calendar. These "Old Calendarists" named their Church the "Old Church of the East". The official name of the New Calendarists' Church is the Holy Apostolic Catholic Assyrian Church of the East, often known as the Assyrian Church of the East. It should be noted that, although the word Catholic is used, there are no links with Rome. The word catholic is used to mean "general".

There has not been a spiritual leader in Turkey for some time now²¹⁵. Nor is the Church represented as an institution²¹⁶. The group seems somewhat introverted and is not involved in inter-church relations²¹⁷.

Some use the term "Assyrian" to denote nationality rather than a religious tendency. These more nationalist Christians no longer call themselves Syriac Orthodox, Syriac Catholic or Chaldeans, but Assyrians. This self-designation imbues the term "Assyrian" with a much wider meaning which spans all of the aforementioned groups and unites them under a single identity²¹⁸. On encountering the word "Assyrian" it is important to be sure how it is intended, either in the narrow sense to denote Assyrian Christians, or in the broader sense to denote Christians of all Syriac and Assyrian Churches.

²¹⁵ Peter Alford Andrews (ed.), *Ethnic Groups in the Republic of Turkey*. (Wiesbaden, Reichert Verlag 1989). [Beihefte zum Tübinger Atlas des Vorderen Orients, Reihe B Nr 60], p. 465.

²¹⁶ H. Teule, "Istanbul, (As)Syrische kerken en de mogelijkheden van een binnenlands vluchtalternatief" in *Het Christelijk Oosten* 47 (1995), p. 244.

²¹⁷ J. Roldanus, *De Syrisch Orthodoxen in Istanbul. Een volk uit een ver verleden overgebleven*. (Kampen: Kok, 1985), p. 108.

²¹⁸ H. Teule, "Kroniek Noord-Irak" (Chronicles of Northern Iraq) in *Het Christelijk Oosten* V47 N1-2 (1995), p. 143.

Chaldean Church

There are from 1 500 to a maximum of 7 000 Chaldean Christians still living in Turkey, mainly in Istanbul and a few in the province Mardin.

The Chaldean Church came into being when a section of the Church of the East (Assyrian Church) united with the Roman Catholic Church. Its union with Rome had its origins in 1533 and finally became official in 1830. The Church was nevertheless allowed to continue conducting mass in its own language. The Chaldean Patriarchate was originally established in Alqosh in Northern Iraq, but moved to Baghdad in 1930. The current Patriarch is Mar Raphael I Bidawid, who has held the office since 1989.

The number of Chaldeans in Istanbul is estimated at 600 to 1000. The community consists of two clearly distinct groups, namely Chaldeans who have already been settled in Istanbul for a long time and are well-integrated, and Christians from East Turkey who have recently migrated to Istanbul (between 1965 and 1980).

The first group is generally well-off, speaks good Turkish and works in the textile sector. There is a concentration of this group in the Kurtuluş district. Some of them attend the Chaldean church on Sundays. Those who do not live in the neighbourhood increasingly attend other (Latin) Catholic churches.

The second group of some 130 people is relatively poor. They are concentrated in the Tarlabası and Kurtuluş districts. They have not adjusted to life in Istanbul and often speak almost no Turkish. Their richer coreligionists have little inclination to look after them.

The Chaldean community does not to date have its own church building. It uses the Latin Antonius Church on the İstiklal Caddesi, the most famous shopping street in Istanbul. Vice Patriarch Paul Karataş, bishop of Amida/Diyarbakir, resides in Istanbul. He is the community's leader and only priest.

Apart from meetings after Sunday church services, which are attended by some 500 to 600 people, no organised cultural activities are known of. The Church does not have its own magazine like the Syriac Orthodox Church. There is no institutionalised contact with the much bigger and well-organised Syriac Orthodox community.

Armenian Orthodox Church

The Armenian Orthodox Church, which is officially recognised as a minority, forms the largest Christian minority in Turkey. At present, the size of the Armenian population is a steady 50 000 or so, the vast majority of whom live in Istanbul. The Armenian Orthodox Patriarchate is also established in Istanbul ²¹⁹. The current Armenian Patriarch is Mesrob II ²²⁰. He has been in office since 1998.

The Armenian community in Istanbul consists chiefly of shopkeepers and businessmen, is fairly well-off and maintains numerous contacts with Armenian communities outside Turkey. According to Turkish government statistics ²²¹, the community in Istanbul has 51 church buildings, 35 of which are actually in use, and 19 primary and secondary schools with a total of roughly 4 000 pupils and 300 teachers. There is also an Armenian hospital and two orphanages. The Armenian community, according to these government statistics, publishes two newspapers and six periodicals, including the weekly newspaper, *Agos*, which contains articles in both Armenian and Turkish.

In the rest of Turkey, the smaller Armenian communities only succeed in maintaining their identity in a few big cities. There are nine Armenian churches outside Istanbul, six of which are still in regular use ²²². In many places, however, Armenians live in very small groups with no church or priest. These groups often no longer speak Armenian, using only Turkish or Kurdish ²²³. They have nevertheless not become Muslims.

²¹⁹ The terms Gregorian or Apostolic are often used to mean Armenian Orthodox.

²²⁰ Sometimes known as Mesrob Mutafyan II.

²²¹ *Interim report of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of religious intolerance and of discrimination based on religion or belief. Addendum 1: Situation in Turkey*, United Nations (11 August 2000).

²²² *Interim report of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of religious intolerance and of discrimination based on religion or belief. Addendum 1: Situation in Turkey*, United Nations (11 August 2000).

²²³ Herman Teule and Anton Wessels (red.), *Oosterse christenen binnen de wereld van de islam (Eastern Christians within the world of Islam)* (Kampen: Kok 1997), p. 309.

The Armenian community can practise its religion freely but is faced with some administrative restrictions. The Armenian Patriarchate does not have legal personality. Since 1972 there has not been any training for Armenian priests in Turkey, while the rule is that every Armenian priest in Turkey must have Turkish nationality. The Armenian Patriarch has recently argued in favour of setting up an expert group of Armenian theologians in the theology department of one of the existing Turkish universities²²⁴. For primary and secondary education, every Armenian school must have a Turkish deputy head and the curriculum is set by the state.

In 1915 hundreds of thousands of Armenians were driven out of Anatolia by the Ottoman government. Many thousands died. Many Armenians and others characterise these events as a deliberate genocide. The Turkish government strongly denies this and claims that the incidents merely involved the expulsion of people from outside who had come into conflict with the Ottoman Empire.

The Armenian communities abroad attach great importance to having these events recognised as genocide by the international community. In January 2001 a law was adopted in France to that effect, provoking outrage in Turkey. In September 2000 in the American House of Representatives a similar bill was withdrawn at the last minute after personal intervention by the then President Clinton. In April 2001 a comparable bill was rejected by the Swiss parliament by a narrow majority.

²²⁴ *Interim report of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of religious intolerance and of discrimination based on religion or belief. Addendum I: Situation in Turkey, United Nations (11 August 2000).*

At a press conference held by all communities of Armenians living in Turkey on 30 January 2001 the Armenians declared that they were not happy with all foreign interventions in the issue ²²⁵. This was also stated in a recent letter from 48 Armenian organisations to President Chirac of France. The Armenian community in Turkey has not experienced any additional problems following these events, as was emphasised at the press conference. Patriarch Mutafyan was received by the President, Prime Minister, Chief of Staff and others in February 2001 ²²⁶. Mutafyan found the visit very positive and declared that the government representatives had taken due note of the grievances he had aired.

Armenian Catholic Church

Istanbul has an Armenian Catholic community of some 5 000 souls spread over ten parishes. The spiritual leader is Archbishop Tcholakian, who is answerable to the Pope in Rome via the Patriarch of Cilicia in Beirut ²²⁷. The community has 13 church buildings, one of which is a cathedral. The community's six primary and secondary schools have approximately 1 800 pupils. Their circumstances are similar to those of the Armenian Orthodox community. The small number of adherents means that the obligation for priests to have Turkish nationality weighs especially heavily on the Armenian Catholic community. Finding a successor to the archbishop, who is now well over eighty, will be very difficult.

Greek Orthodox Church

The Greek Orthodox community in Turkey, almost all of whom live in Istanbul, is now very small. Estimates of the number of members of the Greek Orthodox Church in Turkey range from 2 500 to 4 000. According to the Turkish government the community has 73 churches, 19 schools with 267 pupils and approximately 65 other foundations ²²⁸. The head of the Greek Orthodox Church in Turkey is Patriarch Bartholomeos I. The Patriarchate is often called the Patriarchate of Phanar after the district of Istanbul where it is situated.

²²⁵ Cumhuriyet daily newspaper, 31 January 2001.

²²⁶ Anatolia News Agency, 14 February 2001.

²²⁷ The Patriarch was resident in Istanbul until 1931.

²²⁸ *Interim report of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of religious intolerance and of discrimination based on religion or belief. Addendum I: Situation in Turkey*, United Nations (11 August 2000).

The Patriarch told the UN Special Rapporteur that his community enjoyed freedom of religion but that there were a few restrictions. Although the Greek Orthodox Church recognises the Patriarch as leader of the world-wide Church, Turkey refuses to accord him that status and regards the Patriarch merely as the head of the Greek Orthodox community in Turkey. The Patriarch and other priests are required to have Turkish nationality. Because the only Greek Orthodox seminary has been closed by the authorities since 1971 and has not re-opened despite numerous efforts, there is a shortage of new clergy for eventual leadership.

On the second day of Christmas 2000, permission was given for a church service to be held in a church in İznik (classical Nicea), which is now under state management and has been converted into a museum.

Greek Catholic Church

There is a small Greek Catholic community which has one church. They follow Byzantine rites during mass. The Latin-rite Vicar Apostolic of Istanbul heads the community.

Arabic Orthodox Church

There are an estimated 8 000 to maximum 17 000 Arabic Orthodox Christians, who mostly live in Hatay province. The community has a few church buildings. The Arabic Orthodox community in Hatay is ethnically Arabic but its religion must be regarded as Greek Orthodox. Church services are held in Arabic. The Greek Melchite Patriarch of Antioch, who resides in Damascus, is the spiritual leader.

Bulgarian Orthodox Church

The Archmandrite of the Bulgarian Orthodox Church is established in Istanbul. The exact size of the small Bulgarian Orthodox community is not known.

Bulgarian Catholic Church

The spiritual leader of the very small Bulgarian Catholic Community, who resided in Istanbul until his death some time ago, has no successor. The Bulgarian Catholic community has one church in Istanbul.

Maronite Church

Maronites were originally the followers of the hermit Maron who lived in the fifth century. The spiritual leader of the Maronites in Turkey resides in Beirut. The Maronites recognise the Pope as the highest authority. The Maronite Patriarch of Antioch resides in Lebanon. There are very few Maronites in Turkey. Some live in Hatay and Mersin.

Roman Catholic Church

Apart from the abovementioned Churches which are united with Rome, the Roman Catholic Church has one to two thousand followers in Turkey. There is an Archbishop in Izmir. There are Roman Catholic churches and establishments throughout Turkey. Twelve parish churches are in use in and around Istanbul. There are also churches, chapels, schools, hospitals, etc. elsewhere in Turkey.

Anglican Church

There is a small Anglican Church community in Turkey which mainly consists of foreigners.

Protestant Church

There are a few thousand Protestants in Turkey. Some stem from existing Christian groups such as the Armenian or Syriac Orthodox and have already been Protestants for generations.

Approximately one thousand Armenian Protestants live in Istanbul, where they have three church buildings²²⁹. There is also a small number of Syriac Protestants in Turkey. There is a Syriac Protestant Church on Midyat Square in the Tur Abdin region of south-eastern Turkey, which is currently not in use for lack of a minister and parishioners. In last decades many Syriac Protestants have joined the Syriac Orthodox Church or the new Protestant communities which have sprung up.

²²⁹ M. Numan Malkoç, *Istanbul'daki Protestan Kiliseler* (Protestant Churches in Istanbul), (Istanbul 1999), p. 82, 87 and 92.

Another section of the Protestant community in Turkey is the product of Protestant preaching over the last four decades. Local Protestant communities have emerged in the large cities in Turkey. The largest communities are in Istanbul and, to a lesser extent, in the cities of İzmir and Ankara. The ten church communities scattered around Istanbul have a total membership of a few hundred²³⁰. Some members come from existing traditional churches and have a partly Islamic background. These new Protestant communities cooperate well in Istanbul with the existing (Armenian) Protestant community. There is also a national association of Protestants with a joint spokesman.

Protestant meetings are often held in homes or converted shop premises. By virtue of a law which permits religious activities only in designated buildings, some locations at which Protestants have held meetings have been closed. In September 1999, for instance, a meeting in İzmir was disrupted and all forty attendants were arrested. Ultimately they were not prosecuted. Two weeks later a room in which gatherings were held in the Istanbul district of Zeytinburnu was also closed. On 23 March 2001 the meeting room of the Protestant community in Gaziantep was closed by the authorities for the same reasons²³¹. The rooms remain closed throughout the judicial proceedings, meaning that the community is often deprived of a meeting place for long periods. This is now the case for the Protestant community in the Istanbul district of Avcılar.

In December 2000 the highest court in Turkey, the Danıştay, approved the creation of an official foundation (vakıf) by a Protestant community in the Bostancı district of Istanbul. This community was thus the first Protestant community to acquire legal status²³².

People who engage in conversion activities are sometimes prosecuted on charges under Article 312 of the Criminal Code which forbids incitement to hatred on religious grounds. To our knowledge the courts have never made any convictions in such cases to date.

²³⁰ M. Numan Malkoç, *Istanbul'daki Protestan Kiliseler* (Protestant Churches in Istanbul) (Istanbul 1999).

