



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 30 August 2001

11498/01

CIREA 45

NOTE

from : United Kingdom delegation
to : CIREA

Subject : **Report on the fact-finding mission to Turkey**

Delegations will find attached a report by the United Kingdom Immigration Service concerning the above mission, carried out from 17 to 23 March 2001.



Home Office

BUILDING A SAFE, JUST
AND TOLERANT SOCIETY

Report of fact-finding mission to Turkey

by

Country Information and Policy Unit

**Immigration and Nationality Directorate
Home Office
United Kingdom**

17 - 23 March 2001

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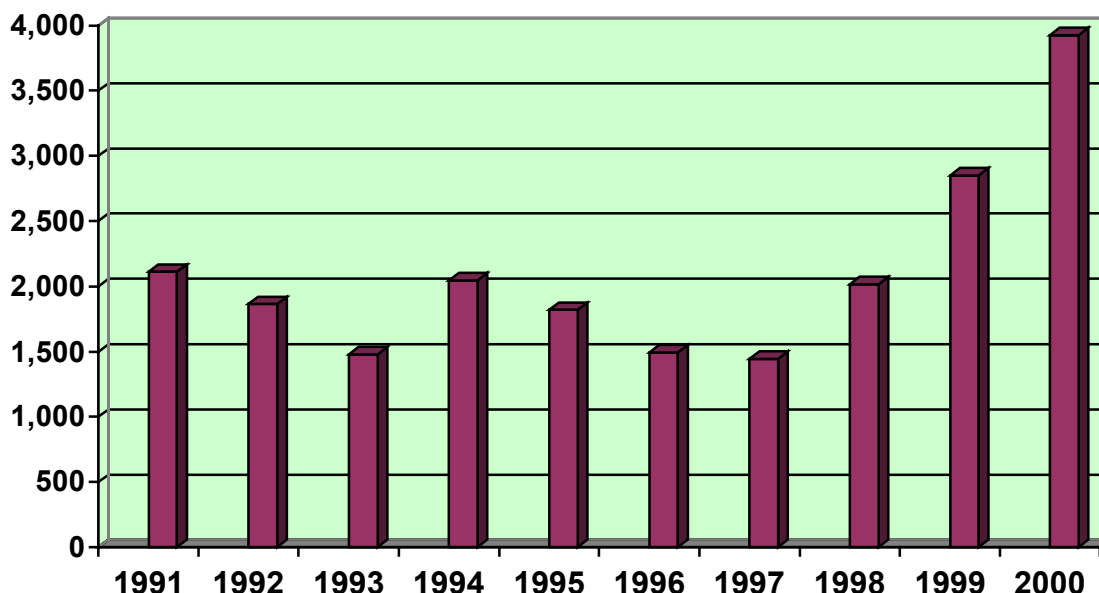
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1. Introduction

1.1 Background

- 1.1.1. To inform decision-making on asylum applications by Home Office caseworkers and other officials involved in the asylum determination process, the **Country Information & Policy Unit (CIPU)** of the **Home Office Asylum and Appeals Policy Directorate** produce assessments on the countries that generate the largest number of asylum applications in the UK. These country assessments are publicly available documents and are published on the Home Office website¹. By their nature each country assessment concentrates on the main issues that are most likely to arise in the asylum determination process. The information contained in these country assessments is not exhaustive, nor does it catalogue all human rights violations. They are compiled from a wide variety of sources that are listed at the end of each country assessment.
- 1.1.2. The number of applications for asylum made by Turkish nationals in the United Kingdom has, with some minor fluctuations, remained at a relatively high level over the last decade. Over the last three years however the number of Turkish asylum applicants has shown a sharp rise from 1,445 in 1997 to 3,925 applications in 2000 (these numbers are of principal applicants, and exclude dependants). In the first six months of 2001 there were 1950 applications, in comparison with 1905 in the first six months of 2000.



Number of applications for asylum received in the United Kingdom by Turkish nationals in each of the last 10 years (1991-2000)

¹ <http://www.ind.homeoffice.gov.uk>

1.1.3. Statistical information from IGC (the Inter-Governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia) shows that in 2000 Turkey was the country that produced the fifth largest number of asylum seekers in the European Union with 22,475 applicants. The main receiving countries were Germany who had 8,970 applicants, UK 5,035*, France 4,025*, and Netherlands 2,275.

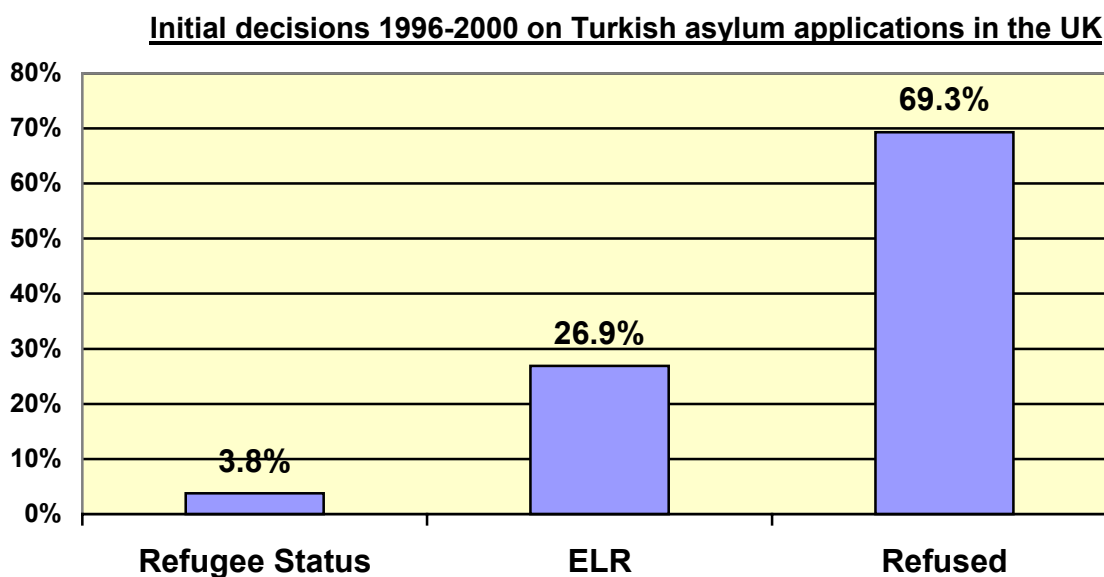
Turkish Asylum Applications in Europe 1999 & 2000

	1999	2000	% Change
UK*	3,650	5,035	+ 38%
Netherlands	1,490	2,275	+ 53%
France*	2,520	4,025	+ 60%
Germany	9,095	8,970	- 1%
Belgium	590	955	+ 62%
Austria	335	590	+ 76%
Denmark	35	70	+ 100%
Ireland	15	20	+ 38%
Spain	45	20	- 54%
Sweden	220	230	+ 4%
Total EU	18,375	22,475	+ 22%

* Estimates made for number of dependants to improve comparison
 [Source IGC Secretariat/ IRSS. The figures are provisional.]

1.1.4. Most asylum applications made by Turkish nationals in the UK are based on the applicants' stated fear of persecution because of their Kurdish ethnic origin, often coupled with involvement or association with the terrorist organisation known as the Kurdish Workers' Party (*Partiya Karkeren Kurdistan*) (PKK). Turkish asylum applicants frequently state that they have been detained for one to three days in a police station, tortured, and then released without charge. Some applicants state that they are either military draft evaders or conscientious objectors. Many Kurds say that they have migrated to Istanbul and other areas of western Turkey after experiencing persecution in the south east of the country but have experienced further persecution in those areas. Of the non-Kurds, many state that they have fled Turkey because the authorities have discovered that they are members or supporters of illegal far-left terrorist organisations such as the Revolutionary People's Liberation Party - Front (*Devrimci Halk Kurtulus Partisi - Cephesi*) (DHKP-C). The majority of Turkish asylum seekers illegally enter the UK clandestinely, and, whereas previously they sought to remain undetected to enter the shadow economy, the trend now is for them to come forward to the UK authorities and make applications for asylum.

- 1.1.5. Applications for asylum in the United Kingdom are considered on their individual merits under the terms of the 1951 UN Refugee Convention. In cases where asylum has been refused, Exceptional Leave to Remain (ELR) may be granted on a discretionary basis in individual cases. Exceptional leave may be granted to a person for a wide number of reasons, but is most usually granted for compassionate or humanitarian reasons, or to protect from ill treatment a person who does not otherwise qualify for protection under the terms of the 1951 UN Refugee Convention in accordance with the UK's obligations under the European Convention on Human Rights.
- 1.1.6. During the last 5 full years (1996 to 2000), there have been 8,585 initial decisions on Turkish asylum applications in the UK. 325 (3.8% of the total) were to grant refugee status in accordance with the UK's obligations under the 1951 UN Refugee Convention. 2,310 (26.9% of the total) were to grant exceptional leave to remain in the UK (including grants under the backlog criteria). 5,950 (69.3% of the total) were to refuse both asylum and exceptional leave to remain. The figures relate to principal applicants, and exclude dependants. The figures also exclude the outcome of appeals or other subsequent decisions.



- 1.1.7. In 1998, the last full year for which figures are available, 38% of appeals made by Turkish asylum seekers against a decision to refuse asylum were successful. This compared with 9% for all nationalities combined.
- 1.1.8. In 1999 the UK decided to suspend consideration of Turkish asylum applications, pending the outcome of an appeal made by an unsuccessful asylum applicant to the Court of Appeal and subsequently the House of Lords. The applicant claimed that his removal to Turkey would be contrary to the UK's obligations under Article 3 of the European Convention on Human Rights ("*No one shall be subjected to torture or to inhuman or degrading treatment or punishment.*"). The applicant claimed that he faced a real risk of mistreatment upon his return to Turkey on the basis of three characteristics (i. Kurdish origin, ii. lack of documentation, and iii.

being a military draft evader). On 28 January 2000, the Court of Appeal dismissed the appeal.

- 1.1.9. The Court was clearly troubled by the situation in Turkey. However, it paid particular regard to the 1999 report of the Special Rapporteur to the United Nations Commission on Human Rights (source 67 of the October 2000 CIPU assessment on Turkey). That report stated that the situation in Turkey was improving and that, whilst the practice of torture remained widespread, the severity of the methods used had decreased and the practice could no longer be regarded as approved or tolerated by the Turkish Government. The Court stated that it was clear that, whilst some returnees faced a real risk of ill treatment, not all did. The Court noted that the appellant had no connection with the PKK, was not wanted by the Turkish authorities for any political offence, had no record for such offences, and had not previously been subjected to ill treatment. These were all matters that the Secretary of State had relied upon as indicating that the appellant would not be at a real risk of treatment in contravention of Article 3 of the European Convention on Human Rights on his return to Turkey. The Court also noted that the majority of other European countries (including Germany, Finland, Austria, Denmark, Norway, France, Switzerland, Sweden and Netherlands) enforced the removal of persons to Turkey, and that the European Court of Human Rights had never itself ruled that to return failed asylum seekers to Turkey would place a Signatory State in breach of Article 3. The Court concluded that the Secretary of State's decision was a reasonable one and that the application for judicial review must therefore be dismissed.
- 1.1.10. In a separate further and significant development, the PKK (Kurdistan Workers' Party) and the DHKP-C (Revolutionary People's Liberation Party) were both among a number of organisations proscribed in March 2001 under the United Kingdom's Terrorism Act 2000. The proscribing of these organisations makes membership, inviting support for and funding them a criminal offence in the United Kingdom.
- 1.1.11. The PKK is primarily a separatist movement that has sought an independent Kurdish state in southeast Turkey. The PKK was formed in 1978 by Abdullah Ocalan. Although active from 1978 it was not until the formation of the group's military wing in 1984 that it became a significant terrorist threat. In February 1999 the PKK's founder and leader Abdullah Ocalan was captured by Turkish security forces in Kenya. Ocalan stood trial in Turkey, was convicted, and sentenced to death. On 2 August 1999 he called on the PKK to withdraw its fighters from Turkey and cease military operations from 1 September. Two days later the PKK presidential council confirmed that PKK combatants would indeed cease operations against Turkey. There have been repeated clashes both in Turkey and northern Iraq since the ceasefire, but the precise facts are difficult to ascertain. The PKK does not have any overt representation in the United Kingdom but operates covertly and has some support among the Kurdish community.
- 1.1.12. DHKP-C was formed in 1993 following a split in the Marxist-Leninist terrorist group Dev Sol (or Revolutionary Left). Its aim is to establish a Marxist-Leninist regime in Turkey by means of armed revolutionary struggle. DHKP-C is indistinguishable from its predecessor Dev Sol in leadership, ideology, objectives and methods of

operation. DHKP-C has had an office in London, which has been engaged in overt political activity.

- 1.1.13. Against this background the United Kingdom decided to conduct a fact finding mission to verify the information contained in its country assessment and to collect additional information to assist in the determination of the increasing number of asylum applications from Turkish nationals. The information collected concentrated on the typical profiles of Turkish asylum applicants in the UK as outlined above.

1.2. Methodology

- 1.2.1 During its mission to Turkey, the delegation held meetings with a number of representatives of the Turkish Government and Non-Governmental Organisations (NGOs) in Turkey. The delegation also held meetings with representatives of UNHCR, IOM, the British Embassy and Netherlands Embassy, as well as with independent observers and other individuals. A list of organisations consulted may be found at Section 11 of this report. To protect confidentiality, the names of individuals have not been given.
- 1.2.2 The report also includes information from a number of written sources. Among these are documents, reports, books etc. from UN agencies, news agencies, humanitarian NGOs and researchers on Turkey. These sources where used are appropriately attributed.
- 1.2.3 In preparation for the fact finding mission, a member of the team attended the 6th UNHCR/ACCORD (Austrian Centre for Country of Origin and Asylum Research and Documentation) Country of Origin Information Seminar, which was held in Vienna on 12-15 November 2000. One of the five countries covered was Turkey, and the seminar provided the opportunity to consider well-documented, up-to-date and accurate information from Turkey experts and from written reports.
- 1.2.4 The mission was carried out from 17 to 23 March 2001. The delegation of the mission comprised Andrew Saunders and John Morgan of the Country Information and Policy Unit, and Simon Bentley, Senior Caseworker, Integrated Casework Directorate; all three officials work in the Immigration and Nationality Directorate, Home Office, United Kingdom (UK). The delegation's terms of reference are attached as Annex B.
- 1.2.5 The delegation wishes to express its gratitude towards all those agencies, organisations and individuals that have contributed to the information presented in this report.
- 1.2.6 The report was finalised on 30 August 2001. Developments that took place between the end of the mission and this date have been included in the report, and the sources duly quoted. Before finalising the report, the mission's findings were shared with UNHCR Headquarters in Geneva who were able to confirm that the contents of the report were entirely consistent with their understanding of the situation in Turkey and they were able to provide additional sources of supporting information.

2. Migration issues

2.1. General

- 2.1.1 Although not within the direct remit of the fact-finding mission, almost all governmental, non-governmental and inter-governmental bodies consulted volunteered at the outset that in their opinion the majority of asylum applications made in the United Kingdom were economically motivated. There was also much anecdotal information forthcoming which supported the views expressed. In addition, a considerable volume of information was provided about other migratory pressures and immigration issues concerning Turkey. These issues are recorded in the following section.
- 2.1.2 Turkey has suffered from unstable economic conditions for much of the last twenty years. Since the early 1980s the previously centrally planned economy has been gradually liberalised. There have been periods of rapid growth interspersed with sudden, mostly short-lived crises, against a background of high inflation (usually in the range of 50-100% annually). Inflation has damaged the public's trust in the local currency, causing interest rates to rise. As a result of high interest rates, as well as the increasing borrowing requirement of the public sector, the public sector debt stock has risen sharply in recent years. In order to roll-over the debt stock, the government has had to borrow at very high interest rates. This vicious circle has also contributed to distortions in income distribution, helped create a banking sector based largely on trading in government securities, and deterred foreign investment. Some parts of the private sector have been dynamic (the active "unregistered" economy has also contributed to growth). However, structural problems have held back Turkey's development.
- 2.1.3 In the light of these economic problems the current government began a three year US\$4 billion Standby Agreement programme with IMF financing in January 2000. The primary objective was to reduce inflation to single-digit levels. The main tool of the programme was a "crawling peg" exchange rate policy, under which the rate of devaluation of the TL against a foreign currency basket was pre-announced. The initial results of the programme included a sudden fall in interest rates, which led to a sharp increase in domestic demand and a huge rise in imports, stemming from the appreciation of the TL in real terms under the exchange rate policy. Considerable progress was made in reducing inflation, which fell from 63% to 33% during 2000. But delays in the implementation of structural reforms, endemic problems in the banking sector, and the widening foreign trade deficit all contributed to a financial crisis at the end of November 2000. The IMF moved quickly to bale Turkey out with a US\$7.5 billion Supplementary Reserve Facility in December 2000. Despite relative stability in the markets in January 2001, the TL came under pressure again in February. A further crisis was triggered by a political disagreement between President Sezer and Prime Minister Ecevit on 19 February. This led to the TL being allowed to float on 22 February and to the end of the Standby Agreement in its original form.

- 2.1.4 In order to restore confidence in the financial markets the government appointed Kemal Derviş, a Turkish Vice-President of the World Bank, as the State Minister responsible for the economy. Mr Derviş prepared a new economic programme and restarted negotiations with the IMF. On 15 May the IMF Board approved a new economic programme, and agreed additional financial assistance for Turkey of US\$8 billion. Subject to subsequent IMF reviews, Turkey is expected to receive about US\$15 billion in total from the IMF and World Bank in 2001. The main purpose of the programme is to sustain financial stability in the short term in order to enable the Treasury to roll-over its huge debt stock. It will also tackle the structural problems of the banking sector by restructuring debt-ridden state-owned banks and forcing the closure of former private sector banks which have been taken over by the Government.
- 2.1.5 The Financial Times has noted that a Byzantine bureaucracy and a reputation for corruption have won Turkey the dubious privilege of being ranked the fourth least transparent economy in the world - after China, Russia and Indonesia. Price Waterhouse Coopers measures the impact of the level of transparency on investment, and finds that Turkey's opacity figure of 74 (with 0 representing complete transparency, and 100 complete opacity) is very high. Turkey is understood to have a very large black economy that underpins the real economy. The comment has been made that only a small proportion of Turkish businesses (e.g. those linked to international companies) appear to operate fully above board and to pay all taxes.
- 2.1.6 In the World Health Organisation's "World Health Report 2000" Turkey's health system ranked 70th (out of 191 countries) in the world. (UK ranked 18th). The WHO assessed five indicators: overall level of health; health inequalities; patient satisfaction; how the system responds to need; and how well served people of different economic status feel. Most Turkish citizens who can afford it have private medical insurance.

2.2 Regular migration

- 2.2.1 A senior official in the Passport Office, Ministry of Interior, explained to us the passport issuing procedures in Turkey. All Turkish citizens are entitled to a passport. He told us that an applicant must apply in person; an application cannot be made through an agent. To apply for a passport, an application is made in the local region where the applicant resides. The regional passport office makes checks to verify the applicant's identity. These checks include establishing whether the applicant has criminal convictions and/or is wanted by the authorities. Applicants are always asked why the passport is wanted.
- 2.2.2 The official told us that there were four different types of passport:
- Red (diplomatic) passport.
 - Grey (service) passport. Issued to lower rank government officials who are being sent abroad for a short time on official duty.

- Green (officials') passport. Issued only government officials who have reached a certain level. The qualification for these passports is based on hierarchy and length of service in government.
- Blue passport. Issued to ordinary citizens.

