

IHf FOCUS: freedom of expression and media; freedom of association; judicial system and independence of the judiciary; torture, ill-treatment, police misconduct and detainees' rights; prison conditions; death penalty and "disappearances"; women's rights; human rights defenders.

Despite formal reforms, in practice there were no notable changes regarding Turkey's poor human rights record in 2001. Torture and ill-treatment remained widespread, so-called "F-type" prisons were introduced, and thousands of prisoners were held in isolation in wards not yet fully constructed and lacking in important facilities. Freedom of expression continued to be restricted, political killings took place and human rights defenders faced increasing pressure.

On 2 October, the Turkish Parliament adopted a law amending 34 constitutional articles in an apparent effort to demonstrate to the EU its willingness to bring the Constitution in line with the requirements laid down in the Copenhagen Criteria for human rights and democracy. Out of a 37-article package, 34 amendments were adopted. These amendments entered into force on 17 October 2001 under Law No. 4709. They potentially apply to areas such as freedom of expression, association and assembly, the role of the military, the right to privacy, detention periods, equality of spouses, and pose constitutional challenges to more than 800 laws.

While containing some positive changes, the reforms, however, did not address the practices that facilitate torture, they failed to abolish the death penalty, and did little to expand freedom of speech for journalists and politicians. The amendments included measures to facilitate the use of minority languages in broadcasting, but the ban on their use in many other important sectors of life remained intact. In addition, the right to conscientious objection was not recognized.

While some restrictions on fundamental human rights were lifted, new restrictions were introduced that fell short of

Turkey's international human rights obligations. Generally, the restrictions on and prohibitions of abuse of fundamental rights and freedoms in Articles 13 and 14 of the Constitution were reworded to a large extent but still remained too broad, and allowed for the legitimization of human rights violations.¹

In December the Justice Minister issued a circular to all prosecutors instructing them to act in accordance with the new amendments pending implementation. As a next step, the Parliament has to modify laws to enable the implementation of the constitutional amendments.

In March, in connection with the country's EU candidacy, the Turkish Parliament adopted a "National Program of Action for the Adoption of the EU Acquis" (NPAA), containing measures to be taken to fulfil the EU Copenhagen Criteria for the start of negotiations between the EU and the accession countries. Turkey declared as its priority the review of its 1982 Constitution, which had been adopted under military rule.

One of the Copenhagen Criteria is that candidate States must achieve "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities." Among the short-term priorities (i.e. those to be accomplished in 2001), the European Union delineated, *inter alia*, strengthening legal and constitutional guarantees for the rights to freedom of expression, freedom of association and peaceful assembly; advancing the fight against torture; further aligning legal procedures concerning pre-trial detention; strengthening opportunities for legal redress against all violations of human rights; improving the functioning and efficiency of the judiciary (including the state security courts); removing any legal provi-

sions forbidding the use by Turkish citizens of their mother tongue in TV/radio broadcasting; and developing a comprehensive approach to reduce regional disparities and in particular to improve the situation in the south-east, with a view to enhancing economic, social and cultural opportunities for all citizens.²

Freedom of Expression and Media

Article 1.2.1 of the NPAA stated that the further development of freedom of thought and expression was a "priority" for the Turkish Government. However, the programme merely undertook to "review" legislation, while the EU called for action to strengthen guarantees related to the right to freedom of expression.³

Freedom of expression remained limited due to the use of constitutional restrictions and numerous laws, including Article 8 of the 1991 Anti-Terror Law (disseminating separatist propaganda); Penal Code Articles 312 (incitement to racial, ethnic, or religious enmity); 159 (insulting Parliament, the army, republic, or judiciary); 160 (insulting the Turkish Republic); 169 (aiding an illegal organization); the Law to Protect Atatürk; and over 150 articles of the Press Law (including a provision against commenting on ongoing trials). While prosecutors have brought dozens of cases concerning harassment of writers, journalists, and political figures to court each year, judges have dismissed many charges brought under these laws.⁴