²³¹ Compass Direct press agency, 24 March 2001.

²³² Compass Direct press agency, 17 January 2001.

At the beginning of March 2000 two people were arrested in Izmir for distributing bibles. After being held in custody for thirty days, they were acquitted²³³. In December 2000, criminal charges were brought against a person in Diyarbakir for distributing bibles²³⁴. The case was tried at court on 30 January and 27 March 2001. At the last sitting, two of the three witnesses made contradictory testimonies and the third witness failed to appear. The case was adjourned to 31 May²³⁵.

Jehovah's witnesses

There are some 1 500 Jehovah's witnesses in Turkey. They live in the cities of Istanbul and Izmir. As a result of around fifty court cases which they have won over recent decades, Jehovah's witnesses are now *de facto* accepted as a separate religious group. The group is nevertheless hampered in its activities by the local authorities from time to time. For instance, local authorities in the cities of Mersin and Tethiye have forbidden Jehovah's witnesses to hire rooms for meetings. An appeal has been lodged with the courts against this decision.

Individual Jehovah's witnesses are occasionally prosecuted for proselytising – which is a duty for Jehovah's witnesses according to their beliefs. There have been no convictions so far but there are cases in which Jehovah's witnesses have spent periods in custody.

According to a spokesman for the Jehovah's witnesses, there have recently been much fewer problems with the performance of military service. In general it is accepted that Jehovah's witnesses may not use weapons because of their faith. They are allotted administrative or back-up tasks. There are individual cases of harassment, according to the spokesman.

²³³ The Irish Times, 10 April 2000, and Compass Direct news agency, 11 April 2000.

²³⁴ Press release by the Alliance of Protestant Churches in Turkey, January 2001.

²³⁵ Compass Direct news agency, 28 March 2001.

Jews

Estimates of the number of Jews in Turkey range from 3 000 to 25 000. Some of the predominantly Sephardic Jews still speak Judeo-Spanish, the language of their country of origin, sixteenth-century Spanish. Turkish Jews live mainly in Istanbul and Izmir. Small numbers of Jews live in Ankara and Bursa. Some Jewish businessmen play an important role in the Turkish commercial world. They enjoy full freedom of religion and are not bothered by any harassment or similar problems.

Yezidis

There are approximately 2 000 Yezidis in Turkey. Most of them live in the provinces of Batman, Şanlıurfa, Diyarbakir and Mardin. However, the majority of Turkish Yezidis live outside Turkey. There are an estimated 25 000 Yezidis in Germany and some 2 000 in the Netherlands.

The faith of the Yezidis ²³⁶, who are wrongly known as devil-worshippers, draws elements from various beliefs in the region such as Zoroastrianism, Christianity and Islam. Malak Ta'us, the Peacock Angel, has an important position in their religion. Unlike their coreligionists in Iraq, Turkish Yezidis have no religious hierarchy. As in Iraq, Yezidis are usually regarded as being of Kurdish ethnic origin. Some play a prominent part as Kurdish nationalists. For a few years now many Yezidis have, however, regarded themselves as a separate people ²³⁷.

In Turkey Yezidis originally resided in the south-east, where in the past, just like Syriac Orthodox Christians, they had suffered from the conflict between the Turkish armed forces and the PKK. The Yezidis also had to deal with Kurdish Muslims who tried to confiscate their land and other property. While in the past Yezidis enjoyed a degree of protection thanks to solidarity between the villages which were mainly inhabited by fellow worshippers, they must now frequently do without such protection ²³⁸, and the mostly old Yezidis who still live in south-eastern Turkey depend on the local authorities for protection. It is not known how far they can really rely on the authorities to help in the event of conflicts with others.

²³⁶ Various known in English as Yazidi, Azidi, Zedi or Izdi.

²³⁷ Mr van Bruinessen in the NRC Handelsblad, 17 June 1999.

²³⁸ *Asylmagazin 5/99*, Informationsverbund Asyl/ZDWF e.V (May 1999), pp. 19-20.

In Istanbul and elsewhere outside south-eastern Turkey there are reportedly still a few hundred followers. Yezidis in Turkey are not eligible for exemption from compulsory Islamic instruction. Their identity cards often contain the entry "xxx" in the box for religion.

3.3.4 Freedom of movement

The freedom of movement of Turkish citizens is guaranteed in the constitution. This applies both home and abroad. Freedom of movement may be restricted in the case of a national emergency and, for instance, military service, criminal investigation or prosecution.

In state of emergency regions, freedom of movement within the country may be restricted by the governor of the region. Travel to areas in the south-east can sometimes be forbidden for security reasons. The number of roadblocks and checks in south-eastern Turkey depends on the prevailing security situation and has in recent times fallen considerably.

There were a number of cases in November 2000 in which the authorities prevented HADEP officials from travelling to Ankara, where the national party conference was being held.

Every individual must go through border controls on entering Turkey. This applies equally to former asylum seekers returning to the country. Like everyone else they must have valid travel documents.

The names of individuals entering or leaving Turkish territory via the international airport at Istanbul and other borders are checked by computer or otherwise. Despite checks, courriers do succeed in smuggling others illegally out of the country, *inter alia* via Bulgaria and Greece.

Travel documents

Everyone who has Turkish nationality has the constitutional right to possess a passport, which has to be applied for at the local police of the province in which the person is recorded in the population register. Police clearance is required for passport issue. Turkish subjects can legally leave the country only if in possession of a valid passport.

3.3.5 Judicial process

The organisation of the judiciary is governed by the constitution. Turkey has civil, administrative and criminal courts. There are also special courts such as military courts and the State Security Courts. For all courts an appeal may be made to the Court of Appeal (Turkish: Yargıtay). The latter can uphold or overrule a verdict and refer it back to the court of first instance. The Court of Appeal is the final instance; there is no further legal remedy against a verdict of the Court of Appeal. Turkey also has a Constitutional Court which, *inter alia*, examines the constitutionality of laws.

By law, everyone has the right to a fair and public trial. The independence of the judiciary is enshrined in the Turkish constitution. In general, the law courts act independently of the legislative and executive branches. However, there is room for political influence, *inter alia* in the appointment of judges and prosecutors. A characteristic of Turkish criminal law is that sentences may be imposed cumulatively. This means that if several offences are prosecuted simultaneously the sentence imposed is not the highest but rather the sum of the sentences for each separate offence. Nevertheless, the maximum prison sentence served is generally 36 years.

In a number of political trials the probity and fairness of the legal process has been questionable. In some cases the evidence has been dubiously handled. Proof rests largely on confessions by the suspect often extracted under duress and much less on other evidence. Forensic investigation in Turkey is not very well developed. The roles of public prosecutors and judges are also confused to a considerable degree. For instance, prosecutors attend judges' deliberations in chambers.

Ordinary criminal courts

The type and seriousness of an offence are decisive factors in determining which court has jurisdiction over an offence. There are three criminal courts for ordinary offences²³⁹:

The Peace Courts (Turkish: *Sulh Ceza Mahkemesi*) consist of one judge. There is one in every province or district capital. It deals with all matters liable to a fine or light prison sentence.

The Courts of General Criminal Jurisdiction (Turkish: *Asliye Ceza Mahkemesi*) officially consist of several judges, but in practice there is only one.

The Aggravated Felony Courts (Turkish: *Ağır Ceza Mahkemesi*) consist of one presiding judge and two members. The court has jurisdiction over crimes which are liable to a maximum penalty of the death sentence, heavy prison sentence or an ordinary prison sentence of at least ten years.

State Security Courts

The State Security Courts (Turkish: *Devlet Güvenlik Mahkemesi*, DGM for short) have jurisdiction over offences against the overall security of the state. According to Article 143 of the Constitution, these include: "offences against the indivisible unity of the State with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offences directly involving the internal and external security of the State". All offences committed after 1 May 1984 can be dealt with by the State Security Courts²⁴⁰.

²³⁹ Erhan Günay, *Ceza Davalarında Usul ve Esaslar. Cumhuriyet Savcısı ve Ceza Hakiminin El Kitabı*. (Legal Process and Basic Principles in Criminal Cases. Manual for the Prosecutor and Judge.) (Ankara: Seçkin Yayınevi 1998), pp. 51-54 and 91.

²⁴⁰ O. Kadri Keskin, *Devlet Güvenlik Mahkemelerinin Yapısı, Görevleri, ve Yargılama Usulleri* (The Structure, Powers and Legal Process of the State Security Courts). (Ankara: Kazancı Hukuk Yayınları 1987), p. 55.

The legal provisions which come under the jurisdiction of the State Security Courts cover offences against the legal personality of the state, offences against state "powers", certain forms of incitement to crime and the formation of a criminal organisation, in other words, political crimes. These definitely include Articles 125, 168 and 169 of the Criminal Code and all articles of the Anti-Terror Law ²⁴¹. Apart from this primary function, State Security Courts are also competent for, among others, drug-related offences.

The State Security Courts consist of one president, two regular judges and two substitute members. Previously one of the judges on the State Security Courts was always a member of the armed forces. This was abolished on 18 June 1999 and the Courts now consist entirely of civilian judges.

In principle the rules of procedure of the "ordinary" law courts apply to the State Security Courts, unless explicitly provided otherwise in Law No 2845 on the Establishment and Rules of Procedure of the State Security Courts. The rules of that Law ensure that suspects' rights are more tightly restricted than in ordinary courts.

Turkey currently has eight State Security Courts, one in Adana, Ankara, Diyarbakir, Erzurum, Istanbul, Izmir, Malatya and Van respectively ²⁴². Before the law was amended on 13 November 1996, there were also State Security Courts in Erzincan, Kayseri and Konya. The State Security Courts in Adana, Erzurum and Van did not exist at the time.

The ninth chamber of the Court of Appeals is responsible for appeals against the State Security Courts.

In the last five years, criminal proceedings before the Courts of General Jurisdiction, Aggravated Felony Courts and State Security Courts from the moment when charges are brought before the appropriate court until the moment when the verdict is pronounced have lasted an average of more than 300 days ²⁴³.

²⁴¹ Anti-Terror Law, No 3713, 12 April 1991.

²⁴² Law No 2845 of 16 June 1983 on the Establishment and Rules of Procedure of the State Security Courts, Article 1.

²⁴³ Statistics from the website of Turkish Central Judicial Records, (www.adli-sicil.gov.tr).

Trials

In principle trials are open to the public. The public are usually also admitted in cases relating to state security. In political cases the audience usually includes some representatives of human rights organisations and diplomatic staff from various countries. Criminal cases against children, however, usually take place *in camera*. For instance, the first sitting of the State Security Court in Diyarbakir on 5 April 2001 in the Viranşehir case, in which 13 minors were prosecuted for chanting PKK slogans, took place behind closed doors.

The main rule is that the suspect must always be present at the trial unless he has been heard by the judge on a previous occasion. If he is not present the trial may not proceed, no verdict may be pronounced and the case is adjourned until further notice. There are a few exceptions to this rule. The trial may continue 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 inquiries before the trial. In cases in which only a fine may be imposed or in which it is clear that there will be an acquittal, the trial may take place *in absentia*.

A trial may also proceed without the presence of the accused in cases being dealt with by the State Security Courts on condition that the suspect has already been heard by the judge on a previous occasion²⁴⁴.

Officially only the Turkish language is used during legal proceedings. Members of ethnic minorities who have little or no command of Turkish may be at a disadvantage given the varying quality of interpreters and translators.

²⁴⁴ Keskin, *Devlet Güvenlik Mahkemeleri*, p. 102.

3.3.6 Arrest and detention

Pre-trial detention

According to the Turkish Code of Criminal Procedure, a suspect may be taken into custody in two ways²⁴⁵.

The first is for a judge to order that the suspect should be taken into custody in a criminal case being investigated by the Public Prosecutor's Office. In such cases the court issues an arrest warrant (Turkish: *tutuklama müzakerresi*). If the suspect is already in detention he remains there. If the suspect is at large he is arrested as quickly as possible on the basis of the warrant.

The second way of taking a suspect into custody is through arrest by the security services without a warrant issued by the courts. In such cases the suspect must be brought before a judge as quickly as possible in order to rule whether the arrest was justified. Such arrests may be made only in emergencies, e.g. if there is a risk that the suspect will abscond.

In cases in which a suspect is arrested by the security services on their own initiative for an ordinary offence, he must be brought before a judge within 24 hours. For offences which come under the jurisdiction of the State Security Courts, this period is 48 hours. If the offence was committed in the OHAL (state of emergency) region by more than three persons together, the maximum period may be ten days. When the suspect is arraigned the judge decides whether to remand him in custody.

In its 1999 report the TİHV reports that in 55,2% of cases in 1999 it took from one to three days for the suspect to be brought before a judge, and in 21,9% over eight days. The report notes that the latter represents a considerable reduction in comparison to the previous year²⁴⁶.

²⁴⁵ Turkish Code of Criminal Procedure (CMUK), No 1412 of 4 April 1929, Articles 104 to 131.
²⁴⁶ *Türkiye İnsan Hakları Vakfı Tedavi ve Rehabilitasyon Merkezleri Raporu* 1999 (1999 Report by the TİHV Treatment and Rehabilitation Centre), TİHV (July 2000), pp. 28 and 29.

If a case is not referred to the courts within six months, by law the suspect must be released. If the case is taken to court, the suspect may be remanded in custody during the proceedings for a maximum of two years. The judge may extend this period if necessary. During that period a judge must examine once a month whether the grounds for remand continue to obtain.

