

## Turkey<sup>1</sup>

**IHF FOCUS: freedom of expression and the media; freedom of association; peaceful assembly; independence of the judiciary and fair trial; torture, ill-treatment and detainees' rights; prisons; death penalty; freedom of religion; national and ethnic minorities; asylum seekers; internally displaced persons (IDPs); human rights defenders.**

Various positive developments took place in Turkey in the field of human rights in 2003. Four legislative “adjustment packages” were adopted, including many legal amendments, which mainly focused on meeting European Union (EU) accession standards. At the EU Copenhagen Summit in December 2002, the EU decided to review Turkey’s progress in terms of political reforms by the end of 2004. Should the EU find that Turkey has met the Copenhagen criteria, accession negotiations would be initiated.

Though the “adjustment packages” provided for important legal changes, their implementation through other legislation was problematic.

The “Seventh Adjustment Package” facilitated the right to education in “local languages and dialects” (referring to Kurdish and other minority languages). However, due to lack of regulations to implement the package, “the language ban” continued. In a similar vein, a 26 June ruling of the Court of Cassation provided for broadcasting in minority languages in all electronic media—until then such a requirement had applied only to state-run television—but the Radio and Television Supreme Board (RTÜK) failed to issue a regulation for the implementation of the provision.

By the same token, a new regulation to permit the teaching of languages spoken by Turkish citizens but other than Turkish was not issued until 5 December by the Ministry of Education, more than a year after the law to this effect had been adopted.

Pressure continued against political parties, NGOs, journalists, writers and artists who openly expressed an opinion that challenged the official view. Authorities continued to disperse demonstrations by force, arrest their participants and prosecute them. One person died during police intervention in a demonstration.

In 2003, the number of extra-judicial killings, arbitrary shootings, and deaths in detention decreased compared to previous years. Firing on demonstrators by the police also decreased, yet, a total of at least 279 people<sup>2</sup> were killed as a result of human rights violations, some committed by law enforcement officials, some by unidentified assailants in politically motivated clashes between civilians and some in places of detention. While the number of cases of death in detention and as a result of torture decreased somewhat, torture continued to be a widespread and systematic practice in 2003.

The re-trial of some former Kurdish deputies—Hatip Dicle, Leyla Zana, Orhan Dogan and Selim Sadak—started with the defendants remaining under remand. The re-trial was provided for by the “Fifth Adjustment Package” of 23 January, which allowed some individuals in whose favor the European Court of Human Rights (ECtHR) had ruled, the right to a re-trial in Turkey.

Problems in the prison system continued and an urgent solution was required. Apart from the generally strained atmosphere in prisons, two inmates died because they fasted to death and 17 others died for various other reasons.

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<sup>1</sup> This chapter was written by the Documentation Centre of the Human Rights Foundation of Turkey (HRFT) for the IHF.

<sup>2</sup> This number was reported to the HRFT.

Following the abolishment of the death penalty and amendments made in the different articles of the Turkish Penal Code and Law on Forests (with 2002 legal reforms), articles referring to the death penalty in Law No. 4533 on Historical National Gelibolu Peninsula Garden Park were removed in July. On 26 June, the Grand National Assembly of Turkey (GNAT) adopted the Sixth Protocol to the European Convention on Human Rights (ECHR) that provides for the abolition of the death penalty.

Human rights defenders, including members of the Human Rights Foundation of Turkey (HRFT) and the Human Rights Association of Turkey (HRA), continued to be persecuted.

No important steps were taken within 2003 to solve the problems of internally displaced persons (IDPs), who were forced to leave their homes during the 15-year armed conflict in the southeastern region of the country.

## **Freedom of Expression and the Media**

In order to meet EU accession criteria, many important legal steps were taken regarding freedom of expression. On 6 February, the GNAT passed an amendment to the Law on Amnesty of Press Crimes. On the basis of this amendment, those who were convicted of press-related crimes and had served their sentences would be able to enjoy their civil rights again. This affected, for example, Prime Minister Recep Tayyip Erdogan, who had been sentenced under article 312 of the Criminal Code (inciting hatred).