Some Turkish authorities recognized that around 9,000 persons were imprisoned for crimes connected to freedom of expression as of late 2001.⁵

It was possible to speak or write about almost anything, but expressing a "wrong" opinion about highly sensitive topics (e.g. statements about the ethnic Kurds as a minority, the role of the military or political issues related to Islam) led to the prosecution and imprisonment of many journalists and politicians under the above mentioned articles, especially Articles 312 and 159 of the

Penal Code. For the media, such "crimes" could be very expensive: they had to pay fines and legal fees, newspapers were confiscated and television broadcasting suspended. Such penalties were reported almost on a daily basis. In addition, dozens of television and radio stations were temporarily suspended. For politicians, the risks were even higher: a misjudged phrase could end one's career because a conviction also meant loss of political rights, specifically, a prohibition on founding or joining a party or standing for election.⁶

◆ When, in its autumn issue, the magazine *Idea Politika* asked the question: "What is the army for?", the magazine was confiscated at the demand of the military and the author subjected to prosecution.⁷

◆ In December Sanar Yurdatapan and Nevzat Onaran, coordinators of the Contemporary Journalists' Association and of the Freedom of Expression Initiative respectively, were sentenced to two months imprisonment for "criticizing the institution of military service."⁸

◆ In June Dr. Fikret Baskaya, an economist, was imprisoned for writing an article about the history of Kurdish uprisings. He was sentenced to 16 months' imprisonment.

◆ On 8 August, the government-controlled broadcasting authority RTÜK, decided to ban the BBC's and Deutsche Welle's Turkish language news programmes. Although the RTÜK's president expressed his misgivings over the measure, he insisted that he was powerless to overturn the executive committee's decision.⁹

In the state of emergency region, the local governor could temporarily suspend any media outlets which he claimed had distributed "false" information, a fact that led to self-censorship by journalists.

As a consequence of the prison revolt in December 2000, where over dozens of prisoners as well some relatives and police officer were killed, on 14 December 2000 the Istanbul State Security Court No. 4 or-

dered on the media not to broadcast programmes or publish articles that could be an "incitement to crime" and act as "propaganda for illegal organisations." Soon after that authorities used the order to ban five publications. These incidents led to self-censorship as the best means of avoiding close scrutiny by the authorities.¹⁰

◆ The privately-owned channel CNN Türk was banned by the RTUK for 24 hours after broadcasting a report on a detainee injured during an assault by the police in December 2000. Another channel, Kanal 6, was similarly banned after interviewing the families of inmates of a "F-type" prison. On 28 March, the radio station Anadolunun Sesi was banned by the broadcasting authority for 90 days for addressing the subject.¹¹

The role of the National Security Council in media matters was theoretically "advisory," but its influence was widely regarded as overriding all else.¹²

The constitutional amendment to Article 14 on the prohibition of rights abuse introduced a reference to "acts". According to Amnesty International (AI), the word "act" was still too broad to prevent restrictions on the right to freedom of expression, because it might well be interpreted as including delivering a speech, writing or publishing an article or a book. Further, the amended Article 26 introduced further restrictions to the exercise of the right to freedom of expression "for the purposes of protecting national security, public order and public safety, the basic characteristics of the Republic and safeguarding the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation and rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary". Such wording has already in the past been used to penalize peaceful statements on the Kurdish issue or the role of Islam in politics and society.¹³

The amendments to the Constitution lifted the ban on using the Kurdish language in broadcasting but this can be restricted for the sake of "national security and public order", thus leaving much room for interpretation. In addition its use in education remained banned.¹⁴ Also, numerous justifications continued to be employed in proscribing the use of Kurdish street names, and in prohibiting films, cassettes, or plays in Kurdish on the grounds of inciting "separatism."¹⁵

Freedom of Association

The preamble to Article 1.2.2. of the NPAA stated: "Encouraging the further development of civil society is a priority for the Turkish Government".¹⁶