The Turkish Code of Criminal Procedure provides that the suspect's next of kin be must be quickly informed of the arrest or remand in custody. If there is a risk that such notification could reveal the type or extent of the criminal investigation, the duty to inform may be waived.

According to a recent report by Human Rights Watch (HRW)²⁴⁷, there is a systematic failure to notify suspects' families. This is apparently attributable to forged, incomplete or in some cases fully lacking record keeping in police and *jandarma* stations. Sometimes police offices deny for hours or days that a person has been arrested. In recent years, according to the HRW report, there has been some improvement in this respect. In the report by the European Committee for the Prevention of Torture published on 7 December 2000 after its visit from 27 February to 3 March 1999, the Committee reports that the next of kin are rarely informed²⁴⁸.

For ordinary offences a suspect has the right of access to a lawyer from the moment of his arrest. For offences falling under the jurisdiction of the State Security Courts, this right only applies after four days. This means that in such cases the suspect can be held "incommunicado" for a maximum of four days.

²⁴⁷ *Turkey. Human Rights and the European Union Accession Partnership*, Human Rights Watch (September 2000).

²⁴⁸ *Report to the Turkish Government on the Visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 February to 3 March 1999*, Council of Europe (7 December 2000).

According to a recent Human Rights Watch Report ²⁴⁹, persons suspected of offences coming under the State Security Courts are in practice still denied access to a lawyer even after the period of four days. Occasionally a brief encounter in the presence of police officers is permitted, but it is almost unknown for lawyers to be present during interrogation, according to HRW. Moreover, according to the same report suspects are often told that it will be to their advantage if they waive their right to legal counsel.

Recent investigations by the Turkish Parliamentary Human Rights Commission at the police headquarters in Erzincan, Erzurum and Tunceli indicate that, with one single exception, in all cases suspects waived the right to a lawyer ²⁵⁰. HRW also notes in its abovementioned report that people suspected of ordinary offences were told by police officers that if they requested a lawyer their charges would be converted into charges falling under the State Security Courts, with the result that they could be held incommunicado for four days. The report also notes that it is known for detainees to be held incommunicado for up to six days.

²⁴⁹ *Turkey. Human Rights and the European Union Accession Partnership*, Human Rights Watch (September 2000).

²⁵⁰ *Soruşturma, Kovuşturma, Yargılama, Ceza ve İnfazı Tunceli, (resp. Erzurum, Erzincan), Raporu. 1998 ve 2000* (Report on Investigation, Prosecution, Trials, Punishment and Enforcement in Tunceli, Erzurum, Erzincan), Turkish Parliamentary Human Rights Commission.

A lawyer has the right by law to consult the file on the preliminary inquiry and can obtain a copy of each document he requires free of charge. The district judge may restrict this right at the request of the public prosecutor if it would harm the investigation ²⁵¹. In cases falling under the jurisdiction of the State Security Courts, a lawyer only has access to documents once the case has reached the phase of the main investigation. In other words, the preliminary investigations must have been concluded and the case must be pending with the State Security Courts ²⁵². The lawyer representing the person who has been convicted may always obtain copies of the final judgement in a case.

According to Human Rights Watch, since 1997 it has also become more common for detainees to be interrogated in unofficial places of detention such as vacant buildings, construction sites or in open land outside cities ²⁵³.

Release on bail from pre-trial detention is possible under Turkish criminal law and is frequent. Decisions are taken by the judge, who also determines the amount of bail, taking account of the burden of proof against the accused. If the judge considers that the case will culminate in an acquittal or a light sentence, he may order release with or without bail. In that case the suspect is called to the hearing by means of a summons as soon as the actual trial commences. This procedure is often followed in Turkey, including for political offences. There are even cases in which people accused of treason (Article 125 of the Criminal Code) are released during the preliminary inquiries.

As repeatedly noted in the abovementioned report by the Turkish Parliamentary Human Rights Commission, the (sanitary) conditions in which detainees are kept in pre-trial detention are often very poor. There is often little daylight or ventilation.

²⁵¹ Sedat Bakıcı, *Olaydan Kesin Hükme Kadar Ceza Yargılaması ve Ceza Kanunu Genel Hükümler* (Criminal Procedure and the General Provisions of the Criminal Code from the Offence to the Verdict) (3rd printing, Ankara 2000), p. 500, and the Turkish Code of Criminal Procedure, Article 143.

²⁵² Law No 2845 on the Establishment and Rules of Procedure of the State Security Courts, Article 16.

²⁵³ *Turkey. Human Rights and the European Union Accession Partnership*, Human Rights Watch (September 2000).

Prison conditions

There are 558 prisons in Turkey. Of these 516 are closed facilities, 37 open prisons, 3 young offenders prisons, and one prison for women and children. Before the amnesty in December 2000 the prison population was 72 000, 11 000 of whom were serving sentences for political offences. There were 3 000 minors in prison. Roughly 40 offenders were in prison for torture or abuse ²⁵⁴.

A traditional Turkish prison is made up of large dormitories with up to one hundred inmates. The outer perimeter of prisons are guarded by the *jandarma*, while surveillance in the corridors is the responsibility of prison staff who are answerable to the Ministry of Justice. The large number of prisoners per unit and the low level of supervision in the dormitories themselves have led to a practically autonomous situation in these areas. On 21 April 2001 the President of the Council of Europe Parliamentary Assembly described the situation: "... the large collective dormitories in traditional prisons provide ideal conditions for parallel, self-organised and illegal prisoners' structures. These groups are based on absolute discipline, frequently maintained through intimidation."²⁵⁵.

Political prisoners who share the same beliefs are incarcerated together so as to prevent conflicts between rival organisations or gangs. The daily programme, which is largely determined by the prisoners themselves, consequently mostly includes several hours' discussion of or instruction in the ideology of the group incarcerated in the dormitory. The degree of autonomy is illustrated by the fact that there are often objects such as weapons or mobile phones in the cells. Sometimes internal conflicts arise within a dormitory, which have led to deaths and injuries in the past. In November 2000, for instance, there were 5 deaths and 20 wounded in a fight in the prison of Uşak ²⁵⁶.

²⁵⁴ *Monthly Report of Human Rights in Turkey – January 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), p. 38.

²⁵⁵ Agence France Presse and Deutsche Presseagentur, 23 April 2001.

²⁵⁶ BBC News, 3 November 2000, and Turkish Daily News, 5 November 2000.

Physical conditions inside the prisons are often very poor. Rooms are overcrowded and sanitary facilities are minimal. There is also often a lack of proper medical care²⁵⁷. Prison staff are often poorly trained. There have frequently been riots in protest against such conditions, with fellow prisoners and prison staff being taken hostage. In July 2000 in Bayrampaşa prison in Istanbul eleven guards were taken hostage, and in October of that year over 40 prisoners were taken hostage in the same prison, while in the same month another 21 prisoners were taken hostage in Adana²⁵⁸. The prisons were stormed by the *jandarma*, which is responsible for guarding prison perimeters, and the uprisings were quashed in what was often a heavy-handed manner.

In order to put an end to the situation described above and in implementation of Article 16 of the Anti-Terror Law (which provides that individuals imprisoned for terrorist offences must be incarcerated in one or three-person cells and prohibits them from having contact with other prisoners), in 2000 the Turkish government began to construct cell-type prisons known as F-type prisons. In 1996, when the authorities were already contemplating cell-type prisons, the Council of Europe CPT spoke out against the multiple disadvantages of the traditional dormitory system²⁵⁹. Four F-type prisons have since been opened: Sincan, Edirne, Kocaeli and Tekirdağ. They have approximately 1 500 inmates. The final touches are currently being put to two new prisons, one in Diyarbakır and one in İzmir.

²⁵⁷ *Human Rights in the OSCE Region: The Balkans, the Caucasus, Europe, Central Asia and North America. Report 2000. (Events of 1999)*, International Helsinki Federation of Human Rights (IHF) (2000), p. 51.

²⁵⁸ Associated Press, 5 July 2000, and Reuters, 23 October 2000.

²⁵⁹ *Report to the Turkish Government on the Visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 23 August 1996 and Response of the Turkish Government*, Council of Europe (16 March 2001).

Reservations regarding this type of prison have been voiced in various quarters. Human rights organisations including Amnesty International²⁶⁰, Human Rights Watch²⁶¹ and the Council of Europe Committee for the Prevention of Torture²⁶² have expressed their concern at the likelihood that prisoners will be kept in absolute isolation with no contact whatever with others. There are also fears that the system will encourage torture now that monitoring is much more difficult in the new system. In the second half of 2000 there were repeated protests and demonstrations against the introduction of the system. Demonstrations were often brutally dispersed by the police.

Many prisoners went on hunger strike in October 2000 in protest against the introduction of F-type prisons. A number of prisoners threatened to starve themselves to death. In December 2000 Mr Türk, the Minister for Justice, agreed to postpone introduction of the system. However, the prisoners continued their action, demanding hard and fast guarantees.

On 19 December 2000 the *jandarma* stormed the prisons in which the hunger strikers were incarcerated. According to a government statement, the aim of the operation was to end the hunger strike. Thirty prisoners and two *jandarma* died during various raids. The Turkish human rights organisation IHD has got hold of autopsy reports on two prisoners which shows that they died as a result of gunshot wounds²⁶³. The Council of Europe's CPT has found that some of the deaths were caused by suicide rather than action by the security forces²⁶⁴.

²⁶⁰ Turkey: "F-Type" prisons: Isolation and allegations of torture or ill-treatment (1), Amnesty International (20 April 2001).

²⁶¹ *Small Group Isolation in Turkish Prisons: an Avoidable Disaster*. Human Rights Watch (May 2000).

²⁶² *Preliminary observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Turkey from 16 to 24 July 2000*, Council of Europe (7 December 2000).

²⁶³ Tageszeitung, 9 January 2001.

²⁶⁴ *Preliminary observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Turkey in December 2000 and January 2001*, Council of Europe (16 March 2001).

Once the operations were over, despite the Minister for Justice's earlier promises of postponement, the transfer of prisoners to F-type prisons began immediately. On 6 January 2001 Amnesty International and Human Rights Watch announced that they had strong indications that prisoners were beaten and some of them tortured before, during and after transfer to the new prisons. According to the joint press release made by the two organisations the indications could not be corroborated because the authorities refused permission for a forensic examination²⁶⁵. A few days later the Turkish human rights organisation IHD provided proof of the allegations²⁶⁶. The CPT also mentioned ill-treatment during transport and admission to the new prisons²⁶⁷. In response to the press release of 6 January the Turkish authorities confirmed that "there are convicts who had been injured during the operation and then transferred to the F-type prisons."²⁶⁸

Of the hunger strikers transferred to F-type prisons, 415 are still on hunger strike, 319 of whom have declared that they still intend to fast to the death²⁶⁹. Sixteen inmates – including a Netherlands citizen of Turkish origin – and four relatives fasting out of solidarity have died in the hunger strike²⁷⁰. On 19 April 2001 there were a total of over 500 hunger strikers inside and outside the prisons still taking vitamins and water, and 222 refusing all food and drink. According to a TIHV spokesman, on that date 87 hunger strikers were in danger of death. On 23 April 2001 the Council of Europe declared that those behind the hunger strikes were also acting to maintain the long-standing, flourishing criminal networks within the prisons²⁷¹.

²⁶⁵ *Turkey: Isolation and beatings in new prisons must stop now*, Amnesty International and Human Rights Watch (6 January 2001).

²⁶⁶ *Turkey: Government Seeks to Quash Scrutiny of Prisons Transfer*, Human Rights Watch (9 January 2001).

²⁶⁷ *Preliminary Observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Turkey in December 2000 and January 2001*, Council of Europe (16 March 2001)

²⁶⁸ *Turkey: "F-Type" prisons: Isolation and allegations of torture or ill-treatment (I)*, Amnesty International (20 April 2001).

²⁶⁹ Figures quoted from the Turkish Minister for Justice according to the Anatolia News Agency, 24 March 2001, and the daily *Özgür Politika*, 26 March 2001.

²⁷⁰ As of 1 May 2001.

²⁷¹ Agence France Presse and Deutsche Presseagentur, 23 April 2001.

According to the abovementioned press release by Amnesty International and HRW, prisoners in the new prisons appear to remain entire days in their cells without human contact and are regularly subjected to violence, and none of the prisoners transferred to F-type prisons has been let out of the units for recreation. The CPT reports that in the F-type prisons in Edirne, Kocaeli and Sincan prisoners had access to the corridors leading to their cells and living units. However, there was no programme of activities ²⁷².

On 1 May 2001 parliament adopted an amendment to Article 16 of the Anti-Terror Law allowing prisoners to participate in communal sports, educational and cultural activities ²⁷³. Amnesty International and the Turkish human rights organisation IHD consider that the law does not go far enough ²⁷⁴.

Amnesty

A possible amnesty to relieve overcrowded prisons has been mooted for years in Turkish politics. In November 1999 the then President Demirel rejected an amnesty bill passed on 28 August of that year. This was followed by a period of silence on the subject until the question re-surfaced in 2000.

In December 2000 the parliament adopted an amnesty law with the official title "Law No 4616 on the conditional release and the suspension of trials and sentences for offences committed up until 23 April 1999". When President Sezer received the law from parliament he sent it back without signing it. Parliament then re-submitted the law unchanged for signature. The President was then constitutionally obliged to sign it, which he did on 21 December 2000. It entered into force on that date and thousands of prisoners were released.

²⁷² *Preliminary Observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Turkey in December 2000 and January 2001*, Council of Europe (16 March 2001).

²⁷³ Associated Press, 1 May 2001.

²⁷⁴ *Amnesty International concerns about proposed amendments to Anti-Terror Law*, Amnesty International press release, 27 April 2001.

