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Turkey

Country Report

Table of Contents

I. Background

I.1. Historical and political background

Legislative branch
Executive branch
Judicial branch

I.2 Human rights situation

Torture and Incommunicado Detention
Freedom of Expression

II. Groups at risk

II.1. Specific groups at risk

Kurds
Military service
HADEP
Religious minorities
Islamists
Human Rights Defenders
Turkish Communist Party Leninist-Marxist (TKPLM)
Other groups at risk

II.2. IFA and internal displacement

IFA
Internal displacement:

II.3. Refugees / illegal immigrants in Turkey

II.4. Repatriation

III. Documents and registration

IV. Bibliography of recent publications

**Presentation by Ms Ayliz Baskin,
additional remarks by Ms. Gerlinde Wachter
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I. Background

I. 1. Historical and political background

Turkey was created in 1923 from the Turkish remnants of the Ottoman Empire. It is a republic with a parliament, a president, a government, a public administration, a judicial system and a National Security Council. The political structure is laid down in the Constitution that was drawn up by the military after the 1980 coup and was approved by a referendum. According to the Constitution, the Turkish republic is "a democratic, secular and social State governed by the rule of law" (Art. 2). This description unfortunately leaves a lot to be desired from a human rights point of view as will be seen in chapter I. 2. of this report.

Legislative branch

The Turkish Grand National Assembly (TGNA) is a one-chamber parliament composed of 550 deputies who are elected for 5 years by direct, universal suffrage. After the April 1999 elections 5 political parties are represented in parliament and the government is a three-party coalition. As far as the government is concerned, the Council of Ministers is chaired by the Prime Minister designated by the President of the republic from among the members of the TGNA and it is composed of 32 ministers nominated by the Prime Minister and again appointed by the President.

As for the coalition government partners, the Democratic Left Party (DLP), which came out of the election as the strongest party, has 136 seats and is headed by the veteran politician Bülent Ecevit, now the Prime Minister. DLP is a center-left, yet nationalist party. The second party to come out of the election, to everybody's surprise, was the ultra-nationalist National Action Party (NAP) with 130 seats, headed by Devlet Bahçeli, who is one of the two deputy prime ministers. The other one is Mesut Yılmaz, leader of the Motherland Party, which stands at center-right and has 88 seats.

The other two parties represented in the parliament are former Prime Minister Tansu Çiller's centre-right True Path Party (TPP, also DYP) and Recai Kutan's controversial, pro-Islamist Virtue party (Fazilet). TPP has 85 seats and Virtue has 103.

There is a vibrant scene of political parties in Turkey, but there are only five in parliament because under the current electoral system a party must receive at least 10% of the total national vote to get seats in parliament. Therefore, if a particular party wins in a particular district but does not meet the national 10% threshold, its votes are redistributed to the other parties that won seats at that district.

This rule explains why the pro-Kurdish HADEP, the People's Democracy Party receiving the majority of votes in the mostly Kurdish Southeast, was not able to enter parliament since it only gained a national 5% of votes and failed to pass the 10% threshold. It has to be kept in mind that together with the general elections, local government elections were held and HADEP won several key mayorships in the region, including Diyarbakir, the regional capital so-to-speak.

Speaking of HADEP, one of course has to mention the on-going closure case against the party in the Constitutional Court on charges of having links with the outlawed PKK.

The situation of HADEP and its members will be further treated in chapter II.1. when discussing specific groups at risk.

Some more party closures have occurred over the last years. The pro-Kurdish Democratic Mass Party (DKP) was closed by the Constitutional Court on grounds of promotion of separatism in February 1999. Erbakan's Islamist Welfare Party (Refah) was closed in January 1998 after the so-called post-modern coup, in which the ultrasecular military urged the Islamist Prime Minister Necmettin Erbakan and his government to step down from power. Having criticized the state for replacing prayers with nationalist slogans in school in a speech held in 1994, former Prime Minister Erbakan was sentenced to a one year jail term for 'inciting religious and ethnic hatred and separatism' under the much debated Article 312 of the Penal Code. His appeal on this decision of Diyarbakir State Security Court had been rejected by the Court of Appeals before this sentence was suspended on 5 January 2001 under the Law on Conditional Release from Prison and Suspension of Punishments. This law had come into force on 22 December 2000, providing that the capital punishments given for crimes committed before 23 April 1999 not be carried out. Moreover, the total punishment of those sentenced to life imprisonment will be reduced by ten years. The law amends part of the first article of the Law on Suspension of Punishments and Cases Regarding the Crimes Committed Through Press. In accordance with this amendment, the punishments of those who were sentenced to not more than 12 years of imprisonment on charges of crimes committed through the press and on charges of speeches made in meetings, congresses, conferences, seminars, symposiums and panel discussions, will be suspended. The suspension will be valid for three years. In its verdict, the Diyarbakir State Security Court Chief Prosecutor's Office stated that Erbakan's prison sentence was included in the scope of the Law on Conditional Release from Prison and Suspension of Punishments.¹

Amazingly enough, in 1999 the Chief Prosecutor in Ankara [also] filed for a closure order for the Islamist Virtue party, which was created after it became clear that Erbakan and his Welfare party were going to be banned from politics. As of May 2001, a final decision by the Constitutional Court was still pending.

Executive branch

The parliament elects the President of the republic for a seven-year term, usually from among its members. But last year, for the presidential election in May 2000, the members of parliament agreed to support a common candidate: Ahmet Necdet Sezer, former president of the Constitutional Court. Sezer's election was very well received by the Turkish public and welcomed internationally as a step towards more democratization. Since then he has repeatedly shown that he is very different from the former president, the veteran politician Demirel. In an unprecedented commitment to rule of law in July 2000 he vetoed a governmental decree intended to facilitate the dismissal of civil servants deemed to have separatist or Islamist tendencies. The parliament was in recess and Ecevit's government was trying to pass their military-backed decree with as little friction as possible but Sezer would not go along, arguing such a big change in civil service law required legislation passed by the parliament. The parliament has the decree in its agenda since it reconvened in October.