However, neither the NPAA nor the EU Accession Partnership Agreement mentioned the Law on Associations, which was a particularly repressive piece of legislation. It provided, for example, for stringent restrictions on membership of associations and for requirements to submit all publications and public meetings for approval by the local governor who frequently exercised his considerable powers to halt meetings, suppress publications and posters, and close down associations. Moreover, associations were required to pay the fees and travel expenses for an indefinite number of government commissioners to attend their meetings and record proceedings on paper, audiotape or video. Funding for civil society from foreign sources was subject to the approval of the Ministry of the Interior, which in practice, proved almost impossible to obtain for some organizations.¹⁷

During the year 2001, military courts continued to try civilians on charges limiting the rights to free expression and association.

◆ Police raided the Ankara office of the Human Rights Foundation of Turkey (HRFT) and its Diyarbakir Rehabilitation Centre resulting in proceedings initiated by the governor of the state of emergency region to close down the centre.¹⁸

◆ In June the Constitutional Court banned the religious Virtue Party for "actions against the republic's secular principles."¹⁹

◆ In October, the Parliament turned down two constitutional amendments, one that would have shortened the political ban on former Islamist Prime Minister Necmettin Erbakan and the other that would have opened the way for highly popular Justice and Development Party (AKP) leader, Tayyip Erdogan, to eventually run for Parliament.²⁰

Judicial System, Independence of the Judiciary and Fair Trial

The constitutional amendments adopted in October introduced the right to a fair trial into the Constitution. They shortened the detention period between the moment of arrest and being brought before a judge to 48 hours or, in "cases of offences committed collectively" to four days (previously seven), but these periods can still be extended under the state of emergency. Such regulations do not correspond to European standards, which provide for a detainee to be brought promptly before a judge. The European Court of Human Rights has ruled that detaining a person for four days and six hours constitutes a failure of this.²¹ Moreover, according to the European Committee for the Prevention of Torture (CPT), the provisions were ignored in practice.²²

Further, the amendments did not abolish *incommunicado* detention for detainees suspected of certain political offences. In practice this meant that detainees still had no access to legal counsel, medical care and visits by family members during this period – a fact that facilitated torture.²³

The state security courts dealt with cases involving, for example, alleged terrorist acts, membership in illegal organizations, disseminating illegal ideas endangering the "unity of the State", cases under the Anti-Terror Law and some provisions of the Criminal Code concerning freedom of ex-

pression (e.g. topics the media were not supposed to criticize, see above). The courts did not have to respect usual due process standards such as open hearings.

The constitutional amendments did not contain measures to remove governmental influence on the judiciary through the High Council of Judges and Prosecutors – as had been suggested in the NPAA.²⁴

Another problem for the Turkish media was the authorities' willingness to pursue journalists for alleged insults to the country's judiciary.

◆ On 6 February, Metin Munir, a freelance journalist, appeared before the Bakirkoy Criminal Court accused of insulting the country's judiciary. Mr Munir was charged with violating Article 159 of the Penal Code after writing an article for the now-defunct daily *Yeni Binyil*, which criticized the appointment of a state prosecutor who had been accused by officials of alleged impropriety.²⁵

In July, the Council of Europe adopted an interim resolution regarding numerous judgements by the European Court of Human Rights on violations of the freedom of expression. Its Committee of Ministers urged the Turkish authorities to erase the criminal records and put an end to restrictions on civil rights of successful applicants to the Court. Further, it urged the Government to bring Turkish legislation in line with European standards.²⁶

◆ In July, two months before the adoption of the constitutional amendments, the European Court delivered its judgement on the case of the former Kurdish MPs Hatip Dicle, Orhan Dogan, Selim Sadak, and Leyla Zana, who were sentenced in 1994 to 15 years' imprisonment for the non-violent expression of their conscience (classified as treason by the authorities). The Court held that they had been subjected to an unfair trial in breach of Article 6 of the European Convention on Human Rights (ECHR).²⁷ It stipulated that the military

court sentencing them constituted neither an independent nor impartial tribunal (according to the requirements of Article 6.1). In addition, the imprisoned former deputies were not informed about the change in the charges against them made at the last moment of the proceedings, thus preventing them from preparing their defence adequately (in breach of Article 6.3.a).²⁸