The “Sixth Adjustment Package” was approved by the GNAT on 19 June and included the revocation of article 8 of the Anti-Terror Law referring to spreading “separatist propaganda” and an annulment of sentences handed down under this article. This article was frequently used against journalists and writers. The definition of terrorism in article 1 of that law was redefined. Exerting “pressure” was excluded from the definition of terrorism. Violence and use of force remained the fundamental elements in the definition of terror.

The GNAT approved the “Seventh Adjustment Package” on 30 July. This package included a decrease in the minimum prison terms under article 159 of the Criminal Code (insult) from one year to six months. Individuals were sentenced under this article for criticizing various Turkish institutions, including the military, the judiciary, and government offices. However, according to international standards, insult should not be covered by criminal law at all (or carry a prison sentence) but should be rather covered by civil law.

The “Seventh Adjustment Package” also amended article 169 of the Criminal Code (aiding and abetting an illegal organization) by narrowing the realm of its application. However, in spite of these changes, this article remained an important threat for individuals, media and political parties that dealt with Kurdish issues. Many trials and investigations were launched due to press conferences in 2003, especially against those that included the expression “esteemed Öcalan,” referring to the imprisoned leader of the Kurdish Workers Party (PKK) Abdullah Öcalan. At least 174 trials were launched under article 169 in relation to speeches, press releases, articles, books etc. Out of 116 concluded trials, 58 ended with conviction.

Furthermore, according to the seventh package, publications seen as being “in contravention of moral rules” would no longer be destroyed.

Clause no. 2 of article 7 of the Anti-Terror Law was also changed. According to the new provision, persons who “aid members of illegal organizations” and persons who “incite violent actions and terrorism” shall be sentenced to 1-5- year prison terms and shall be fined a minimum of 500 million Turkish Liras (€300). Civilians will no longer be prosecuted on charges of “estranging public from the military duty,” nor will civilians be tried in military courts for their anti-military ideas.

The implementation of the above-mentioned legal reforms continued to be a problem. Political parties, NGOs, journalists, writers and artists who expressed opinions challenging official views continued to face pressure and harassment. According to information gathered by the HRFT, at least 774 trials took place regarding oral or written expressions of opinion. At least 70 trials were launched for insult (article 159 of the Criminal Code). Twenty-one of them concluded during the year with seven convictions and 14 acquittals. At least 67 trials were launched under article 312 of the Criminal Code (inciting hatred on the basis of class, religion or race). Twenty-six concluded with ten convictions and 16 acquittals. At least 175 trials were launched under article 6 of the Anti-Terror Law (publishing the statements of a terrorist organization). Ninety concluded with 83 convictions and seven acquittals.

- Nazim Ciftci, the chairperson of the Migrants' Association for Social Cooperation and Culture (Göc-Der) Hakkari branch, was indicted under article 312 of the Criminal Code because of his 27 October speech during the association's second congress. Ciftci said that Kurdish villages had not been evacuated because of the PKK but simply because they were Kurdish.
- On 31 March, Mahfuz Uyanik, editor-in-chief of the local *Batman Dogus* newspaper was acquitted on charges brought against him under article 159 of the Criminal Code. He was tried in connection with an article that appeared in the newspaper on 27 November 2001, which revealed frauds in some health clinics and hospitals in Batman.
- Faruk Temel, chair of the Democratic People's Party (DEHAP) youth wing in Hakkari, was arrested on 24 January following a press conference held on 22 January. He was indicted under article 169 of the Criminal Code on the grounds that he had used the expression "esteemed" when referring to PKK/KADEK leader Abdullah Öcalan. The Van State Security Court (SSC) sentenced him to three years and nine months imprisonment on 16 April.
- Mahinur Tas, an executive for the DEHAP woman's wing in the Bulanik district of Mus, was arrested in connection with a press conference held to protest the war in Iraq on 8 February. A trial was opened against her under article 169 of the Criminal Code. She was sentenced to three years and nine months imprisonment on 8 May.

Discussion about the "Kurdish problem" in the public sphere remained problematic. The issue continued to be perceived as threatening to national security, therefore, speeches, articles and news reports on the Kurdish issue were found to be "harmful" and thus punishable under the Criminal Code.

- Pressure on the pro-Kurdish newspaper, *Yeniden Özgür Gündem*, continued throughout the year until February 2004 when the paper closed due to fines amounting to billions of Turkish Lira. In 2003, the Editor-in-Chief, Mehmet Colak, and the owner, Ali Celik Kasimogullari, were sentenced to pay a fine totaling 476 billion TL (approximately €280,000). The newspaper was also sentenced to suspend operation for 288 days.