- 2.2.3 The official said that the issue of a passport would not be withheld if the applicant had not completed his military service. This is because there are provisions in law to defer military service.
- 2.2.4 Prior to 1994, a tax was payable by all Turkish nationals on leaving the country. The official said that he was not aware of any plans to reintroduce it. (Some months later, the Turkish Government announced, as part of its emergency measures to balance the budget, a US\$50 departure tax for all Turkish nationals travelling abroad).
- 2.2.5 The National Police (Department for Foreigners, Borders and Asylum) are responsible for carrying out passport and other checks on all those entering and leaving Turkey. They are supported by a sophisticated computer system that records and links the arrival and departure of all nationals. On both arrival and departure the names of all passengers are automatically run through a computer to establish whether, amongst other things, the individual is on the list of people to be prohibited from entering the country or prevented from leaving the country for reasons of, for example, tax evasion or committing a crime.
- 2.2.6 At Istanbul airport (the major departure point in Turkey), the procedure is for the passenger to go through a passport control pre-sift by a senior officer, and then to proceed to the passport booth. There appear to be more rigorous checks on leaving Turkey than on entering. An informed source in Istanbul explained that this was because the Turkish authorities were looking for tax evaders. Very few Turks seem to get stopped; those who are stopped tend to be foreigners who are fined on the spot for overstaying their leave to remain in Turkey. The passport control procedures observed by the fact-finding team were confirmed by interlocutors.
- 2.2.7 Although the Border Police declined requests to meet with the fact-finding mission, it was possible during the course of the visit to obtain written material which was produced by the Department for Foreigners, Borders and Asylum, Turkish National Police, and which had been distributed at a presentation in January 2001 at which the media and others were present. This material shows that the number of people legally entering and leaving Turkey during 2000 was as follows:

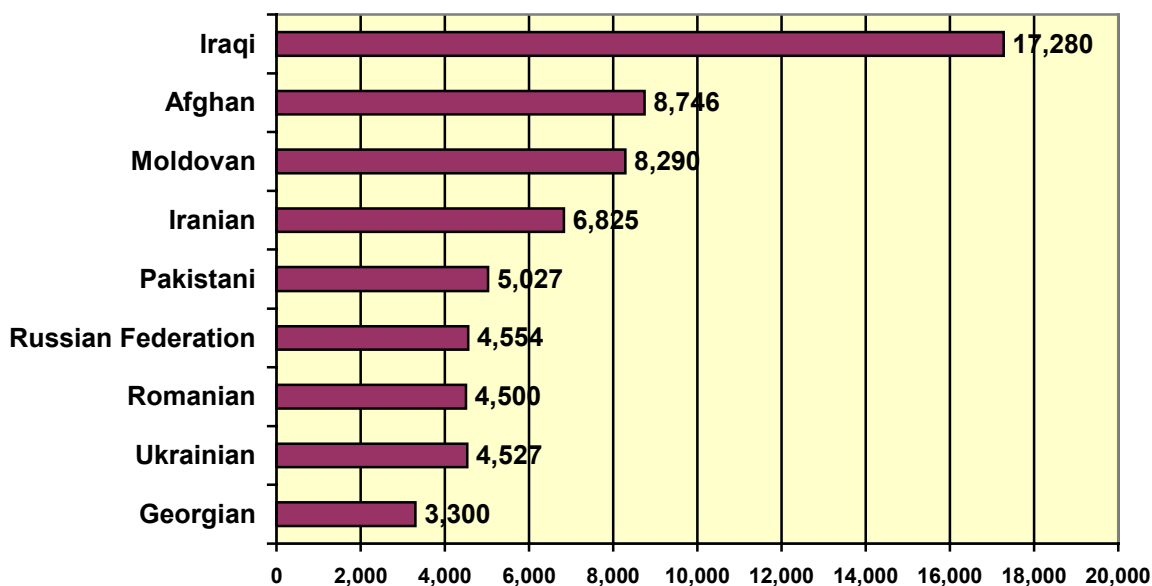
Border	Foreigners		Turkish Nationals	
	Arrivals	Departures	Arrivals	Departures
Air	7,505,330	7,308,525	3,149,391	3,457,622
Land	1,995,834	1,844,441	1,764,310	1,723,756
Sea	232,901	226,319	370,951	181,031
Rail	14,262	14,070	17,789	18,744
TOTAL	9,748,327	9,393,355	5,302,441	5,381,153

- 2.2.8 It is a requirement that all Turkish nationals wishing to enter the United Kingdom have visas to do so. The British Embassy in Ankara provides a limited visa service to official and diplomatic passport holders only. In 2000 the British Embassy in Ankara issued approximately 5,500 visas. However the main UK visa issuing post in Turkey is the British Consulate-General in Istanbul. The British Consulate-General in Istanbul informed us that in 2000 they received 63,334 visa applications. This was a slight decrease on the number of applications received in 1999 (65,798 applications) and is believed to be attributable to the current state of the Turkish economy. In 2000, the majority of applications were for visitor visas (77%) and student visas (13%). The statistics show that 95.8% of visa applications made at the British Consulate were granted and 4.2% refused.
- 2.2.9 The Istanbul Visa Section uses a tier system in order to separate applications by their complexity. The system's aim is to keep to a minimum the time necessary for the Entry Clearance Officer (ECO) to spend on each type of application, consistent with effective immigration control. The target time for the preliminary assessment ("sift") is 3 minutes maximum. Tier 1 (straightforward applications, resulting in immediate issue or mandatory refusal) has a target time for processing of 3 minutes maximum. Tier 2 (secondary examination of less straightforward applications that are likely to result in issue) has a target time of 10 minutes maximum, including any ECO time spent at Tier 1. Tier 3 (cases likely to result in refusal) has a target time of 30 minutes maximum, including any ECO time spent at Tier 1/2. Tier 4 (settlement cases) has a target time of 45 minutes, although Istanbul's experience is that the average time spent in the year 2000 was 70 minutes.
- 2.2.10 The Entry Clearance Manager in Istanbul explained that not all visit visa applicants are interviewed. If the applicant has not been abroad before, he/she will normally be interviewed. If the applicant has been abroad before and returned, then he/she will not normally be interviewed. All student and settlement applicants will be interviewed, as will all applicants who had previously been refused a visa.

2.3 Irregular migration

- 2.3.1 A senior official at the Visa Department, Ministry of Foreign Affairs, explained to us that Turkey experienced considerable problems with illegal immigration, people trafficking, migrant smuggling and as a transit country for illegal immigrants. He said that this was due to (a) Turkey's geographical location which makes it a natural bridge between poor countries to its east and rich countries to its west; (b) Turkey has long land and sea borders that make control very difficult, particularly the land borders which run through mountain ranges and the sea borders close to Greek islands; and (c) on the south and south east borders there are family relationships and other networks which straddle the border and which are used to facilitate illegal passage.
- 2.3.2 A senior official at the Ministry of Foreign Affairs told us, at our meeting with him, that the Turkish government believed that EU countries should allow a greater amount of controlled legal migration as this would reduce illegal immigration and the abuse of the asylum system.

- 2.3.3 The Ministry of Interior believe that there is a high prevalence of Turkish nationals departing Turkey legally and then sending their travel document back home for others to make fraudulent use of it. This is also the experience of the Dutch authorities, who find that many Turkish asylum applicants who arrive in Netherlands appear to have left Turkey legally, and then continued their journey clandestinely across Europe.
- 2.3.4 The fact finding mission was informed by one source that it is very easy to obtain false documents in Turkey. The more money an individual was prepared to pay, the better the quality of the document. Israeli passports were particularly highly valued because Israeli passport holders do not usually require a visa to travel to western Europe. Israel and Turkey have many contacts and flights, and those manning passport controls were unlikely to speak Hebrew; the latter fact reduced the possibility of the individual being stopped and questioned.
- 2.3.5 An informant in Istanbul told us that the sums currently being demanded by migrant smugglers were US\$1,200 to be smuggled by boat to Italy, and US\$12,000 to be smuggled to Australia or Canada. For EU States the cost is \$3,000 to \$5,000. Sweden however is seen as a particularly desirable destination country because of its social and welfare policies; the cost to be smuggled there is currently about \$7000.
- 2.3.6 According to Ministry of Interior's General Directorate of Security, Foreigners, Borders and Asylum Department, it is estimated that there are over 1 million illegal immigrants in Turkey. Figures produced by the Department for Foreigners, Borders and Asylum, Turkish National Police show that 94,514 illegal entrants were detected in Turkey in 2000. This represents a 98.8% increase on 1999 when 47,529 illegal entrants were detected and a 221% increase on the number detected in 1998 (29,426).
- 2.3.7 From the same source, a breakdown of the principle nationalities of detected illegal immigrants in Turkey in 2000 is given in the chart below.



- 2.3.8 Turkey is widely recognised to be both a transit and a destination country for organised trafficking in people, and a major transit route and processing centre for heroin from Afghanistan and south east Asia. There are also reported to be links between the heroin trade and other forms of organised and trans-national crime including terrorism. Ethnically Turkish crime groups are believed to be involved in 90% of all heroin found in the UK.
- 2.3.9 A senior official at the Visa Department, Ministry of Foreign Affairs, expanded on this by saying that a significant problem Turkey experienced with people traffickers was with young women and girls from eastern Europe being brought into Turkey to become prostitutes. He told us that Turkey had recently introduced a new law that results in imprisonment for traffickers for between 2 and 6 years. However, the US State Department's Report, "Trafficking in Persons" (published July 2001), criticised Turkey for not yet having made sufficient efforts to combat trafficking. It observed that there was no specific law prohibiting trafficking, although prosecutors could use various provisions of the Penal Code against incitement to prostitution, rape, compulsory labour, child labour, and document fraud. Law enforcement officials co-operated with film teams from Ukraine and Moldova in making educational documentaries designed to discourage women and girls from those countries from being lured to Turkey by traffickers.
- 2.3.10 The Ministry of Interior is also on record as saying that there is smaller scale people smuggling perpetrated by those who live near the borders. Such people, in particular fishermen on the Aegean coast and families who straddle the south and southeast border, use this activity as a means of supplementing their income
- 2.3.11 The main routes, which have been identified by Turkish National Police, for illegal entry to, and departure from, Turkey are:

Routes into Turkey

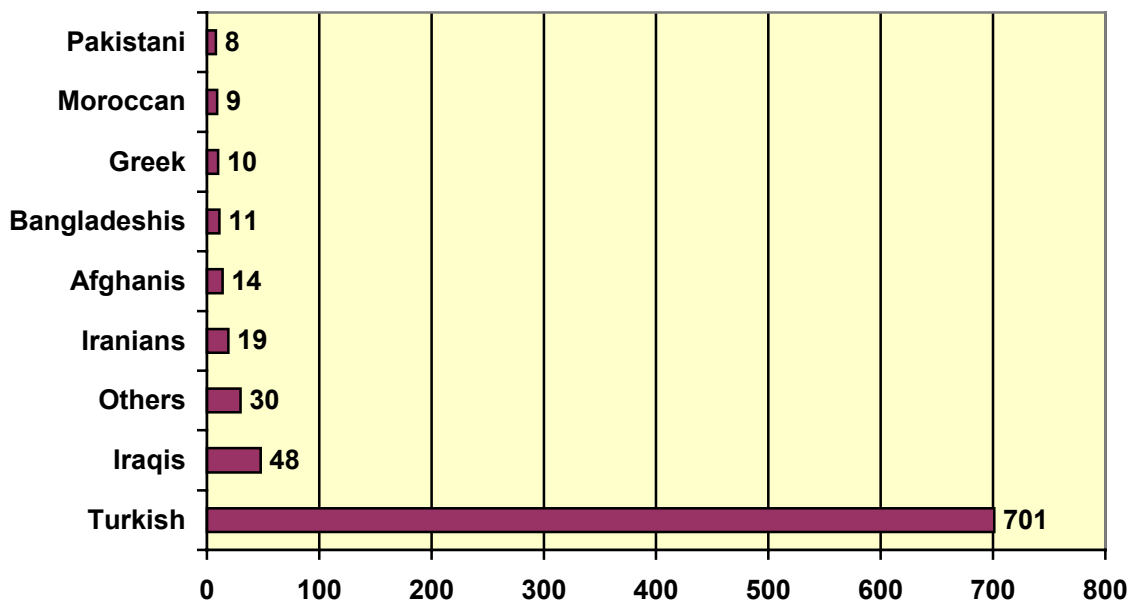
- (i). Artvin → Kars → Ardahan → Iğdir
- (ii). Doğubeyazıt → Başkale → Yüksekova
- (iii). Şemdinli → Çukurca → Uludere
- (iv). Şanlıurfa → Suruç → Hatay → Yayladağ → Altınözü → Kirikhan

Routes out of Turkey

- (i). Antalya-Kaş → Meis Island → İç Island → Demre → Kekova
- (ii). Muğla-Datça → Simi (Sömbeki) → Bodrum → İstanköy
- (iii). Aydın → Didim → Kuşadası → Dilik Peninsula → Sisam
- (iv). İzmir → Çeşme → Çiftlikköy → Sakız
- (v). Balıkesir → Ayvalık → Midilli
- (vi). Çanakkale → Kumburnu
- (vii). Trakya → Edirne → Pazarkule → Karaağaç → Meriç → Sufli → Kumdere → Paşaköy → Karpuzlu → Ispal → Enez



2.3.12 According to the documents obtained during the fact-finding, the Department for Foreigners, Borders and Asylum, Turkish National Police, report that they apprehended 850 people traffickers in 2000. A breakdown of their nationalities is below. Statistics on prosecutions are unavailable because there is no single statute involved.



2.4 Internal displacement

- 2.4.1 It has been estimated that as many as 3.5 million Kurds have left southeast Turkey since 1984 as a consequence of the security situation in that region. Istanbul, Izmir and Ankara have received the most migrants, with Istanbul accommodating almost 1.5 million new immigrants, many of whom live in ghetto areas of the city.
- 2.4.2 In some urban areas Kurds are largely assimilated. The simple fact of being a Kurd does not automatically lead to discriminatory action by the authorities. However Kurds who publicly or politically espouse separatist opinions run a high risk of harassment, mistreatment and prosecution by the Turkish authorities. The majority of Kurds are reported to be opposed to the PKK.
- 2.4.3 The US State Dept report for 2000 (released Feb. '01) observes that many MPs, senior officials and professionals are Kurds (a point which was made to the IND mission by its interlocutors). Private spoken and printed communications in Kurdish are legal, but the use of minority languages, including Kurdish, in television and radio broadcasts, by political parties and in schools is restricted by a plethora of laws and even articles of the Constitution. These restrictions are invoked arbitrarily. Kurds migrating westward bring with them their culture and village identity, but often little education and few skills.
- 2.4.4 It is a requirement in Turkish law for all nationals to register their residence with the local muhtar (headman, neighbourhood representative), but that requirement is often ignored. The IND mission was informed that a very high proportion of people, particularly those displaced by events in the southeast, did not register. This was not through any fear of political repression but had more to do with the large "black economy" and a desire to avoid bringing oneself to the attention of tax officials. The only obvious benefit lost by not registering is access to the very limited charitable assistance that muhtars may sometimes be able to offer through their control over local community Social Welfare Funds. If the police stopped someone not registered in Istanbul that person would typically say that he or she was not resident in Istanbul but was there visiting relatives.
- 2.4.5 It is also of note that the fact finding team saw at first hand fake national ID cards being sold openly on the streets of Istanbul within sight of the police.
- 2.4.6 We were informed that the registration system is not well developed and that Turkish administration is not capable of keeping track of, or following up, unreported changes of residence.
- 2.4.7 It is estimated that there are 13 million Kurds in Turkey, representing approximately 20% of the population. Many have risen to high-ranking positions. An example, often quoted to the fact-finding team, was Hikmet Çetin, the former Deputy Prime Minister, former Speaker of Parliament (higher in the protocol order than anyone except the President himself), former Foreign Minister and former CHP Chairman. It is also estimated that 25% of deputies and other government officials claim an ethnic Kurdish background. The pro-Kurdish People's Democracy Party (HADEP) is able to operate legally, although it has a closure case pending

against it for alleged anti-constitutional activities. Some HADEP officials face harassment, court cases and hostility from some security officials.

- 2.4.8 According to the Turkish Ministry of Foreign Affairs, it is the Turkish Government's belief that whatever support the PKK has is a result of the lack of economic opportunities in the predominantly Kurdish south east of the country. It is the Turkish Government's strategy to improve the economic and social conditions in the southeast and by doing so reduce the level of support for the Kurdish separatist movement. The government has made considerable investment in an economic aid and development programme, which includes agricultural and housing projects, for those areas most affected by the insurgency. The housing project provides new dwellings for homeless villagers.
- 2.4.9 Another element of the development programme is the Southeastern Anatolia Project (GAP). The Ministry of Foreign Affairs describes this project as a large-scale regional development project, and one of the biggest of its kind in the world. It is a combination of 13 major projects, primarily for hydropower generation and irrigation. The project involves the construction of 22 dams and 19 hydroelectric plants on the Euphrates and Tigris rivers and their tributaries. GAP has been described as an undertaking of huge confidence and ambition, intended to be a panacea for most of the southeast's economic and social ills.
- 2.4.10 Related to this is the so called "return to village programme". The Turkish government has initiated a resettlement programme for those who had been displaced by events in the southeast. Some villagers have also returned of their own accord. The US State Department human rights report for 2000 (released February 2001) notes that more than 10,000 people have returned to their villages or moved to "consolidated villages" near their original homes. According to the Jandarma, over 28,000 people returned to the State of Emergency region and adjacent provinces during 2000. The Jandarma state that there are an additional 238,900 applications for returns to 621 villages and 461 smaller hamlets, but only about a third of these are appropriate, mainly for security reasons.
- 2.4.11 A senior official at the Ministry of Foreign Affairs said that those who had been displaced by events in the southeast do not encounter any particular difficulties and were under no threat in the cities. However those who did return to their villages under the "return to villages programme" received financial help and cattle from the government.
- 2.4.12 One NGO, commenting on the "return to village programme", explained that some villagers were still unable to return because, although the region in which they formerly lived was no longer under a State of Emergency, the village concerned may still not be safe (eg land mines may still be present). Another factor in what appeared to the NGO to be a small uptake under the scheme was that people had now resettled in a new area and were reluctant to uproot themselves again.
- 2.4.13 Another NGO told us that in its view the majority of displaced Kurds were more likely to emigrate abroad rather than return to their villages in the southeast. In its view it is the economic factors that determine any future migration of those who have been displaced. It said that the Government's "return to villages" project did not really do anything to help people; there is no economic investment in the

Southeast, and no efforts to increase employment. It added that the project is a deliberate move by the Turkish government to push people away from their original villages. The new "consolidated villages" or "village/towns" are simply a tool to keep control of and assimilate Kurdish people; the policy is not for the benefit of the people concerned.

2.5 Asylum seekers in Turkey

- 2.5.1 Turkey is a signatory of the 1951 UN Convention relating to the Status of Refugees. It applies however a geographic restriction which limits its obligations under the Convention to refugees from Europe.
- 2.5.2 Foreign nationals arriving in Turkey to seek asylum must submit their application to the police within 10 days of their arrival in the country. Those who have entered illegally are required to submit their application to the authorities in the governorate closest to their point of entry. Those who enter the country legally may submit their application in any city in the country, but are still required to do so within 10 days.
- 2.5.3 The Ministry of the Interior considers asylum applications. In the status determination procedure the UNHCR Branch Office, opened in Ankara in 1960, plays a key role.
- 2.5.4 The UNHCR office in Ankara conducts refugee determination of non-European asylum-seekers in Turkey, independent of the Turkish government, and undertakes to resettle those it recognises as needing international protection. The large increase in applications for asylum by non-Europeans since April 1998 has put a strain on UNHCR's staff and financial resources, resulting in delays in adjudication. UNHCR aims, if it is able to obtain adequate funding, to reduce the average waiting period for the first interview of applicants to a period of six weeks in the border areas and eight weeks elsewhere. Similarly, the average waiting period from first interview to completion of the appeal stage should not exceed six months in the border region or nine months elsewhere.
- 2.5.5 According to UNHCR, Turkey received 5,681 asylum applications (including dependants) during 2000. The main nationalities were Iranian and Iraqi. Approximately 40% of applicants are recognised as refugees under the terms of the 1951 UN Convention and approximately 60% of applications are rejected.
- 2.5.6 Some European asylum seekers are hosted at the Refugee Reception Centre at Kırklareli, near the border with Bulgaria. One NGO representative described to us the facilities at the Centre. She said that the facilities were of a very high standard with excellent living accommodation, workshops, catering and medical facilities, a mosque, shops etc. The reception centre was built to house up to 10,000 people but its current occupation is no more than 180. She explained that this facility was in marked contrast with the treatment of asylum seekers from non-European countries for whom there were no reception centres, no services or support, and who had to look to charitable organisations for assistance. She added that Turkey has 21 "satellite cities" where a non-European asylum seeker must reside, after registering with the Turkish police to await the outcome of their case.

- 2.5.7 It is understood that in 2000 the Turkish National Police had a budget of 49,950,000,000 TL for transportation costs of removing illegal immigrants but that in the face of increased numbers of illegal immigrants their actual expenditure was nearer 82,173,000,000 TL. (At the mid 2000 rate of exchange of about 960,000 TL to £1, these sums were £52,030 and £85,600 respectively) It was suggested to us by two NGOs that this budgetary consideration meant that it was not always possible to enforce removal of failed asylum seekers from Turkey, and that many remain illegally in the black economy where some have been known to have lived undetected for between 6 and 9 years.

3. Current political and security situation in Turkey

3.1 Political situation

- 3.1.1 Turkey is a constitutional republic with a multi-party Parliament, a Prime Minister, and a President elected by the Parliament. The Prime Minister heads the Government. The most recent General Election took place on 18 April 1999. The Democratic Left Party (Demokratik Sol Partisi) won the largest share of the vote (22%) and 136 of the 550 seats in the National Assembly. It formed the Government in coalition with the right wing Nationalist Action Party and centre-right Motherland Party. Bulent Ecevit became Prime Minister. In May 2000 Ahmet Necdet Sezer was elected President; he is on record as giving primacy to the rule of law and advocating greater protection for the rights of citizens.
- 3.1.2 The parliamentary opposition includes the True Path Party (DYP), which is centre right, and Independents. Until June 2001 the largest opposition party was the Virtue Party (Fazilet), which was of Islamist orientation, but the Constitutional Court ruled on 22 June that the party should be closed, on the grounds that it was a "focal point" for anti-secularist activities. Virtue became the latest in a series of Islamist parties to fall foul of Turkey's staunchly secularist system. In consequence of Virtue's being banned, two new opposition parties were formed: the Felicity Party (Saadet), led by Recai Kutan, and the Justice and Development Party (Adalet ve Kalkinma), led by Recep Tayyip Erdogan. A number of MPs from Virtue and other parties migrated to these new parties. The People's Democracy Party (HADEP), a pro-Kurdish party, won 4.75% of the national vote in the general election of 18 April 1999, and therefore failed to obtain the necessary 10% for gaining any seats in Parliament.
- 3.1.3 There are 81 provinces in Turkey. In the 1999 local elections (held at the same time as the general election) HADEP concentrated on winning control of local councils in the southeast. HADEP was successful in this, and took control of some municipalities including Diyarbakir.
- 3.1.4 Mayors, who are selected in local elections, are responsible for the provision of basic services or utilities such as water, sewage disposal, electricity and transport. These responsibilities are limited, and mayors are subordinate to, and can be overruled by, the local governor, who has far wider powers. Cities and towns have a municipal mayor in overall charge of the whole city or town, and also have mayors responsible for smaller sub-areas. Villages fall under the jurisdiction of the nearest municipality.

3.2. Illegal parties

3.2.1. The Turkish Government neither forces nor forbids membership of any political organisation. The Chief Public Prosecutor may however bring cases seeking the closure of political parties before the Constitutional Court, which may close them down for unconstitutional activities. Information produced by the German Federal Office for the Recognition of Foreign Refugees, in a document published in February 2001, lists political parties which have been proscribed in Turkey. (The German Federal Office makes the point that it would not be possible to have a fully comprehensive list, because illegal parties are a constantly changing and clandestine scene.)