The military frequently used its power to limit the independence of the executive or judicial branch of the government with the justification that, according to Chief of Staff of the Turkish Armed Forces General Kivrikoglu, while and whenever there is a "reactionary danger" to the unity and secularism of the State and the nation, the military would be ready "for a thousand years" to intervene in the state affairs and politics.²⁹

◆ On 7 September, a military court acquitted 17 intellectuals and artists who had placed their names as publishers of a book entitled *Freedom to Thought 2000*. The respective book was claimed to violate Article 155 of the Penal Code by discouraging people from wanting to carry out their military service. In earlier hearings the defendants had justly stated that the opening of proceedings against them before a military tribunal constituted a breach of the independent and impartial tribunal provision 6.1 of the European Convention, and insisted on their case being referred to the Constitutional Court. Their requests, however, were rejected. In addition, no one, except the closest relatives, was allowed in the courtroom, in violation of the right to a public hearing. A complaint against this violation was taken into consideration only in so far as three people directly concerned with the case of the accused were then later permitted to attend the final hearing on 7 September 2001. However, on 27 September, Istanbul State Security Court No. 5 opened a retrial of 16 people who had signed the booklet as publishers.³⁰

According to the International Press Institute (IPI), a draft law was created re-

quiring Internet websites to submit their pages to the authorities prior to publication. According to this, website operators would be forced to hand over copies of pages to a prosecutor and a governor's office before they post them on the Internet. All electronic broadcasts carrying text or pictures would be affected by the proposed legislation. In addition, the draft law would oblige new Internet service providers to obtain permission from the authorities before starting operations.³¹

Torture, Ill-Treatment, Police Misconduct and Detainees' Rights³²

The EU Accession Partnership required that "all necessary measures to reinforce the fight against torture practices" be made short-term priorities (to be implemented within one year). However, the NPAA made the reform of detention procedures a medium term priority (officially three years but interpreted by some officials as five years).³³

In July the Minister of the Interior sent out a circular in which he emphasized the necessity to take measures to abolish torture and ill-treatment. However, according to the CPT, it appeared that the circular was ignored, and it seemed apparent that, for example, judges and prosecutors did not feel themselves bound by its provisions.³⁴

Torture and ill-treatment remained widespread practices at police detention centres in Turkey, particularly in the south-eastern emergency region inhabited mainly by Kurds. The victims included suspected opponents of the "F-type" prisons, as well as pro-Kurdish, Islamist or leftist activists.³⁵

In most cases reports concerned individuals, who were subjected to torture during the first days of detention when they were held *incommunicado*.

Detainees were routinely blindfolded during interrogations, sometimes throughout police detention. Methods of torture and ill-treatment included harsh beating; *falaka* (beating on the soles of the feet); being stripped naked; and deprivation of

sleep, food, drink and use of toilet facilities. Some victims were subjected to electric shocks, left hanging by their arms, and sprayed with cold pressurized water.³⁶ The sexual abuse of women continued,³⁷ and there were at least eight formal complaints made by male victims reporting anal rape with truncheons in "F-type" prisons.³⁸

In 2001, AI announced increasing reports of the use of excessive force during mass arrests, torture with the aim of recruiting informers and, in the case of arrested members of the Islamist armed group Hizbullah, prolonged police detention for several weeks or months.³⁹

Even children were victims of torture and ill-treatment in Turkish detention centres. If they were arrested on suspicion of offences, which fell under the jurisdiction of state security courts, they were treated like adults and were deprived of special safeguards.