The body with almost the greatest power in Turkey is the National Security Council (NSC). Established by the 1961 Constitution, the NSC plays a unique role in the formulation and implementation of not only the national security policy, but also a wide

¹ Sources: Turkey Update: 18 September 2000; Anatolia (WNC): 22 December 2000, 5 January 2001, 10 May 2001 (WNC)

range of political matters. The NSC is chaired by the president of the republic and is composed of the Prime Minister, the Ministers of Defence, Internal Affairs and Foreign Affairs, the Chief of the General Staff, the commanders of the army, navy and airforce and the general commander of the gendarmerie. Its conclusions, statements or recommendations are in principle not legally binding, but it will not be wrong to suggest that the military presence in the NSC single-handedly influence the political process. Over and over again the elected governments have been going along with the 'suggestions' of the NSC in every matter. The NSC shows the powerful key role played by the army in Turkey's political life. An example can be found in the last summer's debate over the dismissal of civil servants suspected of supporting radical Islam or separatist movements. While President Sezer refused to sign the respective government decree Huseyin Kivrikoglu, Chief of the army's General Staff, called for a purge of all Islamist government employees, accusing them of trying to undermine the secular state. As President Sezer wanted any reform of this kind to be enacted by parliamentary legislation, the issue was put on the agenda of the Parliamentary Planning and Budget Commission by the government. On 13 November 2000 two draft laws on reactionary activities were taken up at the Commission. They envisage the dismissal of civil servants and personnel working for the state on a contract basis if it is proven that these individuals are involved in reactionary activities. Moreover, the draft laws also provide that governors, district governors, policemen, judges and prosecutors involved in reactionary activities will be banned from carrying out any activities related to their careers.²

Another example of the army's controversial role in politics was seen in the recent debate between a member of the parliament, Virtue party member Nazli Ilicak, and the Office of the Chief of Staff over the existence of a General Staff action plan that was revealed by Ilicak, claiming that psychological warfare had been launched against certain politicians, journalists and political parties who do not agree with state policy towards controversial issues like Islamists and the PKK. The General Staff issued a reply saying such plans do exist and that sometimes they have been implemented for the sake of the 'sacred State'.

Judicial branch

The Constitution lays down the basic principle of the independence of the judiciary. The Turkish judiciary includes criminal and administrative courts, the Constitutional Court, the Court of Appeals, the Council of State and the State Security Courts (SSCs).

The Supreme Council of Judges and Public Prosecutors appoints and dismisses judges and prosecutors for criminal and administrative courts, including the State Security Courts. Members of the Constitutional Court, however, are appointed by the President on the basis of selected candidates by all superior courts.

Likewise, the President appoints the members of the Supreme Council of Judges and Prosecutors for a four-year period on the basis of a list of candidates selected from members of the Court of Appeals and the Council of State. The chairman of the Supreme Council is the Minister of Justice and the Undersecretary of the Ministry of Justice is a member. This is problematic since it makes the council a political body and deffects its independence. During several LCHR missions complaints about the structure of this Supreme Council could be heard from bar associations, human rights groups and the prosecutors and judges themselves. The appointment of a new government or a cabinet reshuffle can bring major changes within the judiciary.

² Sources: BBC News, 10 August 2000, 31 August 2000; Istanbul Sabah, 14 November 2000 (WNC)

One of the biggest problems regarding the judiciary is the slowness of the judicial procedures; for example, the average duration in juvenile courts is 655 days. The judicial system's excessive caseload undermines efficiency. Currently more than 1 million criminal cases are pending.

I would like to address the State Security Courts. These special courts were created in 1982 for trying cases that fall under the jurisdiction of the Anti-terror Law: including „all sorts of actions to be attempted by a person or a group for the purpose of changing the nature of the Republic, destroying the indivisible integrity of the state, its territory and nation, undermining or destroying the authority of the state“ (Art. 1). Such actions are the membership in illegal organizations like PKK or TKPLM, organized crime and smuggling. The State Security Courts have a three-judge panel. One of the judges used to be a military judge but the Constitution was changed to remove the military presence from the SSCs in June 1999 - a make-up improvement to prevent international criticism of the insufficient independence of these courts during the Öcalan trial.

Another aspect that needs to be discussed in the context of the judiciary is the existence of a new draft penal code that became public three years ago and is currently being revised by the government. According to LCHR's communication with the Minister of Justice, Hikmet Sami Turk, two years ago, the amendment will be effective in stopping restrictions on freedom of expression; however, no developments could be observed in this context so far.

As far as death penalty is concerned, Turkey has a moratorium on capital punishment since 1984, i.e. no executions have been carried out since then, and Turkey therefore belongs to the list of de-facto abolitionist states at present. Nevertheless, the courts still hand down death sentences, as could be seen in the Öcalan case. 57 death sentences that have been confirmed on appeal are currently pending at the final parliamentary stage; for each case, the death penalty has to be approved by Parliament and subsequently by the President. In order to save face, the Parliamentary Commission does not bring the court sentences to Parliament for discussion, thus delaying a decision.

Prime Minister Ecevit has made it clear that he is personally against the death penalty, and Minister of Justice Hikmet Sami Turk has said that "*Turkey, as a member of the Council of Europe and a candidate for full EU membership, should make the appropriate amendments to its judicial system. The abolition of the death penalty should be debated within this framework.*" On 8 November 2000 the EU came out with its Accession Partnership Document and its 2000 Country Report on Turkey. This document states that Turkey still does not fulfil the Copenhagen political criteria (democracy, rule of law, human rights and protection of minorities) which will have to be met before the EU will start accession negotiations with Turkey.³

³ For details see Amnesty International: Turkey: Amnesty International's continuing concerns and the EU Accession Partnership with Turkey, 14 December 2000

1.2 Human rights situation

Soon after the Helsinki European Council in December 1999 a lively debate has started on the conditions of Turkey's accession to the EU. This debate is focusing on the political reforms in order to improve the human rights situation and further democratization.

One very interesting development was the publication of nine volumes of reports by the Turkish Parliamentary Human Rights Commission based on their inspections of police stations and detention centers all over the country since 1998 and their interviews with detainees, their families and officials. The commission's work and its reports are crucial in that they illustrate the need for independent monitoring of human rights violations. It has to be added, however, that the chairman, Dr. Piskinsut, has just been removed from his post.

Another improvement is the signature of two major international human rights instruments, in August 2000: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The State of Emergency still remains in force in four provinces in the Kurdish region: Diyarbakir, Tunceli, Hakkari and Sirnak. Under the State of Emergency Law, the Emergency Region Governor has maximum power to move populations, confiscate publications and limit the right of assembly. There is no judicial review of actions carried under the Governor's authority. Two examples of this practice could be seen in the ban on the distribution of 12 newspapers/magazines in May 1999 and the whimsical opening and closing of the Diyarbakir branch of the Human Rights Association (Insan Haklari Dernegi IHD).

Freedom of movement is limited in the region. In principle, there is the possibility for the gendarmes at checkpoints in the State of Emergency zone to consult some kind of electronic database, although frequently it is difficult to assert what information they can access in their cubicles. On the road between Van and Diyarbakir for example, the most used route linking the two biggest cities in the region, there are six or seven checkpoints, three of which have access to an electronic database. The gendarmerie exerts its right to detain anyone suspicious at these checkpoints, as they are not obliged to give a reason for detention at this point.