The Amnesty Law provides that the perpetrators of certain offences committed before 23 April 1999 will have their sentences reduced by ten years and that those who have less than ten years left to serve will be released immediately. It also provides for the release of those in pre-trial detention for certain offences within one month and the conditional suspension of the charges against them, and for the conditional suspension of prosecution of those against whom charges have not yet been brought for those specific offences. Article 2 of the Law extends the scope of an earlier partial amnesty law to illegal public statements ²⁷⁵.

The scope of the law also includes Article 169 of the Turkish Criminal Code, affording assistance and support to an illegal organisation. This led to the release of 1 660 people convicted on the basis of that Article for support to the PKK prior to 23 April 1999 or to the dropping of charges on that basis. The Chief of Staff declared that this resulted in letting terrorists out on the streets, to which Prime Minister Ecevit responded that these were people who had often lent assistance or shelter under pressure or duress ²⁷⁶. The offences of "evasion of registration", "evasion of examination", "fraudulent evasion of military service" and "desertion" (Articles 63 to 68 and 70 to 75 of Law No 1632 on the Military Criminal Code) also fall under the law, provided they were committed before 23 April 1999. Infringements of the Anti-Terror Law are not covered by the Amnesty Law because the constitution lays down that no amnesty is possible for such offences.

Under Article 2 of the law, a large number of people imprisoned for illegal utterances have been released or had charges dropped. Those convicted of torture, rape or corruption were not covered by the amnesty.

²⁷⁵ See section 3.3.1.

²⁷⁶ Daily newspaper Sabah, 30 January 2001, and daily newspaper Özgür Politika, 1 February 2001.

The Amnesty Law stipulates that fugitives from justice against whom proceedings are pending must report within one month of the entry into force of the Law²⁷⁷. The deadline expired on 22 January 2001²⁷⁸. According to the Ministry of Justice a total of 3 761 individuals have availed themselves of this opportunity as at 13 March 2001²⁷⁹. No cases of people having reported after that date are known of.

In the meantime a number of petitions have been filed with the Constitutional Court concerning the unconstitutionality of the Amnesty Law exempting a total of more than 23 000 people from further punishment²⁸⁰. In February 2001 the Court decided that a number of the petitions were admissible. If the petitions, which mostly concern the exclusion of certain articles of law, are upheld, the scope of the law will broaden.

3.3.7 Ill-treatment and torture

There is still widespread torture in Turkey despite the fact that it is prohibited by law and that Turkey has signed a large number of human rights treaties. This was confirmed in May 2000 by the report published under the auspices of the Turkish parliament by the Parliamentary Human Rights Commission, which encountered cases of torture in all of the prisons it visited.

²⁷⁷ Law No 4616 on the conditional release and the suspension of trials and sentences for offences committed up until 23 April 1999, 21 December 2001, Article 1(9).

²⁷⁸ Anatolia News Agency, 6 January 2001, and daily newspaper Radikal, 22 January 2001.

²⁷⁹ Anatolia News Agency, 20 April 2001.

²⁸⁰ Anatolia News Agency, 20 April 2001.

Reporting on the first eight months of 2000 by the Turkish human rights organisation IHD shows that the number of cases of torture fell from 454 in the same period the previous year to 406. A TİHV spokesman estimates the total for 2000 at 650. In the whole of 1999, according to the TİHV, 700 credible cases of torture were reported. In 1998 there were 673. However, the TİHV believes that the true number is much higher because many people who are tortured fail to report it²⁸¹. In 2001 there has been an increase in the number of cases of torture²⁸². This increase is probably related to the transfer of prisoners to F-type prisons.

Amnesty International has again reported deaths in custody as a result of torture in 1999 and 2000²⁸³. The IHF reports that the TİHV recorded 18 cases in 1999²⁸⁴. The TİHV did not note any cases in 2000²⁸⁵.

Torture and ill-treatment occur during the period of incommunicado custody at the beginning of pre-trial detention. This period lasts for a maximum of four days for people suspected of offences falling under the State Security Court²⁸⁶. Pre-trial detention until the suspect is brought before a judge may be increased to ten days in the state of emergency region and to seven days in the rest of the country²⁸⁷. People accused of offences under State Security Court jurisdiction are in principle interrogated by the special Anti-Terror Branch of the police. In its annual report for 1999 the TİHV reported that 48,5% of reported cases of torture or ill-treatment took place in police headquarters²⁸⁸.

²⁸¹ *Country Reports on Human Rights Practices 2000, Turkey*. US State Department (26 February 2001).

²⁸² Report by the Turkish human rights organisation IHD, quoted in the daily newspaper *Yeni Gündem*, 15 March 2001.

²⁸³ *Turkey. Torture – A major concern in 1999*, Amnesty International (March 2000) and *Annual report 2000. Turkey*, Amnesty International (2000).

²⁸⁴ *Human Rights in the OSCE Region: The Balkans, the Caucasus, Europe, Central Asia and North America. Report 2000 (Events of 1999)*, International Helsinki Federation of Human Rights (IHF) (2000), p. 49.

²⁸⁵ *Country Reports on Human Rights Practices 2000, Turkey*. US State Department (26 February 2001).

²⁸⁶ See section 3.3.6.

²⁸⁷ See section 3.3.6.

²⁸⁸ *Türkiye İnsan Hakları Vakfı Tedavi ve Rehabilitasyon Merkezleri Raporu 1999* (1999 Report by the TİHV Treatment and Rehabilitation Centres), TİHV (July 2000), p. 28.

Statements made by a suspect during that period, which he often signs while blindfolded²⁸⁹, are frequently used as evidence in the subsequent trial. Because the arresting officer is responsible for interrogating the suspect, officers frequently resort to ill-treatment and torture to obtain a confession so that the police or *jandarma* can justify the arrest.

According to the Turkish human rights organisation, Mazlum-Der, in 1999 there was an increase in the number of cases in which people were not officially arrested but simply detained and tortured. A recent case occurred in Bingöl province where a HADEP member was detained by the JITEM, the *jandarma*'s intelligence service, and found wounded on the roadside two days later. The case is now under investigation by the authorities²⁹⁰. In some cases an official arrest is still made after a certain period²⁹¹.

In recent months a number of cases were recorded of individuals who had already been convicted and were serving their sentences being ill-treated and tortured before, during and after transfers of prisoners to new F-type cell prisons²⁹². In the traditional prison system convicts had little fear of torture, which could partly be accounted for by the fairly untouchable position which they enjoyed as a result of the large dormitories populated by inmates. Time will tell whether the recently recorded cases mark the beginning of a trend in the torture of convicts, as feared by many human rights organisations.

²⁸⁹ *Turkey. Human Rights and the European Union Accession Partnership*, Human Rights Watch (September 2000).

²⁹⁰ Daily newspaper *Yeni Gündem*, 22 February 2001, and *Turkish Daily News*, 22 and 27 February 2001.

²⁹¹ *Türkiye’de İnsan Hakları. 1999 Yılı Analizi*. (Human Rights in Turkey. 1999 Analysis) Mazlum-Der (2000).

²⁹² See section 3.3.6.

A wide range of torture methods is used. They include beatings, being stripped naked and blindfolded, hosing with pressurised ice-cold water, electro-shock torture, beating the soles of the feet, death threats, sexual intimidation and hanging by the arms²⁹³. The Turkish Parliamentary Human Rights Commission found concrete evidence of the latter method on its visit to the police station in Gaziosmanpaşa district in Istanbul in the shape of so-called "Palestinian hangers"²⁹⁴, from which prisoners were hung. Over the years the trend seems to be moving to the use of methods that leave traces which are difficult to establish after the fact²⁹⁵. For instance, sandbags are used for beating instead of truncheons, thus leaving fewer bruises. This was confirmed at the beginning of 2001 by a spokesman of the Turkish human rights organisation TİHV. Women are regularly subjected to sexual intimidation and in some cases rape²⁹⁶.

The Council of Europe's Committee for the Prevention of Torture (CPT) found in its latest report²⁹⁷ that the use of the most cruel forms of physical violence has diminished in Istanbul. Nevertheless, methods such as sleep deprivation over periods of days, prolonged standing and verbal threats still persist according to the CPT. The Turkish Parliamentary Commission reported that while the situation remains unchanged in Erzincan, Şanlıurfa and Erzurum, there have been considerable improvements in Tunceli province and a reduction in the number of cases in the province of Elazığ²⁹⁸.

²⁹³ *Annual Report 2000. Turkey*, Amnesty International (2000).

²⁹⁴ *Yargılama, Ceza ve İnfazı İstanbul Raporu 2000* (Report on Investigation, Prosecution, Trials, Punishment and Enforcement in Istanbul), Turkish Parliamentary Human Rights Commission (May 2000), p. 33.

²⁹⁵ *Turkey, Torture and Mistreatment in Pre-Trial Detention by Anti-Terror Police*, Human Rights Watch, (March 1997).

²⁹⁶ See section 3.4.3.

²⁹⁷ *Preliminary observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Turkey from 16 to 24 July 2000 and the response of the Turkish Authorities, European Committee for the Prevention of Torture (CPT)*, (7 December 2000) p. 7, and *Soruşturma, Kovuşturma, Yargılama, Ceza ve İnfazı Tunceli (resp. Erzurum, Erzincan) Raporu. 1998 ve 2000* (Report on Investigation, Prosecution, Trials, Punishment and Enforcement in Tunceli, Erzurum, Erzincan), Turkish Parliamentary Human Rights Commission (May 2000).

²⁹⁸ *Kovuşturma, Yargılama, Ceza ve İnfazı Tunceli (resp. Elazığ, Şanlıurfa, Erzurum, Erzincan) Raporu. 1998 ve 2000* (Report on Investigation, Prosecution, Trials, Punishment and Enforcement in Tunceli, Elazığ, Şanlıurfa, Erzurum, Erzincan), Turkish Parliamentary Human Rights Commission (May 2000).

On 5 March 1999 Süleyman Yeter, a trade unionist, was taken into custody at the Anti-Terror Branch of Istanbul Police Headquarters. The following morning he told another detainee that he had been stripped naked, beaten, sprayed with cold water under high pressure and forced to lie on ice. On 7 March the authorities confirmed that Yeter had died in custody. His lawyers saw marks on his body that they believed to be evidence of torture. He had been arrested just after having identified the police officers who had tortured him in 1997. In November 1999 some police officers went on trial in connection with Süleyman Yeter's death ²⁹⁹. On 12 March 2001 a hearing took place at Istanbul Criminal Court No 6. One of the three police officers was released from pre-trial detention because he had allegedly returned home before the events took place. One of the four suspects is still a fugitive ³⁰⁰. According to the Turkish daily newspaper, Milliyet, an international warrant has been issued for his arrest ³⁰¹.

Medical examinations

Individuals in pre-trial detention who claim to have been ill-treated or tortured are often unable to corroborate their claims with medical documents. In a number of cases this is because medical examinations are conducted too late. In many cases – in breach of current regulations – a police officer is present during medical examinations, thus hindering an objective examination. Sometimes medical reports are destroyed by police officers and doctors are obstructed or intimidated. In some cases doctors are charged or taken into custody themselves ³⁰². This is alleged to have happened in January 2001 to Doctor Zeki Uzun, who asked the attending police officer to leave the room during the examination. A few days later he was arrested, and beaten and deprived of sleep for three days ³⁰³.

²⁹⁹ *Annual Report 2000. Turkey*, Amnesty International (2000).

³⁰⁰ Yeni Gündem daily newspaper, 13 March 2001.

³⁰¹ Milliyet daily newspaper, 5 December 2001.

³⁰² *Turkey: the duty to supervise, investigate and prosecute*, Amnesty International (20 April 1999).

³⁰³ Associated Press, 14 January 2001.

Medical examinations carried out by doctors affiliated to the Ministry of Justice, who conduct the majority of examinations of detainees in pre-trial detention, are extremely cursory and often last just a few minutes. There have even been cases in which a medical report has been drawn up without the detainee actually having been seen by the doctor. Medical reports are very summary. They are often a sort of standard report stating that no traces of beatings or violence can be found.

Prosecution

The Turkish authorities generally distance themselves from accusations of ill-treatment or torture by the police or *jandarma*, although the Parliamentary Human Rights Commission noted in various of its reports published in May 2000 that real responsibility for such acts lies at a higher level, namely with the provincial governors and public prosecutors. However, in many cases crimes are not investigated, with the result that convictions are rare. This stems from the legal provision that officials accused of such practices cannot be prosecuted unless their superior grants permission³⁰⁴. Permission is refused in numerous cases.

Victims of torture often have difficulty in identifying the perpetrators since they are frequently blindfolded during torture. It is also frequently impossible to establish who was on duty at the time because in many cases records are kept sloppily³⁰⁵.

³⁰⁴ Law No 4483 of 2 December 1999 on the Prosecution of Civil Servants and other Public Employees is an improvement on the previous Law on the Prosecution of Civil Servants, which in any event required the permission of a local administrative board established by the provincial governor.

³⁰⁵ *Failures at Fifty: Impunity for torture and ill-treatment in Europe on the 50th anniversary of the European Convention on Human Rights*, Amnesty International (November 2000), p. 30.

Cases against government officials accused of torture or ill-treatment often last for years and in many cases end in an acquittal. If officials are convicted sentences are frequently lenient. Officials charged with such offences often remain on duty as usual. According to official statistics only 10 of the 577 officials prosecuted for torture between 1995 and 1999 were actually convicted (1,7%). Of the 2 851 people prosecuted for ill-treatment, 84 were convicted (2,9%)³⁰⁶.