◆ In the town of Viransehir (in the province of Urfa in south-eastern Turkey), 29 young Kurdish people, among them 24 children, were arrested on 8 January, accused of chanting slogans in the name of the Kurdistan Workers Party (PKK). They were allegedly beaten and ill-treated, and detained in cruel, inhuman and degrading conditions. They were forced to stand for two to three hours with their faces to the wall and their hands above their heads, and were not allowed to look around or speak. They were also threatened and verbally abused. None of them were allowed access to a lawyer, but instead they were made to sign documents which they did not fully understand and which some of them could not even read. Later, all but one was remanded into prison. Thirteen faced trial, and six remained in prison until 15 February 2001. It appeared that they were arrested and prosecuted solely on the grounds of their ethnic identity and the main "evidence" against them was their own statements and "confessions" that were apparently given during ill-treatment or coercion.⁴⁰

Police officers who resorted to ill-treatment and torture were rarely brought before justice. Furthermore, the 1999 law on the prosecution of civil servants and other public employees gave the local governor the power to block the prosecutions of security force members for torture, sexual assault, and unlawful killings. In contrast, victims were often charged with insulting the police, security forces or the army. The December 2000 amnesty law allowed the suspension of investigations and trials against officers accused of ill-treatment. It appeared that for this reason most perpetrators who faced criminal proceedings were charged with ill-treatment and not with torture, as the amnesty law did not cover those sentenced for torture.

Prison Conditions

The introduction of so-called "F-type" high security prisons constituted the main concern regarding prison conditions.

In "F-type" prisons, operating from December 2000, prisoners were held permanently either in single-person or three-person cells in what was termed "small group isolation." They could leave their cell units only once a week if a member of their closest family (spouses, children, parents) visited them. This type of cell-based prisons was in sharp contrast to the traditional large-ward-based system in Turkish prisons. Medical studies indicate that confinement under such conditions is physically and mentally damaging, and leads to, for example, the impairment of vision and hearing, hallucinations, the weakening of the immune system, depression, anxiety, and aggressive behaviour.⁴¹

The CPT stated, following its December 2000/January 2001 visit to Turkey, that "The *de facto* isolation system currently in operation is not acceptable and must be ended quickly. ...The introduction of smaller living units for prisoners must under no circumstances be allowed to lead to a generalised system of small group isolation."⁴² The UN

Committee for the Prevention of Torture expressed similar concerns and noted that denying access to relatives, the lack of independent medical care, and legal counsel facilitated torture, inhuman or degrading treatment, and, in some cases, led to death.⁴³

Many prisoners were transferred to "F-type" prisons before the necessary legal and administrative arrangements had been made, and as a consequence, those prisoners were subjected to four months of uninterrupted isolation.⁴⁴ Because of this, and other similar reasons, in May, more than 300 prisoners and their relatives went on hunger strikes for over 100 days, in protest against being permanently locked up in either one- or three-person cells. The number of dead hunger strikers reached a total figure of 33 prisoners and 8 relatives for the year 2001. Several detainees resisting transfer to "F-type" prisons were killed.⁴⁵

Under international pressure, and due to the need to fulfil the Copenhagen Criteria for EU membership, the Turkish Parliament on 1 May decided to amend Article 16 of the Anti-Terror Law in order to remove legal provisions that aided strict solitary confinement of "F-type" prisons and prohibited out-of-cell activities during the day where the prisoners could associate with one another. The concern, however, remained that the amendments to Article 16 still included conditions which would continue to serve as a justification for isolation. These amendments envisaged access to out-of-cell activities for prisoners if they did not present a security risk. The CPT was of the opinion that the vast majority of those imprisoned under the Anti-Terror Law did not constitute such a security risk, and consequently, obstacles to prisoners' out-of-cell time should not exist.⁴⁶

Death Penalty and "Disappearances"⁴⁷

The October constitutional amendments maintained the moratorium on executions since 1984, but judicial decisions regarding the death penalty continued to

be taken. According to AI, approximately 24 death sentences were passed during the year 2001, one of these was upheld by the Court of Appeals, four were commuted to prison sentences, and one was quashed. At least 31 more, already upheld by the court in previous years, together with 11 more recent death sentences were sent to Parliament for confirmation.⁴⁸

The constitutional amendments abolished the death penalty for criminal offences, but retained it in circumstances of "war" and "terrorist crimes", a formulation open to broad interpretations. Most of the 50 executions since the 1980 military coup had been for offences under those headings. The EU has made the abolition of the death penalty a priority for Turkey's accession.⁴⁹

Unacknowledged detentions, which sometimes resulted in "disappearances" were common especially in the south-eastern state of emergency region.