There are a number of problematic human rights issues which deserve to be discussed in detail.

Torture and Incommunicado Detention

The Lawyers Committee on Human Rights (LCHR) as well as several other intergovernmental bodies and international NGOs have examined the situation in Turkey and we all agree that incommunicado detention is the major obstacle to elimination of torture. Incommunicado police detention provides an opportunity for torture to take place without witnesses and permits torturers to obscure or minimize medical evidence of abuse.

The UN Special Rapporteur on Torture, in the report on his 1998 visit to Turkey, put at the top of his recommendations the need to "amend legislation to ensure that no one is held without prompt access to a lawyer."

In Turkey, common criminal detainees can be held in police custody up to seven days and they are supposed to be provided with access to legal counsel throughout the

detention period. Those detained for offences tried in the State Security Courts, however, are held incommunicado for the first four days, after which they may have access to a lawyer. Moreover, their police detention may be extended on the order of a judge to seven days, and up to ten days in the State of Emergency zone.

The SSCs are one of the major issues LCHR has been working on in Turkey. The design of the court room is indicative of the division of power between the defense and the prosecution; the prosecutor sits next to the panel of three judges, representing the state and the defense lawyer is next to his client below the court and his/her points are not entered into the trial records verbatim but summarized by the presiding judge. The SSCs undermine the fair trial concept.

Especially for SSC cases, the security forces and the prosecutors rely heavily on obtaining confession from suspects rather than relying on usual investigative methods. State Security Court detainees are still frequently subjected to torture and denied the right of access to a lawyer even after the four-day period. Lawyers are supposed to have access to their clients, but they are usually only permitted a brief encounter with their client in the presence of police officers, and it is almost unknown for lawyers to be present during subsequent interrogations of their clients. Numerous reports provide evidence that a large number of those detained under State Security Court jurisdiction will be subjected to some kind of ill-treatment or torture, with the incommunicado detention period being the major reason.

Contact lawyers in Turkey informed LCHR that detainees are often told that it will be to their advantage if they waive their right to legal counsel. This allegation was confirmed in the reports mentioned above, published by the Turkish Parliamentary Human Rights Commission, based on unannounced visits to police stations and prisons. These reports include interviews with detainees who had been held at various police stations and who described being stripped naked and subjected to electric shocks, hosing with cold water under pressure, beating with a truncheon, *falaka* and being forced to stand for hours in a chest-high barrel of water.

Blindfolding prisoners in police custody is routine practice. Almost all detainees are blindfolded during police interrogation and while signing their statements. Furthermore, almost all detainees, male as well as female, report some level of sexual abuse or sexually insulting behavior in detention. The European Court of Human Rights (ECHR), in *Aydin v. Turkey*, for example, found that in 1993 gendarmes had tortured a female detainee plaintiff by raping her in custody at Derik Gendarmerie in Mardin province. There are a number of similar cases before the ECHR.

The methods most used at the moment are hosing with cold water, putting detainees on ice for a long time, deprivation of sleep and food, blindfolding, regular beatings, sexual abuse and electric shocks given to the genital organs.

Through the Human Rights Foundation and other NGOs, LCHR has evidence which shows that police officers pressure detainees to hide their injuries from medical personnel, intrude on medical examinations, destroy medical certificates, and 'shop around' hospitals and health centers until they receive a medical certificate with which they are satisfied.

The general feeling is that any person in police custody is likely to be subjected, at the very least, to insulting behavior, physical hardship and ill-treatment, but added to this is the fear that the detained person may die in custody or 'disappear'. These fears are justified. In the past decade the most conservative count of reports of 'disappearance' totals more than 140. More than 450 people have died in police custody, apparently as a result of torture, since the 1980 military coup.

The impunity enjoyed by the police is tremendous. Very rarely police officers are punished for ill-treatment or torture. For example, in the Manisa case, where 10 police officers were accused of torturing a group of young people aged between 15 and 25, the police officers were not even suspended from duty. The Law on the Prosecution of Civil Servants and other Administrative Officials, which was enacted in December 1999, speeds up the decision-making process, but still gives the immediate supervisor of the accused the ultimate say.

As regards the prison situation, wardens under the Ministry of Justice authority provide the internal security for all prisons in Turkey, but the gendarmes under the authority of the Ministry of Interior are responsible for the external perimeter of prisons. These gendarmes, usually trained for counter-insurgency, are sometimes called in when there is unrest in the prison, and they use this as an opportunity to settle accounts with prisoners accused of links with illegal armed groups. Since 1995, twenty-six prisoners have been killed in Turkish prisons as a result of gendarmes being sent in to "restore order". Ten of these prisoners were killed in an intervention by gendarmes at Ulucanlar Prison in September 1999 and 10 others were killed in a similar intervention in Diyarbakir E-type prison in 1997. All of those killed were leftist or Kurdish prisoners remanded or convicted for offenses under the Anti-Terror Law. Prisoners also frequently report being beaten or otherwise abused during trips from prison to court or for medical treatment.

The Ministry of Justice is currently trying to switch from its traditional system of large wards, which they claim are difficult to manage, to a cell or room system. New cell-based F-Type prisons are under construction. However, the F-type prisons appear problematic because the conditions the Ministry is planning to impose on the prisoners are still unknown; and prisoners oppose these new prisons strongly, fearing that they will be more vulnerable to violence by the guards or the gendarmes.⁴

As regards the question of obtaining evidence for torture, a good document to get will be the official Forensic Institute report. However, not many victims are able to get it. Basically, the only agency that provides reports on torture incidents is the Human Rights Foundation, yet not many people know about their rights or even the existence of the Human Rights Foundation and medical chambers. These reports are definitely reliable.

A couple of human rights reports, among them last year's Amnesty International Report as well as the Report of the Special Rapporteur on Torture, mention that Turkish authorities have switched to forms of torture which are more difficult to detect afterwards. These methods include e.g. beating with rubber hoses that leaves practically no traces.

In addition, the humiliating effect of torture also has to be taken into consideration, bringing the victim into a position where s/he does not want to talk about it to anyone. It takes a while to get over this block and to turn to somebody in order to prove what has happened. This problem of traumatising of course very often creates difficulties in the process of refugee status determination.

⁴ For more information on the prison situation see the Amnesty International reports and Human Rights Watch press releases as listed in the bibliography

Freedom of Expression:

Courts continue to hand down convictions to politicians and writers for "incitement to hatred" under Article 312 of the Turkish Penal Code. The most recent and notorious case was the confirmation of a one-year sentence imposed on former Prime Minister Necmettin Erbakan for a speech he made in March 1994. As already mentioned, this sentence has been suspended earlier this year.