However, the Turkish government has recently endeavoured to increase punishment for members of the security forces accused of torture and doctors who conspire to falsify medical reports to hide torture. For instance, the maximum statutory sentence for torture, ill-treatment and concealing such offences was increased on 26 August 1999 following an amendment to Articles 243, 245 and 354 of the Turkish Criminal Code. Human Rights Watch notes that the minimum sentence has not been amended. Perpetrators of such offences were not covered by the Amnesty Law of 21 December 2000.

In 2000 there were some cases in which perpetrators of torture were indicted. The media reported a case brought to court in May in Mardin province in which a total of 126 years' imprisonment against seven officials were applied for³⁰⁷. In June, the media reported that after three years charges had been brought in a case in Siirt against seven *jandarma* suspected of torture³⁰⁸. In another case in Ankara 12-year sentences have been applied for against ten officials for causing death by torture³⁰⁹. A one-year prison sentence has been applied for against a doctor for concealing torture in her medical report³¹⁰.

In November a verdict was pronounced in an important court case against ten police officers suspected of torturing a group of school children in pre-trial detention in Manisa. The officers were handed down prison sentences ranging from 5 to 10 years. A few weeks later the school children - whose trial before the Court of Appeal in Izmir for suspected revolutionary propaganda had been adjourned until the verdict in the case against the police officers - were acquitted of the charges

³⁰⁶ *Failures at Fifty: Impunity for torture and ill-treatment in Europe on the 50th anniversary of the European Convention on Human Rights*, Amnesty International (November 2000), p. 30.

³⁰⁷ Yeni Gündem daily newspaper, 31 May 2000.

³⁰⁸ Idem, 6 June 2000.

³⁰⁹ Anatolia News Agency, 13 June 2000.

³¹⁰ Idem, 3 July 2000 and 18 September 2000.

against them because they had confessed under duress and torture³¹¹. Those concerned are suing the government for wrongful arrest and detention³¹². On 2 May 2001 the Court of Appeals referred the case back to the lower court owing to procedural errors³¹³.

In addition to the abovementioned amendments to the law, other measures to curb torture and ill-treatment have been taken by the government in recent years. For example, on 6 March 1997 an amendment to the law shortened deadlines for pre-trial detention, and on 1 October 1998 and 13 August 1999 the Prime Minister issued regulations concerning, *inter alia*, thorough medical examinations and improved registration procedures for pre-trial detention³¹⁴. For a few years now human rights have also been an important component of police training. In early 2001 the Ministry of Justice decided that in cases in which the ECHR had condemned Turkey in connection with torture, the public prosecutor concerned would be made accountable for payment of the amount which the Court ordered in damages³¹⁵.

3.3.8 Disappearances

In the first eight months of 2000 the Turkish human rights organisation IHD recorded seven disappearances. In the same period in 1999 there had been 19. In previous years there had been 29 (in 1998) and 66 (in 1997). The UN Special Rapporteur on Disappearances and Extra-Judicial Executions, Ms Asma Jhangir, visited Turkey in February 2001. It was the first time in ten years that Turkey had allowed a UN Rapporteur with that portfolio to visit the country. One of her preliminary conclusions was that there had been a considerable improvement in the area but that vigilance was still required. The final report on her visit is due to be published in summer 2001.

³¹¹ Associated Press, 16 and 28 November 2000, and Turkish Daily News, 29 November 2000.

³¹² Associated Press, 12 March 2001.

³¹³ Milliyet daily newspaper, 3 May 2001.

³¹⁴ *Yakalama, Göz Altına Alma ve İfade Alma Yöntemeliği* (Regulation on Apprehension, Police Custody and Interrogation) of 1 October 1998, as amended on 13 August 1999.

³¹⁵ Turkish Daily News, 10 March 2001.

Most disappearances occurred in south-eastern Turkey. They are often linked to the *jandarma* or MIT intelligence agency. The fact the next of kin were often not notified of their relative's arrest plays a role ³¹⁶. The fundamentalist Hizbullah also has some disappearances on its hands. Some Hizbullah victims who had gone missing were found brutally murdered a few months later ³¹⁷.

In November 1996 the Turkish Ministry of the Interior set up a special missing persons bureau. The office, which is open 24 hours a day, makes monthly reports on cases of disappearances and has made serious efforts to investigate such cases. In most of the disappearances investigated the office found explanations which did not involve government authorities. Since 1996 the Turkish government has investigated 425 missing persons cases. Of these, 88 were found alive, 18 were in prison, 46 had died and 273 were still missing in early 2001 ³¹⁸.

Most families of persons who have disappeared hold the Turkish authorities responsible for the disappearances and consequently do not contact them. Although members of the security forces are often allegedly responsible for disappearances, they are seldom or never prosecuted. The human rights organisation IHD supports families of missing persons and reports on disappearances to the Ministry of the Interior.

³¹⁶ See section 3.3.6.

³¹⁷ See section 2.4.2.

³¹⁸ *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001).

In January 2001 in south-eastern Turkey, which had been relatively peaceful for around a year, was shaken by the disappearance of Serdar Tanış and Ebubekir Deniz, two local HADEP officials, in Silopi on the Iraqi border. The two officials were summoned to the local *jandarma* on 25 January 2001 and have not been seen since. Following initial denials by the authorities that both of them had actually reported to the *jandarma* station, it was later announced that they had been there but had left after just half an hour. The HADEP leadership holds the *jandarma* responsible. The case has now been brought before the European Court in Strasbourg and has also come to the attention of the UN Special Rapporteur for Disappearances and Extra-Judicial Killings, who happened to be visiting Turkey when the incident was in the news.

The disappearances in Silopi, unlike many disappearances in the past, have been given much media attention. The government is also very active in the matter. On 5 March the Turkish media reported that the two missing persons were at a PKK camp in northern Iraq. A letter from the PKK leadership to the father of one of the two men was presented as proof. They had allegedly stowed away in a lorry crossing the Turkish border from northern Iraq. The pro-Kurdish and pro-PKK press points to a number of traces of forgery in the letter and reports that the father of the man in question declared it a plot³¹⁹. On 26 February 2001 Amnesty International reported unofficial, unconfirmed reports that the two officials were in unofficial detention with the *jandarma* at Şırnak³²⁰.

³¹⁹ Anatolia News Agency, 5 March 2001, and Yeni Gündem daily newspaper, March 2001.

³²⁰ Further information on UA 26/01, Amnesty International urgent action, 26 February 2001.

3.3.9 Extra-judicial executions and murders

There are fairly regular reports by representatives of the Turkish government of political and extra-judicial murders. Raids on alleged terrorist safe houses have often led to the death of people found there, sometimes due to excessive force by security forces³²¹. There are also occasional deaths in prisons during *jandarma* raids to restore order during prison riots and similar disturbances. The authorities sometimes use disproportionate force.

Individuals trying to flee the police have also died. The security forces often use the argument that the person ignored orders to give himself up³²². In January 1999 the Constitutional Court annulled a 1996 law allowing police officers the right to shoot on sight in such cases³²³. The human rights organisation Mazlum-Der reported the police shooting and death of a man who tried to prevent his brother's arrest on 15 March 2001 in Aydın. The same report mentions a similar incident in Trabzon on 20 March 2001³²⁴.

³²¹ *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001).

³²² *Türkiye'de İnsan Hakları. 1999 Yılı Analizi*. (Human Rights in Turkey. Analysis of 1999), Mazlum-Der (2000).

³²³ *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001).

³²⁴ *Aydın'da Resul Aydemir adlı şahsın öldürülmesine ilişkin rapor*. (Report on the death of Resul Aydemir in Aydın), Mazlum-Der, Izmir branch (April 2000).

The Turkish authorities are also linked to various unsolved murders in south-eastern Turkey. A number of cases concerned local politicians, journalists, HADEP members, Kurdish businessmen and prominent members of the Kurdish community in the region³²⁵. Generally, the involvement of the authorities cannot be proved. Human rights organisations claim that the Turkish authorities do not give priority to solving these cases. According to observers no similar cases of the unexplained death of prominent figures occurred in 2000³²⁶.

In the first eight months of 2000, the human rights organisation IHD recorded 112 cases of extra-judicial executions. In the same period of 1999, 127 cases were reported. The number of cases reported in the whole year 1998 was 128.

The Hizbullah and other armed and terrorist organisations are held responsible for many murders and attacks³²⁷.

3.3.10 Death penalty

A number of offences carry the death penalty under the Turkish Criminal Code. These include some offences related to treason (Articles 125, 126, 146 and 147) and first-degree murder (Article 450). Death sentences are still frequently pronounced. In June 2000 33 people were sentenced to death on charges of attempts to establish an Islamic state³²⁸. However, since 1984 no death sentences have been carried out.

³²⁵ *World Report 1999: Turkey*, Human Rights Watch (1999).

³²⁶ *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001).

³²⁷ See section 2.4.

³²⁸ Associated Press, 16 June 2000.

A death sentence pronounced by the court is always reviewed by the Court of Appeal. If the Court of Appeal upholds the sentence the verdict is referred to the Prime Minister who then submits it for approval by the Parliament. If the Parliament confirms the verdict the President must sign it. In February 2001 there were 53 cases pending with the Prime Minister for submission to Parliament, and 77 death sentences passed by Parliament had not yet been executed ³²⁹.

The same occurred with the death sentence on the PKK leader, Öcalan. The Court of Appeal upheld the verdict on 25 November 1999 and the case was then forwarded to Prime Minister Ecevit, who after consulting his coalition partners decided not to submit the case for a vote by Parliament until the European Court in Strasbourg had delivered its judgment ³³⁰.

The Amnesty Law of 21 December 2000 ³³¹ provides that death sentences handed down for offences committed before 23 April 1999 should not be executed.

Turkey's status as a candidate country for EU membership has rekindled the long-standing debate on the abolition of the death penalty. The Accession Partnership document published by the European Union, which lays down the conditions Turkey must satisfy for membership, includes the abolition of the death penalty as one of the medium-term criteria, i.e. which must not necessarily be accomplished in the course of 2001 ³³². According to the National Programme published by the Turkish government the abolition of the death penalty is planned to take place within the next five years ³³³.

³²⁹ *Monthly Report of Human Rights in Turkey - January 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), p. 13.

³³⁰ See section 2.4.6.

³³¹ See section 3.3.6.

³³² *Turkey: 2000 Accession Partnership*, Council of the European Union (6 December 2000).

³³³ Zaman and Yeni Gündem daily newspapers and NTV-MSNBC websites, 20 March 2001.

However, the party in government, the MHP, is of the opinion that Adullah Öcalan absolutely must be sentenced to death and is therefore against total abolition of the death penalty. In November 2000 a senior officer of the MIT intelligence agency declared himself against the execution of the death sentence on Öcalan³³⁴. There is fairly broad support for the PKK leader's execution in Turkish society.

3.4 Position of specific groups

3.4.1 The Kurds

Although there are no exact figures, the number of Kurds living in Turkey is estimated at some thirteen million. The Kurds originally came from the south-east of the country. The great majority of the Kurdish population speaks Kurmanci, while Zaza, which is unintelligible to Kurmanci speakers, is spoken in the provinces of Tunceli, Elazığ, Diyarbakır, Bingöl and Şanlıurfa. Most of the Kurdish population is Sunni Muslim. The remainder, namely speakers of Zaza, are Alevi³³⁵. The traditional tribal and feudal social structure of the Kurdish population still remains largely intact. In their initial regions of origin the Kurdish population is divided into tribes under the leadership of an ağa, who wields great authority over tribe members.

In the 1920s and 1930s some Turkish Kurds were deported to central Turkey (to the province of Konya). In a later period a large number of Kurds migrated to the urban areas in western and southern Turkey for economic reasons. Kurdish organisations estimate that Istanbul has three to five million inhabitants who have Kurdish roots. Urbanisation and the traditional flight from the countryside have accelerated in recent decades, *inter alia* as a result of the numerous military operations in south-eastern Turkey³³⁶, during which many villages were torched and families living there forced to move elsewhere in Turkey. This development has blurred the boundaries of the earlier geographical demarcation of the Kurdish population.

³³⁴ Reuters, 28 November 2000, and Turkish Daily News, 29 November 2000.

³³⁵ See section 3.3.3.

³³⁶ See section 2.4.

A determining factor in the position of Kurds in Turkey is the government's concept of state and society. One of the constitutional cornerstones of the Turkish state is the principle of Atatürk's nationalism³³⁷. According to this form of nationalism the term "Turk" means an individual who is part of the national community into which individuals can be integrated regardless of their ethnic background. Every citizen living inside the borders of the Republic is regarded as a Turk. This is conveyed in the proverb frequently heard in Turkey, "*Ne mutlu Türküm diyene*", which roughly translates as "Happy is he who *says*: I am a Turk", but *is* not actually a Turk. Being Turkish can therefore mean that a person's ethnic origins take second place.

Atatürk was generous in granting Turkish nationality to anyone who wanted it but failed to foresee a solution for those who were not prepared to relinquish their original ethnic identity for the new national concept. Since the inception of the Republic an overwhelming majority of individuals who feel first and foremost a strong affinity with the Turkish identity despite their ethnic origins have come to live side by side – despite the fact that every ethnic group in Turkey has had its individuals who have attached primary importance to their own ethnicity. The only large group which – though not in their generality – have not undergone this process are the Kurds.

However, some Kurds, i.e. those who migrated to the west of Turkey in the distant or recent past, have been successfully integrated into Turkish society and have fully adopted the language, values and social order of the Republic. Nowadays Kurds are active in all spheres of social and political life and are even represented in the ranks of the Turkish nationalist MHP³³⁸. Many members of parliament are also of Kurdish origin.