- DHKP/C (Devrimci Halk Kurtulus Partisi/Cephesi)
- THKP/C Dev-Sol (Türkiye Halk Kurtuluş Partisi/Cephesi Devrimci Sol)
- TIKB/B (Türkiye İhtilalci Komünistler Birliği/Bolşevik)
- TKIP (Türkiye Komünist İşçi Partisi)
- KDH/L (Komünist Devrim Hareketi/Leninist)
- KDB (Komünist Devrimci Birlik)
- THKP/C Dev Yol (Türkiye Halk Kurtuluş Partisi/Cephesi Devrimci Yol)
- THKP/C Acilciler (Türkiye Halk Kurtuluş Partisi/Cephesi Acilciler)
- MLSPB (Marksist Leninist Silahlı Propaganda Birliği)
- TKKKÖ (Türkiye ve Kuzey Kürdistan Kurtuluş Örgütü)
- HDÖ (Halkın Devrimci Öncüleri)
- TDP (Türkiye Devrim Partisi)
- TKP/(M-L) DABK (Türkiye Komünist Partisi (Marksist-Leninist) Doğu Anadolu Bölge Komitesi)
- TKP/M-L Kons. Kes (Türkiye Komünist Partisi/Marksist-Leninist Konferansçı Kesim)
- MLKP (Marksist Leninist Komünist Parti)
- KP-IÖ (Komünist Partisi-Inşa Örgütü)
- BP/KK-T (Bolşevik Parti/Kuzey Kürdistan-Türkiye)
- TKP/(ML)Birlik (Türkiye Komünist Partisi/(Marksist-Leninist)-Birlik)
- TKP/M-L MPM (Türkiye Komünist Partisi/Marksist Leninist Maoist Parti Merkezi)
- Spartaküs
- TKP/IS (Türkiye Komünist Partisi/İşçinin Sesi)
- DSIH (Devrimci Sosyalist İşçi Hareketi)

- TDKP (Türkiye Devrimci Komünist Partisi)
- TIKB (Türkiye İhtilalci Komünistler Birliđi)
- TKEP/L (Türkiye Komünist Emek Partisi/Leninist)
- TKEP (Türkiye Komünist Emek Partisi)
- KKP (Kürdistan Komünist Partisi)
- KDH (Komünist Devrim Hareketi)
- TKP/K (Türkiye Komünist Partisi/Kivilcim)
- PKK (Kürdistan İşçi Partisi)
- PSK (Kürdistan Sosyalist Partisi)
- PRK/Rizgari (Kürdistan Kurtulus Partisi)
- PDK (Kürdistan Demokrat Partisi)
- PDK/Bakur (Kürdistan Demokrat Partisi - Kuzey)
- PRNK (Kürdistan Ulusal Özgürlük Partisi)
- RNK/KUK (Kürdistan Ulusal Kurtuluşçular)
- Devrim Partisi-Kawa (Partiye Soreş-Kawa)
- RDSK (Kürdistan Demokratik Sosyalist Örgütü)
- PSK- (Devrimci Kürdistan Partisi - Partiye Soreşa Kürdistan)
- Hizbullah/İlim Grubu
- Hizbullah/Menzil Grubu
- IBDA/C (İslami Büyük Dođu Akıncılar Cephesi)
- İHÖ (İslami Hareket Örgütü)
- Müslüman Gençlik Grubu
- Kaplancılar/Sözde Hilafet Devleti
- Vasat Grubu/Ehl-i Sünnet vel Cemaat
- Mezhepsizler Grubu
- Selam Grubu

- 3.2.2. Article 169 of the Penal Code deals with aiding an illegal organisation, and lays down punishment of heavy imprisonment for three to five years. Articles 68-69 of the Constitution lay down provisions concerning political parties, and states that the statutes and programmes of political parties shall not conflict with the indivisible integrity of the State, and the principles of the democratic and secular Republic. The Office of the Chief Public Prosecutor examines the conformity of the statutes and programmes of new parties, and of the legal positions of those parties' founders, with the Constitution and the law, and monitors the activities of those new parties. Closure of political parties is determined by the Constitutional Court after the filing of a suit by the Office of the Chief Public Prosecutor of the Republic.
- 3.2.3. In 1998 the Welfare Party (Refah) was dissolved by the Constitutional Court, and the party's leaders were stripped of their parliamentary seats. In July 2001 the European Court of Human Rights upheld Turkey's decision, and ruled that Islamic parties may be banned if they pose a threat to civil order and secular democracy. The Court said that the Welfare Party's plan to institute Sharia law conflicted with the values embodied in the European Convention on Human Rights, and said that doubt remained about whether the party would resort to force to take and retain power.

3.3 Security situation

- 3.3.1 The Kurdistan Workers' Party (Partiya Karkeren Kurdistan) (PKK) is a separatist movement which has sought an independent Kurdish state in southeast Turkey. It has since 1984 been engaged predominately in a guerrilla campaign in south east Turkey which has resulted in a death toll on all sides estimated to be in excess of 33,000 people. The Turkish Government denies separate Kurdish identity and rights, and the conflict between the Government and the PKK has led to serious human rights violations on both sides. In June 1999 Abdullah Ocalan, the leader of the PKK, was found guilty by a Turkish court of treason, and was sentenced to death. On 2 August 1999 he called on the PKK to withdraw its troops from Turkey, and cease military operations from 1 September. The PKK presidential council confirmed that PKK combatants would indeed cease operations against Turkey, and on 8 February 2000 it formally announced that it would abandon the armed struggle in favour of a political approach. The security situation improved considerably.
- 3.3.2 There are still occasional clashes between the Turkish army and the remaining PKK militants. The semi-official news agency Anatolia reported on 7 July 2000 that over 480 PKK fighters had deserted the PKK, with 70 more who had tried to escape being punished by death, and some who had failed to escape committing suicide. Nonetheless, in clashes between 1 January and 30 June 2000 a total of 218 fighters, including 15 of its high ranking officials, were killed. The Istanbul daily "Sabah" quoted on 15 October 2000 a pamphlet distributed to representatives of the national media during a tour organised by the Turkish Army of several eastern

provinces: "The TSK (Turkish Armed Forces) has successfully completed the struggle that it has maintained against the terror organisation PKK." During the tour the commander of the Eighth Corps stated that "the struggle against terror is about to be brought to a level that can be handled by the Jandarma and the police... The TSK will slowly and gradually assume its principal task in the east and southeast Anatolia."

- 3.3.3 Unfortunately representatives of the Turkish military declined repeated requests to meet with us. However during the course of the fact finding mission a report appeared in the Turkish Daily News (Wednesday 21 March 2001) which quoted a military official announcing that 16 terrorists and 3 soldiers had been killed in fighting between security forces and PKK terrorists in south east Turkey on Sunday 18 March. The military estimated that about 500 PKK militants remain in southeast Turkey with around 5,000 encamped in the mountains of northern Iraq and Iran.
- 3.3.4 There also continue to be reports of terrorist attacks by other groups in Turkey. For example, on 23 March 2001, the Turkish press (Turkish Daily News, Hürriyet and Yeni Şafak) all reported an assassination attempt on a General Bekir Uğurlu, Head of Ankara's Jandarma Regional Law and Order Department, on Wednesday 21 March in central Anatolia. Gunmen had opened fire on his car. The reports do not directly attribute responsibility for the attack but do draw a direct link to the assassination in January of a well-known police chief in the southeastern city of Diyarbakir who was killed along with 5 other officers in an ambush blamed by authorities on Hizbullah. The reports also refer to Leftist groups having claimed responsibility for other attacks on police and military in recent months. There may be a link between attacks by Leftist groups and the death fasts/ prison reform issue; many of the death fasters are affiliated to DHKP-C. This is a subject where it is very difficult to determine what the facts are.
- 3.3.5 Since 1994 DHKP-C's terrorist activity in Turkey has been sporadic and it has not been able to operate with the same frequency and success as its predecessor Dev Sol. Despite this, DHKP-C has continued to undertake attacks against Turkish police and security forces targets. These have included a number of high profile attacks, including the murder of the former Turkish Minister of Justice in April 1994 and the murder of a prominent Turkish businessman in January 1996.
- 3.3.6 The Turkish Government has always believed that one of the best tools in the struggle against terrorism is economic development. It considers that it is no accident that the region where the PKK has been most active is also one of the least economically developed regions of Turkey.
- 3.3.7 On 29 March 2001 the PKK and the Revolutionary People's Liberation Party-Front (Devrimci Halk Kurtulus Partisi-Cephesi) (DHKP-C) were made proscribed organisations in the UK under the Terrorism Act 2000. Membership, inviting support for and funding of a proscribed organisation are all offences under the Act.

4 Legislation

4.1 Relevant legislation

- 4.1.1 The legislation that is particularly relevant to the profile of asylum applications received in the United Kingdom is firstly Article 8 of the Anti Terrorist Law. This law was amended in October 1995. (A full copy of the amended Article 8 is attached at Annex C). Article 8 outlaws so-called "separatist propaganda". The Article formerly prohibited such activity without regard to intent. In response to concerns that its application was conducive to violations of human rights, the Turkish Parliament amended Article 8 so that the State would have to show intent on the part of the individual to destroy the unity of the Turkish State. In addition, prison sentences under Article 8 were reduced from 2 to 5 years to 1 to 3 years.
- 4.1.2 Other relevant pieces of legislation are Article 312 of the Penal Code (incitement to racial, ethnic or religious enmity), Article 159 (concerning insults to Parliament, the army, republic or judiciary), Article 160 (insulting the Turkish Republic), Article 169 (aiding an illegal organisation), the Law to Protect Atatürk, and Article 16 of the Press Law.
- 4.1.3 In addition, there are the Regulations on Apprehension, Police Custody and Interrogation (Annex D), which were introduced in 1998. These regulations set down the principles and procedures to be applied by all police officers during investigations; the rights of persons apprehended, under custody or under detention; the standards of detention centres; and the training, powers and responsibilities of personnel in relation to interrogation procedures.
- 4.1.4 To take a person into custody, a prosecutor must issue a detention order, except when suspects are caught committing a crime. The initial maximum detention period for those charged with individual common crimes is 24 hours, and for groups is 48 hours. A judge may extend the period of detention (for an individual or for a group) to a maximum of seven days. In the state of emergency area the police may detain an individual for up to ten days. The US State Dept. report for 2000 states that, in the state of emergency area, the use of a prosecutor's detention order is in practice extremely rare.
- 4.1.5 Under the Criminal Code, those detained for individual common crimes are entitled to immediate access to a lawyer, and may meet and confer with a lawyer at any time. In practice legal experts assert that the authorities do not always respect these provisions, and that most authorities do not exercise this right. The Code of Criminal Procedure says that, for ordinary crimes that do not fall within the jurisdiction of the State Security Courts, the bar association should provide a lawyer for those who do not have the financial means to engage their own lawyer. This does not always happen in practice. Where the detainee is under 18 years of age, he should give his statement not to the police but to the prosecutor in the presence of a lawyer.

- 4.1.6 In state security cases, the pre-trial detention period without charge is longer, and the law provides for no immediate access by a lawyer. The lack of early access by a lawyer is a major factor in the reported widespread use of torture by security forces. Persons detained for individual crimes under the Anti-Terror Law must be brought before a judge within 48 hours. Those charged with crimes of a collective, political or conspiratorial nature may be detained for an initial period of 48 hours, extended for up to four days at a prosecutor's discretion and, with a judge's nearly automatic permission, for up to seven days in most of the country and up to ten days in the southeastern provinces under the state of emergency. Lawyers are allowed access only after the first four days.
- 4.1.7 Private lawyers and human rights monitors reported uneven implementation of these regulations, especially lawyer access. Amnesty International asserts that lawyers are rarely permitted adequate access to their clients, even after the fourth day, although they may be allowed to exchange a few words during a brief interview in the presence of security officers. According to the Lawyers' Committee for Human Rights, the secretive nature of arrests and detentions often leaves the detainee's lawyer and family members with no information about the detention, and police often refuse to disclose the place of detention or even the fact that the detainee is being held. The October 1998 regulations on detention and arrest procedures exempt the authorities from the obligation to inform relatives in the case of state security detentions. In addition, legal limits on detention periods at times are circumvented by subjecting a detainee to successive charges or falsifying detention records. The police are required to maintain 24 hour detention monitoring bureaus that are required to record detentions on computers, but Amnesty International reports an increase in unregistered detentions since 1997.
- 4.1.8 A number of governmental and non governmental organisations with whom we met all confirmed that at present there are no arrangements in place to monitor the implementation of these Regulations.

4.2 Warrants

- 4.2.1 There is one format of arrest warrant, but there are two ways to inform the addressee about the warrant. (i) The arrest warrant is read in person to the addressee/arrestee. (ii) The warrant may be issued in absentia, authorising the police or Jandarma to locate and apprehend the person involved for questioning and appearance before the prosecutor. In both cases the prosecutor requests the warrant, and the authorisation to arrest is given by the court or by the judge. If the police or Jandarma arrest someone when in hot pursuit, the warrant must be approved retrospectively within 48 hours.
- 4.2.2 A number of Turkish asylum seekers in the United Kingdom produce documents purporting to be properly issued arrest warrants and other legal documents. A senior official at the Ministry of Justice gave the IND mission specimens of these documents against which those produced in future by asylum applicants can be compared. He also provided information about how such warrants can be identified and authenticated by means of the numbering and other features on the

warrants. In law any individual has a right to obtain a copy of court documents - including arrest warrants - made against them. A lawyer or family member may act for that person in the person's absence, and may obtain such a copy without preconditions.

4.3 Role of Public Prosecutors

4.3.1 The delegation asked a senior official at the Ministry of Justice about the relationship between courts, Public Prosecutors and the police. He explained that the Public Prosecutor, according to Turkish law, is responsible for the preparatory investigation. The Public Prosecutor prepares indictments. Public Prosecutors are independent and it is they alone who determine whether cases are brought before court. The one exception to this is that the Minister of Justice has the power to direct that a particular case is brought to court; this power has however only been exercised once or twice in the last 20 years. The Public Prosecutor has the right to order the police and Jandarma to investigate any matters brought to the attention of the Public Prosecutor. Allegations (e.g. bribery, extortion or embezzlement) against the police (or Jandarma) are investigated by the Public Prosecutor. Investigations into allegations of crimes (eg torture, negligence) relating directly to their duties need the governor's permission to proceed. In law the Public Prosecutor can use whatever resource he sees fit to investigate a complaint. For example, if the investigation is into misconduct by police officers, police independent of, and from different units to, the officers being investigated can be used to carry out parts of the investigation.

4.4 Trials

4.4.1 The US State Department Report for 2000 observes that Turkey's Constitution provides for an independent judiciary, and in practice law courts generally act independently of the executive and legislative branches. The trial system is, however, confession-orientated. Prosecutors are charged with determining which law has been broken and objectively presenting the facts to the court. Defence lawyers do not have equal status with prosecutors. There is no jury system; a judge or a panel of judges decides all case. Trials for political crimes or torture frequently last for months or years, with one or two hearings scheduled each month. In 1999 the captured PKK leader, Abdullah Ocalan, was tried in a State Security Court on the charge of treason, and was sentenced to death (which sentence has been suspended pending his appeal to the European Court of Human Rights). Human rights observers, including the UN High Commissioner for Human Rights, raised several concerns about due process in the Ocalan case, including his initial nine to ten days of incommunicado detention, the limited access of Ocalan's lawyers to private consultations with their client and to written material included in the prosecution's case, and the harassment and threats directed towards Ocalan's lawyers. A case is pending in the European Court of Human Rights alleging that Ocalan's trial was unfair.

- 4.4.2 Some courts are said to be prone to cutting defence statements short. Another cause of criticism is that the defence is not recorded verbatim, but only through the judge's summary of his/her understanding of the defence case
- 4.4.3 When a person is convicted by a State Security Court, he or she has the right of appeal to the Court of Cassation. An appeal can be brought both on procedural grounds and on the grounds of insufficient evidence. The Court of Cassation often spends little more than about ten minutes on each case, and it is generally accepted that with a very heavy workload it is impossible to examine every case in detail.

4.5. Criminal Records/intelligence records

- 4.5.1 A senior official at the Ministry of Justice explained to us that Turkey has legal provisions on the rehabilitation of offenders. The provision is part of Law No. 3682 of 1990. It erases from the record previous criminal convictions after a given period of time depending on the gravity of the offence.
- 4.5.2 Convictions for serious crimes such as embezzlement, peculation, extortion, bribery, theft, swindling, forgery, and abuse of religious beliefs, which have resulted in sentences of five years' imprisonment or less, are erased from the Registry five years after completion of the sentence. The period is reduced to two years if the offender was under 15 years of age, and to three years if the offender was 15 to 18 years old. For those crimes that resulted in more than five years' imprisonment, but fall outside the category of serious crimes, the conviction will, if the offender was under 15 years of age, be erased five years after completion of the sentence. In cases where the offender was 15 to 18 years old, the conviction will be erased after ten years. The offences covered by this provision do **not** include terrorist or other security offences.
- 4.5.3 We were advised by one NGO that, if a person comes under suspicion in one part of Turkey, the police or Jandarma passes the information to the other part to which the individual subsequently moves.
- 4.5.4 As regards the length of time such intelligence material is held, a well-known human rights activist showed us a copy of an indictment with which he had been served and in which he had been charged (amongst other things) with an alleged offence under Article 312 of the Criminal Code [*incitement to racial, ethnic or religious enmity*] alleged to have been committed ten years ago. This, he felt, clearly demonstrated the extent to which intelligence material is both recorded, retained and used against someone even after an extended period of time. He also mentioned another example of a charge being brought against a particular individual some 22 years after the alleged event.

4.6. Amnesty law

- 4.6.1 On 8 December 2000 the Turkish Parliament adopted an Amnesty Law. Under the law, death sentences imposed for crimes committed before 23 April 1999 will not be executed. The sentences of those people who committed crimes through speeches, press, meetings or conferences would be postponed. The law on conditional release and postponement of jail sentences would exclude certain crimes such as rape, forming gangs against the State, bribery, corruption, money laundering, drug dealing, and crimes against the State and Ataturk. On 15 December 2000 President Sezer returned the law to be debated again in Parliament; his legal objections to the measure were set out in a six-page explanation. Parliament again adopted the law, and on 21 December the President accepted the constitutional requirement to approve it.
- 4.6.2 Those serving sentences for politically motivated/terrorist offences are not covered by the amnesty. Those (i.e. journalists) imprisoned for 'freedom of expression' crimes (Article 312/2 of the Turkish Penal Code) "committed through use of the media" do however benefit from the amnesty on the condition that they do not commit a similar offence within 3 years. According to the Director General of the Army recruitment office in Ankara, military service evaders do not benefit from the amnesty; this is regulated under the Military Criminal Code.
- 4.6.3 In response to a question about whether the Amnesty Law would be extended to cover crimes committed after 23 April 1999, a senior official at the Ministry of Justice informed the fact finding mission that that he had no information on this and made the point that this was for Parliament to decide. He added that approximately 30,000 people had been released from the penal system under the existing amnesty.
- 4.6.4 On 18 July 2001 the Constitutional Court expanded the scope of the Law, giving Parliament six months to amend the legislation in line with its ruling. The scope was expanded to include those convicted of the following crimes: trying to get information by threat; forcing someone to make public his belief, political and social opinion; misuse of duty by civil servants; avoiding, or assisting in avoiding, capture by the authorities; and negligent fire, explosion, sea accident or cause of destruction. Despite several applications the Court ruled against expanding the scope to cover a range of crimes, including formation of a gang, torture, rape, financial crimes, embezzlement, prevention of competition in state tenders by threat and violence, manufacture and export of drugs, and fraudulent bankruptcy. It also declined to extend the timeframe to cover crimes committed after 23 April 1999. The ruling, by refusing to allow those convicted of financial crimes, and violence against the person, to benefit from the amnesty, sends an important signal to many, including those in the banking sector and involved in organised crime.

5 Legislative developments

5.1 National Programme

- 5.1.1 The European Commission's report of November 2000 on Turkey's progress towards accession to the European Union included a draft partnership agreement, which set out the EU's expectations of Turkey as a candidate for EU membership. The Accession Partnership was adopted in April 2001. It confirmed that the political criteria by which Turkey would be judged included its observance of human rights, a resolution of its longstanding dispute with Greece on the delimitation of the Aegean Sea, and its willingness to promote a Cyprus settlement based on UN resolutions. We attach at Annex E a list of the short and medium term priorities and intermediate objectives.
- 5.1.2 Whilst the fact finding team were in Turkey, the Turkish government published its "*National Programme for the Adoption of the Acquis*" which sets out the steps which are being planned to enable Turkey to meet the criteria for membership of the European Union.
- 5.1.3 A copy of Part 1 of the National Programme is attached at Annex F. The Programme will entail the National Assembly enacting 89 new laws and agree changes to 94 existing laws between now and 2004. These changes are in a wide variety of areas:
- Freedom of thought and expression
 - Freedom of association and peaceful assembly
 - Combating torture
 - Pre-trial detention
 - Strengthening opportunities to seek redress for human rights violations
 - Training of law enforcement personnel and civil servants on human rights
 - Improving the functioning and effectiveness of the judiciary
 - Banning of capital punishment
 - Detention conditions
 - Cultural life and individual freedoms
 - Mitigating regional differences to increase citizens economic, social and cultural capabilities
 - Freedoms of thought, religion, and conscience.
 - Harmonisation of Constitution and other relevant legislation with EU political criteria.
 - Lifting the State of Emergency

- 5.1.4 It was reported that, in presenting the National Programme to Parliament, Mr Mesut Yilmaz (the leader of the Motherland Party (ANAP) and Deputy Prime Minister in charge of EU affairs) explained that it was a large transformation project which would constitute a fundamental revision of Turkey's political, economic, social and administrative structure. Mr Yilmaz however warned that there is opposition to the Programme both at home and abroad. Haşim Haşimi (ANAP) explained that Yilmaz was referring to opposition from his coalition partners, the Nationalist Action Party, and to the military. The programme was criticised by some opposition parties, for example the True Path Party (DYP), who argued that the proposed reforms did not go far enough; and the Islamic Virtue Party (FP), who complained about the lack of consultation in drawing up the Programme. Kurdish leaders in Turkey expressed disappointment at the Programme. Hasan Kaya, of the Kurdish Institute in Istanbul, said "This is much less than people expect. We believe this Programme will be insufficient." Kemal Pekoz, deputy leader of HADEP, criticised the Programme for denying the Kurdish problem.
- 5.1.5 Both the EU Commission and EU diplomats in Ankara generally welcomed the National Programme, but noted that the priority now was to implement the changes necessary for Turkey to comply with the Copenhagen Political Criteria. The European Commission Progress Report later this year will give a considered opinion on the extent to which Turkey (like the other candidates) has made progress towards meeting its commitments.