Turkish courts show an eccentric understanding of what constitutes "incitement". The former mayor of Istanbul, Recep Tayyip Erdogan, was stripped of political rights and sentenced to a year's imprisonment for reading lines from a poem that was written by a celebrated republican poet.

Akin Birdal, the former president of the Turkish Human Rights Association, was imprisoned under Article 312 in Ankara's Ulucanlar Prison in June 1999, for a speech he made three years earlier calling for "peace and understanding." LCHR visited him in prison and published advocacy alerts on his behalf. His release on health grounds in September 1999 was seen as a maneuver to avoid official embarrassment during the Istanbul OSCE Summit in November 1999 and the EU Helsinki Summit in December 1999. He returned to prison in March 2000 and was re-released in September 2000.

Under Article 4 of the Law on Associations, Akin Birdal was forced to resign not only from his leadership of the Turkish Human Rights Association, but also to give up his membership. According to Article 81 of the Law on Political Parties, because of his conviction he may not stand for any political office nor join any political party during his lifetime, and the same bans apply to Necmettin Erbakan.

As mentioned above, the views of the military appear to be intimidating the government and blocking any progress. The Minister of Justice has explicitly acknowledged that the Chief of General Staff's opposition to the amendment of Article 312 was a factor in his deliberations about the future of the article.

In the mid-1990s, prosecutors were using Article 8 of the Anti-Terror Law to prosecute people for expression of their ideas. As this provision became discredited, prosecutors started using Article 312. Now that the government has been criticized for recent imprisonments under Article 312, indictments under Article 8 are once again beginning to appear.

A prosecution seeking imprisonment for up to three years was opened at Ankara State Security Court in March 2000 against Ahmet Turan Demir, chairman of the People's Democracy Party (HADEP), in connection with a speech he made at a Peace Festival in 1999. Prosecutions of non-violent expressions of opinion, and indeed cases of imprisonment, have also continued under Article 155 of the Turkish Penal Code, which outlaws criticism of military service, and Articles 158 and 159, which deal with insulting the president and the organs of state.

As has been mentioned before, the Law on Conditional Release and the Suspension of Punishments of 22 December 2000 has also had an effect with regard to freedom of expression. On 10 May 2001 officials of the Press and Public Relations Office of the Ministry of Justice said that 23,676 inmates have been released since the amnesty law came into effect.⁵

⁵ Source: Ankara Anatolia, 10 May 2001 (WNC)

II. Groups at risk

II.1. Specific groups at risk

Kurds

Normally a minority is defined as a self-identifying group with a national or ethnic, cultural, religious and linguistic identity. The Turkish government, on the other hand, uses an unconventional definition of the term 'minority'. The Foreign Ministry says, "the status of minorities in Turkey has been internationally certified by the 1923 Treaty of Lausanne, according to which there are only non-Muslim minorities in Turkey. It is wrong, according to this definition, to refer to our citizens of Kurdish descent as a 'Kurdish minority'."

Naturally, respect for and protection of minorities should be applied not only to the Jewish, Greek and Armenian minorities defined by the Treaty of Lausanne, but also to the Assyrians, Kurds, Laz, Roma and many other minorities that make up Turkey's cultural fabric.

There has been considerable liberalization in the area of language during the past decade, e.g. there are now several newspapers and magazines published in minority languages (though those produced in Kurdish are frequently the object of confiscation or police raids for suspected separatism). In March 2000 the Supreme Court ruled, in a test case concerning a child that had been given a Kurdish name, that children could legally be given names of non-Turkish origin.

Still, broadcasting and education remain problematic. The 1994 Law on the Television and Radio Organizations and their Broadcasts requires the exclusive use of Turkish, so it is forbidden to broadcast in any language other than Turkish. There are many cases of insurgent broadcasting in Kurdish that have been stopped by the authorities. In addition, there was a Kurdish TV station called MED TV, formerly broadcast from London, which was shut down in March 1999. However, immediately after the suspension of MED TV, KTV (Kurdish TV) was launched by the Kurdistan Democratic Party (KDP), with the technical assistance of the Turkish government. Until late July 1999 two more TV stations started broadcasting in Kurdish language - Kurdish CTV (Cultural TV), which was replaced by METV in March 2000, and Media TV.⁶ Quite interestingly, in the southeast of Turkey many houses have got parabolic antennas for the reception of satellite television which are supposedly used for receiving Kurdish TV broadcasts. It happens frequently that when the security forces go through the cities during the night the satellite dishes are then turned into another direction. In any case Kurdish broadcasts are disseminated today. It is interesting that the Turkish army continuously broadcasts in two Kurdish dialects in the state of emergency zone. The Human Rights Watch Country Report of September 2000 also refers to this fact as the establishment recognising Kurdish as a language spoken in the region; a fact often denied by state authorities. An example of this official attitude was Prime Minister Ecevit stating that Kurdish was a Turkish dialect.

There is a certain degree of Kurdish mono-lingualism in the region. While the younger generation learns Turkish when they enter school at the age of seven, as teaching is done only in Turkish, there are people among the older generation who only speak Kurdish. Only recently there was a case in the Ankara criminal court where the

⁶ Kurdish Media: MED-TV To Be Resurrected Soon, 28 July 1999
Milliyet (WNC): PKK Finds New Voice on METV Satellite Channel, 22 March 2000

defendants were Kurdish and did not speak any Turkish, so the court had to provide for a translator.

The 1983 Foreign Language Education and Teaching Law regulates the teaching of foreign languages "taking into consideration the view of the National Security Council". Some of the foreign languages that may be taught in Turkey are English, French, German, Russian, Italian, Spanish, Arabic, Japanese and Chinese, but Laz, Kurdish and Roma may not be in this list. Kurdish cultural organisations have been persecuted often. One test case occurred when the Istanbul-based Kurdish Culture and Research Foundation - one of the first Kurdish cultural organisations established in the country - attempted to open a private course to teach Kurdish as a foreign language. The course was closed down and the Foundation's board members were prosecuted in Istanbul's State Security Court under Art. 312 for „incitement of hatred“, but they were acquitted in early 2000 after the case had been going on for two years. Similar charges have been brought against the members of another Istanbul organisation, the Mesopotamia Cultural Organisation, which mainly conducts research on Kurdish culture.