◆ Serdar Tanis and Ebubekir Deniz, both members of the People's Labour Party (HADEP) were called to the gendarmerie station in Silopi, south-eastern Turkey on 25 January. They have not been heard of since. Despite eyewitnesses who saw them going to the station, authorities initially denied that they were detained. In early March authorities claimed that a letter had been found stating that the two men had been abducted by the PKK and were in a camp in northern Iraq. Before his "disappearance," Mr Tanis, like many other HADEP activists, had been repeatedly threatened and warned to give up his party activities.⁵⁰

National Minorities⁵¹

Against the commonly held view of a minority as a self-identifying group with a national or ethnic, cultural, religious and linguistic identity, the Turkish Government continued to use an idiosyncratic definition of the term "minority", restricting it solely to those religious communities mentioned by

the 1923 Treaty of Lausanne: the Jewish, Greek Orthodox and Armenian Orthodox minorities.

According to the website of the Turkish Foreign Ministry, this treaty certified that there are only non-Muslim minorities in Turkey, and therefore the Ministry asserted that it would be wrong, for example, to refer to the citizens of Kurdish descent as a Kurdish minority. The same site also emphasized that Turkey is a unitary State and that Turkish citizenship was an all embracing judicial concept, encompassing all citizens, granting them equal rights and obligations.

Basing on the above-mentioned concept the Turkish Government did not even try to apply the EU Copenhagen criterion of "respect for and protection of minorities" to most of its minorities, like the Assyrian, Kurdish, Laz, and Roma. This lack of openness towards cultural and linguistic plurality was motivated in part by a genuine fear that any acknowledgement that Turkish society is other than monolithic would destroy the political work of eighty years.

According to Article 42.9 of the Constitution, Turkish was the official language of instruction, and "no other language than Turkish may be taught to Turkish citizens as their mother tongue". The 1983 "Foreign Language Education and Teaching Law" regulated (and allowed) the teaching of foreign languages, hereby taking into consideration the view of the National Security Council, which made the teaching of English, French, German, Russian, Italian, Spanish, Arabic, Japanese and Chinese legal, but Laz, Kurdish and Roma not.

*Kurdish Minority*⁵²

About 20% of Turkey's 63 million inhabitants are of Kurdish ethnicity. Most of them originate from the south-eastern provinces, but many now live in the major cities. Despite of being the largest ethnic minority in the country, the Turkish Government has held to its policy of not recognizing them.

The use of the Kurdish language, even in private households, was an offence up to 1991. This language ban has been eased since then but was still applied within the mass media and in schools in 2001.

The October 2001 constitutional amendments abolished two constitutional restrictions on the freedom of the press, which had banned statements and publications "in a language prohibited by law", but added other restrictions that can be used to penalize for example statements on the Kurdish issue.⁵³

The 1994 "Law on the Organization and Broadcasts of Television and Radio" mandated the exclusive use of Turkish except in certain circumstances. On the basis of this law, licenses have not been issued for television or radio channels to broadcast in Kurdish, with the only exception of the radio channel Dicle Sesi (Voice of Tigris), broadcasting in two Kurdish dialects, and run by the army.⁵⁴

Education in Kurdish language remained forbidden, and if the Kurdish language was used in public meetings or cultural gatherings, the police often dispersed them.

For three decades, every openly Kurdish-minded party has been closed own as "separatist", including the People's Labour Party (HEP) and the Democratic Party (DEP), the predecessors of the Kurdish-minded People's Democracy Party (HA-DEP). Their members have been arrested, imprisoned and otherwise harassed.