³³⁷ Article 2 of the Constitution: "The Republic of Turkey is a democratic, secular and social State governed by the rule of law; ... loyal to the nationalism of Atatürk ..."

³³⁸ Svante E. Cornell, "*The Land of Many Crossroads. The Kurdish Question in Turkish Politics.*" in *Orbis*, year 45, No 1 (winter 2001).

The government in Turkey does not persecute Kurds solely because they are Kurds. This would, moreover, be incompatible with the abovementioned concept of the state, according to which a person's ethnic origins do not matter as long as they comply with the principles of the Turkish Republic. All Turkish citizens (including the Kurds) thus also have equal access to public institutions such as health care and authorities responsible for issuing official documents.

A doctor in Ankara who on 16 April 2000 refused to treat a woman from Diyarbakır because she did not speak Turkish was immediately subjected to investigation by the authorities to ascertain whether he really had refused treatment for that reason. If the allegations prove true he will be prosecuted³³⁹. The doctor allegedly claimed that he was not in a position to treat the patient because of language problems³⁴⁰.

Despite the conflict between the armed forces and the PKK, which raged for years in south-eastern Turkey, there has almost never been ethnic strife between Turks and Kurds in the civilian population. An exception to this rule occurred during events in April 2001 in Susurluk in western Turkey. When rumours circulated that the murderer of an eleven-year old girl came from Diyarbakır, several thousand inhabitants took to the streets, set fire to the suspected murderer's house and chanted anti-Kurdish slogans. The mayor of the town spoke of *agents provocateurs* trying to stir up anti-Kurdish sentiment³⁴¹. 158 of the demonstrators were arrested, 22 of whom were remanded in custody for suspected violations of Article 312 of the Criminal Code, incitement to racial hatred³⁴².

³³⁹ Milliyet daily newspaper, 17 April 2001.

³⁴⁰ Hürriyet daily newspaper, 17 April 2001.

³⁴¹ Turkish Daily News and Yeni Evrensel daily newspaper, 10 April 2001.

³⁴² Anatolia News Agency, 11 April 2001.

Public and political Kurdish nationalist statements are vigorously repressed by the Turkish authorities. The Turkish government views Kurdish nationalist aspirations as a threat to the indivisibility of the unified Turkish state and as causing a rift between Turkish citizens on the grounds of ethnicity. Kurdish origins as a basis for recognition as a separate ethnic group are considered incompatible with the basic concept of the Turkish state, which allows no room for a separate Kurdish minority. Support for the Kurdish cause is also a criminal offence under Articles 125, 168, 169 and 312 of the Criminal Code or Articles 6, 7 and 8 of the Anti-Terror Law, depending on the type of support afforded. The penal provisions apply to everyone in Turkey, regardless of whether they are of Turkish or Kurdish origin.

The Turkish authorities do not so much focus on whether a certain person is a Turk or a Kurd but rather on whether he harbours separatist sympathies. The Turkish authorities' definition of separatism is broad and not always unequivocal.

In practice, people from any of the provinces in south-eastern Turkey are more frequently accused of separatist sympathies. An individual's province of origin is entered in his identity card and can also often be told from appearance or accent. In its report on the province of Tunceli, the Turkish Parliamentary Human Rights Commission notes that inhabitants of the province are convinced that they are often regarded with more suspicion by the security forces simply because Tunceli is entered in their identity cards as their province of origin³⁴³. Ethnic (and therefore also Kurdish) origin is not officially recorded anywhere and is not entered in any identity papers or other official documents.

³⁴³ *Soruşturma, Kovuşturma, Yargılama, Ceza ve İnfazı Tunceli Raporu. 1998 ve 2000* (Report on Investigation, Prosecution, Trials, Punishment and Enforcement in Tunceli), Turkish Parliamentary Human Rights Commission (2000), p. 15.

The publication of books, periodicals and newspapers in Kurdish has been authorised since 1991. Newspapers and magazines with a Kurdish slant are, however, often difficult to get hold of. Potential readers sometimes shy away from buying Kurdish publications because possession can be interpreted as proof of Kurdish sympathies. The content of Kurdish publications is closely monitored by the government. Publications and materials which concern Kurdish history, culture or ethnicity are often confiscated or lead to prosecution since the authorities regard them as threatening the indivisible unity of the state ³⁴⁴.

The use of the Kurdish language in education ³⁴⁵, television broadcasts and public affairs such as political meetings is forbidden by law. Radio broadcasts in Kurdish are prohibited by law but are sometimes tacitly allowed. The playing of Kurdish music is allowed, yet many songs are banned for their (political) content. In February 2001 for the first time the Minister for Culture gave permission for a Kurdish-language film to be shown nationwide ³⁴⁶.

Following a ruling of the Unity of Law Division of all Civil Appeals Courts on 4 March 2000 Kurdish names can be entered in the population registers ³⁴⁷. On 31 March 2001 Prime Minister Ecevit took action against the use of Kurdish place names in correspondence from local authorities ³⁴⁸. All places have been given Turkish names in the last few decades but the Kurdish designations are frequently used in popular speech.

³⁴⁴ *Turkey Country Report on Human Rights Practices for 1998*, U.S. State Department (26 February 1999), p. 26.

³⁴⁵ By virtue of Article 42 of the constitution, which provides that no language other than Turkish shall be taught.

³⁴⁶ *Milliyet* daily newspaper, 27 February 2001.

³⁴⁷ *Hürriyet* daily newspaper, 5 March 2000, and *Tageszeitung*, 6 March 2000.

³⁴⁸ *Associated Press*, 31 March 2001, and *Frankfurter Rundschau*, 1 April 2001.

The Kurdish Institute of Istanbul, a private institution which conducts research into the Kurdish language, has more or less been tacitly tolerated for years. However, in November 2000 proceedings were commenced against the Institute and its director, Hasan Kaya, for allegedly providing instruction in a language which, according to the Education Law, cannot be taught. The case was heard by the court of Şişli district in Istanbul province on 4 April 2001. Kaya testified that no such instruction was being given but that research was simply being conducted into Kurdish. He quoted a report by the education inspectorate stating that it was impossible to give language instruction in the rooms available. The case was adjourned to 21 June, when the deputy director of the Institute is also due to testify.

In recent months in the context of EU accession there has been broad debate on whether Kurdish-language television programmes and education in Kurdish should be allowed. Some senior government officials, including the head of the intelligence service MIT, have argued in favour³⁴⁹. This has not, however, led to the inclusion of the right to broadcast and teach in Kurdish in the National Programme for EU accession. The Programme merely states current practice whereby languages other than Turkish may be used in everyday life. In a speech on 25 April 2001 the President of the Constitutional Court declared that teaching in the Kurdish language was unconstitutional³⁵⁰.

3.4.2 Village guards

When the state of emergency was declared in 1985 a system of village guards was also established in the south-east whereby villages, though not forcibly, supplied adult men to guard the villages and provide general assistance and information. Village guards were thus supposed to work together with the army and *jandarma* in their fight against the PKK. The willingness of the local population to take part in the village guard system has always largely depended on tribal loyalties. Some Kurdish tribes voluntarily supplied village guards while other tribes have constantly refused to participate because of their PKK sympathies. This has led to entire villages refusing requests to supply village guards while others voluntarily cooperate.

³⁴⁹ Turkish Daily News, 29 November 2000, and Hürriyet daily newspaper, 30 November 2000.

³⁵⁰ Radikal daily newspaper, 26 April 2001.

The village guard system has always been highly controversial. Not infrequently villages which had shown reluctance to become involved in the conflict have suffered reprisals, including the burning of villages. The village guard system also makes for abuses of power. Many village guards have been involved in crimes ranging from murder, supporting the PKK and drug smuggling to bride abduction. Thousands of proceedings are pending against village guards, with almost 24 000 having been dismissed since the system was introduced in 1985.

According to representatives of the Turkish human rights organisations TIHV and IHD as well as international observers no more new village guards are being recruited to the existing ranks of approximately 70 000. However, according to an IHD spokesman, existing village guards who wish to end their activities sometimes meet with opposition from the (local) authorities. Those concerned are allegedly pressurised to continue their activities.

The abolition of the village guard system has been contemplated at government level for some time now. A few small-scale retraining projects for village guards have recently been announced. However, the village guard system generates a steady income, which people are not always willing to give up. Furthermore, disarmament will give rise to problems since village guards come from different tribes which not infrequently have difficult or poor relations with each other. It is assumed that none of the tribes will want to be the first or only ones to surrender their weapons.

In the past individuals recruited as village guards have sometimes been caught in the crossfire. On the one hand their refusal to serve as village guards could be interpreted as implicit support for the PKK, while on the other hand their acceptance of the office could make them PKK targets. Since the withdrawal of PKK fighters from Turkey at the end of 1999 there has been practically no further pressure to speak of from the PKK. Now that the recruitment of village guards has ceased, this issue is no longer of any great importance.

3.4.3 Women

By and large the equality of men and women is guaranteed by law. There are a few legal provisions which discriminate against women. According to the Civil Code the man is the legal head of household and therefore chooses the domicile and represents the conjugal unit. In the event of a custody battle after divorce, custody is often awarded to the man. Inheritance law also has some elements which place women at a disadvantage. Since 1997 women have been able to keep their maiden name after marriage. Work is currently under way on a revision of the Civil Code which provides for far-reaching improvements in equal rights for men and women.

Women make up almost half of the working population and receive equal pay. There are some female district governors. The number of women members of parliament is low ³⁵¹, although in the early the 1990s Turkey had a female Prime Minister in the person of Tansu Çiller, who is still leader of the Doğru Yol Partisi (True Path Party). In Turkey the literacy rate for women is 78%, compared with 94% for men. In rural areas 50% of women are illiterate. However, women from rural areas are catching up. Women from rural areas now constitute 35% of the student population at universities ³⁵².

In Turkey women are often exposed to various forms of violence within marriage. Abuse is a frequent occurrence. According to a survey by Istanbul University in March 2000, at least ten per cent of women experience violence on a daily or weekly basis ³⁵³. In January 1998 the Criminal Code was amended to make spousal abuse illegal. Despite the new law, spousal abuse is still considered a private matter involving the family honour.

³⁵¹ In 1999 they constituted 4%. See *Woman 2000. An investigation into the Status of Women's Rights in the former Soviet Union and Central and South-Eastern Europe*. International Helsinki Federation for Human Rights (9 November 2000), p. 451.

³⁵² *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001).

³⁵³ *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001).

Women rarely file charges for assault or sexual abuse. Ingrained ideas make it difficult to prosecute sexual assault cases. Societal taboos and a lack of trust in the authorities are frequently the reason why cases are not reported. There are now a total of nine shelters and six consultation centres for battered women in Turkey.

Women who in their relatives' eyes have blackened the family name by supposed unchaste conduct continue to be murdered in rural areas and urban districts with a large population of rural origin. Another problem which arises among the rural population is the high percentage of suicides among young women forced into marriage. The traditional practice of "virginity testing" also continues despite governmental regulations prohibiting it ³⁵⁴.

Sexual assaults are often committed by government officials. Women in pre-trial detention are often victims of sexual intimidation and on occasion more serious forms of sexual abuse. Women are often forced to strip, are touched, insulted and threatened with rape. A poll conducted by the IHD indicated that three-quarters of women who had been in pre-trial detention claimed to have experienced sexual intimidation. According to the survey only one-sixth reported it to the authorities ³⁵⁵. At a conference in Diyarbakır on 25 February the president of the Law Association's Women's Committee declared that 123 women had filed charges for sexual intimidation or rape while in pre-trial detention in 2000 ³⁵⁶. A lawyer's association which has been trying to win convictions for such offences has not had a single success in the three years of its existence. In the past village guards have allegedly committed rapes in south-eastern Turkey.

³⁵⁴ *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001).

³⁵⁵ *Country Reports on Human Rights Practices 2000. Turkey*, US State Department (26 February 2001).

³⁵⁶ *Monthly Report of Human Rights in Turkey – February 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), p. 33.

3.4.4 Homosexuals, transvestites and transsexuals

Homosexuals

There is a certain ambivalence towards homosexuality in Turkey. Many Turks regard it quite simply as repugnant, others accept it as a social phenomenon, which does not mean that it is a much talked-of issue.

In general homosexuals need not fear official persecution by the Turkish authorities. There is no policy actively directed against homosexuals in Turkey. Nor is there any policy on the basis of which homosexuals have less access to public institutions or fewer rights to practice a profession. They are not subject to any known particular restrictions on founding or membership of associations or political parties. However, they are at risk of harassment and obstruction by local government representatives who allow their personal views to override legal regulations. In Turkey not everybody draws a distinction between transvestites and transsexuals.

Article 419 of the Turkish Criminal Code allows for the prosecution of anyone who shamelessly engages in certain sexual acts in public. However, no difference is made according to sex or sexuality. In 1999 there were 68 cases in which charges were brought on the basis of that Article³⁵⁷. No information is available on the sex and sexuality of the accused.

Although Turkish law stipulates that everyone over eighteen can have a sexual relationship, certain forms of sexual behaviour are not socially accepted by broad sections of the population. Rural areas, as well as relatively conservative places such as Konya, are a lot less tolerant towards homosexuals. Individuals experiencing problems in their social environment because of their sexuality appear to escape them by moving to places like Istanbul, Izmir or Ankara, where there is now a fairly well-developed homosexual scene. The majority of homosexuals in Istanbul are said to come from elsewhere in the country.

³⁵⁷ Figures from the Turkish Central Judicial Records (www.adli-sicil.gov.tr). No figures are available for 2000.