5.2 International Instruments

- 5.2.1 When asked what action the Turkish Government is taking in relation to its compliance with international legal instruments, a senior official at the Ministry of Foreign Affairs told us that it was hoped to submit proposals to the National Assembly within three months for Turkey to become party to the UN Convention Against Transnational Crime, and to ratify it within a year.
- 5.2.2 The same official also referred to the other international instruments that Turkey is working towards signing. Turkey's commitment to become party to them is also set out in the National Programme. These Conventions include the UN International Convention on Economic, Social and Cultural Rights, and the UN International Convention on Civil and Political Rights and the Annexed Protocol. He said that Turkey regarded ratification of these Conventions as significant steps to establish a society that is seen internationally as applying internationally accepted standards.

5.3 Work of HR Committee

- 5.3.1 A senior official of the Human Rights Supervisory Council Secretariat, Prime Ministers Office, outlined to us the role of the Secretariat, which was formerly headed by Gursel Demirok. It is, in organisational terms, part of the Prime Ministry, and reports to the State Minister for Human Rights (formerly Rüştü Kazim Yücelen, subsequently Edip Safder Gaydali). It was established by Government decree on 21 September 2000, but that decree was cancelled on 5 October (because of the President's general opposition to government by decrees). Notwithstanding this the Human Rights High Board still functions and it is expected to be formally established in law soon. The Secretariat provides support to the Human Rights High Board (sometimes referred to as "The Human Rights Supervisory Council"), which was established in 1997. The Human Rights High Board is a Ministerial level body, which includes representatives from Ministry of Justice, Ministry of Interior, Ministry of Health and police and Jandarma representatives based at the Ministry of Interior. It is concerned with overseeing the development of human rights within Turkey.
- 5.3.2 The official explained that the Human Rights High Board had taken 170 legal and administrative decisions since its establishment. She told us that the Human Rights High Board writes on behalf of the Prime Minister to institutions in order to inform them of such decisions and changes in practice and procedures. Most of these decisions appear to be promulgated by means of a Circular (or Directive) issued in the name of the Prime Minister's office. Circulars are strong guidance not regulations – but by their nature carry a lot of weight.
- 5.3.3 We asked the official if there was any formal monitoring to confirm that changes in practice and procedures decided by the Human Rights High Board had been fully put to into effect. She replied that there was not, but that the Human Rights High Board did receive feedback through attendance at regional Human Rights committee meetings.
- 5.3.4 It was explained to the IND mission that education of the police and the Jandarma in human rights issues has been seen as a priority. Circulars have been issued by the Prime Ministry requiring human rights to be respected. A Circular has also been issued on the subject of training police and Jandarma in human rights. This includes guidance on best practice. The aim of this particular initiative is to train the trainers as well as individual officers in both the police and Jandarma.
- 5.3.5 The official gave an example of how the Secretariat had looked at ways of addressing an important human rights issue relating to allegations of police mistreatment of detainees. Guidance had now been issued that a detainee in police custody should be medically examined both at the point of being placed in custody and on release, with a report being prepared on each occasion. To counter previous problems caused by extremely short medical reports, containing little substantive information, the Secretariat had prepared a full proforma, which required the medical examiner to answer a series of very detailed questions concerning the person's medical condition.

5.3.6 In September 2000, the Turkish cabinet accepted a revised version the Human Rights High Board's report (known as the Demirok Report) which set out the action which Turkey needed to take in respect of human rights in order to meet the political criteria for EU membership. The proposals contained in that report have now been incorporated into the National Programme (see Section 5.1 of this report). Timescales for implementation of the various initiatives were currently being worked up by the different Ministries involved and would depend on the pressure of parliamentary business. The aim however was to have them all fully implemented by 2004 at the latest.

5.3.7 The official said that some initiatives were already well advanced, for example:

- some Regulations (in particular those on the use of DNA in the criminal procedures) were at the Commission stage [*which was taken as meaning the equivalent of the Parliamentary Committee stage in the United Kingdom*].
- Regulations on periods of detention and procedures for arrest were currently being drafted by the Ministries concerned.
- a Human Rights Education Board has been established.
- a ten year project is underway to train all public officials at all levels on human rights.
- human rights education is now also provided in all schools.
- Regulations have now been passed on forensic examination before and after arrest including the introduction of a standard form to be completed by a doctor (see para 5.3.5 above).
- a law has also been passed increasing the penalties for those convicted of committing human rights abuses.
- a Circular has been issued to the effect that individual Police Performance Reports should now include a section on the individual officer's "attitude to human rights".

5.3.8 In response to a question about whether the apparent increase in number of reported cases of human rights abuses in 2000 was attributable to greater confidence in the systems or greater prevalence of abuse, the official said that there was certainly greater confidence and this was clear from feedback at regional meetings attended by the High Board. She added that people also now know that they do have effective internal avenues of redress, and only when those are exhausted do they now go to the European Court of Human Rights, where the nature of cases is now largely arguments about points of law. The official repeated that a priority of the Human Rights High Board was education in human rights issues, and this has resulted in more confidence in individuals coming forward and using the avenues of redress available to them.

- 5.3.9 The IND mission asked whether any guidance was issued to Public Prosecutors about how they should examine claims of human rights abuses. The official replied that it is already clear in law that Public Prosecutors have a **duty** to investigate all such claims. She added that another recent development had been the introduction of 3 monthly routine inspections by Public Prosecutors of places of detention, including police and Jandarma stations. The US State Department Report 2000 comments that according to officials at the Ministry of Interior, over a thousand inspections have been made, and these reports are on file with the Supervisory Council. The State Minister for Human Rights, Mr Rüştü Yücelen, stated that from July to September 2000 a total of 2309 inspections at both police and Jandarma stations were carried out. The reports were not made public. Although some provincial authorities said that the inspections uncovered no deficiencies, others claimed that they led to some improvements in practices. Human rights observers say that the inspections and reports are cursory at best, do not include any detainee interviews, and give a false impression of government attention to the problem. They also question prosecutors' ability to influence police practices. There is little public awareness of these visits.
- 5.3.10 The mission asked whether the Public Prosecutor used the police to investigate complaints, and the official responded that strictly he was obliged to investigate on his own, but sometimes he used the police (not necessarily the same police against whom the complaint was made). The official told us that Public Prosecutors had put forward a proposal that an Independent Investigation Board be set up to deal with such cases under the auspices of the provincial Human Rights Committees.

6 Human Rights

6.1 Reports

- 6.1.1 The US State Department Report 2000 observes that the Ecevit Government generally respected its citizens' human rights in a number of areas; however, its record was poor in several other areas, and serious problems remained. Extrajudicial killings continued, including deaths due to excessive force. Unlike in 1999, there were no reports of deaths in detention due to torture, and no reports of mystery killings and disappearances of political activists. Although the authorities failed to investigate adequately many past disappearances, ongoing investigation of the Turkish Hizbullah terrorist organisation may lead to resolution of some cases. Torture, beatings, and other abuses by security forces remained widespread. Police and Jandarma often employed torture and abused detainees during incommunicado detention and interrogation. The lack of universal and immediate access to a lawyer, long detention periods for those held for political crimes (especially in the state of emergency region), and a culture of impunity are major factors in the commission of torture by police and other security forces. In addition the general climate of violence engendered by the PKK insurgency and urban leftist and Islamic fundamentalist terrorism, combined with a confession-oriented trial system, have hampered past efforts to carry out legal prohibitions against torture. With the decrease on counter-terror operations and overall detentions in the southeast, fewer cases of abuse of detainees were reported; however, the proportion of cases of abuse remained at high levels, and many cases may go unreported.
- 6.1.2 Human Rights Watch 2001 report observed that the Turkish Government made almost no progress on key human rights reforms in 2000, and failed to take advantage of the opportunity presented by a marked reduction in armed violence by illegal organisations. This was in spite of the strong incentive coming from the European Union, which offered long-awaited recognition to Turkey as a candidate for membership, subject to its meeting human rights conditions. While the government procrastinated, politicians and writers were prosecuted and imprisoned for expressing their non-violent opinions, and detainees in political custody remained at risk of ill treatment, torture or death in custody. A reduction in political violence contributed to a decrease in the overall volume of abuses. There were fewer deaths in custody, suggesting that public and international pressure may have had some inhibiting effect on police interrogators.
- 6.1.3 The (November) 2000 "Regular Report from the European Commission on Turkey's Progress towards Accession" records that Turkey still does not meet the political criteria for membership of the European Union. The report says that the basic features of a democratic system continue to exist, but that Turkey is slow in implementing the institutional reforms needed to guarantee democracy and the rule of law. Many aspects of the overall human rights situation remain worrying. Torture and ill treatment are far from being eradicated, even though the matter is taken seriously by the authorities and Parliament, and training programmes on

human rights are being implemented. Prison conditions have not improved, although Turkey is embarking on a substantial reform of its prison system. Freedom of expression as well as freedom of association and assembly is still regularly restricted. A positive approach seems to be adopted towards non-Muslim communities with regard to freedom of religion, but this should be developed for all religious communities, including non-Sunni Muslims. Compared with 1999, the economic, social and cultural rights situation has not improved, particularly when it comes to the enjoyment of cultural rights for all Turks irrespective of ethnic origin. The situation in the Southeast, where the population is predominantly Kurdish, has not substantially changed.

- 6.1.4 Amnesty International's open letter to EU leaders (30 November 2000) summarises Amnesty International's concerns about the human rights situation in Turkey. These concerns cover torture and impunity, prison conditions, the death penalty, the need to strengthen legal and constitutional guarantees for the right to freedom of expression, and the need to ensure compliance with international standards for fair trials.

6.2 Freedom of expression

- 6.2.1 The Turkish Constitution provides for freedom of speech and of the press, but the Turkish Government limits those freedoms. The Constitution leaves open the possibility of restrictions to those freedoms on the basis of defence of the secular, unitary, state, and protection of public order. The Criminal Code provides penalties for those who "insult the President, the Parliament and the Army." Numerous other provisions in various laws restrict freedom of expression to one degree or another; those most frequently employed include Article 8 of the Anti-Terror Law (disseminating separatist propaganda) and Article 312 of the Criminal Code (incitement to racial, ethnic, or religious enmity). In addition, prosecutors rely on Article 159 of the Criminal Code (concerning insults to Parliament, the army, Republic, or judiciary), Article 160 (insulting the Turkish Republic), Article 169 (aiding an illegal terrorist organisation), the Law to Protect Atatürk (No. 5816), and Article 16 of the Press Law to limit freedom of expression. The new law enacted to counter criminal organisations includes an article that permits the prosecution of journalists for "promoting" the activities of criminal organisations, and the new civil servant prosecution law includes an article allowing prosecutions against those who falsely accuse public employees based on "enmity, hatred or slandering." While prosecutors bring dozens of such cases to court each year, judges dismiss many charges brought under these laws.
- 6.2.2 Law No. 3984 stipulates that radio and TV broadcasts will be in Turkish (with an exception for languages that will contribute to the development of universal culture and science). In practice, some broadcasting in Kurdish is sometimes tolerated. The state of emergency regional governor frequently bans Kurdish recordings that may be played legally elsewhere in the country.

- 6.2.3 It was intended that the Broadcasting Law of 2001 would amend the legal framework for TV and radio broadcasting and the Internet. In June 2001 President Sezer vetoed it on the grounds that it was "undemocratic" and "incompatible with basic rights and freedoms". The Chairman of RTUK (the Turkish Radio and Television Supreme Council, the broadcasting regulatory authority) welcomed the President's decision, saying that it presented the opportunity to draft a more liberal broadcasting law.
- 6.2.4 Article 312 of the Penal Code states that those who openly praise or speak favourably of an action considered to be a crime by the law, or those who incite people to disobey the law, will be given six months' to two years' imprisonment. Those who incite hatred and enmity within society through discrimination with respect to class, race, religion, religious sect or regional differences will be given one to three years' imprisonment. Police and courts limit freedom of expression by using this Article, Article 159 (concerning insults to Parliament, the army, republic or judiciary), Article 160 (insulting the Turkish Republic), Article 169 (aiding an illegal organisation), restrictions in the 1982 Constitution, the 1991 Anti-Terror Law (disseminating separatist propaganda), the Law to Protect Atatürk, and Article 16 of the Press Law.
- 6.2.5 An official of one NGO told the IND mission that in his view the most critical issue in Turkey is the problem of democratisation and freedom of expression. He mentioned that 67 people from the Human Rights Association (HRA) were detained the previous day [18 March] in Istanbul because they were taking part in a demonstration against F type prisons in Turkey; he forecast that they would probably suffer maltreatment. However when we saw a different NGO later the same day they told us that these 67 people were arrested whilst giving a press conference and that the police initially denied that they were holding those people. According to media reports [Turkish Daily News 21 March] all 67 were arrested for engaging in an unauthorised demonstration. They were released from custody by the courts on 20 March after being questioned by the public prosecutor. Six of those arrested were charged with breaking the law on meetings and demonstration marches. There have been no allegations of any mistreatment.
- 6.2.6 One NGO told us that anyone can be arrested under the Anti Terror Law and held for up to 7 days without charge. The NGO's major criticism was that individuals arrested under the Anti Terror Law had no right to legal representation until after 4 days.
- 6.2.7 During the time the IND mission was in Turkey, a court began hearing a case seeking the closure of the HRA. On 19 January a Turkish news agency had reported that HRA had received money from the Greek Government; receiving such money would be contrary to HRA's status as a non-governmental association. The police searched the HRA Ankara headquarters, and found bullet casings, shrapnel and illegal magazines. The news agency corrected its false statement, but a court case was begun against the HRA. The HRA denied the charge, and said that the items found were evidence to be used in HRA reports on human rights violations; the items had been provided by people from the southeast of Turkey to support statements that their homes had been attacked by security forces during Nevruz festivities in 1992. "What the police found here is not proof

that we are involved in illegal or armed activities, but evidence that we take our job seriously", the Chairman of HRA said.

6.2.8 In 1996 the Turkish State recognised Nevruz, the first day of spring, as a pan-Turkish festival that had previously been overlooked. The word is Persian for "new day". Nowruz or Newroz (in Kurdish) is traditionally a time of protest for Turkey's Kurds, marking the end of the winter days of darkness and cold and the coming of the bright days of spring, when the lengths of day and night are equal. The Nevruz celebrations took place during the IND mission in Turkey. The Turkish authorities banned planned Nevruz celebrations, sponsored by HADEP, in Istanbul, where more than one million Kurds are understood to live. Celebrations were also banned in the southeastern city of Bitlis. Despite the ban, two groups of nearly 1,200 people gathered in the Topkapi district of Istanbul, chanting slogans, lighting fires and dancing to mark the festival. Around 3,000-4,000 people gathered in Sehir Park, and the Turkish news agency *Anatolia* reported that a group of 200 of these people attacked vehicles and broke their windows. Police are reported to have detained about 160 protesters.

6.2.9 Other media reports included:

- **Hürriyet** reported that *"Nevruz was eagerly celebrated all over the country... The police and the people danced the traditional halay [similar to hora] together. Some 300,000 people attended the festivities in Diyarbakir in colourful clothes. A small group started shouting "Biji Apo" but the People's Democracy Party (HADEP) officials persuaded them to abandon that effort. [Biji means long live and Apo is the nickname of Abdullah Ocalan, leader of the outlawed Kurdistan Workers party, PKK for short].....Some 100,000 people gathered in Batman where Agire Jiyar, a group of young musicians, entertained the crowd with rock music and lyrics in Kurdish."*
- **Yeni Şafak** said *"Nevruz celebrated with glee"*.
- **Cumhuriyet** reported *"The Nevruz excitement - in Diyarbakir, over 200,000 celebrated Nevruz in joy, singing and dancing. In Batman, Siirt, Hakkari, Gaziantep, Tunceli, Adiyaman and Elaziğ too, tens of thousands of people expressed their desire for peace by chanting slogans."*
- **Ortadoğu** said *"Nevruz, the oldest peace and brotherhood bayram of the Turkic world, gave the separatists an opportunity to have a field day. Many local and foreign PKK people were once more on the stage. Some 200 foreigners from Italy, France, Switzerland, Belgium, Russia and Britain took part in demonstrations organised in the southeast by HADEP. These included pro PKK German parliamentarians.....There were those wearing PKK colors and these groups made a point of not carrying Turkish flags, not even one."*

6.3 Treatment of civilians suspected of PKK association or involvement

- 6.3.1 The United Nations Economic and Social Council Commission on Human Rights Special Rapporteur visited Turkey in November 1998, with the objective of collecting first-hand information from a wide range of contacts in order to assess the situation of torture in Turkey. In his report of January 1999, he stated that he had no doubt that up to and including the first half of the 1990s torture was practised systematically and on a widespread scale. Authoritative findings of the Committee against Torture and the Council of Europe's European Committee for the Prevention of Torture buttressed this view. However, he believed that the previous two years had witnessed notable improvements. Despite this, the Rapporteur noted that blindfolding, the use of hosing with cold water, suspension by raised arms with a crossbar, rough physical treatment, sexual abuses and threats of rape, the use of grossly insulting language and the making of threats to the life and physical integrity of detainees or their families still seemed rife in many parts of the country.
- 6.3.2 As reflected in Section 3 of this report, explicit public support for the PKK would probably result in prosecution. Claiming to sympathise with the separatist cause would be likely to be viewed more severely than would attending a demonstration, but either could bring the person concerned to the adverse attention of the authorities. The outcome could range from no action being taken against the individual through to a lengthy prison sentence.
- 6.3.3 Article 169 of the Turkish Penal Code makes it an offence to help or shelter a terrorist organisation. As an example of how this law is applied in practice, in March 2001, it was reported that Fatma Sevuk (aged 77) and Ali Adir (aged 68) together with a disabled woman, Naciye Sevuk (aged 20), began prison sentences of three years and nine months for helping and sheltering a terrorist organisation. Along with Gullu Celik (aged 65), Yemis Altintas (aged 65) and Emos Kiyancicek (aged 80), they had been detained by the Jandarma in September 1999 and questioned for two days. Although they signed affidavits whilst in Jandarma custody admitting the charges (providing and carrying food for the PKK and hosting the PKK for meetings and meals), they later told the prosecutors that their testimony had been given under pressure.

6.4 Religious freedom

- 6.4.1 The last census of religious affiliation in Turkey dates from 1965, but non-governmental sources estimate that the current position is that 99% of the population is Muslim, of whom 80% are Sunni and 20% Alevi and other Shi'ite communities. Of the 1% non-Muslim population, there are about 60,000 Armenians (mainly Orthodox), about 2,500 Greek Orthodox, about 25,000 Jews, about 25,000 Assyro-Chaldeans, about 20,000 to 25,000 Catholics, and about 4000 Protestants.

6.4.2 The US State Department report on religious freedom in Turkey 2000 notes that the Government generally respects in practice the right under the Constitution to freedom of religion, although the Government imposed some restrictions on religious minorities and on religious expression in government offices and state-run institutions, including universities. However, the United Nations Interim Report (Addendum 1 - Turkey)(August 2000) of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of intolerance and of discrimination based on religion or belief observes that the policy of the Turkish State in matters of religion and belief is exceedingly complex and stands in sharp contrast to the categorical assertion by certain authorities that such policy is a model of tolerance and non-discrimination. The report states that politics is the determining element with respect to religion. On the one hand, the State, the guardian of secularism and defender of nationalism, has taken over responsibility for the majority religion of Islam, both within its ranks and among the population, while on the other hand the political parties, including those of Islamist persuasion, use religion as a route to power. This situation not only affects strictly religious affairs, but also has an impact on secularism and on healthy nationalism, and hence on all religious communities. The Special Rapporteur believes that the active role played by the State in religious affairs constitutes excessive interference not only in the way people manifest their belief but also against the very concept of freedom of religion and belief. This situation, he considers, weighs most heavily upon the minority Muslim communities, including the Alevi, in the sense that State intrusion into Muslim religious affairs leaves no room for the specific needs of the Alevis, particularly in terms of places of worship and religious education. Moreover, Turkization policies, he notes reinforce the discriminatory treatment of Alevis within Turkish society and even within the State; Alevis have, for example, no representation in the Department of Religious Affairs.