The capture of the PKK's leader Abdullah Öcalan and the PKK's announcement that it was to abandon armed activities in Turkey have much reduced the armed turbulence in the southeast. They stopped advocating an independent Kurdish state right after Öcalan's capture. Öcalan called for an end of the armed struggle and the PKK basically abided by that. The PKK is trying to transform itself into a political movement, not only giving up their goal of a separate Kurdistan that includes the southeast of Turkey, northern Iraq and part of Syria, but also changing their discourse. In Turkey there are only about 400-500 PKK activists left. They have strongholds elsewhere in Europe, with their political wing in Belgium and the Netherlands and many members in Germany. Yet the outright activities have basically stopped; they are waiting for the result of the Öcalan case. The European Commission's report on Turkey (Annual Report on Turkey's Progress Towards Accession, 8 November 2000) renders the number of armed clashes with 488 in 1999 and only 18 in the first five months of 2000. Similarly, the Anatolia News Agency reported on 25 May 2000 that armed incidents had decreased from 3,300 in 1994 to 18 in the first five months of 2000. There have been clashes between security forces and PKK groups withdrawing to Northern Iraq. The illegal armed organization TIKKO (Workers and Peasants' Army of Turkey) is also continuing its activities. Nevertheless, the number of clashes has diminished considerably.

In the mid-1980s the government established the village guard system as a set of local units to fight the PKK in the emergency state region. The system was ostensibly set up so that village guards could defend their own villages, but it has proven a total disaster. The original idea was to create an additional force of people knowing the region and the language in order to help the military operating against the PKK. What they have been used for, however, includes extrajudicial executions, cases of extortion and disappearances.

The guards were chosen from tribes of the region and given arms under state salary. In theory, membership in the village guard corps was voluntary, but in practice, it was a test of loyalty, not leaving much of a choice: either they would become village guards and face the threat of the PKK attacking them and their families and burning down their houses; or they would reject being a village guard, put themselves under suspicion of supporting the PKK and risk official persecution, with the army using the same measures of burning houses or letting people disappear.

The village guard corps was never given a proper chain of command and responsibility, and most village guards on duty have no insignia by which they can be identified. In

some districts of the southeast, local tribal loyalties have combined with the village guard system to produce a series of private and heavily armed groups/fiefdoms that fight against each other. The April 1995 Report of the Turkish Parliament's Commission on Unsolved Political Killings confirmed that village guards were involved in a wide range of lawless activities, including killing and extortion, and it called for their abolition.

Besides incidents in which village guards use their guns and power to extort money from their fellow villagers, there have also been cases of rape, one of which was brought before the European Court, resulting in a decision against Turkey. So the original concept of the village guards defending their own villages with the presence of the military resulted in a force that the state could not control anymore. The European Commission Report 2000 has it that 60,000 village guards are still armed and paid by the government.

Clearly, normality has still not returned to the region. The State of Emergency continues in the four provinces Diyarbakir, Hakkari, Sirnak and Tunceli. More than 60,000 villagers are still armed and paid by the state as village guards. Over 300,000 people remain internally displaced. Being a member of the PKK or of the organisations supporting the PKK or merely being a PKK sympathiser is punishable by Art. 312. So the reaction of Turkish authorities towards Kurds who sympathise with separatist ideas, but are not actively involved would also be severe as there is an ongoing practice of fabricating reasons to accuse people under Art. 312. Furthermore, the LCHR has documentation of cases which show that family members of suspected PKK sympathisers would equally be subjected to some form of persecution.

Military service

Turkey has compulsory military service for all adult males and makes no provision for conscientious objection. Military service is obligatory for all male citizens of 20 years of age regardless of ethnic background, so Kurds and Turks as well as persons of any other ethnic origin are obliged to perform military service. I am not aware of any different treatment of Kurdish recruits. Normal military service is currently 18 months for average soldiers in the ranks and either 12 or 16 months for university graduates, depending on whether they choose to be a soldier in the ranks or an officer.

As for conscientious objectors, Art. 377 of the draft penal code, which would impose imprisonment for up to two years for „alienating people from the institution of military service“, is basically a restatement of the current Art. 155. Art. 155 has been the basis for several prosecutions as well as the repeated imprisonment of one conscientious objector, Osman Murat Ulke, the case most human rights groups refer to. According to Art. 63 of the military penal code draft evasion is punishable with imprisonment for up to three years in a house of correction.

The official possibility of pecuniary compensation used to be limited to Turkish citizens working outside Turkey for more than three years who then only had to perform military service for one month instead of sixteen months. However, after last year's earthquake, the government started looking for ways of raising funds and they gave this option not only to ex-patriate Turkish workers, but to every Turkish male citizen over the age of thirty who has not done his military service. It is now possible to reduce one's military service to one month by paying US \$ 5,000.

One of the grounds that asylum seekers give is that they are trying to flee the military service or to evade the draft because they are afraid of being circumcised. While there have been reports about forced circumcision in the past in recent years information on

such cases has become scarce. In the past, however, this claim was considered as a valid ground for granting asylum as this practice did exist.

As regards the deployment of Kurds in the Kurdish areas, the general tendency of the military was to send people born in the eastern provinces to the west of the country during their military service and vice versa. Yet local human rights organisations say that this practice has changed so that now people from the southeast, i.e. those of Kurdish origin, could indeed be sent to the region. During the times of fighting in the region, there have been cases where soldiers had to fight against their own family members who were PKK activists. Since the fighting has stopped, there is no certainty as to how this affected the risk for Kurds entering the military to be sent to the Kurdish areas for their service could still be an issue.

HADEP

The People's Democracy Party (HADEP) has been under persecution one way or another since its establishment, like its pro-Kurdish predecessors HEP and DEP, which were both closed by the Constitutional Court.

In February 2000, three mayors from the Southeast who belong to HADEP were accused of being linked to the armed group PKK (Kurdistan Workers Party) and they were imprisoned. They were allegedly blindfolded and beaten during their interrogations. They were released but still have on-going cases against them. Again in February 2000, 18 executives from HADEP were sentenced to 3 years and 9 months of imprisonment each for initiating hunger strikes following PKK leader Abdullah Öcalan's capture by the Turkish authorities in February 1999.

As has already been mentioned there is the on-going closure case against HADEP in the Constitutional Court on charges of having links with the outlawed PKK. Party leader Ahmet Turan Demir is among senior HADEP officials facing imprisonment for the same kind of charges. At the beginning of November 2000 HADEP officials said the authorities had stepped up pressure on the party by arresting around 50 of its local members in Van and Hakkari, two provinces in the Kurdish region.

Some of the interviewed people in Diyarbakir told LCHR that they are persecuted because they are HADEP sympathizers. Yet it is difficult to state what kind of treatment they are subjected to in general. There have been individual cases of actual HADEP members getting killed, like an 80-year-old who was killed during interrogation in Diyarbakir in 1999.