## **Freedom of Association**

### *Legal Amendments and Siirt Election*

Legal amendments passed by parliament to bring Turkish laws up to par with European standards brought about some formal improvements to freedom of association. Nevertheless, restrictions and pressure from state authorities on associations continued.

Turkish President, Ahmet Necdet Sezer, signed the amendments into law and they were published in the *Official Gazette* of 11 January. Article 104 of the Law on Political Parties pertaining to closure of political parties was amended to provide that political parties could only be closed under the following conditions: if the party program and internal regulations were not in agreement with the

Constitution; if the party became a center for actions against constitutional principles; and if the party received any aid from foreign organizations or individuals.

The amended article also provided a legal basis for founding political parties with names including words such as “s’*haria*,” “fascist,” “anarchist,” “communist,” “national socialist” and for founding parties with names that indicated a certain religion, language, race, sect and region. In addition, the chief prosecutor at the Court of Cassation was no longer able to launch cases against political parties demanding closure if they did not follow warnings by the Constitutional Court. The GNAT could only close political parties down if three fifths of the members of parliament approved the decision.

On 31 December 2002, President Ahmet Necdet Sezer confirmed the regulation which foresaw the amendment of articles 76 and 78 of the Constitution. Article 76 dealt with eligibility to be a member of Parliament. Under the old formulation, those individuals who had been convicted for “taking part in ideological and anarchical actions” were excluded from parliamentary eligibility. Under the new formulation, only those involved in “terrorist actions” were excluded. President Sezer’s confirmation of the amendment allowed the General Chairman of the Justice and Development Party (AKP), Recep Tayyip Erdogan, to regain the right to be elected to parliament.

The changes to the Law on Amnesty of Press Crimes, which had been vetoed by President Sezer on the grounds that legal changes could not be based on personal interests, were passed by the GNAT on 6 February. With these changes, the sentence of Recep Tayyip Erdogan under article 312 of the Criminal Code was removed from the records.

Article 78 of the Constitution was amended to allow an interval election within 90 days if a seat became vacant in parliament. After the amendment was adopted, an election was set for 9 March in the province of Siirt. All three seats in the parliament representing Siirt were won by the AKP. This gave the AKP 365 seats in parliament and allowed Recep Tayyip Erdogan to become prime minister. The re-elections were carried out at the order of the High Election Council (YSK) because the AKP had complained that 700 people in the Pervari district of Siirt province had not been able to vote in the 3 November 2002 elections.

#### *Closure of HADEP*

On 13 March, the Constitutional Court unanimously decided to close down the People’s Democracy Party (HADEP) permanently. The court ruled that in several of its activities, including aiding the PKK, HADEP had become a center of actions that were contrary to the indivisible integrity of the state.

The Constitutional Court investigated the merits of the case for three weeks. The President of the Constitutional Court, Mustafa Bumin, stated that the verdict was based upon articles 68 and 69 of the Constitution and articles 101 and 103 of the Law on Political Parties. The verdict prohibited 46 HADEP members from being founders, executives, members or supervisors of any political party for the rest of their lives because they had caused the closure of the HADEP party with their actions and statements. The case was initiated on 29 January 1999 by Vural Savas, then the chief public prosecutor at the Court of Cassation.

#### *German Foundations*

On 4 March, the Ankara SSC concluded the case against German NGOs for financially supporting protest actions against Normandy, the company that operated a gold mine in the Bergama district (Izmir) using cyanide. The charges were filed under article 171 of the Criminal Code for forming a secret alliance against the state. The main evidence was the book, *German Foundations – The Case of Bergama*, by Necip Hablemitoglu who was murdered in December 2002. The court

acquitted the defendants for lack of evidence. After the hearing, the Ministry of Foreign Affairs stated that it welcomed the decision.

The NGOs on trial were the Konrad Adenauer Foundation, the Heinrich Böll Foundation, the Friedrich Ebert Foundation, the Friedrich Naumann Foundation, the Orient Institute, Food First Information and Action Network (FIAN) and the Environmental Movement in Bergama. Some of the 15 Turkish individuals who were involved in the protests, including the former mayor of Bergama and some Izmir Bar Association lawyers were also indicted.