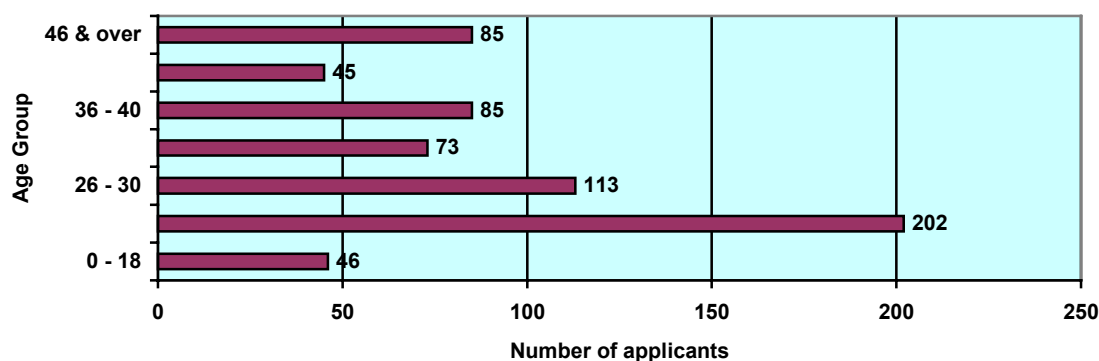
7. Prevalence of Human Rights abuses

7.1 Reports

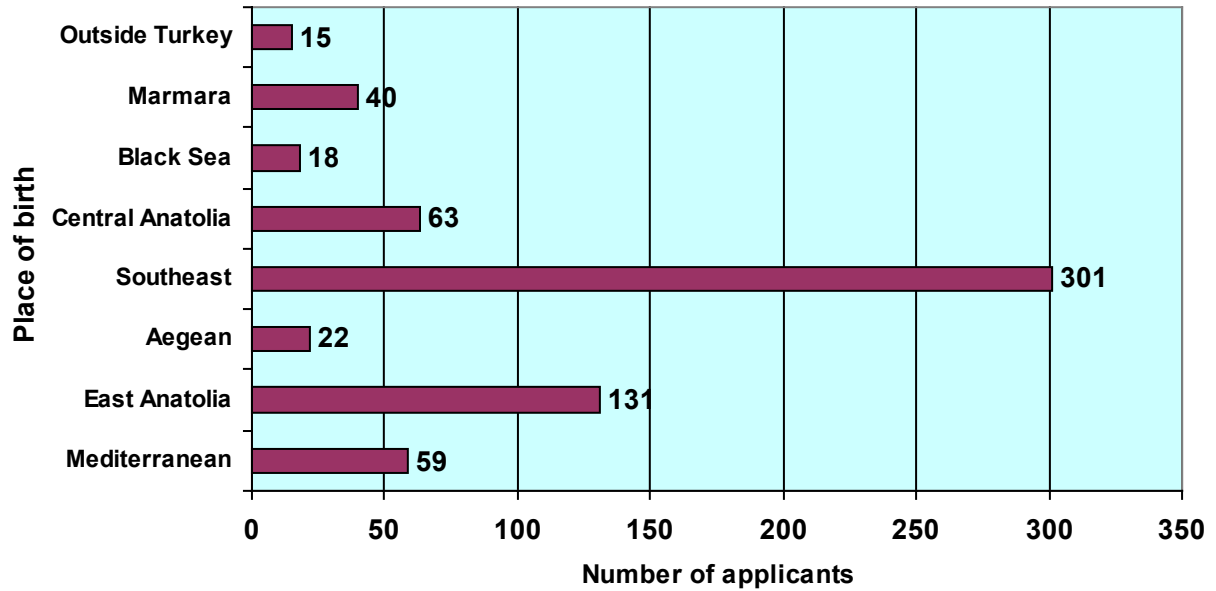
- 7.1.1 The Turkish Government acknowledges that Turkey has deficiencies in the area of human rights. It acknowledges that in their fight against the PKK and the human rights abuses committed by this terrorist organisation, there have been human rights violations committed by their authorities. They say that they are determined to eliminate these violations.
- 7.1.2 Human rights abuses perpetrated by the PKK were common during its 16 year campaign against the government and civilians. Political killings by the PKK have included state officials (Jandarma, local mayors, imams, and schoolteachers), state-paid village guards and their family members, young villagers who refused to be recruited, and PKK guerrillas-turned-informants. The prevalence of violations committed by the PKK slowed considerably during 2000, and, according to the US State Department Report 2000, are no longer an important factor of daily life in the Southeast.
- 7.1.3 There have been numerous reports by human rights organisations of the use of torture by the security forces, of deaths in police custody, of disappearances, and of extrajudicial executions. Details of commonly reported types of torture can be found in the US State Department reports, Amnesty International reports, the Helsinki Human Rights Watch 1997 report "Torture and Mistreatment in Pre-Trial Detention by Anti-Terror Police", and the Medical Foundation's 1999 report "Staying Alive by Accident: Torture Survivors from Turkey in the UK".
- 7.1.4 The United Nations Economic and Social Council Commission on Human Rights Special Rapporteur, following his visit to Turkey in November 1998, did not consider that torture was systematic in the sense of being approved of and tolerated at the highest political level. He did however find that the practice of torture may well, in numerous places around the country, deserve the categorisation of systematic in the sense of being a pervasive technique of law enforcement agencies for the purpose of investigation, securing confessions, and intimidation, regardless of approval or disapproval at the highest levels of the public service or by the Government's political leadership. This was especially true if the less extreme, but still serious, forms of torture or ill-treatment such as blindfolding, the use of hosing with cold water, "straight hanging", rough physical treatment, sexual abuse and threats of rape, the use of grossly insulting language, and the making of threats to the life and physical integrity of detainees or their families are taken into consideration.
- 7.1.5 In an effort to raise awareness of human rights issues and encourage improved reporting standards regarding human rights violations, the British Embassy has paid for the translation into Turkish of the "Torture Reporting Handbook", which was put together by the University of Essex.

7.2 Incidents of abuse

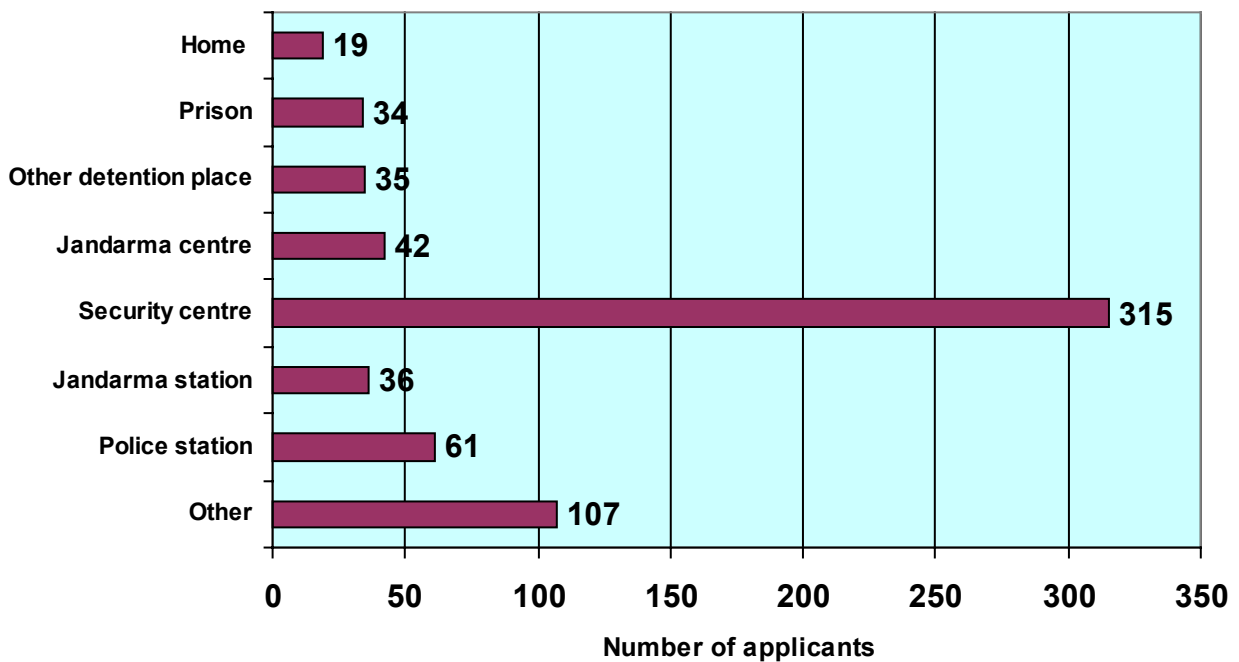
- 7.2.1 The Human Rights Foundation of Turkey (HRFT) was established in 1990. It gives treatment to those who are tortured, and documents infringements of human rights in Turkey. It has five treatment centres - in Ankara, Istanbul, Izmir, Adana and Diyarbakir. The US State Department Report on Human Rights Practices in Turkey in 2000 (released February 2001) states that HRFT saw 1,030 credible torture victims in 2000 compared with 700 in 1999. HRFT confirmed that this was the overall number of torture victims treated in their Treatment and Rehabilitation Centres last year. HRFT stressed that there is no direct correlation between the number of those who apply for treatment, and the number of those who suffer torture.
- 7.2.2 HRFT said that in 1998 there were 44,000 torture allegations, and the HRFT could confirm only 10% of them. Reporting the allegations is difficult, and creates safety concerns. Most internally displaced people have been victims of maltreatment. When they move to western Turkey, they need to get used to a new language, and get used to a big city. It is a complex mass trauma situation, and 3 million people have suffered.
- 7.2.3 According to HRFT, about 65% of the people who are tortured are of Kurdish origin, and European governments are mistaken in thinking that Kurds in western Turkey are not tortured. The HRFT's report for 1999 records that 48.5% of torture survivors who applied to HRFT centres were most recently tortured in security centres.
- 7.2.4 When asked whether the apparent increase in reported human rights abuses was attributable to an increase in the level of abuse or as a consequence of more reports being made, HRFT said that there was insufficient research to say one way or the other.
- 7.2.5 HRFT told us that they were currently preparing a report with an analysis showing the profiles of the cases dealt with in 2000. This report would be published later in the year. The HRFT were however able helpfully to provide us with details of the torture survivors they saw in 1999. Of the 686 victims seen by the HRFT's Treatment and Rehabilitation Centres in 1999, the HRFT have complete data on only 649 applicants (210 were women and 439 men). Of these 20.8 % (135 persons) stated that they had been tortured in the State of Emergency region; the remainder in various other parts of Turkey.
- 7.2.6 The distribution of the applicants to the HRFT Treatment and Rehabilitation Centres in 1999 according to age groups was:



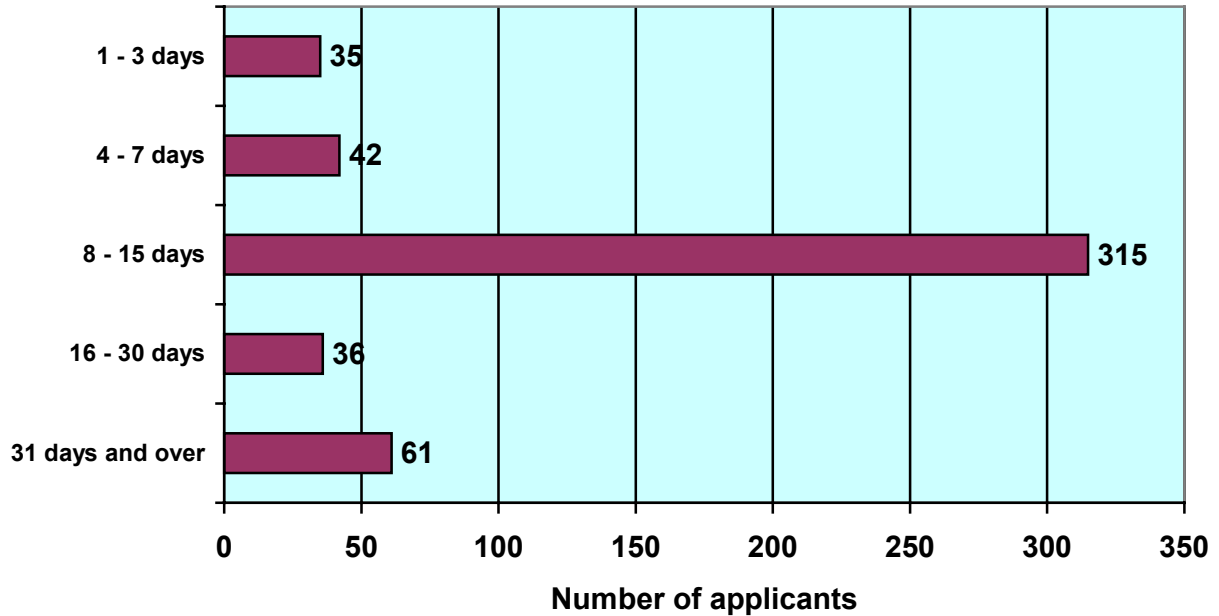
7.2.7 The distribution of the applicants to the HRFT Treatment and Rehabilitation Centres in 1999 according to geographical region of birth was:



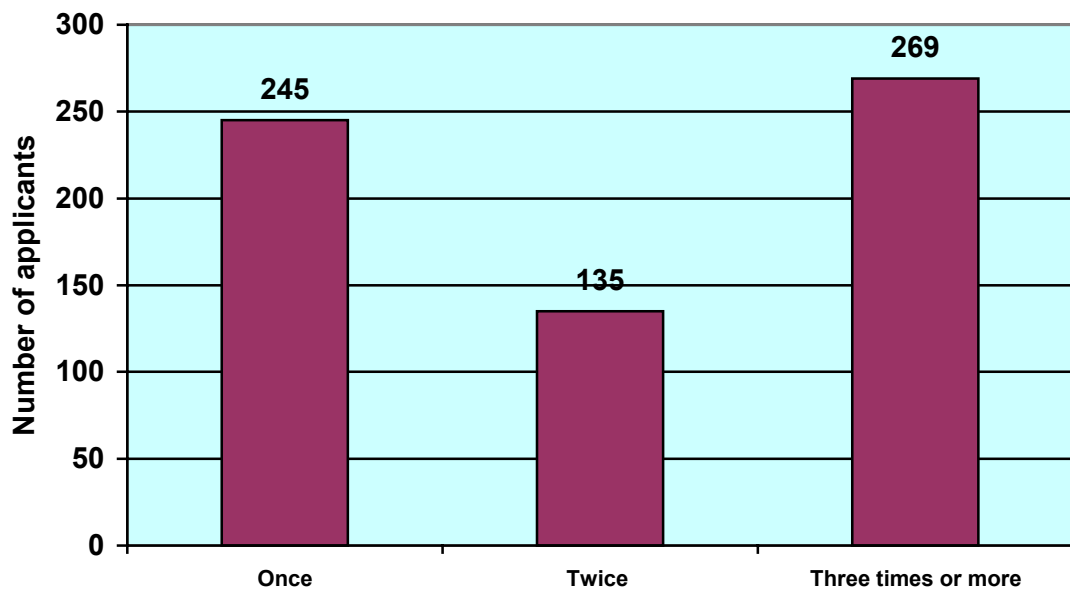
7.2.8 The distribution of the applicants to the HRFT Treatment and Rehabilitation Centres in 1999 according to place of torture was:



7.2.9 The distribution of the applicants to the HRFT Treatment and Rehabilitation Centres in 1999 according to detention period was:



7.2.10 The distribution of the applicants to the HRFT Treatment and Rehabilitation Centres in 1999 according to number of periods of detention was:



7.2.11 The reported methods of inflicting "torture and other forms of cruel, inhuman and degrading treatment" (defined simply as "torture" in the statistics below) used on applicants to the HRFT Treatment and Rehabilitation Centres in 1999 were:

Torture methods inflicted on those detained for between 1 and 7 days		
Torture method	Number	%
Insulting	500	96.6
Beating	468	92.3
Threats (other than death threats) against the person	415	81.9
Death threat	310	61.2
Blindfolding	288	56.8
Restricting food and water	233	46.0
Forcing to wait on cold floor	224	44.1
Restricting defecation and urination	214	42.2
Threats against relatives	200	39.4
Forcing to witness (visual, auditory) torture	197	38.9
Pulling out hair/moustache/beard	187	36.9
Cell isolation	174	34.3
Forcing to listen to marches or high volume music	160	31.6
Sexual harassment	147	29.0
Restricting sleep	122	24.1
Stripping naked	118	23.3
Pressurised/cold water	92	18.1
Forcing to obey nonsense orders	89	17.6
Forcing to extensive physical activity	77	15.2
Strangling	73	14.4
Asking to serve as an informer	71	14.0
Squeezing testicles	70	13.8
Electricity	68	13.4
Torturing in the presence of relatives	63	12.4
Mock execution	52	10.3
Suspension on a hanger	50	10.0
Falanga	38	7.5
Burning	19	3.7
Rape	7	1.4
Other	84	16.6

7.2.12 The distribution of the number of torture methods inflicted on the applicants to the HRFT Treatment and Rehabilitation Centres in 1999 was:

Number of torture methods	Number of victims	%
1	5	0.8
2	31	4.8
3	40	6.2
4	43	6.6
5	47	7.2
6	29	4.5
7	30	4.6
8	33	5.1
9	35	5.4
10	26	4.0
11 or more	330	50.8

7.2.13 Since writing the above paragraphs, HRFT's report of activities of its Treatment and Rehabilitation Centres in the year 2000 has been published. The report recorded that 1,023 people reported to Treatment Centres that they had been tortured, and of these the reports on 972 were evaluated and subjected to closer study. The findings represent similar trends to those represented above.

7.2.14 Turkey's criminal justice system is confession-orientated, and this puts pressure on police officers to extract confessions. The system has developed little forensic capability. The US State Department Report 2000 notes that there is allegedly a difference in police practice for those arrested for ordinary crimes (who are beaten until they give a confession) and those arrested for "political" crimes. If suspects detained under the Anti-Terror Law do not produce information and confessions, interrogators often allegedly shift from beatings to electric shock, cold water from high-pressure hoses, and other methods. A trial based on a confession allegedly coerced under torture may proceed, and even conclude, before the court has established the merits of the torture allegations.

8. Opportunities for victims to seek redress

8.1 The ability to seek redress

- 8.1.1 The mission asked a senior official at the Ministry of Justice about avenues of redress open to those in Turkey who believe that they have been subjected to human rights abuses by the Turkish authorities. He replied that the individual should report the incident to the Public Prosecutor. All Public Prosecutors have a duty in law to investigate all complaints put to them. All Turkish officials also have a duty to inform the Public Prosecutor if they become aware of a complaint.
- 8.1.2 Asylum seekers in the United Kingdom often state that they have no real avenue of redress for perceived maltreatment, saying that *"it is the State doing these things to us, so what purpose would there be in complaining to the State?"*
- 8.1.3. In response to the question of what redress citizens have against maltreatment, one NGO said that there are few court cases against torturers, and those cases which do reach the courts are taking five, six or seven years to resolve. The NGO went on to say that there is no independent judiciary in Turkey, adding that the Turkish regime is authoritarian. The NGO referred to work of the Parliamentary Human Rights Commission, and observed that its careful reports of evidence - not comments - were published, and had a big impact because this work revealed what was really happening in Turkey with regard to human rights. The NGO added that the Minister of Justice had commented to them that the reports of the Human Rights Commission were not revealing the truth.

8.2 Prosecutions for human rights abuses

- 8.2.1. The US State Department Report 2000 notes that the courts undertook investigations of most alleged extrajudicial killings; however, only a few yielded concrete results. It further notes that the investigation, prosecution and punishment of members of the security forces for torture or other mistreatment is rare, and accused officers usually remain on duty pending a decision, which can take years. According to the Turkish National Police, judicial action taken during 2000 against police charged with torture or mistreatment resulted in 72 convictions, 273 acquittals, and 19 ongoing prosecutions. Administrative decisions determined that no trial was needed in 252 other cases, and that no charges needed to be brought against 140 other officers accused of abuse. During 2000, 63 police officers were given administrative punishments, such as suspensions, for torture or mistreatment, while a decision not to investigate was given in 890 cases. According to the Jandarma, 253 Jandarma were prosecuted during 2000, resulting in 52 convictions, 53 acquittals, and 149 ongoing trials. No military personnel were prosecuted for torture; there is no new information on previous years' trials.

8.2.2. At our meeting with the Ministry of Justice, officials said that statistics for 2000 had only just been produced and they gave the IND mission written statistical information about cases which involved the violation of Articles 243-245 (torture and battery) of the Turkish Penal Code and which were referred to the Public Prosecutor's offices and to the courts in 2000. The figures provided by the Ministry of Justice were:

Public Prosecution Offices:	Number of cases received against police	838
	Number of cases received against military	420
	TOTAL cases received	1,258
	Outcomes:	
	No jurisdiction over a particular case	19
	Suspension of duty	2
	Decisions not to prosecute	151
	Indictments referred to Courts	422
	TOTAL cases resolved	594
	Cases still under preparation	664
Courts:	Total number of cases received	422
	Resolved cases:	
	Convictions	71
	Verdict of not guilty	79
	A decision of non jurisdiction	12
	No Jurisdiction over a particular case	3
	Outstanding cases at Courts	257

8.2.3. The number of applications involving Turkey registered at the European Court of Human Rights rose from 653 in 1999 to 735 in 2000. In both years, Turkey ranked fifth in the list of countries, by number of applications. Russia, France, Italy and Poland ranked above Turkey in the list. (For comparison, there were 431 applications involving the UK in 1999, and 626 in 2000). A senior official at the Ministry of Foreign Affairs told the IND mission that the nature of cases now going to ECHR was more about legal points than about allegations of mistreatment by public officials.

- 8.2.4. As recorded in Section 5, a senior official at the Human Rights High Board Secretariat, Prime Minister's Office, informed us that in the Government's opinion there was now greater confidence in the internal avenues of redress open to people and this was clear from feedback at regional meetings attended by the High Board. It is only when those internal avenues are exhausted that individuals go to the European Court of Human Rights, where the nature of cases involving Turkey had changed to being predominately arguments about points of law.

9 Treatment of returnees

9.1 Allegations of abuse

- 9.1.1 The Turkish Border Police can question at the airport any returnee who has been deported from another country. This interview aims to establish the identity of the individual and also to check whether they are wanted in connection with legal proceedings. In general, there is no follow-up unless the individual is the subject of legal proceedings. If the returnee is, for any other reason, known to the police, the individual may be taken into custody for further interview.
- 9.1.2 Returnees without documents will be questioned in-depth by the Turkish Border Police. This will be a comprehensive interview, which is to be distinguished from the routine identity check on arrival. The German authorities state that, as a rule, the questions at this interview refer to personal data, date of and reasons for departing Turkey, possible criminal record in Germany, and contacts with illegal Turkish organisations. In some cases further enquiries will be made via other offices (e.g. prosecutor's office, registrar's office at the last Turkish residence of the returnee) in order to find out if the returnee is wanted in connection with any criminal offence. These enquiries can take from several hours to several days, during which time the returnee will be kept in custody. Currently available information indicates that undocumented returnees are not generally subject to any ill treatment while being kept in custody. However, ill treatment cannot be ruled out in cases where returnees are suspected separatists.
- 9.1.3. Amnesty International in Germany states that the Turkish authorities are more likely to be suspicious in cases where a person returning to Turkey is not carrying any valid personal documents in accordance with regulations, or is carrying documents indicating asylum proceedings abroad.
- 9.1.4. The IND fact finding mission was informed by one NGO that failed asylum seekers face differing treatment on their return to Turkey. Those who have outstanding legal proceedings against them are liable, in law, to be detained for up to seven days, of which the first four will be without access to a lawyer. If returnees have a political background, the risk of torture is greater. Even if they have no political background, but have been involved in political demonstrations or other anti-government political activity abroad, they will be detained on return. The NGO said that the authorities are able to identify readily those returnees who have been previously tried and acquitted in Turkey, as well as those who are currently wanted, or who are otherwise of interest to the authorities.