Religious minorities

There are around 20 million Alevis in the country, most of whom are Turkish. But regardless of their ethnic origin, there have been recent complaints on two issues of concern by the Alevi minority's representatives. First, there is a Sunni-oriented government body called the Directorate of Religious Affairs, which among other things provides financial aid to religious establishments, i.e. to Sunni mosques. Alevis do not go to the mosques, but have their own prayer rooms called Cemevi. Financial support is only allocated to the mosques, not to the Cemevi. Moreover, the Directorate keeps building Sunni mosques in Alevi villages. The Alevi find the very existence of this body offensive. Secondly, since religious education is still compulsory at the secondary school level, the Alevis complain about schoolbooks that only include information on Sunni Islam, not mentioning the existence of Alevis. Alevis are extremely secular and are close to the leftist parties. In the past, there have been clashes between Alevis and Sunnis, with a major incident in 1978 when hundreds of people were killed because

they were Alevi. Seven years ago (1993) 35 Alevi intellectuals died in Sivas when a group of fundamental Islamists burned down the hotel they were staying at. So they are subjected to persecution.

Even the minorities that are described under the Lausanne Treaty, i.e. the Jewish, Greek and Armenian minorities are subjected to certain kinds of restrictions, e.g. they need permission from the Ministry of Interior to refurbish their temples. This decree stemming from the Ottoman times has not been changed since the 18th century, attracting much criticism from the EU. As Turkey is trying to save face after the Helsinki decision, the situation has improved in this respect.

In Istanbul, for instance, there are a lot of Christians who can also practice their religion without any hindrance. However, the situation is quite different in Mardin, a province with a lot of Syrian orthodox Christians. There many Christians have to leave the places where they live due to a considerable extent of hostility in the villages against them. According to the opinion of the courts in Germany, there is an internal flight alternative for these Christians in Turkey, but no such option for the Jesuit faith. Many Jesuits went to Germany, France and the Benelux countries, with only older Jesuits remaining in Turkey. In their case group persecution assumed.

Islamists

At the moment the Islamist movement is even more of a problem for the Turkish government than the PKK. After the capture of Öcalan and the dramatic decline of violence in the Kurdish region, the ever-secular military turned its attention to the Islamists. The Office of the Chief of Staff is totally in line with any governmental decree, amendment to a law or any other legal changes that will make it easier for civil servants to be dismissed if they are found to have any connection to or sympathy for an Islamist group. Last year's government decree was exactly to this point. Although it included separatist groups in its wording, it was essentially directed towards the Islamists in the military and administration. The aforementioned bills on reactionary activities of November 2000 also have to be considered in this context. Each year a number of officers are discharged from the military because of their sympathy for the Islamist groups, and in some cases voting for the Virtue Party constitutes a sufficient reason for persecution. We have also seen cases where an army officer was dismissed because female members of his family wore headscarves.

The headscarves issue is very controversial, with the persecution of people wearing headscarves not being new, but having accelerated. Both the government and the military stand strong against any form of religious movement taking any step further. In their eyes headscarves are a proof of one's standpoint on political Islam. Restrictions concerning the wearing of headscarves for religious reasons in educational settings or on state premises has continued, strongly supported by the Office of the Chief of General Staff. This campaign, in the name of secularism, has resulted in thousands of women being temporarily or permanently denied access to education, while others have been suspended or discharged from employment in teaching or health care.

In February 2000 the Ministry of Education announced that more than 300 primary and secondary school teachers were dismissed for defying the dress code by wearing a headscarf at work. The same policy was taken by the Ministry of Health, sanctioning the wearing of headscarves on the part of nurses and female doctors. Generally it is not permitted to wear headscarves to public offices. Another major issue in this context are of course the universities since there are many female students wearing headscarves. In recent years, an increasing number of women wear headscarves as the issue becomes more and more women politicized.

A recent confrontation took place when in May 2000 Merve Kavakçı, who was elected for Parliament the previous month as a Fazilet deputy, entered the Grand National Assembly wearing a headscarf in order to give her oath. Prime Minister Bülent Ecevit denounced Ms. Kavakçı in very strong terms and called a recess. Media interpreted Ms. Kavakçı's act as a political attack on democracy and secularism. The incident not only resulted in Ms. Kavakçı losing her Parliament seat, but also triggered a move for closure of Fazilet by the Constitutional Court; the case is still under consideration.

The Human Rights Watch Report of September 2000 mentions that the headscarf issue has not been tested at the European Court for Human Rights yet, while for all the other Copenhagen criteria there are test cases pending at the Court, much to the shame of the Turkish government.

Human Rights Defenders

In Turkey, criticizing the authorities or questioning the state's view of society is often viewed as disloyalty bordering on treason. Organizations viewed as troublesome can expect to be harassed, raided or closed down, and their members risk prosecution or worse. Members of the Turkish Human Rights Association's (IHD) fifty-nine branches have been detained, tortured, imprisoned and subjected to death threats, and eleven Association officials have been murdered by unknown assailants. In May 1998, Akin Birdal, then President of the Turkish Human Rights Association, was shot six times at the IHD headquarters. Immediately after the shooting the Prime Minister of the day Mesut Yilmaz reportedly claimed that the attack was "*an internal settling of accounts, like a misunderstanding between those in the same camp It is clear they [the IHD] were connected to the PKK.*" The allegation was unfounded. In fact, shortly afterwards, inquiries led police to the ultra-nationalist Turkish Revenge Brigade.

The Diyarbakir and Van branches of the IHD and the Malatya branch of the Association of Human Rights and Solidarity for Oppressed Peoples (Mazlum-Der) are currently closed. The Diyarbakir branch of the IHD was originally closed by the local governor using powers under the Law on Associations, as is still the case with Mazlum-Der's Malatya branch. Diyarbakir IHD challenged the closure in the courts and won. On 19 April 2000 the court overturned the closure order, and after some delay the branch was permitted to reopen. The branch was then opened and closed between the orders of the local governor and the State of Emergency Governor. It remains closed at the moment. The recently opened Van branch of the IHD was also closed by the Emergency Region Governor.

Members of the Human Rights Foundation (HRFT), an organization that provides rehabilitation to torture victims and their families, are also often harassed. Two staff members of HRFT's Izmir branch have recently been prosecuted under the Law on Demonstrations because they attended the funeral march of one of the victims of the violent intervention at Ulucanlar Prison. Another staff member is prosecuted under Article 30 of the Turkish Press Law by having "expressed his opinion about court decisions about detentions and [having] criticized and influenced the courts".

LCHR is in close contact with the Diyarbakir Bar Association. Three years ago the cases of 25 lawyers - amongst them five women - belonging to the Diyarbakir Bar Association have been taken to the State Security Courts. All of them were detained and tortured, then released with the same cases still going on against them. With them all being Kurdish, human rights activists and among the most prominent lawyers in Diyarbakir, this case is unique in its entirety. Still it is a recurrent event that lawyers of Kurdish origin working in the region are persecuted in one way or another. This risk,

however, also applies to non-Kurdish lawyers and human rights activists working on the same issues.