## **Peaceful Assembly**

The generally negative attitude of the government and the security forces against public assemblies and demonstrations did not change in 2003. One person died during police intervention in a demonstration. Numerous peaceful meetings and demonstrations were dispersed by force when demonstrators attempted to voice their demands or their criticisms against official policies. Many people were arrested during these demonstrations and charged with violating the Law on Assemblies, Meetings and Demonstrations (No. 2911) or with aiding an illegal organization.

For example, judicial proceedings were initiated against participants of peaceful gatherings for the following occasions: Women's Day, *Newroz* (Kurdish New Year) celebrations, First of May (Labor Day) demonstrations and World Peace Day assemblies on 1 September.

Law No. 4963 came into force on 7 August. It amended the Law on Assemblies, Meetings and Demonstrations. According to the new law, governors were no longer allowed to ban demonstrations and the earlier right of governors or the Interior Ministry to postpone demonstrations and meetings for 30 days was reduced to ten days. In addition, the maximum period for the postponement or ban of a meeting was brought down from three months to one month.

- A meeting scheduled by the Trade Union of Office Employees (BES) for 22 February in Diyarbakir was postponed by the governor for 45 days. He gave no reason.
- The First of May gathering in Bitlis was postponed by the governor.
- The Izmir Governorship postponed the World Peace Day meeting from 1 to 10 September on the grounds that authorities "could not provide security" on 1 September.
- A meeting entitled "Youth Gathers on the Black Sea for the Resolution" that was planned for 19 October by the Youth Platform for Peace and Democracy in Samsun was postponed 15 days by the governor of Samsun because of "security reasons": a football match was taking place on the same day.
- The *Newroz* celebrations in the cities Bitlis, Maras, Siirt, Agri, Erzincan, Kars, Ercis (Van) Cizre (Sirnak), Manisa and in the districts Turgutlu, Salihli, Alasehir, Sarigöl, Ahmetli, Gölarmara, Akhisar, and Saruhanli were prohibited. In the Tatvan district of Bitlis the permission that had been granted was cancelled due to "weather conditions."
- On 6 November, demonstrations were staged to protest against the Council for Higher Education (YÖK) in many Turkish cities. Police attacked students during the demonstrations in Ankara, Istanbul, Tunceli, Antep and Hatay. Many were beaten and detained.

The war in Iraq dominated the Turkish political agenda during the first three months of the year. The government attempted to push a decision through parliament to allow the deployment of foreign troops in Turkey and to dispatch Turkish troops to Iraq. Demonstrations against the

government's Iraq policy continued throughout the year. Most demonstrations were held under intensive police scrutiny and many people were indicted in connection with them.

The activity of civil servants and trade unions intensified in August in connection with the following three issues: the 2004 wage negotiations, the draft law on public reform and the 2004 national budget. Investigations and court cases were launched against many civil servants in connection with these activities.

### **Independence of the Judiciary and Fair Trial**

The "Fifth Adjustment Package" (Law No. 4793) provided for a re-trial of cases that the ECtHR had ruled in favor of. This was applicable to persons who had submitted their applications to the ECtHR after 23 January 2003 (when Law No. 4793 came into force) or cases in which the ECtHR had handed down a definite ruling in favor of the applicants before that date. For the latter cases, an application for a retrial in Turkey must be submitted within one year.

The limitations to re-trials were passed in order to close the way for a re-trial of Abdullah Öcalan, who had received a life sentence but whose case was still pending in the ECtHR as of the day the law came into force, but the restrictions are applicable to all other similar cases that are in the same legal limbo. As a result, the case of ten students who had been sentenced to prison terms for carrying critical banners during a demonstration (and did not receive a fair trial) and in favor of whom the ECtHR had ruled, is not eligible for re-trial because they had submitted their application to the ECtHR before 23 January 2004 but the court's ruling was handed down after that date.