- 9.1.5. One NGO told us, in response to a question about the extent to which applying for asylum abroad makes a person of interest to the Turkish authorities, even if the individual does not have a history of political involvement, that there is always a risk for everyone who applies for asylum. The NGO quoted an example of a person with no political connection who was deported from Germany in 1996. The NGO official went to the airport on that occasion to meet the individual but the police chief denied that the person was at the airport. The person concerned telephoned the NGO the following day to say that he had been at the airport and questioned by the authorities. The official did not say that the individual had been mistreated other than being denied access to a representative. The NGO informed the German authorities of the case.
- 9.1.6. A senior official at the Visa Department, Ministry of Foreign Affairs, informed us that the Turkish Constitution states that every Turkish national has the right to enter Turkey, and cannot be denied that. For the past five or ten years, Turkey has not denied passports to undocumented would-be returnees. Turkey denied them in the 1980s. He said that the Turkish government now recognises that the overwhelming majority of Turkish nationals who have applied for asylum overseas have done so for purely economic reasons. They are of no interest to the Turkish government. A returnee would not be imprisoned. The police may question them on return about, for example, the loss or destruction of their passport but this would be a low level investigation and the individual would soon be released, almost certainly without charge, and allowed to go about daily life without hindrance.
- 9.1.7. An NGO told us that returnees are a subject of controversy. There are no statistics on how many returnees come back to Turkey, and how they are treated. The NGO commented that returnees are not "*looked upon dearly*" by the Turkish authorities but that does not mean that returnees are subjected to maltreatment or abuse when they arrive back in Turkey.
- 9.1.8. The (English and Welsh) Court of Appeal noted, in its judgement of 28 January 2000 in the case of Abdullah Turgut, that the great majority of European countries continue to extradite to Turkey. This was true of Germany, Finland, Austria, Denmark, Norway, France, Switzerland and Sweden. Although the Dutch authorities suspended extraditions in July 1999 after the death of a rejected asylum seeker, in December 1999 they resumed their policy of returning Turks. Belgium made no returns simply because of administrative difficulties. The only countries whose policy was not to extradite refused asylum seekers were Greece and Italy.

9.2 Monitoring of returns

- 9.2.1 One NGO candidly informed us that the main problem with the issue of treatment of people who are returned to Turkey was obtaining reliable information on the matter. Insufficient research had been done. The authorities were clearly interested in those returnees who had been previously detained or were known to the authorities (eg as someone involved with, or suspected of association with, the PKK). The NGO regarded these people as being at very high risk on return. The problem, in the NGO's opinion, was that the full range of returnees which were of interest to the authorities was not known. The NGO therefore strongly advised against return of any failed asylum seeker.
- 9.2.2 In May 2000 Human Rights Association (HRA) in partnership with the German NGO, Pro Asyl, established a two year project (part funded by the EU Commission) to monitor the treatment of failed asylum seekers on their return to Turkey. At our meeting with HRA, they were asked for any findings that were beginning to emerge from this work. HRA are still working on their findings and have promised them as soon as they are ready.
- 9.2.3 One NGO echoed earlier comments on this issue, saying that failed asylum seekers returned to Turkey appear to be routinely questioned and are liable to be detained for anything between a few hours and four days. The NGO said that they have no information about what subsequently happens to returnees after returning to their original home area, because there is no follow-up.
- 9.2.4 We were informed by one NGO that the Turkish government closely monitors the activities of dissidents overseas and maintain records of both these dissidents and those that associate with them. Individuals returning to Turkey may encounter difficulties with the authorities as a consequence of contact – perhaps even unwitting contact – with a known dissident.
- 9.2.5 Since 1996 UNHCR has, in agreement with the Turkish and Iraqi authorities, facilitated the voluntary return of Turkish nationals from northern Iraq, numbering some 2,100 persons in total to date. UNHCR staff based in Iraq have accompanied each returning group, and UNHCR staff in Turkey have been present at the arrival point in Habur. Furthermore, UNHCR staff based in Turkey have paid frequent visits to the returnees in various provinces in order to observe the results of voluntary repatriation. UNHCR has received full co-operation from the Iraqi and Turkish authorities in these actions, and is satisfied that returnees as a category have not been subject to persecution or reprisals in Turkey. At the same time, UNHCR notes that returnees are still liable under national law, in the same way as other Turkish nationals, for crimes committed before departure from Turkey or after return. UNHCR's information is that arrests or prosecutions of returnees for such acts have been comparatively rare.

10 Military Service

10.1 Law

- 10.1.1 According to article 72 of the 1982 Constitution, all Turkish citizens must perform a "fatherland service". "Fatherland service" is prescribed by the Law on Military Service (Law No. 1111) and the Law for Reserve Officers and Reserve Military Servants (Law No. 1076). Law 1111 was changed in 1992 when Law 3802 came into force on 1 June 1992. Amendments to the law on 19 Feb. 1994 created further changes. Briefly, all young male Turks become liable for compulsory military service in the year in which they reach 20 years of age.
- 10.1.2 Although Article 24.1 of the Turkish Constitution guarantees the right to freedom of conscience, there is no legal right to conscientious objection, and no civilian substitute service is available. There is not even the right to perform unarmed service.
- 10.1.3 Many Articles of the Turkish Military Penal Code deal with draft evasion, refusal to perform military service, and desertion. According to Article 63.1a, those who evade the draft or desert from the army in peacetime receive a prison sentence of
- 1 month, for those who report within 7 days;
 - 3 months, for those arrested within 7 days;
 - 3 months to a year, for those who report voluntarily within three months;
 - 4 months to a year and a half, for those arrested within three months;
 - 4 months to 2 years, for those who report voluntarily after three months; 6 months to 3 years, for those arrested after three months.
- 10.1.4 By the 1994 alteration of the law, all normal prison sentences were replaced by heavy sentences. This means a more restrictive regime e.g. limited contact with other prisoners, restrictions on visitors etc.
- 10.1.5 Article 63.1b states that those who respond to the call-up late and those arrested while deserting may be punished by a month's to a year's imprisonment.
- 10.1.6 Those on active service who are absent without leave for more than six days may be sentenced to one year's to three years' imprisonment. The same sentence can be handed down to those who return from leave to barracks more than six days late. Repeated desertion, or desertion during military exercises, is punishable by no less than 2 years' imprisonment.
- 10.1.7 Those who desert and go abroad without permission and do not return within three days may be punished by 3 to 5 years' imprisonment. Aggravating circumstances may mean that they get 5 to 10 years' imprisonment; so do officers and military officials guilty of desertion (Article 67).

10.1.8 According to Article 25ç of Turkish Nationality Law No. 403, passed in February 1964, Turks who are liable for military service can have their Turkish nationality withdrawn if they reside abroad and do not comply within three months, without valid grounds for exemption, with a due demand (published in the Turkish Official Gazette (Resmi Gazete)) to return to Turkey for the purpose of performing their military service. Withdrawal of citizenship occurs by means of cabinet decision. The names of those whose citizenship has been removed are published in the Resmi Gazete. The process may take several years, and those who have lost citizenship in this way may apply to the Turkish authorities for citizenship to be restored. Their applications are accepted on condition that they complete their military service.

10.2 Alternatives to military service

10.2.1 It is understood that university students can obtain postponement of their military service in order to study. War Resisters' International's September 1998 survey "*Refusing to bear arms*" states, on the basis of 1997 information from the Turkish Consulate, Rotterdam, that delay is possible for a maximum of six years. After that further postponement is allowed only for post-graduate education for at most four years.

10.2.2 Exemption from service is granted to unfit conscripts. War Resisters' International state that, depending on the current political situation, special exemption regulations can apply. Certain professional groups (for example doctors, teachers and civil servants) may be permitted to perform special service. Teachers, for instance, who are willing to take a job in the Southeast are exempt from military service.

10.2.3 In November 1999 the Government, in a bid to boost revenues after the August 1999 earthquake, adopted a proposal to allow men to shorten their military service in return for a cash payment. The law allows men born before 1 Jan. 1973 to perform just 60 days of military service in return for a cash payment of US\$8000. Men over 40 years old are able to make a cash payment of US\$10,000 to avoid the call-up altogether. The Turkish General Staff were reported to expect up to 100,000 men to apply, but there are no figures on the actual take-up. The option to buy out of military service in this way still exists.

10.3 Where the military serve

10.3.1 In the past, conscripts were not sent to serve in their home provinces. Traditionally, the principle was that, for reasons of cultural unification of the country, men from the west of Turkey were sent to complete their service in the east, and vice versa. However, this rule was modified in or shortly before 1993, and postings are now determined at random by computer. The Chief of General Staff can, under exceptional circumstances, overrule the computer.

- 10.3.2 There are about 700,000 conscripts (including Jandarma) per year. The level of deployments in the Turkish military changes frequently, but very roughly 20% are deployed in the Southeast.
- 10.3.3 Amnesty International, in an expert opinion of July 1998 to the German Administrative Court of Wiesbaden, refers to the practice of sending conscripts to other than their native parts of the country as a practice of the past. It bases its view on reports in the Turkish and pro-Kurdish press as well as on reports by the War Resisters' Association of Izmir (Izmir Savas Karsitlari Dernegi - ISKD). The expert opinion lists various incidents between 1996 and 1998 of Kurdish recruits who were posted to Southeast Turkey and who were killed. ISKD is quoted as stating in 1996 that the deployment of Kurds in the Southeast is neither particularly avoided nor particularly favoured, but is simply the consequence of random selection. The German High Administrative Court in Hamburg, taking into account expert opinions by Amnesty International and independent experts, as well as the situation reports of the German Foreign Office and previous decisions by German Administrative Courts, concludes that it is more likely than in the past that conscripts from the Southeast are deployed in their home region, but that there is no policy of systematically posting conscripts in the Southeast to be used as "cannon fodder".

10.4 Treatment of draft evaders

- 10.4.1 One NGO informed us that military service evaders are tried under the Military Penal Code by military courts and sent to military prisons. Military prisons are run by the military and the prisoners are treated as soldiers. The average sentence for draft evasion is one year. If the person is under 20 years of age, the prison sentence is about three months.
- 10.4.2 The Ministry of Justice informed us that military service evaders who are tried by military courts are entitled to legal representation in the same way as those who appear before civil courts on criminal charges.
- 10.4.3 There is nothing to suggest that Kurds or other groups who evade the draft are treated differently because of their ethnic or religious background. UNHCR confirmed that their information supports this view. The Royal Netherlands Embassy told us that although they do return to Turkey failed Kurdish asylum seekers who have not done their military service, they do exercise particular caution in with such returns. This is because there have been reports of instances of ill treatment of Kurdish draft evaders who are known, or suspected of being, associated with the separatist movement.

10.5 Village Guards

- 10.5.1 The village guards are a civil defence force of more than 65,000 people. In April 1985 two articles were added to Village Law No. 442, and these permitted the temporary creation of village guards in provinces under emergency rule. The village guard system was implemented during 1985 and 1986 in order to provide self defence for villages and support for local Jandarma. The official (July 2000) regulations set out village guards' duties as including the identification of people who violate the rights, lives, property and safety of villagers, informing the village headman and Jandarma of such people, and capturing them; informing the village headman and Jandarma of news about the activities of those residents of the village who have previous convictions, investigating the activities of suspected and convicted people, and following up military absentees and draft evaders; and taking all necessary precautions to protect, and avoid violations against, village assets such as vineyards, gardens, drinking water facilities transformers, water dams and waterways. Names of proposed village guards, having been identified by the village council (village elders), are notified to the head official of the district (kaimakan) by the village headman, and the head official approves them if he sees fit.
- 10.5.2 Participation in this paramilitary militia is mainly voluntary, but the US State Department Report 2000 observes that villagers face danger from both the PKK and the Government when choosing whether or not to join the guard force. The official (July 2000) regulations for village guards stipulates the conditions required of a person to become a village guard, and these include not having served a prison sentence for a crime, not having taken part in subversive, separatist and reactionary activities, and being known as a good mannered person who does not have a bad temper, who does not fight with anyone, and who is not a drunkard. However, the US State Department report notes that village guards have a reputation for being the least disciplined of the Government's security forces, and have been accused repeatedly of drug trafficking, rape, corruption, theft and human rights abuses. It notes that inadequate oversight and compensation contribute to this problem, and in some cases Jandarma allegedly have protected village guards from prosecution.
- 10.5.3 The question of the extent to which membership of the village guards is voluntary has been addressed by, among others, German administrative courts. A decided case there (High Administrative Court Nordrhein-Westfalen, 22.1.00) found that nobody is legally obliged to serve as a village guard. The judgement went on, however, to say that in practice the total male population of a village is frequently summoned or detained in order to force them to become village guards. The security forces use this as a way of testing the loyalty of a village. These men are left with the choice of their village being evacuated or of their being interrogated and beaten at local police posts. If a person were detained and individually reiterated his refusal, he would usually come under suspicion of supporting the PKK.

11. Organisations consulted

- Ministry of Justice, Republic of Turkey
- Ministry of Foreign Affairs, Republic of Turkey
- Ministry of Interior, Republic of Turkey
- Human Rights Supervisory Council Secretariat
- Office of the United Nations High Commissioner for Refugees, Ankara
- United Nations High Commission for Refugees Headquarters, Geneva
- Human Rights Foundation of Turkey
- Human Rights Association
- Association for Solidarity with Asylum Seekers and Migrants
- International Organisation for Migration
- Istanbul Interparish Migrants Programme
- Royal Netherlands Embassy, Ankara
- British Embassy, Ankara
- British Consulate-General, Istanbul

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- 12.14 UK Home Office, Immigration and Nationality Directorate, Country Information and Policy Unit, Turkey Country Assessment (London, October 2000) <http://www.ind.homeoffice.gov.uk/default.asp?PageId=196> [as at 20 April 2001]
- 12.15 World Health Organisation "World Health Report 2000"

13 ABBREVIATIONS

ANAP	-	Anavatan Partisi (Motherland Party)
ASAM	-	Association for Solidarity with Asylum Seekers and Migrants
CHP	-	Cumhuriyet Halk Partisi (Republican People's Party)
CIPU	-	Country Information and Policy Unit
DGM	-	State Security Court
DYP	-	Doğru Yol Partisi (True Path Party)
DHKP-C	-	Devrimci Halk Kurtulus Partisi - Cephesi (Revolutionary People's Liberation Party - Front)
ECO	-	Entry Clearance Officer
EU	-	European Union
FCO	-	Foreign and Commonwealth Office
FP	-	Fazilet Partisi (Virtue Party)
GAP	-	Southeastern Anatolia Project
HADEP	-	Halkin Demokrasi Partisi (People's Democracy Party).
HO	-	Home Office
HRA	-	Human Rights Association
HRFT	-	Human Rights Foundation of Turkey
IIMP	-	Istanbul Interparish Migrants Programme
IND	-	Immigration and Nationality Directorate, Home Office
IOM	-	International Organisation for Migration
NGO	-	Non-governmental Organisations
NSC	-	National Security Council.
PKK	-	Partiya Karkeren Kurdistan (Kurdistan Workers' Party).
RTUK	-	Turkish Radio and Television Supreme Council
TL	-	Turkish Lira(s)
TSK	-	Turkish Armed Forces
UNHCR	-	United Nations High Commissioner for Refugees.
WHO	-	World Health Organisation

14 ANNEXES

- ANNEX A** Maps of Turkey
- ANNEX B** Fact finding mission: Terms of Reference
- ANNEX C** Amended Article 8 of Turkish Anti Terror Law
- ANNEX D** Regulations on Apprehension, Police Custody & Interrogation
- ANNEX E** Accession Partnership Document, as adopted in April 2001
- ANNEX F** Turkey's National Programme for the Adoption of the Acquis

ANNEX A: MAPS OF TURKEY





ANNEX B: TERMS OF REFERENCE

PURPOSE

The purpose of the mission is to gather information on a number of matters in Turkey with a bearing on the consideration of asylum applications, in particular:

1. The security situation

The general security situation in Turkey as a whole and the south east in particular

- the extent to which PKK combatants ceased operations
- the authorities' capacity and willingness to protect its civilians
- The authorities' treatment of civilians suspected of PKK association or involvement.

2. Conditions of detention and imprisonment

- Conditions for and control of arrests
- Prevalence of any physical abuse/torture: the extent/nature of abuse/special groups/circumstances etc

3. Military service

- the alternatives, if any, to military service
- the penalty/treatment of those refusing to undertake military service
- factors affecting any different treatment of draft evaders or deserters

4. Human Rights

- The role of the new Turkish Human Rights Department
- The law protecting human rights in Turkey
- The extent to which freedom of expression exists
- The ability of citizens to seek redress and protection from members of security forces who commit human rights abuses
- Incidence and success of prosecution of members of security forces who commit human rights abuses

5. Leaving/entering Turkey

- Passport and document checks on leaving Turkey
- Passport and document checks on entering Turkey
- Reception given to returnees - both documented and undocumented

6. The treatment of returned asylum seekers to Turkey

To collect other relevant information to enable assessment of the risks faced by failed asylum seekers on return to Turkey who fall within the following categories:

- Kurdish
- Undocumented
- Draft evader/deserter
- Connection with PKK
- Wanted for political crime with regard to Kurdish separatism
- Criminal record in Turkey
- Previously subjected to ill treatment in Turkey

PRODUCT

A final report of the findings is to be produced within one month of the conclusion of the visit.

The report must be:

- ✓ disclosable and fully record the sources of the information collected.
- ✓ made available to caseworkers, presenting officers and others to inform decision making in Turkish cases.
- ✓ reflected in the next CIPU Turkey Country Assessment.

Country Information and Policy Unit
Asylum and Appeals Policy Directorate
Home Office

December 2000

ANNEX C: AMENDED ARTICLE 8 OF TURKISH ANTI TERROR LAW



Change in the Turkish Anti-Terror Law

Article 8 of the Anti-Terror Law (Law No: 3713) was amended in October 1995

OLD TEXT OF ARTICLE 8

Unofficial Translation

"No one shall, by any means or with any intention or idea, make written and oral propaganda or hold assemblies, demonstrations and manifestations against the indivisible integrity of the state of the Turkish Republic with its land and nation. Those carrying out such an activity shall be sentenced to imprisonment from two to five years and fined from 50 to 100 million Turkish Lira. If the offense of propaganda referred to in the preceding paragraph is committed by means of periodicals, as defined in Article 3 of the Press Law No. 5680, the owners of such periodicals shall also be punished by a fine, to be determined in accordance with the following provisions:

For periodicals published at less than monthly intervals, the fine shall be ninety per cent of the average real sales of the previous month; (For printed works that are not periodicals or for periodicals which have recently started business, the fine shall be ninety per cent of the average monthly sales of the highest circulating daily periodical)

In any case, the fine may not be less than 100 million Turkish Lira.

Responsible editors of these periodicals shall be sentenced to imprisonment from six months to two years and to half of the fine determined in accordance with the foregoing provisions.

TEXT OF THE LAW AMENDING ARTICLE 8

(Law No. 4126)

Unofficial Translation

ARTICLE 1

Article 8 of the Anti-Terror Law No: 3713 has been amended to read as follows:

"Article 8- No one may engage in written and oral propaganda aimed at disrupting the indivisible integrity of the State of the Turkish Republic, country, and nation Meetings, demonstrations and marches with this aim may not be engaged in. Those who engage in such deeds will be sentenced to from one to three years in prison and given a heavy fine of from TL 100 million to TL 300 million. In case the offense is repeated, punishment will not be limited to a fine.

If propaganda stated in the first paragraph is carried out by means of periodicals specified in Article Three of Press Law No.5680, and if periodical appears less often than once a month, the owners will be punished with a fine equivalent to 90 % of the average value of sale amount of sales during the previous month. However, this amount cannot be less than TL 100 million. The legally responsible directors of these periodicals are to receive a fine half the size of that given to the owners and a prison sentence of between six months and two years.

If the propaganda specified in the first paragraph is carried out through mass media other than periodicals specified in the second paragraph or other printed materials, the legally responsible (editors) and the owners of the mass media concerned will be imprisoned from six months to two years, and will be fined between TL 100 million and TL 300 million. Furthermore, if this propaganda is carried out via radio or television, the court can decide to prohibit broadcasting by the relevant radio and TV station from one to 15 days.

If acts specified in the first paragraph are carried out through the mass media specified in the second and third paragraphs, punishment will be increased by between one third and a half."

ARTICLE 2

The following paragraph has been added to Article 13 of the Anti- Terror Law No. 3713 is as follows:

"However, this article does not apply to sentences given under Article 8".

TEMPORARY ARTICLE

Files of those sentenced according to Article 8 of the Anti-Terror Law No.3713 will be re-examined by the court which ruled the sentence within one month from the date the Law No.4126 has been put into effect. The court will make the appropriate decision regarding the re-determining of sentence periods and whether they are entitled to benefit from Articles Four and Six of Law No.647 of 13.7.1965.

ARTICLE 3

This law enters into effect on the date it is published.

ARTICLE 4

The Council of Ministers is responsible for implementing this law.

GROUNDINGS FOR THE ARTICLE (SUMMARY)

Restrictions on basic rights and freedoms in the 1982 Constitution were derived from the European Convention on Human Rights.

The restrictions on freedom of expression and dissemination of thought with a view to protecting the indivisible integrity of the State together with the country and the nation are set out in our Penal Code.

This code describes those forms of expression of thought which are forbidden as "incitements to crime". Actually, what is prohibited is the expression of thought favoring to commit acts which constitute offences under the law and which could severely damage the social order in various ways.

The basic provision to this effect is contained in Article 311 of the Penal Code, which says: "Anyone who openly incites the commission of a crime.... shall be punished". Article 312 provides that "Anyone who provokes the public into disobedience against law or openly praises or affirms an act that is stipulated as offence by law" will be punished. Paragraph 2 of Article 312 points out that anyone who provokes by way of inciting the public and foments social hatred and enmity between "classes, races, religions, sects, or regions" will be subject to punishment.