Turkish Communist Party Leninist-Marxist (TKPLM)

Membership in the TKPLM alone is not sufficient for the application of the exclusion clauses Art. 1 F of the Geneva Convention. Rather, it is important to look at close a party/group is to violent action and if membership is already an indication for a more active support. The answer largely depends on individual facts, such as involvement in or active support of terrorist acts.

Other groups at risk

Journalists are a special group at risk, above all those working for leftist or pro-Kurdish newspapers and magazines. According to the Committee to Protect Journalists (CPJ), Turkey comes second, after China, in imprisoning journalists. The European Commission Report on Turkey recounts currently 40 cases of imprisoned journalists while CPJ gives a higher number. In fact, confiscation of newspapers, books and pamphlets are the daily business of press prosecutors, local governors and the Supreme Board of Radio and Television which has a very conservative view of what can and what cannot be published.

There are different perspectives on the risk created by involvement in minor political activities, e.g. participating in demonstrations, giving interviews in newspapers. The German embassy's report on Turkey states that people involved in such activities are normally not persecuted, that it is only people in senior positions who may be facing persecution. In contrast LCHR's experience has been that not only the senior officials of a party, but also those people who attend demonstrations are persecuted, detained and subjected to torture.

II.2. IFA and internal displacement

IFA

For the groups at risk in the east, moving to the west of the country would definitely constitute an improvement in comparison to the situation in the regions where they come from. There is freedom of movement in the country, so they can relocate in any place they choose to. Still, if they have been charged with certain crimes, they will not have an easy life in the west or the bigger cities, either. LCHR has knowledge of cases where people who have been subjected to prosecution or some sort of harassment in their home region still had problems with state authorities upon moving to Istanbul.

If somebody has been facing persecution by state authorities in the eastern parts of the country and then moves to the west, being confronted with the same state authorities, the question arises whether state authorities act differently in different parts of Turkey. In UNHCR's perspective, if the persecution emanates from state authorities, there is no internal flight alternative or relocation. The situation might look differently with regard to the village guards or when people are persecuted by third, non-state agents.

The situation of women from the southeast is more complicated. The position of a woman in Turkey depends on her geographic/residential background (i.e. rural or urban), on the social rank of her family, her education and her religious traditions. As for women in the east, they are still not very much in the public domain nowadays, rather sticking to domestic affairs and work in the fields. The number of women that are subjected to violence or restrictions on behalf of their families and husbands is very

high. Generally speaking, these women do have an internal flight alternative, but looking at the practical situation, one has to consider the individual's level of education and the environment where she lives. In practice it is hardly conceivable that a woman should leave her family, environment and region and find an internal flight alternative in the west of Turkey. There are of course houses for women in difficulty, yet in my opinion these possibilities are primarily used by women coming from big cities. It is easy to understand that a woman coming from a small village would have to break with her tradition and to leave everything behind - maybe even her children - in order to seek protection and refuge in the west of Turkey. So theoretically it is possible, but in practical terms, it is almost impossible for these women to seek an internal flight alternative, simply because they are not used to the idea of standing on their own two feet. This change would be something so new and unheard of that it would be completely unthinkable for them. Clearly, there is a major gap between theory and practice in this context.

Internal displacement:

According to the Turkish Parliament's Commission on Migration, 401,328 villagers have been displaced since 1984. Many other observers claim a much higher figure. The US Committee for Refugees, for example, gives estimates of between 500,000 and 1 million. The population of Diyarbakir, the regional capital, increased by 600,000 during the 1990s. Villagers were driven from their homes by security forces who burnt houses and destroyed crops and livestock. A large number of petitions have been filed with the European Court of Human Rights with respect to village destruction, and three important judgments have already been made against Turkey.

There remain two principle obstacles for displaced villagers to return. First, it is not clear that villagers can go home safely. Quite apart from the risk of activities by remnant PKK elements, the security forces do not seem to have fully abandoned their former abuses; on 17 February 2000 the newspaper *Ozgur Bakis* reported that Savet village in the region had been raided by security forces who threatened the community with forcible evacuation. Second, the government lacks a clear will to return all displaced villagers to their original homes and is still pressing forward with its projects for "central villages" (*köykent*) into which some villagers would be permanently resettled on government land, in communities under the eye of the security forces.

In any event, returns to villages have been slow. The US State Department's Human Rights Report for 1999 quotes a government figure for a total number of 26,481 returnees.

II.3. Refugees / illegal immigrants in Turkey

Turkey retains a geographic limitation to its ratification of the 1951 UN Refugee Convention, which means that only those fleeing as a consequence of "events occurring in Europe" can be given refugee status. Regardless of any geographical limitation under the Refugee Convention, Turkey is still obliged to abide by the principle of *non-refoulement* (that no one may be returned to a country in which s/he may face persecution), which is binding in all cases.

In November 1994, Turkey passed regulations on the treatment of asylum seekers. The regulations give the Turkish government the task of status determination of non-Europeans and lay down procedures to determine this status in accordance with the refugee definition in the Refugee Convention. Those who pass the test are referred to UNHCR for resettlement to a third country.

According to the legal regulations non-Europeans can stay until a state has been found that is willing to accept them. Iranis and Iraqis coming to Turkey have to file an application within a period of ten days. The ten-day period could lead to the exclusion of people in need of protection, which could then be decisive for the administrative practice.

The system as it currently stands is thus extremely dangerous for non-European refugees, and various stages of the process put them at risk of *refoulement*. On the one hand, the state procedure which is characterised by the activities of the police and the security forces with a decentralised data collection in the individual provinces and a central decision taken in Ankara; and on the other hand, the actual verification of the refugee status by the UNHCR in Ankara. Their decisions will be accepted by the national authorities, if the national procedure was undergone properly by the applicant within the ten day period. Time and again the newspapers contain reports that refugees from Iran, Iraq, Pakistan, Afghanistan and other countries are found on the border with Greece or even within Turkey. As soon as they are picked up, they are immediately sent back to their countries of origin.

Estimates of the number of illegal Iranian immigrants range from 500,000 to two million. There is no certainty regarding the situation of Iranian nationals after the action taken against Hizbollah. There was a lot of media coverage on the incidents due to the high degree of violence that was involved. The media contributed to the perception of the Hizbollah having direct connections to the Iranian government. When the Turkish government decided to attack the Hizbollah, killing its leader last January, the military found evidence of enormous violence: over 60 mutilated bodies in Hizbollah safehouses all over the country, as well as videotapes of victims being interrogated, tortured and then killed. Naturally these findings attracted a lot of public attention and in combination with the discourse about the Hizbollah's links to the Iranian government, a deterioration of the situation of Iranians in Turkey is imaginable.