- As soon as President Sezer had signed the "Fifth Adjustment Package," lawyer Yusuf Alatas applied to the Ankara SSC for a re-trial of his clients Hatip Dicle, Leyla Zana, Orhan Dogan and Selim Sadak, all former members and MPs of the banned Kurdish Democracy Party (DEP). In his application, Alatas noted that on 17 July 2001 the ECtHR had ruled that their trial at the Ankara SSC had violated fair trial standards. The re-trial started on 28 March, but the SSC rejected the demand to release the defendants. The case was still pending as of the end of 2003. The former MPs were sentenced in December 1994 to 15 years' imprisonment for membership in an illegal armed organization, the PKK.

According to the "Seventh Adjustment Package", civilians could no longer be judged for the crime of "estranging public from the military duty." Civilians could also no longer be judged in military courts because of their anti-militarist ideas. The age limit for being judged in juvenile courts was increased from 15 to 18 years. In addition, the system of judicial records was brought in line with article 1 of the United Nations Convention on the Rights of the Child allowing the criminal records of children under the age of 18 to be made available to prosecutors only under strict conditions.

### **Torture, Ill-Treatment and Detainees' Rights**

In 2003, there were markedly fewer cases of extra-judicial killings, arbitrary shootings by law enforcement officials, deaths in detention and firing on demonstrators than in the previous years. Yet, according to information compiled by the HRFT, a total of at least 279 people were killed as a result of human rights violations committed by law enforcement officials or by unidentified assailants in clashes between civilians and security forces, or in police detention.

The following violations were reported to the HRFT in 2003: 46 cases of extra-judicial killings (shootings by officers to stop suspects from escaping or arbitrary shootings), 115<sup>3</sup> cases of

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<sup>3</sup> It was extremely difficult to obtain the exact numbers of casualties as a result of armed clashes, especially in the southeastern and eastern regions of Anatolia.

armed clashes between law enforcement officials and suspects, 19<sup>4</sup> mine and bomb blasts, 16 killings by unidentified assailants, 61 attacks by illegal organizations, one clash between civilians, two deaths in detention, 19 deaths in prison and 99 deaths of asylum seekers (98 in the ocean and one suicide).

Despite the fact that the number of deaths in detention and the severity of torture decreased somewhat—apparently as a result of efforts by authorities to meet the EU Copenhagen criteria and to polish Turkey’s international image—torture remained a widespread and systematic practice. It was still used to extract confessions, to dominate, to control and to humiliate detainees. The number of “abductions,” in which individuals were taken to places out of town and interrogated by police officers in civilian clothes increased.

According to HRFT information, two persons died in detention and at least 650 people (72 of them, under age) were tortured at the hands of the police at police stations, during house raids or in isolated places. HRFT statistics, however, reveal only a fraction of all cases because many people, especially those who had been detained for non-political reasons, were afraid to report their torture and many “abduction” incidents were not covered by the media.

Impunity remained a serious problem. If police officers charged with torture or ill-treatment faced trial, they were not only left at liberty but were also allowed to continue performing their duties during court procedures. Most of the defendants could not be brought before the court. Some of the prosecuted police officers were even promoted and trials usually lasted long enough to lapse due to the statute of limitations.

- The Iskenderun Heavy Penal Court continued to hear the case of the police officers Murat Cikar, Halil Özkan, Aysun Yüksel and Gürkan İlhan who had allegedly tortured Fatma Deniz Polattas and Nazime Ceren Samanoglu in police custody in Iskenderun in March 1999. The trial continued throughout the year pending a report from the Forensic Institute on the case. As of the end of 2003, the report was two years overdue.
- Proceedings continued at the Ankara Penal Court of First Instance No. 2 in the case against eight police officers charged with torturing university student, Birtan Altınbaş, while in police custody in January 1991. In July 2001, the same court had sentenced the police officers Ibrahim Dedeoğlu, Sadi Caylı, Hasan Cavit Orhan and Süleyman Sinkil to four years, five months and ten days’ imprisonment. Additional defendants, Tansel Kayhan, Talip Taştan, Mehmet Kirpici and Muammer Ekin, had been acquitted because of lack of evidence, while the cases against Naim Kilic and Ahmet Bastan had been separated from this case. The 1st Chamber of the Court of Cassation had overruled the verdicts on procedural grounds. The trial continued as of the end of 2003.

In 2003, 925 persons (68 of them children) applied to HRFT treatment and rehabilitation centers seeking help in recovering from traumas they had sustained from torture. Of them, 340 stated that they were tortured in the year 2003: 116 of them were tortured in security directorates, 36 in police stations, 5 in gendarmerie commanderships, 10 in gendarmerie stations, 6 in prisons and 167 persons in different places including homes, work places, schools and the street.