There are some homosexual rights organisations. The most important are Lambda, founded in 1993 in Istanbul, and Kaos GL in Ankara ³⁵⁸. They organise weekly activities, and national demonstrations take place several times a year. Since 1994 Kaos GL has published a bi-monthly magazine which is available in alternative bookshops in many cities. Interest groups are tolerated but claim that local authorities have been obstructive in the past. In 1995 and 1996 public demonstrations were forbidden by the police. However, in 1999 and 2000 they were allowed to take place ³⁵⁹.

Transsexuals

Transsexual operations are not criminal offences and may be performed in Turkey. Sex changes are officially recognised by the authorities. The new sex is indicated in their identity papers, etc. They are also allowed to marry afterwards. The famous singer Bülent Ersoy, who had a sex change in 1980 and married as a woman in 1999, is a well-known example. The transsexual Melike Demir is famous under the name Demet as a champion of rights for transsexuals in Turkey. In the new draft Civil Code sex changes are to be made more difficult to obtain and forbidden for married persons ³⁶⁰. The position of transsexuals in Turkish society is otherwise comparable to that of homosexuals, as described above.

Transvestites

There are an estimated 3 000 transvestites in Istanbul ³⁶¹. Huysuz Virjin is a nationally 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. The position of Turkish transvestites in Turkey is otherwise comparable to that of homosexuals, as described above.

³⁵⁸ Cumhuriyet daily newspaper, 2 March 2000.

³⁵⁹ Lambda website at www.lambdaistanbul.org, as at 15 March 2001.

³⁶⁰ Milliyet daily newspaper, 18 January 2001.

³⁶¹ Nicole Pope, "Turkey's Gay Culture Slowly Emerges", on NTV-MSNCBC website, 7 September 2000.

3.4.5 Conscripts

Military service in Turkey is dealt with in a separate official report ³⁶². A new official report on the subject is due in summer 2001.

3.4.6 Unsupported minors

Children whose parents for whatever reason are unable to exercise custody are usually looked after by the family. In almost all cases the child's relatives are willing to take care of the child. This also applies to unaccompanied minor asylum seekers who have been sent back to Turkey from the country in which they had applied for asylum. Of those who claimed to be unaccompanied minors when applying for asylum in the Netherlands in the last two years, it was possible to trace the parents or legal guardians in almost all cases.

Nevertheless it can happen that in occasional cases no adequate care is possible within the family. In that case the Turkish authorities may provide care. Turkish law provides for state care for unsupported minors ³⁶³. That care should, however, be regarded as a final safety net. 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 ³⁶⁴.

³⁶² General Official Report on Turkey, 15 June 2000, reference DPC/AM-672925.

³⁶³ This is governed by Law No 2828 of 24 May 1983 on the Social Services and Child Protection Agency.

³⁶⁴ Law No 2828 of 24 May 1983 on the Social Services and Child Protection Agency, Article 21.

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 aged between 0-18 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 aged 0-12 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.

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. There are examples of provinces in which personal intervention by the governor has led to an acceptable or even good care system (in Kayseri, for instance), while in other provinces care can only be described as minimal. 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.

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.

3.4.7 Activists engaging in marginal activities for illegal organisations

Anyone who is prosecuted for conducting marginal activities for illegal organisations such as the PKK or revolutionary groups may be sentenced to imprisonment not exceeding three years and nine months on the basis of Article 169 of the Turkish Criminal Code (support for an illegal organisation).

Case Law in such proceedings gives a varying picture. Some State Security Courts are relatively quick to assume involvement with an organisation while there are also cases in which the courts have acquitted suspects when there was sufficient proof for a conviction. One such case involved a Turkish national who was found in possession of PKK pamphlets but was nevertheless acquitted. Article 169 of the Criminal Code is covered by the Amnesty Law of 21 December 2000 which led to the release of many convicted of such offences and the suspension of many pending proceedings³⁶⁵.

3.4.8 Relatives of PKK members

Those known to have or suspected of having one or more family members in the PKK can expect some attention from the authorities. Depending, among other things, on the degree of kinship and the (suspected) position of their relative(s) within the PKK, family members may be subjected to varying degrees of intimidation, harassment, official obstruction, questioning and similar problems. It is perfectly conceivable, even probable in many cases, for the families of (suspected) PKK members to be kept under observation by the authorities or questioned and interrogated, also because they could as often as not be potential suspects themselves. In many cases the Turkish authorities probably assume that some relatives of PKK supporters harbour sympathies for the party. However, if the authorities are convinced that relatives of (suspected) PKK members do not have any links to the PKK they are not persecuted.

Countless people in Turkey have one or more relatives in the PKK without having any significant problems with the authorities as a result. The families of prominent PKK supporters such as Abdullah Öcalan and Şemdin Sakık were probably always under intensive surveillance by the authorities and lived under a certain degree of pressure, but they were not actually persecuted for their relationship with the PKK leaders. Öcalan's family attended his trial on İmralı Island. One of Sakık's brothers is openly politically active.

³⁶⁵ See section 3.3.6.

3.4.9 Relatives of HADEP members

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 the authorities pay particular attention to, for example, first or second degree relatives of prominent HADEP members.

3.4.10 Returned asylum seekers

It is a known fact that thousands of (illegal) Turkish nationals are returned to Turkey from western Europe each year. They also include rejected asylum seekers. In 1999 and 2000 respectively the Netherlands returned to Turkey 137 and 191 rejected asylum seekers and a few hundred individuals who had resided illegally in the Netherlands.

There are no indications that Turkish nationals are persecuted in Turkey purely because they applied for asylum abroad. The Turkish authorities are aware that many citizens leave the country for economic reasons and apply for asylum elsewhere. However, people who have conducted activities abroad which the Turkish authorities regard as separatist are at risk of persecution if the Turkish authorities find out.

The criminal records of Turkish-Kurdish asylum seekers who are returned to Turkey are checked on entry just like those of other Turkish nationals. The records may concern criminal convictions by a Turkish court, but can also be related to official judicial preliminary inquiries or investigations by the police or *jandarma*. Draft evaders and deserters are also on record at the border posts.

If a person is found to have a criminal record, or incorrect border-crossing documents or if there is any suspicion that something is not in order, the Turkish border authorities often interrogate the person concerned. This definitely applies to individuals without a passport, whose documents are not in order or who have left Turkey illegally. It also applies to people who have been expelled from other countries.

Questioning is often 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, including (drug-related) offences, and possible contacts with illegal organisations abroad. If, however, there is no definite suspicion, as a rule the person is released after an average six to nine hours' detention. In other cases the person is transferred to the relevant investigative authority. In Istanbul this is mostly the Anti-Terror Branch of the police, which is located in Bakırköy, not far from the airport.

When they are expelled or return to Turkey, PKK activists and sympathisers who are thought to be of great interest to the Turkish authorities³⁶⁶ risk being insulted, threatened, maltreated or tortured during the close questioning described above. A representative of the Turkish human rights organisation TIHV stated that a clear shift from physical to more psychological pressure on detainees had recently been observed.

Asylum seekers rejected from western Europe frequently claim to have been maltreated or tortured after their arrival in Turkey. A limited number of the claims of ill-treatment or torture after expulsion to Turkey from western European countries (in 1999 and 2000) have been investigated by the relevant western European authorities. On the basis of a medical examination in Turkey in one of those cases it was concluded that the complaints and symptoms pointed to torture. In the remaining cases in which investigations into claims of torture have been completed either there are doubts as to the veracity of the claims asserting ill-treatment or torture, or such declarations were found incorrect or implausible. A number of investigations are still pending.

The media in the Netherlands also contained reports on similar claims. Among the "Tilburg eight" who were named in a report by Vrij Nederland on 12 August 1999, of the four people under investigation, three were able to travel freely within Turkey. One was apparently in detention in Albania. Investigations into an asylum seeker named in an article in the Volkskrant on 8 October 1999 who turned up again in the Netherlands bearing signs of torture on his back a few months after expulsion to Turkey have recently been completed. The investigation was unable to establish clearly who was responsible for the torture. The involvement of the Turkish authorities

³⁶⁶ The Turkish intelligence agency, MIT, allegedly keeps close tabs on political activities against Turkey. Given manpower constraints, routine surveillance by the MIT seems to concentrate on leading figures. Information on people of lower rank is apparently obtained "by chance".

or other forces cannot be ruled out.

The treatment in the army of returnee military service objectors is detailed in the General Official Report on Turkey/Military Service of 15 June 2000. A new official report on military service is due to be submitted to the Secretary of State for Justice in summer 2001. The question of the claimed ill-treatment, discrimination or death of returnee military service objectors in the army should not be confused with the above issue of returnee asylum seekers at the Turkish border.

3.4.11 Summary

Human rights are guaranteed by the Turkish constitution subject to a few restrictions. Turkey is a party to most international human rights treaties and cooperates in international monitoring of them. Human rights NGOs are frequently harassed, shut down or prosecuted.

In practice, the constitutional freedom of speech is restricted with regard to the Kurdish question and the role of Islam in society. Objectionable statements often lead to persecution or a ban on publication. The freedom of association and assembly enshrined in the constitution is regularly restricted. Freedom of association is restricted by the requirement for NGOs to have their statutes approved. Freedom to found political parties is restricted by the proviso that they must be secular and must not discriminate *inter alia* on grounds of different ethnic origins or class. Trades unions enjoy freedom but are sometimes suspected of supporting illegal movements. Pressure on NGOs increased at the end of 2000 and in early 2001.

According to the constitution there is freedom of religion in Turkey. Alevis and non-Islamic minorities as a rule enjoy that freedom in practice. However, there are administrative restrictions and in some cases discrimination on the part of the general public or government officials. Islamic headscarves are not tolerated in universities, *inter alia*.

During detention the right of access to a lawyer and prompt notification of next of kin is often not respected. The prisons are currently being converted from a ward system to a system with small cells. Fear of torture, *inter alia*, has led to protests and prison riots culminating in the storming of prisons by the security forces and transfers to the new prisons. Ill-treatment allegedly took place in the process.

An amnesty announced in December 2000 provides for ten-year reductions in sentences or the cessation of prosecution for a large number of offences (including those pursuant to Article 169 of the Criminal Code, support for illegal organisations), provided they were committed prior to 23 April 1999.

Ill-treatment and torture are still widespread and occur at the beginning of pre-trial detention. Torture is often inadequately documented by doctors and the perpetrators are rarely convicted. The government has in past years taken several steps to prevent torture which, however, still rarely have any impact in practice. The number of disappearances has fallen to almost zero in recent years. In early 2001 two HADEP officials disappeared without trace. There were a few other disappearances in the same period. The death penalty is authorised by law but has not been carried out since 1984. Abolition of the death penalty is widely spoken of in the context of accession to the EU but no concrete steps have been taken yet.

The government does not persecute Kurds solely on the grounds that they are Kurdish. The Turkish government is more focused on separatist sympathies than ethnic background. People from the south-east are more readily suspected of such sympathies. Ethnic origin is not recorded on any official document. The recruitment of village guards has now ceased. The disarmament of village guards meets with great reluctance and has not really got off the ground.

Women are frequently victims of marital violence and are often confronted with forms of sexual intimidation in pre-trial detention. In rural areas women are sometimes murdered in questions of honour. Unsupported minors are mostly cared for by their families. If that is not possible the government provides care in homes of varying quality. Homosexuals, transvestites and transsexuals are not persecuted for their sexuality or preferences, although they are sometimes victims of harassment.

Relatives of PKK members are not persecuted but possibly have to live with attention from the authorities and sometimes face questioning, intimidation, etc. Relatives of HADEP members need not fear persecution by the government although close family of prominent HADEP officials can be the object of special attention.

Returnee asylum seekers have their criminal records checked on arrival at the border, are often interrogated for several hours and then released or transferred to the prosecuting authority depending on whether there are criminal proceedings pending against them. In the event of suspected activities for the PKK or other proscribed organisations, they may be insulted, threatened or tortured.

4. Refugees and displaced persons

4.1 Motivation

Not only the human rights situation in the country in general as described above and fear of persecution in individual cases, but also the relatively poor and unpromising economic circumstances and low standard of public services in the south-east lead some of the local population to seek salvation outside the region, despite improvements in the security situation. Uncertainty as to whether the improvement in the security situation will last is also a factor. Even if it is possible to settle elsewhere within the country many prefer to emigrate abroad instead of resettling in Turkey itself.

4.2 Displaced persons

To deprive the PKK of its breeding ground and choke off supplies to PKK guerrillas in the mountains, many villages in south-east Turkey have been evacuated and burned by the armed forces. Many families have thus been forced to settle elsewhere in Turkey. Such families – who received no government assistance – have settled in big towns in the south-east of the country and on the outskirts of the major cities of Istanbul, Ankara and Izmir. According to the Turkish Parliamentary Commission on Migration, in 1998 401 328 people were forced to leave their original villages³⁶⁷. In the end of 1999 official government figures were some 85 000 lower. The highest number was cited by the IHD, which gave an estimate of three million in 2000. The US Committee for Refugees considers that this figure probably includes the large-scale economic migration from the region to the large cities and says that 500 000 is a credible estimate of the number of displaced persons³⁶⁸.

³⁶⁷ Turkish Daily News, 7 June 1998.

³⁶⁸ *Worldwide Refugee Information, Country Report Turkey*, US Committee for Refugees (January 2000).

Cities in south-eastern Turkey have scarcely been able to cope with the influx of migrants³⁶⁹. For instance, from 1990 to 1997 the population of the south-eastern provincial capital Diyarbakir grew from half a million to three times as many³⁷⁰. Most of the rural population lives in camps on the outskirts of the city, often without facilities such as running water. The rate of unemployment is high. Others have succeeded in making a reasonable life for themselves in the cities and no longer need to return to their villages.