II.4. Repatriation

According to the German authorities, asylum claims that have been submitted in Germany or other countries are not punishable in Turkey. In 1999 a man, who suffered from asthma and had been living in Germany for 20 years, was deported while his family remained in Germany. Ms. Wachter observed how he arrived at the airport in Istanbul and was led out together with two other deportees. About four weeks later she visited him in his hometown in order to ask him how he had been treated upon return. He stated that he had been interrogated by the police for a total of 20 hours about why he had made an asylum claim, but afterwards was allowed to leave without any further requirements. His family and friends told her that sometimes police officers came and asked about his whereabouts as he would not always be at his place of residence, but sometimes stay with relatives. He himself said that he was never tortured or ill-treated. In September 2000, Ms. Wachter spoke to a young man in Bingöl, who had come to Italy as a refugee, yet had been arrested by the Italian police and sent back to Istanbul. There he was questioned by the police for about half an hour and was then released. He did not talk about any torture or difficulties with the police.

Therefore, it cannot be generally assumed that nothing happens to the returnees. Yet, according to Ms. Wachter, in the majority of the cases it seems that nothing bad will happen to them, depending of course also on the behaviour of the people involved.

It is important to note, however, that monitoring of returnees has only been done in isolated and exceptional cases, based on an agreement between the Ministries of Interior and Foreign Affairs that provides for the monitoring of people who are deported.

One of the reasons is that the embassy does not want to directly inform the Turkish authorities about the fact that the German authorities may have made a mistake in their asylum decision. Monitoring could be interpreted this way by the Turkish authorities. According to Ms. Wachter, the German authorities would prefer to have the opportunity of monitoring repatriation more frequently. Yet, since the first instance representatives in Turkey are part of the operations of the embassy and also need to get permission to do so, they do not have the opportunity of monitoring on a regular basis.

LCHR's Ayliz Baskin observes that none of the local human rights groups is working on the particular issue of monitoring the repatriation process. In general, she assumes that in non-political cases it is easier for people to return to Turkey and they are less likely to encounter difficulties than are rejected asylum seekers with a political background.

The question of deprivation of citizenship under Art. 25 of the Turkish Nationality Act whilst abroad, has to the knowledge of Ms. Baskin only arisen in cases of Turkish intellectuals who did not go back to Turkey. However, although these people are likely to face difficulties upon return it cannot be established with certainty if they would be subjected to persecution or not.

Further to the question of monitoring, some of the participants discussed a report by two German NGOs, the Lower Saxonian Refugee Council and PRO ASYL, documenting - in cooperation with the Human Rights Foundation IHD - 32 cases of torture and ill-treatment of rejected Kurdish asylum seekers upon return from Germany. The report criticizes the German authorities, asserting that most cases included typical patterns of persecution such as fleeing reprisals by the security organs, draft evasion, and refusal to serve as village guards which had been deemed 'customary' (landesüblich) and 'mere harassment' (bloße Belästigung). Two of the asylum seekers had been detained right at the airport and, accused of having demonstrated for the PKK in Germany, had subsequently been interrogated and subjected to torture for 9 days.⁷

⁷ Lower Saxonian Refugee Council/PRO ASYL: Von Deutschland in den türkischen Folterkeller - Zur Rückkehrgefährdung von Kurdinnen und Kurden, 2nd Edition, May 2000, p. 3 (in German) download at <http://www.proasyl.de/texte/trabsch.pdf>

All in all, "23 out of 32 cases of Kurdish refugees, who had appealed in vain for asylum in Germany and who had been arrested, tortured and maltreated in Turkey after their deportation, documented by the Lower Saxonian Refugee Council and PRO ASYL have been examined by German authorities and courts in the meantime. In 12 cases the persons affected had been recognised as refugees after their deportation by new decisions of the Federal Office [for the Recognition of Foreign Refugees] or of administrative courts in accordance with the Geneva Convention. [...] The [Foreign] office corrects its present assessment of the endangering return situation of Kurdish refugees in its latest country report on Turkey of June 22, 2000 in some relevant points. For example a reassessment is carried out of the dangers resulting from political activities of Kurdish refugees in exile is carried out. The Foreign Office doesn't hold longer the opinion that Turkish security forces are merely interested in persons responsible for such activities and that fellow travellers aren't endangered. Also the danger of penal liability of the family is no longer negated by the Foreign Office in principle." (Pro Asyl, Press Release, 27 July 2000) access at <http://www.proasyl.de/presse00/jul27.htm>

see also: UK Home Office: Country Assessment Turkey, October 2000, para 7.34-7.39 access at <http://www.ind.homeoffice.gov.uk/default.asp?PagelD=702>

III. Documents and registration

The competent authority to issue a passport is the General Directorate of Security, or the District Security Office in smaller districts. One has to undergo a police check, i.e. the records are checked whether there have been any convictions, arrest orders, etc. It is not very difficult to get a passport, it takes only a couple of days. In order to get a driving license one has to be a Turkish citizen, of the age of 18 and has to pass certain tests. No criminal record check is carried out in this procedure.

As regards detention certificates, in most cases there are no official proofs for detention. Officially, when people are detained, the policeman or the gendarme has to register the detainee with his name, the detention details and the officer's badge number. In practice, however, nobody can find these records. What happens quite often is that - knowing that they have to provide some sort of document - police officers just write odd numbers that cannot be tracked. Sometimes they do not even do that. As LCHR knows from victims of torture who come to the Human Rights Foundation, in most cases it is very difficult to identify police officers who detained and perhaps tortured the victim. Not only do they not write their badge numbers, they also cover each other so that one cannot find out who was in charge in a particular station at a particular time. The Parliamentary Human Rights Commission as well as human rights organisations which had access to police stations were shocked that the police stations do not keep record about people in detention. The Parliamentary Commission found that in Tunceli, one of the most problematic provinces in the emergency zone, the biggest police station had a two-page record for a 4-5 months period. It is highly possible that a detainee is not able to receive any kind of confirmation about his detention.

Next to a complete lack of evidence, there is also the possibility of double registration, i.e. an asylum seeker may not be registered at the Ministry of Interior while being registered in the police record. This discrepancy between the Ministry of Interior and the Police Directorate of Security can also be encountered with regard to data on prosecution of police officers for ill-treatment or torture. LCHR has been working on gathering data on torture and prosecution incidents, met with representatives of both offices and realised that they have different sets of data on the same issues, following different criteria and accusing each other of not being the official body to keep such information. The result is a lack of compatibility between official bodies on questions of detention, prosecutions against police officers, court proceedings - basically in terms of any kind of record.

The European Commission Office in Ankara has been given classified information on numbers of prosecutions and of mistreatment and torture cases as well as on details of detainees by the Ministry of Interior. This means that the relevant information is there, even though it may prove difficult to get access to it.