The armed clashes between the PKK and the Turkish military continued in 2001, but since the second half of 1999 on a decreased level. There were no reliable figures of the number of figures. However the predominantly Kurdish provinces of Diyarbakir, Hakiari, Sirtak and Tunceli were still under the state of emergency decree throughout 2001, and Kurd activists were arbitrarily arrested, tortured or ill-treated, and faced trials that did not meet the minimum of international standards of a fair trial.

More than 30,000 persons have returned to their villages or moved to so-called consolidated villages near their original homes.

On the positive side, the Kurdish New Year festivities in March 2001 were carried out without major incidents, and they attracted some 500,000 people in the Southeast. However, similar festivals elsewhere, e.g. in Istanbul, were banned by authorities.

◆ On 20 November a campaign for Kurdish language education was started by 200 students at an Istanbul University, which spread to a number of universities rapidly. Individual and collective petitions were submitted in 21 universities. While in some universities petitions were accepted in others they were declined. Minister for Interior, Mr Yucelen, assessed this campaign as a clear case of a separatist action and issued the order to strictly reject the petitions. The prosecutor of the State Security Court in Istanbul initiated proceeding against the campaigners and ordered the anti-terror police units to deal with the offenders. A number of students were arrested, and four imprisoned and allegedly tortured. The Turkish Council for Higher Education (YOK) started to punish those who had signed the petition with suspending them from university education for between one month and two semesters.⁵⁵

◆ When the Istanbul-based Kurdish Culture and Research Foundation (Kurt-Kav) a few years ago attempted to open a private course to teach Kurdish, the course was closed down in 1998. The Foundation's board members were prosecuted in the Istanbul State Security Court for "incitement to hatred" under Article 312 of the Turkish Penal Code, but were acquitted in early 2001.⁵⁶

◆ The Istanbul governor banned a May conference on multiculturalism and democracy organized by the Mesopotamian Culture Center MKM.⁵⁷

◆ The Turkish Ministry of Interior issued a new directive on undesirable terms used in connection with Kurds. Notions like "Kurdish revolt" or "Freedom for the Kurds" should be described as "terrorist activities". "Kurds" or "Kurdish citizens" are to be called "Turkish citizens". Also, "cleared villages" were to be described as "abandoned villages".⁵⁸

Armenian and Greek Minorities

The provision according to which minority foundations, including religious ones, recognized under the Lausanne Treaty, may not acquire property for any purpose, although they could lose it if its use was no longer necessary due to the decreasing number of members. These properties were then taken over by *Vakıflar*, the Office of Foundations, which was a government agency. The minorities may apply legally to recover their properties if they could demonstrate a renewed community need.

◆ The fate of an Armenian church in Kirikhan, which was under the threat of being taken over by *Vakıflar*, remained pending at the year's end.

◆ The Ecumenical Patriarchate in Istanbul continued to advocate the reopening of the Patriarchate's seminary on the island of Halki. The seminary was closed down in 1971 when the State nationalized most private institutions of higher education. Under existing restrictions, including a citizenship requirement, minority religious communities remained unable to train new clergy.

Women's Rights

In March, Turkish women organized a conference on sexual assault and rape in custody. Many of the women participating in the conference were victims themselves. Later, participants were put on trial for "insulting the state authorities." The Women Pensioners' Union booklet *Voice and Courage*, was confiscated, and its editors charged with offending public officials for publishing the speeches from the conference.

However, women persisted in reporting sexual abuses and rape in detention facilities. The number of complaints filed at the Women's Commission of the Diyarbakir Bar indicated 123 cases of rape. Women detainees also alleged infliction of torture by beating, death threats, hosing with cold water, sexual assault, electric shocks, hanging by their arms, etc.⁵⁹

A Turkish law, designed to uphold secularism in the country, banned women, who were civil servants or attended schools and universities, from wearing headscarves.⁶⁰

In July, Health Minister Osman Durmus issued a decree, reinforcing the so-called "virginity test" for women attending medical schools. This had been banned some years earlier. Thus, women found to be sexually active, were expelled from those schools.⁶¹ Such measures represented a gross violation of women's rights in Turkey, and was contrary to the principles of secularism, which the country claimed to pursue.