In these paragraphs, incitement means the possibility of causing others to commit an act. If the idea expressed or words spoken are incitement to or encouragement of the commission of crime, then this constitutes "provocation", and as such lies outside the limits of freedom of expression.

Undoubtedly, the expression of thought is not a crime. It would be contrary to the freedom of thought, thus to the whole idea of liberal democracy, to consider the expression of an idea, thought or opinion as an offence. But if an idea has the characteristic, because of the fashion in which it is expressed, of inciting people to act against the existence of the State and to endanger the social order, then that idea, because of the fashion in which it is expressed, is accepted as amounting to a crime. In fact, inherent to this conclusion is the general recognition that democracies have the right to defend themselves against threats to their existence and that this constitutes legitimate self-defence.

Propaganda, as referred to in the article, needs to be assessed in this context.

Democratic States regard the freedom of propaganda as legitimate, so long as this freedom is not used for incitement, provocation, encouragement of the commission of crime, overthrowing the liberal political order; destroying the rights and freedoms of others; handing over part of the territory of the State to foreign rule; or dividing the nation.

Whether or not the way of expression of thought or opinion creates a clear and immediate threat to the society, State, regime and social order and whether or not it orientates persons towards acts against laws are important points in evaluating propaganda as a crime in this context.

Therefore, the prohibition of propaganda which aims at the disruption of indivisible integrity of the State together with the homeland and the nation as mentioned in Article 8, does not vitiate by itself the democratic characteristics of our State.

On the other hand, the first paragraph of Article 8 as currently in force has been responsible for a good deal of debate and criticism nationally and internationally. This paragraph states that "irrespective of the method, objective or thought behind it, any form of written and oral propaganda aimed at disrupting the indivisible integrity of the Republic of Turkey" is ambiguous. In fact the wording of the Article is so general that it makes possible for the Article to include anything as propaganda. Thus it permits excessive restrictions on freedom of expression which are incompatible with the requirements of a democratic society.

In view of the practical problems currently experienced in connection with freedom of thought and expression and the international agreements to which our State is a party, it is necessary to revise the existing Article Eight.

The revision made in the article removes the wording in the first paragraph which created the ambiguity: "Whatever method, objective and thought" In making this revision, we aim to create the circumstances which will be conducive to the free expression of thought, thus meeting the standards of western democracies. In addition, lowering the minimum prison term from two years to one enables the courts to suspend sentences or commute them to fines, by virtue of a new clause added to Article 13.

In Article 13 of Law No. 3713, it was stated that all offences contained in the aforementioned law may not be commuted to fines or other measures.

The seriousness of terrorist crimes for the society as a whole was considered not to justify the conversion of sentences of imprisonment into fines or other penalties.

However, as a result of the amendment to Article 8, this prohibition is to be lifted as far as propaganda crimes are concerned. This will be in line with trends in modern enforcement and penal laws which take account of the character of the person who committed the offence. In line with this trend, a light sentence should not be served in prison. Thus it is appropriate to commute prison sentences given for separatist propaganda to fines or to convert into another measure or to suspend them.

To this end a temporary article is introduced into the amendment in order to enable the application of the provisions of Articles 4 and 6 of Law No. 647, when conditions are met.

SUMMARY ANALYSIS OF THE AMENDMENT

The revision comprises the following points:

1. The phrase in the old Article 8 "irrespective of means, objective and thought" practically deprived this article of the slightest notion of intent. Consequently the court had to judge exclusively the meaning of the words expressed in a speech, while supposing that they automatically contained intent to disrupt the territorial integrity. As a result of this broad and unclear focus, the freedom of expression has been restricted in Turkey beyond "what is necessary in a democratic society" (Article 10, European Convention on Human Rights).
2. The Law introduces the concept of intent (or aim disrupt the territorial integrity and political unity) in written or oral propaganda. This will focus the statute on those whose "intent to destroy" can be considered serious or effective. In a country where there is separatist terrorist violence, this aim or intention should be manifested in written or oral propaganda which encourages violence, terrorism, and related crimes for the purpose of separatism.
3. Prison sentences of from two to five years in the previous version of Article 8 are lowered in the Law to from one to three years. Thus the penalty ceases to be "criminal imprisonment" and becomes simple "imprisonment". In the Turkish legal system, the revision in Article 13 enables the courts to suspend the execution of punishment or to commute them to fines.
4. New amendments therefore introduce the possibility of commuting punishments to fines as well.
5. Consequently, the Article help release those serving prison sentences under the previous Articles 8 and 13, through:
 - reducing the upper and lower limits of imprisonment.
 - converting prison terms into fines or suspending future prison terms.
 - requiring "aim or intent" to disrupt the integrity of the country.

6. Article 8 stipulates that the courts have to re-examine the cases of those in prison within a month of the effective date of the law. In line with the new spirit of this article, the courts quickly and benevolently reviewed the cases and began releasing those in prison even before the end of one month.

7. People, especially journalists and academicians, now enjoy much broader freedom of expression, since "they do not aim or intend to break up the territorial integrity and political unity of the country".

8. The courts take into account in their decisions the grounds for the article which is adopted together with the article itself by the Parliament.

There are three main points in the text of the grounds as follows:

1. The concept of intent must be clarified.
2. The new article introduces the possibility of commuting prison sentences to fines.
3. The amendment has been inspired by and complies with articles of the European Human Rights Convention, especially Article 10 of the Convention.

IMPACT OF THE AMENDMENT

As a result of the amendment, the courts ruled 141 release decisions and 7 acquittals as of January 8, 1996

<http://www.mfa.gov.tr/grupa/ac/aca/hmnr09.htm>

ANNEX D: REGULATIONS ON APPREHENSION, POLICE CUSTODY & INTERROGATION



Regulations on Apprehension, Police Custody and Interrogation

PART ONE

Aim, Context, Legal Basis and Definitions

Aim

Article 1- The aim of this Regulation is to arrange matters related to the principles and procedures which will be applied by all constables and officers of all Police forces during legal investigation, which will be carried out in line with the information and orders of the Prosecutors of the Republic, the rights of persons apprehended, under custody or under detention and the standards of detention centers, the training, powers and responsibilities of the personnel as to interrogation procedures.

Context

Article 2- The provisions of this Regulation covers all Police forces.

Legal Basis

Article 3- This Regulation has been prepared bearing in mind the Code of Criminal Procedure numbered 1412, the Law on the Establishment and Prosecution Procedures of the State Security Courts numbered 2845, the Law on the Establishment, Mandate and Prosecution Procedures of Juvenile Courts numbered 2253, the Code on the Prosecution of Flagrant Crimes numbered 3005, the Law on the Duties and Jurisdiction of the Police numbered 2803, the Law on the Institution, Duties and Powers of the Gendarmerie numbered 2803, Law on Coast Guard numbered 2692, and the provisions of other relevant legislation.

Definitions

Article 4- The following is understood by the definitions in this Regulation:

Security Forces: Police, Gendarmerie, Coast Guard and Special Security Forces,

Apprehension: Control, by temporary and de facto restriction, of a person's freedom, without the Judge's order before detention, when there's the need to overcome a danger aiming at public security, public order or against a person's body or life, or when there is a strong trace, indication, circumstantial evidence, and proof that a crime has been committed.

To take under custody: Temporary control of a person's freedom who has been apprehended according to the law, within the legal period, and without any prejudice to his health, with a view to complete procedures against him until he is turned over to judicial authorities or released.

Report on UK Immigration & Nationality Directorate fact finding mission to Turkey

To take under detention: Temporary control of a person's freedom, in accordance with the law, within the legal period, and without prejudice to his health, until he is turned over to relevant authorities or released.

Cases where a delay may cause problems: Cases when if no immediate action is taken, there is a risk where the suspect may escape, his identity may not be determined, and traces, indication, circumstantial evidence, and proof of the crime may disappear.

Flagrant Crime: Crime committed by a person caught upon or indication, trace or circumstantial evidence or proof showing crime has been committed just before, or of a person caught by forces or others during the crime or right after the crime.

Collective Crime: Crimes committed by three or more persons. objects that the security

Suspect: Persons about whom a preliminary investigation is on course, or a person subject to police inquiry prior to preliminary investigation, or a person unable to prove his identity by a document or through witnesses reliable or known to the police, or a person whose documents' authenticity is suspected and persons who are simply suspected to have committed a crime.

Information gathering: Listening to and registration of the statement of persons who are not yet suspected of having committed a crime, or witnesses, or victims, with a view to determine or clarify a crime.

Taking statements: Listening to and registration of statements of people who are suspected to have committed a crime, by security forces, while informing them of the crime they are suspected to have committed, and reminding them of their right to remain silent and to benefit from defense, and their right to request the collection of evidence to escape from suspicion, according to the provisions of article 135 of the Code of Criminal Procedure.

The accused: A person against whom a public trial has been initiated by the Prosecutor of the Republic upon an alleged crime.

Interrogation: Interrogation of the accused or the suspect by the Judge as a result of a crime.

The well being of investigation: Investigation carried out in a manner which will not allow for the alteration, destruction or concealment of evidence or the escape of suspects not yet apprehended.

Person Responsible for the Custody and Detention Center Personnel or the Officer in charge of the Detention Center entrusted to read to persons detained or under custody their rights, to keep records, and to act in accordance with the law.

Custody Unit: Security Forces in charge and authorized to keep under custody, within the legal period, apprehended persons, until the procedure is completed for release or for the transfer to judicial authorities.

Detention Center: Places built with a view to keep suspects or accused persons until the procedure is completed for their transfer to judicial authorities.

PART TWO

Apprehension, Custody and Detention

The Authority to Apprehend, Take into Custody and to Detain

Article 5- Security Forces have the authority to apprehend, bring under custody or detention the following persons:

a) Persons specified by article 127 of the Code of Criminal Procedure and in other legislation:

1) Persons without an arrest warrant, encountered during the crime or pursued for a flagrant crime, with a risk to escape, or those whose identity cannot be immediately determined, 2) Suspects, where there are strong traces, indication, circumstantial evidence and proof that they have committed or have attempted to

commit a crime, 3) Persons who do not obey the orders given by the security forces or who do not respect the measures taken, 4) Persons who resist security forces, 5) Persons who must be apprehended for they haven't carried out an obligation stemming from the law or for whom there is an arrest warrant issued by relevant authorities, 6) Persons who buy, sell, possess or use drugs, 7) Persons who are drunk at a level to disturb public order or who attack others under such a condition, 8) Persons who disturb public order, who attempt to attack others and who fight,

b) Provisions set by articles 13 and 17 of the Law on Responsibilities and Jurisdiction of the Police:

1) In line with the principles laid by the law, with a view to implement measures taken for cure, education, and correction in an institution, of persons who constitute a danger for society, such as mentally ill persons, drug and alcohol addicts, and those who may spread diseases, 2) Minors who are decided to be transferred to special institutions or to similar official or private institutions, or to be taken to relevant authorities, 3) Persons who enter the country illegally or who have been decided to be expelled, 4) Those who cannot prove their identity to security forces with a document or through reliable persons or whose document is suspected to be fake,

may be taken under custody or detention for a period not exceeding 24 hours.

In cases enumerated in paragraph 1, part (a), subdivision 1, apprehension may be carried out by anybody in addition to security forces.

The apprehension of suspects for flagrant crimes, the pursuance of which is subject to complaint, committed against minors or against those unable to control themselves due to physical or mental diseases, invalidity or weakness is not subject to complaint.

Apprehension Procedures

Article 6- Apprehension may be carried out within the frame of powers enumerated in article 5 and upon a Judge's decision or the order of the Prosecutor of the Republic.

In cases when apprehension is carried out directly by security forces, the procedure, the name of the person apprehended and the measures taken are immediately communicated to the Prosecutor of the Republic.

The person apprehended is first searched and deprived of elements such as weapons which may harm him or others.

During apprehension, necessary measures will be taken to prevent the destruction or alteration of trace, indication, circumstantial evidence and proof of the crime.

During apprehension, the person will be informed of his right to inform his relatives of his apprehension, the reason for apprehension, and the right to remain silent, regardless of the nature of the crime. During apprehension, informing immediately the relatives of the detained person will depend whether this information will harm the investigation as to the context and subject.

A record will be held for apprehension. A copy of this record will be forwarded to the apprehended person. The person will also be given a signed copy of the "Formulaire on Suspect and Accused Rights" (Annex A) in which it is affirmed that the person has been informed of his rights.

The apprehended person will be taken to a custody center as soon as possible.

Measures to be applied against persons apprehended and to be transferred

Article 7- The person will be handcuffed in cases if he resists, attempts to attack or attacks officials.

If there is a risk for the person to escape, it is at the discretion of the security forces to handcuff him.

Body Search

Article 8- The following provisions will be applied for persons taken to the custody center.

a) Before being taken to the center, they will be searched thoroughly. In case of body search which may cause embarrassment, ladies will be searched by female personnel. b) Persons will be deprived of objects which may harm them such as belts, ties, ropes, sharp and cutting objects. c) Belongings and money of persons will be preserved. The amount and serial numbers of the money will be determined, belongings will be described, and the persons taken into custody will be given a document.

Informing Relatives

Article 9- The apprehended person will be given the opportunity to inform relatives through: a) If accompanied by a person, through that person. b) By phone if he resides at the place of the crime and if he knows the phone number of his relative. c) Through the local police station if he does not know the telephone number of his relative. d) By phone or by establishing contact with the relative if his house is not at the place of the crime.

If a foreigner is apprehended, his Embassy or Consulate will be informed.

For crimes falling under the jurisdiction of the State Security Courts, the relatives will be informed through the same way if there is no harm to the outcome of the investigation,

If informing relatives of the apprehended person harms the ongoing investigation, this will be specified in the minutes.

Health Control

Article 10-If the apprehended person is to be taken under custody or if he has been apprehended by use of force, his health at the time of the apprehension will be determined by a medical control.

In cases when, the apprehended person's location is changed for any reason, the detention period is extended, he is released, or he is sent to judicial authorities, his condition of health will be determined by a medical report.

The persons whose health has deteriorated or suspected to be in bad condition for any reason during detention period, will be immediately taken to a doctor.

For crimes falling under the jurisdiction of the State Security Courts, in case the detention period is extended, provided the condition that the period between two controls does not exceed 4 days, the apprehended person's health condition will be determined by a medical report.

Medical examination, control and cure are carried out free of charge by forensic institutions, official health institutions or municipality doctors. Doctor's report is written in four copies. One is kept at the detention center, the second one is given to the person when he leaves the detention center, the third one is included in the investigation file, the fourth one is kept at the health institute.

In cases where there is no restriction with regard to the investigation and to security considerations, the doctor and the person will be left alone during the examination.

Detention Center Procedures

Article 11 - The admission of the person to the detention center following the search, is done by registration to the "Book of Admissions to the Detention Center" (Annex B).

The following must be observed throughout detention procedures:

a) Those related to the same crime, people hostile to each other, women and men will not be put together. Children will be kept separately from adults. b) Except for necessity, no more than five persons may be held

together at the detention center. d) Persons may go to the toilet and clean up under the supervision of the officer in charge. e) If a person displays an aggressive attitude and if he starts harming himself, first he will be tried to be convinced to calm down. Should this not be possible, force may be used to control his action. But, unless it is necessary and unless there is a danger to his or others' life, body integrity or health, force will not be used. f) Persons, whose aggressive attitude and acts cannot be controlled, will be sent to health institutions for medical care. g) Expenses related to inform relatives of the apprehended person, feeding, transfer, health preservation and cure will be financed from the national budget allocations.

Book of Admissions of the Detention Center

Article 12- Detention procedures are carried out by registering the detainees in the Book of Admissions. This Book, which is subject to supervision includes:

a) Identity Information

1) Name and Surname 2) Father's name 3) Sex 4) Place and date of birth 5) Place of civic registration, 6) Family and registration number 7) Passport number for foreigners 8) Home address, office address and telephone numbers

b) Information concerning detention

1) Imputed crime and reasons for detention 2) Place and date of imputed crime 3) Name of the officer who issued the apprehension and detention orders 4) Name of the Prosecutor of the Republic who has been informed 5) Date and time when the Prosecutor of the Republic has been informed 6) Information gathering process section registration

c) Admission procedures

1) Place, date and hour of apprehension 2) Admission date and hour 3) Medical report at admission, date, number and summary 4) Belongings put under custody during the search, signatures of the officer and the detainee 5) Name, surname, rank and signature of the officer at the admission

d) Procedures about the accused

1) Name of the relative informed 2) Name and telephone number of the diplomatic mission informed 3) Information on whether an interpreter has been assigned, name and signature of the interpreter 4) Signed declaration or the person under custody requesting a lawyer 5) If a lawyer is requested, name of the Bar, or the name and surname of his lawyer 6) Name and surname, registration number, arrival time and signature of the lawyer present, 7) Name of the authority which has decided on an extension period, date of the decision, number and period of extension

e) Exit procedure

1) Date and hour of exit 2) Office which has issued the medical report on exit, date, number and summary of report 3) Authority the person under custody has been sent to 4) Date and number of the transfer document 5) Name, Surname and signature of the officer who has taken over the person 6) Belongings returned to the person and his signature 7) Belongings given to the Officer and his signature 8) Temporary leave 9) Additional procedure and results 10) Name, surname, rank and signature of the officer taking care of departure procedure 11) Name, surname, rank and signature of the supervisor Other necessary information, in addition to those above mentioned, may be added to the Book.

PART THREE

Custody Period, Release and Transfer to Judicial Authorities

Custody Period

Article 13- Custody period of an person whose liberty has been restricted starts as soon as this person is apprehended.

If a person apprehended for crimes committed by one or two persons is not released, he must be arraigned before the competent judge no later than 24 hours, except the necessary time needed for his arraignment before the nearest judge. If the crime falls under the scope of the State Security Courts, this period is 48 hours.

Extension of the Custody Period

Article 14- For reasons such as difficulty in gathering evidence or the presence of a large number of defendants and similar reasons, the Public Prosecutor may prolong this period by a written order up to four days in cases of collective crimes, including for crimes falling under the scope of the State Security Courts.

In spite of the four day extension, if the investigation is still not completed, upon the request of the Prosecutor and the decision of the Judge, the arraignment of suspects before the Judge may be extended to 7 days.

For crimes committed in emergency regions and falling under the scope of State Security Courts, the 7 day period may be extended to 10 days upon request of the Prosecutor of the Republic and the decision of the Judge.

Reference to the Judge against apprehension

Article 15- The petition of the person apprehended must be conveyed to the competent judge as fast as possible, with a view to release him, against the written order of the Prosecutor of the Republic regarding the apprehension procedure or the extension of the custody period, including for crimes falling under the scope of the State Security Courts

Transfer to Competent Authorities or Release

Article 16- The apprehended person will be released immediately by security forces if the reason for apprehension is not determined or if the reason for apprehension no longer exists.

The apprehended person will be sent to the relevant institution if he needs medical assistance.

The custody periods are maximum periods, and procedures for people under custody should be completed in the shortest time possible.

Persons under custody are immediately sent by security forces to the relevant Prosecutor of the Republic without waiting for the custody period to end.

During the custody period, in cases when the reason for custody no longer exists or if no evidence has been gathered against the person, the Prosecutor of the Republic will be immediately informed and the person will be released.

Despite the order issued by the Prosecutor of the Republic on apprehension or extension of the custody period, release order issued by the judge will be immediately put into force.

Prohibition to Apprehend Again

Article 17- A person apprehended and released may not be apprehended and taken under custody again for the same crime, unless there is enough evidence and an order of the Prosecutor of the Republic related to the crime subject to apprehension.

Specific Clause on Minors

Article 18- The following restrictions are in force with regard to the apprehension and interrogation of minors.

a) As it is prohibited by the Turkish Penal Code and the Code on the Law on Juvenile Courts' Establishment, Mandate and Trial Procedures, to punish minors not above the age of eleven, and deaf and mute minors not above the age of 15 on the date of the crime, these persons cannot be apprehended. Upon an offense which necessitates one year or more prison sentence, minors may be apprehended to have their identity and the nature of the crime determined. Minors will be released immediately after determining the nature of the crime. Minors cannot be used in anyway in determining the nature of the crime. Identity of the minors and the nature of the crime will be submitted immediately to the Prosecutor of the Republic to obtain a decision.

b) Minors over the age of eleven, but below the age of fifteen may be apprehended for having committed a crime. These minors will be sent to the Prosecutor of the Republic while their relatives and a lawyer are informed. The preparatory investigation will be carried out by the Chief Prosecutor of the Republic or a Prosecutor of the Republic appointed by him.

c) The preparatory investigation of minors over the age of fifteen and below the age of eighteen may be carried out by security forces. The preparatory investigation will be carried out according to the following provisions:

1) The provisions of the Law numbered 3005 of the Code on the Prosecution of Flagrant Crimes cannot be applied. 2) The parents or the tutor will be informed that the minor has been taken under custody. 3) Except for crimes falling under the scope of the State Security Courts, they may benefit from the assistance of a defense counsel even if they have not requested so, and parents or the tutor may act as a lawyer. 4) Suspected minors' statement may be taken in presence of the lawyer. 5) In cases when it is not determined that this is against his interests or if there is no legal restrictions, parents or the tutor of the minor may be present during statement. 6) Minors will be kept separately from adults. 7) If the crimes defined in the Code on the Law on Juvenile Courts' Establishment, Mandate and Trial Procedures are committed together with adults, the files of the minors will be separated, and the investigation of adults and minors will be carried out separately during the preparatory investigation. 8) Identity and acts of minors will be held secret. 9) In case the victim of the flagrant crime is a minor, there is no need for a complaint to apprehend suspects and carry out investigation for acts where the investigation is related to the complaint of the victim of the crime. 10) Procedures related to minors will be carried out, to the maximum extent possible, by officers with plain clothes. Minors cannot be handcuffed. 11) For minors below the age of eighteen, all kinds of research, which does not have an investigation character and a crime allegation, may be carried out. Traces, indication, circumstantial evidence and proof of the crime will be determined, preserved and documented. Information concerning the suspect will be gathered and all urgent procedures which should not be delayed will be carried out.