In its reports on the first eight months of 2000 the Turkish human rights organisation IHD³⁷¹ notes that no villages were evacuated in that period. In the first eight months of 1999 the IHD reported that 27 villages or hamlets had been cleared. It is known that one village whose former inhabitants returned without permission from the authorities was re-evacuated by the army. According to local villagers, in the beginning of October 2000, roughly half a year after returning to their village of origin, Akçapinar, their possessions were destroyed by the Turkish army and the villagers were forced to leave again.

People who have left or been displaced from the south-east say that they want to return to their old homes. However, this can be problematic. The Ecevit government has expressly declared that it wants actively to promote returns, including through financial aid, but observers note that not much has been done so far to carry out those plans. Another obstacle to returning is that village guards who have occupied land in empty villages are not inclined to return it to the original owners³⁷².

³⁶⁹ See section 4.2.

³⁷⁰ *Worldwide Refugee Information, Country Report Turkey*, US Committee for Refugees (January 1999).

³⁷¹ *Balance Sheet of Human Rights Violations for the first six months of 2000*, IHD (2000), and *Balance Sheet of Human Rights Violations for July and August 2000*, IHD (11 October 2000).

³⁷² *Monthly Report of Human Rights in Turkey - January 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), p. 8.

The official resettlement programme has the disadvantage that it aims to relocate many people in so-called "central villages". These are places between a village and a town in terms of size which, according to Prime Minister Ecevit, offer an ideal structure for rebuilding. However, in all likelihood these central villages are to be built in strategic locations from which the army can continue to exercise easy control of the local population. There are also various reports that the possibility of resettling in such villages is tied to a loyalty test so that it is the (former) village guards who can avail themselves of this possibility ³⁷³.

Many nevertheless wish simply to return to their old villages and rebuild their lives there. Financial assistance for construction and new livestock is needed. So far, little or no aid has been forthcoming. The authorities often refuse permission to return to original villages for security reasons ³⁷⁴. The Turkish media recently reported on a resettlement project in the province of Mardin in which the villagers are supposedly going to return to their original villages and not to the abovementioned central villages. The report mentioned eleven villages in 2001 ³⁷⁵.

The "super-governor" in charge of administration in the state of emergency provinces reported in June 2000 that in that month, 2 500 inhabitants had returned to 24 villages and 30 hamlets. The number of returnees in the period from March to May 2000 was considerably higher. In the second half of 2000 the situation appeared to stagnate once more. Since summer 2000 more and more "spontaneous returns" have been observed, with people not wanting to wait any longer for the Turkish government's resettlement programme.

³⁷³ *Worldwide Refugee Information, Country Report Turkey*, US Committee for Refugees (January 2000), and *Turkey. Human Rights and the European Accession Partnership*, Human Rights Watch (September 2000).

³⁷⁴ *Monthly Report of Human Rights in Turkey - January 2001*, Human Rights Foundation of Turkey Documentation Centre (January 2001), p. 8.

³⁷⁵ Zaman daily newspaper, 8 February 2001.

4.3 Internal resettlement

In the past the poor security situation has given many people reason to leave their original homes in south-east Turkey. Now that the armed conflict has virtually ceased and relative calm has returned to the region there is scarcely any need to emigrate for security reasons. Since the big towns in the south-east are full to overflowing as a result of the mass influx, they can now hardly be regarded as an alternative location for resettlement. Settling in the major cities outside the south-east is therefore an alternative.

Outside the region, cities such as Istanbul, Adana, Antalya, Ankara and Izmir can offer people from the south-east scope for resettlement. It is generally possible to settle in those cities or elsewhere in regions outside the south-east.

The degree of socio-economic integration varies from one individual to another. Those who have a command of Turkish, professional qualifications and financial resources are more likely to build themselves a reasonable life in other parts of Turkey. Age and the presence of family or members of the same tribe can also be an important factor.

Thanks to what are often strong tribal and family ties, many Kurds are able to find, though often temporarily, accommodation with or thanks to relatives who live outside the state of emergency regions. However, (solitary) old Kurdish men and women who do not speak Turkish, do not have sufficient financial resources and cannot fall back on family or members of their tribe from the south-east are not always able to settle in other parts of the country without difficulty.

Traditionally, Istanbul has always been the place for Syriac Orthodox Christians to settle because it already has a large community. The relative calm which has descended on south-eastern Turkey also means that Syriac Orthodox Christians no longer need to leave their homes in many cases.

Yezidis, of whom there are only a few remaining in Turkey, most of them elderly, face myriad obstacles when settling outside their regions of origin.

More advanced age, limited scope for social, religious and cultural integration, and the small number of Yezidis elsewhere in Turkey often make reception and settlement outside their region of origin problematic. The same applies mutatis mutandis to the group of Assyrian Christians from the south-east, who have also practically died out in Turkey.

Those who do not live in the big cities and experience problems in their social environment because they are transvestites or on account of their sexuality can generally escape their problems by moving to Istanbul, Izmir or Ankara, for example.

Before the stop on recruitment of new village guards, people who had been forced to become village guards and refused or people persecuted by the PKK because they were village guards had been able to move to outside south-eastern Turkey. The problem virtually no longer exists now that the PKK has pulled back beyond the Turkish borders and there has been a *de facto* moratorium on the recruitment of new village guards. In the occasional occurrences which do arise, it is possible to escape such persecution by moving to one of the major cities in western Turkey.

Individuals who have criminal proceedings pending against them and are wanted by the authorities are recorded in the central Judicial Records System, thus keeping the authorities informed nationwide when a person is wanted.

4.4 Policy of other western countries

Categorical persecution of certain groups is only confirmed in a few cases. In Germany and Switzerland Yezidis are always admitted as refugees and in Germany (apart from in Rhineland-Palatinate) so are Syriac Orthodox Christians. In all other cases asylum applications are judged on their individual merits in all countries.

With the exception of Italy, which for humanitarian reasons never removes Kurds, all countries in western Europe return rejected asylum seekers to Turkey. After a ruling of the Court of Appeal on 28 January 2000 expulsions have also resumed in Great Britain. Greece, which until recently did not expel rejected asylum seekers from Turkey, now orders them to leave the country with six months' notice. Belgium, which used not to expel rejected asylum seekers from Turkey, now has a new policy of expulsion whenever technically possible.

To our knowledge there are no European countries in which homosexuals, transvestites or transsexuals from Turkey are eligible for asylum solely on the grounds of their sexuality or preferences.

Germany and Switzerland conduct a policy towards unaccompanied minor asylum seekers which takes as a basis that they must be taken into the care of relatives living in Turkey. They only allow them to stay when this is not possible.

To our knowledge, no European countries recognise being a village guard or refusing to perform military service without any additional circumstances as grounds for asylum. In Germany, however, the various courts are divided as to whether it is possible for village guards as a group to settle elsewhere in Turkey.

High-ranking PKK officials who support the fight using terrorist means in Turkey from Germany are not entitled to asylum. The same applies to PKK leaders who collect "donations" in Germany and maintain contact with the PKK leadership. Kurds who belong to this category are considered a threat to the security of the Federal Republic. In the case of Kurds with a PKK background, on the basis of an agreement between the German and Turkish authorities dating back to 1995 ("*Konsultationsabkommen*"), the latter must declare in a binding statement whether penal measures will be taken against potential returnees and if so, which. Of the 404 inquiries by the German authorities up to May 2000, the Turkish authorities had replied to 226. Up to that date, 36 people had been removed to Turkey from Germany under the agreement.

4.5 UNHCR policy

According to the UNHCR, Kurds and members of Christian minorities from the south-east of Turkey do have an internal flight alternative outside the region "... unless the case in question is of a prominent nature or it is perceived by the authorities to have real or alleged links with the PKK or other main Kurdish parties"³⁷⁶. The UNHCR considers that "... the group most likely to be exposed to harassment/prosecution/persecution are Kurds suspected of being connected with, or sympathisers of the PKK. The articles of the Anti-Terror Law (...) have been used (...) to persecute and imprison persons who expressed their opinion peacefully. Persons who are suspected of having the slightest links to the PKK are often detained and kept in detention. They are at times subjected to torture and/or ill-treatment. Cases of extra-legal executions have also been reported"³⁷⁷. The UNHCR points out that "... the recent developments linked to Mr Öcalan seem to have no impact on the substance of the (....) possibility for Turkish asylum seekers originating from the eastern provinces of the country to find an internal flight alternative in other parts of Turkey"³⁷⁸.

With regard to returns to Turkey of rejected asylum seekers from that country, the UNHCR "... does not have any objection to returns of Turkish asylum seekers who after a fair and efficient asylum procedure have been found not to be refugees nor to be in need of international protection on other grounds."³⁷⁹. With regard to people who have not been granted asylum on the grounds of Article 1(F) of the Convention on Refugees, the UNHCR adopts the position that "In accordance with standing jurisprudence, a person who has been excluded from refugee status on the grounds of Article 1(F) of the 1951 Convention should, nonetheless, not be returned to Turkey if it can be established that he/she is likely to be submitted to torture or inhuman or degrading treatment or punishment in violation of Article 3 of the UN Convention on torture, Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention on Human Rights."³⁸⁰.

³⁷⁶ Letter from the UNHCR in The Hague to Amnesty International, 4 December 1995.

³⁷⁷ Letter from the UNHCR in The Hague to Amnesty International, 4 December 1995.

³⁷⁸ Letter from the UNHCR in The Hague to Stichting Rechtsbijstand Asiel, OC Den Haag, 25 January 1999.

³⁷⁹ UNHCR Geneva, fax report of 21 May 1999, and UNHCR The Hague, letter to the Ministry of Foreign Affairs, 9 August 1999.

³⁸⁰ Letter from the UNHCR to the Home Office, Country Information and Policy Unit, Ref. 600 Turkey (22 March 1999).

In the light of the UNHCR's findings with regard to an internal flight alternative, the organisation explains that "... it is essential to find out if Turkish asylum seekers, if returned, would be at risk of being suspected of connection to or sympathy with the PKK. If this is the case, they should not be considered as having been able to avail themselves of an internal flight alternative."³⁸¹.

The UNHCR's position is not known to have changed since the letters quoted above were issued.

4.6 Summation

Not only the overall human rights situation in the country, as described above, and government persecution feared by individuals, but also relatively poor and unpromising economic circumstances and a low standard of public services combined with uncertainty as to the durability of improvements in the security situation lead some of the local population to seek salvation outside the region.

An estimated one hundred thousand people have had to leave their villages in recent years as a result of forced evacuations by the security forces. Without government assistance, they have settled in the large cities in south-eastern and western Turkey. The standard of facilities provided to them is low and unemployment high in the overpopulated large cities in the south-east.

Many have the opportunity to settle elsewhere in Turkey, although the big cities in the south-east can no longer really serve as an alternative place to relocate given their overcrowding.

³⁸¹ Letter from the UNHCR in The Hague to Amnesty International, 4 December 1995, and letter from the UNHCR in The Hague to Stichting Rechtsbijstand Asiel, OC Den Haag, 25 January 1999. See also: UNHCR Position Paper on Relocating Internally as a Reasonable Alternative to Seeking Asylum, February/March 1999.

UNHCR policy assumes as a general point of departure that it is possible to relocate elsewhere in Turkey. The same is true of all European countries, with the exception of Italy, which sees reasons in the general situation in Turkey not to remove rejected asylum seekers and illegal aliens to that country. The UNHCR especially emphasises the specific risks faced by individuals with (suspected) PKK links.

5. Summation

Turkey is a centrally governed secular, unified state in which the army plays an important role. It allows no room for Kurdish nationalism or the development of political Islam. The position of pro-Kurdish and Islamist parties can suffer constraints as a result.

The security situation has improved considerably and there is relative calm following the withdrawal of the PKK from Turkey. In the south-east, however, there is still extensive socio-economic disruption. The Turkish government's attitude towards the PKK has not changed with the cessation of hostilities. The public's confidence in the durability of improvements to the security situation appears somewhat shaken by a few incidents in early 2001. A number of small terrorist groups of left-wing and extremist Islamist stamp are active in Turkey.

The human rights situation in Turkey is deficient in a number of respects. Many human rights violations are related to the Kurdish question, which is defined by the government as separatism. For a large part they concern restrictions on freedom of expression and freedom of assembly, which are not respected in a number of cases when they touch on matters concerning the unity and secularity of the Turkish state.

Ill-treatment and torture are widespread and occur notably during pre-trial detention. Frequently, insufficient action is taken against the perpetrators of ill-treatment and torture. There are also disappearances and unsolved murders. The death penalty has not been carried out since 1984. Since the end of 2000 Turkey, among other things given the unsatisfactory situation in the traditional prison system, has been making the transition to a cell-prison system. Human rights organisations have expressed concern that the new system may lead to more cases of torture. In December 2000 an amnesty was decreed which also covered Article 169 of the Criminal Code (support for illegal organisations). This led to over 23 000 people being spared further punishment.

Kurds are not officially recognised as a minority in Turkey. However, the government does not persecute Kurds simply and solely because they are Kurds.

Not only the overall human rights situation and the fear of persecution in individual cases, but also the socio-economic situation, including the large number of people evacuated from their home villages in the 1990s and uncertainty as to the future in south-eastern Turkey, play a part in leading people to consider leaving their region of origin. Many have the opportunity to relocate elsewhere in Turkey, although the big cities in the south-east are less of an option as a result of overpopulation.

UNHCR policy also takes as a general point of departure that there is an internal flight alternative. The same is true of all European countries, with the exception of Italy. The UNHCR particularly stresses the specific risks faced by individuals who have (suspected) links to the PKK.

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