## **Prisons**

The atmosphere in prisons continued to be tense and the conditions were generally inhuman and degrading. There were also reports of medical neglect of ill prisoners. According to the figures gathered by the HRFT, 19 people died in prisons in 2003: two due to medical neglect, ten committed suicide, two burned themselves, three were killed, and two died as a result of death fasts.

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<sup>4</sup> This figure does not include the number of soldiers, police officers, village guards and militants of illegal organizations who died as a result of mine explosions.

Problems concerning the F-type prisons continued in 2003. F-type prisons were criticized for possibly leading to isolation of prisoners and for lack of group activities. Since the introduction of the F-type prison system in 2000, hundreds of people have participated in death fasts against this type of prison. On 20 October, the 10<sup>th</sup> group of death fast activists went on hunger strike. In two persons died as a result of death fasts in 2003.

- On 11 January, Özlem Türk died in the Ankara Numune Hospital. She was a correspondent for the journal *Struggle* in Samsun. Türk was detained in 1995 and sentenced to 15 years' imprisonment in 1996 by the Ankara SSC. Following the military operations against prisons on 19 December 2000 she was transferred from Canakkale Prison to Kütahya E-type Prison. In August 2002 she was taken to the Numune Hospital in Ankara. Türk had reportedly been forcefully fed in Kütahya. She rejected treatment even when she weighed only 15 kg.

With the two deaths in 2003, the number of persons who died because of death fasts protesting the existence of F-Type prisons reached 64. Between the beginning of actions related to F-type prisons and the end of 2003, a total of 113 persons have died for various reasons in relation to the introduction of this prison type.

While discussions on the conditions in F-type prisons continued, a D-type prison (a high-security prison consisting of cells, not wards) was constructed in Diyarbakir. It was the first prison of this type to be built after the introduction of F-type prisons. The prison was built near the Pirinçlik district on Diyarbakir-Urfa highway. Its capacity was 622 persons. Eighty-four prisoners from the Diyarbakir E-type prison were reportedly transferred to the new prison.

The Federation of Prisoners' Relatives Associations (TUHAD-FED) criticized the Ministry of Justice for building the prison in secrecy and with the sole aim of isolating prisoners. A lawyer of the Prison Commission of the Diyarbakir Bar Association announced that he had been hindered from meeting with his client in that prison.

## **Death Penalty**

Following the abolishment of the death penalty and amendments to different articles of the Turkish Criminal Code and Law on Forests (which included a provision on the death penalty) within the 2002 legal reforms, the article concerning the death penalty in the Law No. 4533 on Historical National Gelibolu Peninsula Garden Park was also removed in July.

On 26 June 2003, the GNAT adopted the Sixth Protocol to the European Convention on Human Rights (ECHR), which abolishes the death penalty. The protocol was signed by the permanent representative of Turkey to the Council of Europe on 12 November in Strasbourg. According to article 2 of the protocol "a state may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war; such penalty shall be applied only in the instances laid down in the law and in accordance with its provisions."

On 9 January 2004, Turkey also became a signatory to the 13<sup>th</sup> Protocol to the ECHR, which proposes abolishing the death penalty under all circumstances, including during times of war or imminent danger of war.

## **Freedom of Religion**



The EU's 2003 report on Turkey as an accession country stated: "The religious minorities continue to face serious obstacles with respect to legal personality, property rights, internal management, and a ban on the training of clergy."<sup>5</sup>

- With respect to freedom of religion, measures have been adopted in the area of property rights and construction of places of worship. Changes in the Law on Foundations that came into force in January provided that religious foundations would be allowed to buy and sell real estate. However, the impact of these legal amendments was limited. For example, despite many appeals, the Heybeliada Clergy School of the Orthodox Church remained closed. Moreover, legal reforms granting religious freedom were not sufficient. One problem was lack of equal representation of religious communities in the Directorate for Religious Affairs (*Diyanet*).

The wearing of headscarves in public spaces remained strictly banned. Several demonstrations were conducted against the headscarf ban in 2003 and some of them resulted in detentions, court cases and imprisonment.