One significant formal positive change concerning the rights of women was the adoption in November of a new Civil Code. This formally established the equal status of men and women in the family by repealing the clause that determined the man as head of the family and allowing women to make decisions in marriage matters. Another major change in this respect was that concerning matrimonial property. The new provision entitled women to an equal share of the assets accumulated during the time of the marriage. In addition, under the new Code, children born outside of marriage have equal rights to inheritance with those born inside marriage. It also permits a single parent to adopt children.⁶²

Human Rights Defenders

Human rights organisations such as the Human Rights Association (HRA), the Human Rights Foundation of Turkey

(HRFT), and the Turkish Medical Association continued to be persecuted for documenting human rights abuses in prisons, and supplying regular information for the "F-type" prison hunger strikers while the strike was still in progress. These activities were defined as "supporting terrorism" by the Justice Ministry, and several human rights defenders, among them Ankara HRA branch President Lutfi Demirkapi, were charged under the provisions of the Anti-Terror Law. They faced the risk of several years' imprisonment for their activities to protect human rights.⁶³

◆ On 7 September, police raided the Diyarbakir Rehabilitation Centre of the HRFT. In violation of medical ethics, they confiscated confidential patient-related documents containing information about torture victims the centre had been treating, as well as computers. The police did not initially have a search warrant, but they soon obtained the necessary permission by calling the Diyarbakir Public Prosecutor's Office. The governor of the state of emergency region initiated procedures to close down the centre, and there has been no legal avenue for the HRFT to challenge the proceedings. Another search was carried out on 25 October in the Ankara office of the HRFT with the police demanding to see documents related to the Diyarbakir Rehabilitation Centre.⁶⁴ The documentation was returned only after being kept in the Security Directorate for more than a month in breach of professional medical obligations for the confidentiality of patients' information.⁶⁵

◆ One of the leading human rights defenders, Osman Baydemir from Diyarbakir, was arrested on 9 August whilst he was travelling with a delegation investigating human rights abuses in Southeast Turkey. He was later released. However, 18-year-old Rasim Asan, who had testified to the delegation, was arrested and reportedly tortured: he was subjected to electric shocks

to his genitals and toes, threats and was left hanging by his arms.⁶⁶

◆ In October *Yeni Safak* (Early Dawn) published a 1998 memorandum prepared by the military for the purposes of discrediting the HRA by bringing false evidence linking the organisation to the terrorist PKK. The military admitted the authenticity of the document, but added that it had never been implemented in reality.⁶⁷ However, this was sufficient to serve as an example for the underhand methods used in Turkey to fight human rights defenders.

◆ Eren Keskin, head of the HRA Istanbul branch and one of the founders of the Legal Aid Project for sexually tortured women, has been standing trial under Article 159 for having insulted the army. Her description of the sexual torture which the "Peace Mothers" had reportedly been exposed to in detention in early October 2000⁶⁸ had been published in the newspaper *Yeni Gündem*. As of the end of 2001, there were a number of trials opened against her because of her human rights activities.⁶⁹

Endnotes

- ¹ Amnesty International (AI), *Turkey: Constitutional Amendments – Still a Long Way to Go*, 1 January 2002.
- ² The Council of the European Union, *Council Decision of 8 March 2001 on the principles, priorities and intermediate objectives and conditions contained in the Accession Partnership with the Republic of Turkey*, (2001/235/EC).
- ³ Human Rights Watch (HRW), *Comments on Turkey's National Program for the E.U. Accession Partnership Agreement*, April 2001, at www.hrw.org/press/2001/06/turkey-plan.htm.
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