- Özkan Hoshanli, the chairman of the Malatya branch of the human rights organization Mazlum-Der, was arrested on 27 October. Hoshanli had been detained with 75 others in 1999 during a demonstration staged to protest the headscarf ban for the students at Malatya İnönü University. He was prosecuted by the Malatya SSC seeking the death penalty, but was, in fact, sentenced to 15 months' imprisonment under the Law on Meetings and Demonstrations. Under the Law on the Execution of Sentences, he was ordered to serve 179 days in prison. Intisar Saatcioglu, who was also prosecuted in the same case, was imprisoned on 28 October. Saatcioglu's sisters Nurcihan and Nurulhak were in prison at that time for the same reason.

## **National and Ethnic Minorities**

Though legal amendments were made that provided for new rights for minorities, various state bodies failed to issue regulations for their implementation. New, restrictive orders were also issued.

The "Sixth Adjustment Package" included a change to article 16 of the Registration Law that has been used against Kurdish parents who want to give Kurdish names to their children. A circular to this effect was sent to all governors in September. However, the circular also contained a new ban on the use of names including the letters "q," "w," and "x," which are commonly used in the Kurdish language but are not included in the Turkish alphabet.

The "Seventh Adjustment Package" facilitated the right to education in "local languages and dialects" (meaning Kurdish and others). The "language ban," however continued to exist in practice due to regulations and circulars issued by various authorities.

The seventh package also amended article 4 of the Law on the Establishment and Broadcasting of Radio Stations and Television Channels to allow state-run radio and television stations to broadcast in the different languages that Turkish citizens use in their daily private lives. On 26 June, before the seventh package was adopted, the Court of Cassation annulled the 2002 regulation on "Broadcasting Languages on Radio and TV Stations," which allowed only the state-run TV channel TRT to broadcast in languages other than Turkish. Despite the legal changes introduced by the seventh package, RTÜK failed to issue a regulation to implement the new provisions.

Similarly, it took the Ministry of Education more than a year to issue a new regulation to permit teaching languages spoken by Turkish citizens other than Turkish in public schools. This

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<sup>5</sup> EU, 2003 Regular Report on Turkey's Progress Towards Accession, at [http://europa.eu.int/comm/enlargement/report\\_2003/pdf/rr\\_tk\\_final.pdf](http://europa.eu.int/comm/enlargement/report_2003/pdf/rr_tk_final.pdf).

regulation was finally presented on 5 December. Moreover, instruction of those languages was still not allowed in public educational institutions.

A Reform Monitoring Commission, which included representatives from the Ministries of Foreign Affairs, Justice and Interior as well as the general secretary for the EU, was not able to take efficient measures for the cultural rights of minorities due to influential groups that propagated against Turkey's membership in the EU.

### **Asylum Seekers**

Turkey remained an important transit country for asylum seekers from Asia and Africa trying to get to Europe. In 2003, as in previous years, tens of thousands of migrants were caught and sent back to their home countries without having their claims for asylum processed.

Turkey did not grant the status of refugee to people from outside Europe on the basis of a reservation it made to the Geneva Convention of 1951. The implementation of the 1994 Regulation of Asylum Seeking, which granted temporary right to asylum to non-European refugees until they were re-located to a third country, excluded many refugees from the asylum procedure. Therefore, it appeared that people coming through the eastern and southern borders of Turkey had no choice but to seek asylum in other countries.

The Minister of Interior, Abdülkadir Aksu, announced in December that within the last eight years, a total of 445,387 persons from 164 different countries, who had entered into Turkey illegally, had been arrested. He also mentioned that a total of 4,122 persons who were involved in human trafficking were caught within the same period.

### **Internally Displaced Persons (IDPs)**

No notable steps were taken in 2003 to solve the problem of IDPs who were forced to leave their homes in the southeastern regions of the country either to save their lives or because their villages were evacuated by administrative or military authorities. The IDP situation was due to a 15-year armed conflict between Turkish security forces and the PKK that took place in the region.

The authorities released conflicting numbers about how many people were affected, demonstrating their difficulties in dealing with the problem. A parliamentary investigation commission report stated in 1998 that the number of evacuated settlements was 3,428 while in 2003, the Ministry of Interior announced that the real number was 3,280.

Although the state of emergency was lifted in 2002 in the southeastern region, no important steps were taken in solving the problems of the village guards system. Village guards constituted the main obstacles in the return process. According to information compiled by the HRFT, at least 14 persons were killed by village guards in 2003. The criminal activities in which village guards were involved were mainly caused by the reallocation of agricultural fields that had belonged to the IDPs.

The time limits imposed on village guards for carrying weapons and possessing licenses to carry weapons were lifted. The new regulations were published on 16 May in the *Official Gazette*. With the amendment made to article 5 of the regulations, village guards were able to convert their "weapon carrying licenses" to "weapon possessing licenses" after finishing their duty as village guards. As a result, the weapons given to village guards would not be taken away from them, a fact that caused further concern about the safe return of IDPs.

### **Human Rights Defenders**

Human rights defenders continued to be prosecuted. Numerous cases were launched against members of human rights NGOs and their executives. Human Rights Association (HRA) was especially targeted. Many cases were pending against its executives and members in connection with their peaceful human rights activities. HRA headquarters and the offices of their Ankara branch were raided by the police.

- On 21 October, the Ankara SSC concluded a hearing in the case against the HRA Ankara branch. The prosecutor demanded its closure under article 7(4) of the Anti-Terror Law and a conviction of its members for “supporting illegal organizations” (article 169 of the Criminal Code). The court decided to drop the case against Ali Riza Bektas in accordance with the report of the Forensic Institute certifying that he suffered from a mental disease. The court also acquitted the following defendants: the former Chairman Lütfi Demirkapi and board members İlhami Yaban, İsmail Boyraz, Erol Direkci, Mesut Cetiner, Zeki İrmak, Rıza Resat Cetinbas, as well as members of its prison commission Ali Rıza Bektas, Selim Necati Ort, Saniye Simsek, Ekrem Erdin, Gökçe Otlı and Emrah Serhan Soysal. The charges were brought against the defendants after they had protested against the introduction of F-type prisons.

Another target for pressure and court proceedings was the Human Rights Foundation of Turkey (HRFT), which documents human rights abuses in Turkey—especially cases of torture—and runs rehabilitation centers for torture survivors.

- A trial against HRFT board members was opened at the Ankara Civil Court of First Instance No. 15 on 12 November 2003 with the aim of suspending them from duty. They were charged with having attempted to raise funds over the Internet without permission and with cooperation with international organizations without permission—both illegal acts under Turkish law. In addition, the HRFT translated its *Special Report on the Prison Problem in Turkey* into English and disseminated it internationally. Further, HRFT representatives met the UN Special Rapporteur for Extra-Judicial, Summary And Arbitrary Executions, the Rapporteur for Turkey of the European Parliament and the Council of Europe Commissioner for Human Rights, among other persons. One of the defendants, Executive Board Member and lawyer, Sedat Aslantas, pointed out that “the foundation’s alleged attempts to collect contributions via the Internet” remained an abstract accusation. In regard to the second claim, Aslantas stated that, in accordance with the statutes of the HRFT, the foundation meets with other organizations and presents its reports via its website for everyone’s usage. Aslantas also mentioned, keeping in mind Turkey’s aspiration to join the EU, that such activity should not be regarded as illegal. The hearing was adjourned to January 2004.

HRFT staff members also faced criminal charges for some of their activities. One of the cases against them ended with the decision of imprisonment.

- On 19 June, the Izmir Criminal Court No. 4 sentenced Dr. Alp Ayan, an HRFT staff member in Izmir, to one year and one day’s imprisonment under article 159 of the Penal Code (insult). Other defendants in the same trial were Mehmet Barindik, an official of the Limter-İs trade union and Abdülbari Yusufoglu, who died on 20 September 2001 as a result of death fast. Barindik was sentenced to one year’s imprisonment. All three were charged in connection with a 13 January 2001 press statement criticizing the 19 December 2000 prison raids. Dr. Ayan and Mehmet Barindik were convicted of insulting the justice minister. This case was initiated on 16 May 2001 after the first charges against the men for conducting an illegal demonstration had resulted in acquittal. On 10 June 2002, Ayan and Barindik were sentenced to the same prison terms and the case against Abdülbari Yusufoglu was dropped. After that, the Court of Cassation overturned the verdict on the ground that article 159 had been amended.