PART FOUR

Matters Related to the Lawyer

Appointment of the Lawyer

Article 19- The apprehended person or the suspect may appoint a lawyer, as well as his legal representative may do so, in case he has one.

Except for crimes falling under the scope of the State Security Courts, if the person is not able to appoint a lawyer, upon his request, the Bar will appoint one for him. Such a request will be communicated to the Bar immediately by the security forces.

If the apprehended person or the suspect is not over the age of eighteen or if he is deaf or mute or unable to defend himself and if no lawyer is found, without his request, the security forces will inform immediately the Bar to appoint a lawyer.

Meeting with the Lawyer

Article 20- The apprehended person may meet with the lawyer anytime and in an environment where others will not hear the conversation.

With a view not to delay the investigation and upon the request of the apprehended person, without a power of attorney, one lawyer may be present during statement.

Correspondence with the lawyer cannot be subject to control.

In crimes falling under the scope of the State Security Courts, the apprehended person may meet his lawyer only upon extension of the custody period by order of the Judge.

The Right of the Lawyer to examine the case file

Article 21 - The Lawyer may examine anytime the minutes of the statement of the apprehended person, all the experts' reports and all other preparatory documents and may obtain copies of them from the security forces. Other information, except those mentioned previously, in the file, may be examined only upon the decision of the Prosecutor of the Republic.

PART FIVE

Statement

Principles of Statement

Article 22- Statement may be obtained by constables officers under the following principles and codes:

and police

a) The clear identity of the stating person is determined. The stating person must give correct answers to questions relating to his identity. b) He will be told that he can inform any of his relatives about his apprehension, and these relatives will be informed of his apprehension. c) The nature of the accusation against him will be explained. He will be reminded that he has the legal right to refrain from making any explanation on the crime attributed to him. d) He will be told that he has the right to have a lawyer; if he does not have the financial means to hire one, the Bar Association can appoint one for him; if he wishes so, the lawyer may be present during statement without a power of attorney. e) If the person requests so, the Bar will be informed to nominate a lawyer. The lawyer will be expected to arrive in a reasonable time; in case he doesn't arrive, this will be registered in the minutes and the statement procedure will begin. f) The person will be given the opportunity to clear away the reasons for suspicion against him and to submit facts in his favor. g) He will be reminded that he may ask for the gathering of concrete evidence in order to relieve himself from suspicion. h) Information will be obtained with regard to the civic status of the person. i) The statement will be carried out in a manner which will not hamper the suspected person to reveal evidence in his favor. j) Minutes will be kept during his statement. k) The place and date of the statement, the clear identity of the suspected person, the names and the status of those present during statement, whether the above mentioned rules have been observed during the procedure, if not, the reasons, will be included in the minutes. l) Minutes, after been read, will be signed by all those present. If someone refrains from signing, the reasons will be specified in the minutes.

The lawyer may not intervene in a way which gives the impression that he is replacing the suspect during interrogation. He may only offer legal assistance. Legal assistance does not mean interventions which may obscure material facts. The lawyer may remind the suspect all his legal rights and all interventions by the lawyer are registered in the minutes.

Points (d) and (e) of the first paragraph cannot be applied to a person interrogated for crimes falling under the scope of State Security Courts. Informing the relatives of the suspect of his apprehension/custody is dependent on whether this information will not reveal the context and subject of the investigation. In this kind of crimes, before the statement, the person will be informed of the crimes alleged against him and will be asked whether he wishes to reply on the accusation.

Prohibited Methods in Interrogation

Article 23- The statements of the suspect must be based on his own free will. Statement obtained through forbidden measures, even with the consent of the suspect, cannot be considered as evidence. For this reason, the person under custody, a) Cannot be submitted to physical or emotional interventions which disrupt free will, such as mistreatment hampering free will, torture, administering medicine by force, tiring, misleading, use of physical force or violence, use of devices. b) Cannot be promised an illegal benefit.

PART SIX

Detention Center and Interrogation Room

Detention Center and Interrogation Room

Article 24- Detention centers should be at least 7 square meters large, 2.5 square meters high and should be arranged in a way to leave at least 2 meters between the walls. Sufficient natural light and air circulation will be ensured.

Except when necessary, no more than 5 people can be held together under custody.

There will be a sufficient number of fixed and robust seats for people under custody to sit down and sleep.

By taking into account season conditions and material conditions of detention centers, a sufficient number of beds and blankets will be provided for persons who will spend the night in custody.

Necessary measures will be taken to provide sanitary and hygiene conditions.

The approved Regulation will be hanged at the entrance of the Detention Center. Interrogation rooms should be independent places, specially prepared, with necessary technical material, internal and external security provided.

Within budget limits, detention and interrogation rooms have to conform with standards.

PART SEVEN

Various and Last Provisions

Supervision of Detention and Interrogation Rooms

Article 25- Relevant units of Police forces will carry out supervision to verify the compatibility of detention and custody rooms to standards.

Chief Prosecutors of the Republic, or Prosecutors of the Republic mandated by them, as a prerequisite of their judicial task, examine detention centers, interrogation rooms, the conditions of people under custody, the reasons and duration of custody, and all registration procedures related to custody will be verified by them, and they will report the results in the Book of Admissions of the Detention Center.

Relevant authorities reserve their right to supervise those places as indicated in the legislation.

Secrecy During Preliminary Investigation

Article 26- Any person, until his guilt is proven by a Court decision, is presumed innocent, and preparatory investigation is done secretly. For this reason, during the investigation period, a person under custody cannot be shown to the public, or portrayed in the media as guilty; showing the place of crime with the media; meeting with the media or responding to their questions cannot be allowed, the investigation documents cannot be made public.

Police forces, with a view to inform the public of their activities may inform the media through their relevant units by a press statement and by taking into account the provisions of special legislation related to informing the media by security forces.

Responsibilities

Article 27- Police forces, which have been given by law the authority to apprehend, to detain, to put under custody, and to interrogate are responsible for the implementation of the provisions of this Regulation.

Quality of Personnel

Article 28- Personnel which will implement the tasks given to Police forces by this Regulation must be duly trained.

Training of Personnel

Article 29- Experienced, patient, calm Personnel, familiar with the psychology of suspects, with high degree of comprehension, succeeded in a psycho-technical test may attend training.

The training period and program may be determined with the approval of the Chief of Gendarmerie and General Directorate of Security. Personnel having succeeded in the training program will be given a certificate by the Chief of Gendarmerie and General Directorate of Security.

Personnel who failed in the training program will be subject to the provisions of In Service Training Directive.

No additional certificate will be given to Personnel who attends repetition or reminder programs.

Temporary Article 1 - A training plan will be prepared within three months of the publication of this Regulation for the training of Police forces which will carry out tasks according to this Regulation, and the training of present personnel will be completed in two years.

Abrogated Provisions

Article 30- "Gendarmerie Chief of Staff, Custody, Interrogation and Deposition Regulation" dated 18/1/1996, numbered 318 and "General Directorate of Security, Custody, Interrogation and Deposition Regulation" dated 8/5/1995, numbered 148 have been abrogated.

Entry in Force

Article 31 - This Regulation enters into force as of the date of its publication in the Official Journal. (1 October 1998)

Legislation

Article 32- The provisions of this Regulation is executed by the Ministers of Justice and Interior.

21/8/1998

APPROVED

Hasan Denizkurdu Kutlu Aktaş
Minister of Justice Minister of Interior

<http://www.mfa.gov.tr/grupa/ac/aca/hmnr919.htm>

ANNEX E: ACCESSION PARTNERSHIP DOCUMENT, AS ADOPTED IN APRIL 2001.

The following short and medium term priorities and intermediate objectives have been identified for Turkey:

Short-term (2001)

Enhanced political dialogue and political criteria

- In accordance with the Helsinki conclusions, in the context of the political dialogue, strongly support the UN Secretary General's efforts to bring to a successful conclusion the process of finding a comprehensive settlement of the Cyprus problem, as referred in the point 9 (a) of the Helsinki conclusions.
- Strengthen legal and constitutional guarantees for the right to freedom of expression in line with article 10 of the European Convention of Human Rights. Address in that context the situation of those persons in prison sentenced for expressing non- violent opinions.
- Strengthen legal and constitutional guarantees of the right to freedom of association and peaceful assembly and encourage development of civil society.
- Strengthen legal provisions and undertake all necessary measures to reinforce fight against torture practices, and ensure compliance with the European Convention for the Prevention of Torture.
- Further align legal procedures concerning pre-trial detention with the provisions of the European Convention on Human Rights and with recommendations of the Committee for the Prevention of Torture.
- Strengthen opportunities for legal redress against all violations of human rights.
- Intensify training on human rights issues for law enforcement officials in mutual co-operation with individual countries and international organisations.
- Improve functioning and efficiency of the judiciary, including the state security court in line with international standards. Strengthen in particular training of judges and prosecutors on European Union legislation, including in the field of human rights.
- Maintain de facto moratorium on capital punishment.
- Remove any legal provisions forbidding the use by Turkish citizens of their mother tongue in TV/radio broadcasting.
- Develop 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.

Economic criteria

- ensure the implementation of the current dis-inflation and structural reform programme agreed with the IMF and the World Bank, in particular, ensure the control of public expenditure.
- proceed to the swift implementation of the financial sector reform, aiming at guaranteeing transparency and surveillance.
- prepare a pre-accession fiscal surveillance procedure consisting of an annual notification of fiscal positions, in line with EU procedures and the presentation of a Pre-accession Economic Programme (PEP). The PEP aims at preparing the country for accession through a comprehensive economic programme.
- proceed with agricultural reforms
- continue the privatisation of state owned entities, taking into account the social component.

Internal market

- *Intellectual and industrial property rights*: continue alignment of intellectual property legislation and strengthen fight against piracy.
- *Free movement of goods*: accelerate alignment of European standards, certification and conformity assessment and marking; start to reinforce existing market surveillance and conformity assessment structures with equipment and training; speed up work relating to specific sectors (foodstuffs, pharmaceuticals, cosmetics, textiles) and the framework legislation transposing New and Global Approach principles and create compatible administrative infrastructure; remove technical barriers to trade.
- *Competition* : adapt legislation designating the responsibility of state aid control in order to provide the basis for transparency and regular state aid monitoring
- *Public procurement*: start alignment with the Community acquis, in particular by making the procurement system more transparent and accountable.

Taxation

- start the alignment of excise duties and VAT, in particular with respect of rates, scope of exempt transactions, taxable scope and the tax structure; ensure that new tax measures comply with the principles of the Code of Conduct for Business Taxation and eliminate any discriminatory measures.

Agriculture

- develop a functioning land register, animal identification systems, plant passport systems and the improvement of administrative structures in order to monitor the agricultural markets and implement environmental, structural and rural development measures.

- establish an appropriate alignment strategy for veterinary and plant health Community legislation with first priority the harmonisation of legislation to combat animal and plant diseases and upgrade enforcement capacity, in particular of laboratory testing, inspection arrangements and establishments.

Fisheries

- establish administrative structures to monitor the exploitation of fisheries resources, market and structural development through a resource management policy, inspection and control measures and improvement of the fishing fleet register.

Transport

- adopt a programme for transposition of the transport acquis.
- start aligning legislation on maritime safety standards; implement and enforce safety standards.
- adopt an action plan for maritime transport on monitoring classification societies and improving the performance of the Turkish flag register.
- start strengthening maritime administration, particularly that of flag state control.

Statistics

- adopt a strategy for the further development of statistics, in particular demographic and social statistics, regional statistics, business statistics, external trade and agricultural statistics.
- bring the business register up to EU standards.

Employment and Social Affairs

- adopt a strategy and a detailed programme for the alignment of the acquis.
- further strengthen efforts to tackle the problem of child labour.
- ensure that the conditions are in place for an active and autonomous social dialogue, inter alia by ensuring that trade union rights are respected and by abolishing restrictive provisions on trade union activities.
- support social partners' capacity-building efforts to develop and implement the *acquis*.

Energy

- put in place a programme for the adoption of the EU energy acquis.
- establish an independent regulatory authority for the electricity and gas sectors; grant the authority and the means to carry out its tasks effectively.
- prepare for the establishment of the internal energy market , notably the electricity and gas directives, and the opening up of the markets.

Telecommunications

- align with the EU acquis in areas of licensing, interconnection and universal service; further refine liberalisation needs.
- strengthen the capacity building of the independent regulatory authority i.e. reinforce its ability to implement regulations.

Regional policy and co-ordination of structural instruments

- prepare a NUTS classification in accordance with Community rules.
- adopt a strategy for the development of an effective regional policy.
- start introducing regional policy criteria in the selection of projects in Turkey's planning process.

Culture and Audio-visual Policy

- start alignment of legislation in the field of audio-visual policy, in particular with regard to the Television without Frontier Directive.

Environment

- adopt a detailed directive-specific transposition programme of the acquis,
- transpose the Environmental Impact Assessment directive.
- develop a plan for financing investments (directive specific), based on estimations of costs of alignment and realistic sources of public and private finance year-by-year.

Justice and home affairs

- develop information and awareness programmes on the legislation and practices in the European Union in the field of JHA.
- enhance the fight against organised crime, drugs trafficking and corruption and strengthen capacities to deal with money laundering.

Customs

- continue aligning of legislation on free zones and ensure enforcement of the new Customs Code and its implementing provisions.

Reinforcement of administrative and judicial capacity

- improve the capacity of public administration to adopt, to implement and to manage the acquis in particular through training and appropriate co-ordination between ministries, including the development of effective border control to prevent illegal immigration and illegal trafficking in human beings and drugs.

- accelerate the modernisation of public administration including strengthening the relevant administrative institutions;
- strengthen the financial control functions, improve the efficiency of the customs and modernise the tax administration and increase the anti-fraud capacity; reinforce veterinary and phytosanitary controls also at borders, restructure and upgrade food control administration, improve operation of the judicial system and further promote training for the judiciary in Community law and its application.
- adopt the legal, administrative and budgetary framework (audit manual and audit trail) for programme management.

Medium-term

Enhanced political dialogue and political criteria

- In accordance with the Helsinki conclusions, in the context of the political dialogue, under the principle of peaceful settlement of disputes in accordance with the UN Charter, make every effort to resolve any outstanding border disputes and other related issues, as referred in the point 4 of the Helsinki conclusions.
- Guarantee full enjoyment by all individuals without any discrimination and irrespective of their language, race, colour, sex, political opinion, philosophical belief or religion of all human rights and fundamental freedoms. Further develop conditions for the enjoyment of freedom of thought, conscience and religion.
- Review of the Turkish Constitution and other relevant legislation with a view to guaranteeing rights and freedoms of all Turkish citizens as set forth in the European Convention for the Protection of Human Rights; ensure the implementation of such legal reforms and conformity with practices in EU Member States.
- Abolish death penalty, sign and ratify Protocol N° 6 of the European Convention of Human Rights.
- Ratify the International Covenant on Civil and Political Rights and its optional protocol and the International Covenant on Economic, Social and Cultural Rights.
- Adjust detention conditions in prisons to bring them in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners and other international norms.
- Align the constitutional role of the National Security Council as an advisory body to the government in accordance with the practice of EU member states.
- Lift the remaining state of emergency in the South-East.
- Ensure cultural diversity and guarantee cultural rights for all citizens irrespective of their origin. Any legal provisions preventing the enjoyment of these rights should be abolished, including in the field of education.

Economic criteria

- complete the process of privatisation.
- complete the reform of the agricultural and financial sector.
- ensure the sustainability of the pension and the social security system.
- ensure the improvement of the general level of education and health, paying particular attention to the younger generation and disadvantaged regions.

Internal market

- *Free movement of goods*: complete alignment with the EU acquis; complete alignment of European standards; complete strengthening of existing certification, market surveillance and conformity assessment structures.
- *Company law*: complete alignment with the EU acquis.
- *Data protection*: complete alignment and implement legislation.
- *Free movement of capital*: complete alignment in particular by removing restrictions for foreign investors.
- *Competition*: complete alignment with EU acquis concerning state aids including regional aid schemes and align legislation concerning monopolies and companies benefiting from special rights.
- *Public procurement*: complete alignment with the Community acquis; ensure effective implementation and enforcement.

Taxation

- complete alignment of national legislation with the EU acquis.

Agriculture

- complete preparations for the acquis in agricultural and rural development policies.
- modernise food processing establishments (meat, dairy processing plants) to meet EU hygiene and public health standards and further establishment of testing and diagnostic facilities.

Fisheries

- complete the development of the capacity to implement and enforce the common fisheries policy.
- continue to improve the overall quality standards and safety of fishery products in Turkey.

Transport

- complete alignment on road transport legislation (market access, road safety, rules for dangerous goods and taxation), railways, air transport (particularly air safety and air traffic management) and inland waterways (technical requirements for vessels).
- ensure effective implementation and enforcement of transport legislation, particularly that of maritime safety.
- prepare the Turkish transport fleet (particularly maritime and road transport) for the technical norms that will allow a complete integration into the Internal Market.

Economic and Monetary Union

- modify the law on the Central Bank in order to allow participation in the European System of Central Banks (ESCB).
- complete the independence of the Central Bank from the government.

Statistics

- adopt EU compatible statistical methodologies and practices, in particular as regards GDP estimation, harmonised consumer price indexes, short-term indicators, social statistics, business register and balance of payments.
- align macro-economic statistics further with the statistical acquis.
- ensure adequate training of staff and improve the administrative capacity.

Employment and social affairs

- remove remaining forms of discrimination against women and all forms of discrimination on the grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation
- transpose EU legislation in the fields of labour law, equality of treatment between women and men, occupational health and safety and public health, reinforce related administrative structures and those required for the co-ordination of social security.
- ensure effective implementation and enforcement of the social policy and employment acquis.
- prepare a national employment strategy; with a view to later participation in the European Employment Strategy including through the launch of a joint employment review, and in this context, develop a capacity to monitor labour market and social developments, in particular the impact of ongoing and accelerating structural change.
- further develop social protection, notably by consolidating the reform of the social security system with a view to making it financially sustainable, while strengthening the social safety net.

Energy

- restructure energy utilities and open up further the various sectors; strengthen administrative and regulatory structures.
- complete alignment of national legislation with the EU energy acquis.

Telecommunications

- complete the transposition of Community legislation.
- develop a comprehensive policy for the entire communications sector.

Regional policy and co-ordination of structural instruments

- develop a national policy for economic and social cohesion with a view to diminishing internal disparities including pluri-annual budgeting procedures and establishing structures for monitoring appraisal and evaluation.

Culture and Audio-visual policy

- complete alignment of audio-visual legislation and strengthen the capabilities of the independent television/radio regulatory authority.

Environment

- implementation and enforcement of the EU environmental acquis in particular through the development of framework and sector legislation, together with the strengthening the institutional, administrative and monitoring capacity to ensure environmental protection.
- implement the acquis with particular attention to the framework legislation, the horizontal legislation, and to the legislation on nature protection, on water quality and on waste management; implement a waste management strategy.
- establish monitoring networks and permitting procedures as well as environmental inspectorates, including data collection.
- integrate sustainable development principles into the definition and implementation of all other sectoral policies.
- implement and enforce the Environmental Impact Assessment directive.

Customs

- complete alignment of legislation in particular on free zones, dual use goods and technologies, precursors and counterfeited and pirated goods.

Justice and home affairs

- develop training programmes on Community Law and on the implementation of the JHA Acquis.

- further develop and strengthen JHA institutions with a view in particular to ensuring the accountability of the police.
- adopt the EU acquis in the field of data protection so as to be able to fully participate in the Schengen Information System and in Europol.
- start alignment of visa legislation and practice with those of the EU.
- adopt and implement the EU Acquis and practices on migration (admission, readmission, expulsion) so as to prevent illegal migrations.
- continue strengthening of border management and prepare for full implementation of the Schengen Convention.
- lift the geographical reservation to the 1951 Geneva Convention in the field of asylum and develop accommodation facilities and social support for refugees.
- adopt and implement the acquis of the EU in the field of corruption, fight against drugs, organised crime, money laundering and judicial co-operation in criminal and civil matters; further intensify international co-operation in those fields.

Reinforcement of administrative and judicial capacity

- complete public administration modernisation reform to ensure efficient management of EC policies, including strengthening of border management and preparation of full implementation of the Schengen Convention.
- complete the legislative framework for internal and external financial control; complete the setting up of a central organisation within the government for harmonising internal audit/control functions; complete setting up of internal audit/control units in spending centres; finalise “functional independence” for national internal controllers/auditors at both central and decentralised levels and “ex-ante” financial control; issue an audit manual and develop audit trial for control of EU funds.
- complete territorial reform and develop concept of regional and municipal management.
- set up operational structures on regional level and reinforce existing administrative structures dealing with regional development.

ANNEX F: TURKEY'S NATIONAL PROGRAMME FOR THE ADOPTION OF THE ACQUIS



EU National Programme / Introduction and Political Criteria (Unofficial translation)

1.1. INTRODUCTION

The modern Turkish Republic is founded on the principles of a peaceful foreign policy, secularism, the rule of law, a pluralistic democratic system based on participation, and fundamental human rights and freedoms.

The Turkish Republic founded under the leadership of Atatürk underwent, in a short period of time, sweeping reforms based on the contemporary system of values in all spheres of social life. These reforms enabled the Turkish nation to participate in the system of values shared by the European family of nations with which this nation has a common history and geography.

As of the proclamation of the Republic, Turkey established her legal and social order according to Western norms; multiparty politics was introduced in 1946 and major strides, first and foremost in the areas of the freedom of the press and labour union rights, were taken towards an open and participatory social order. Turkey placed the individual and the inalienable human rights and freedoms of the individual at the very core of her efforts. Thus, a dynamic process of the evolution of democracy and the legal order was set in motion in Turkey.

Since 1984, Turkey has been fighting against separatist terrorism that has considerable external support. This phenomenon has adversely affected the environment of democracy and human rights, as well as the social and economic progress in Turkey. Despite this threat, the Turkish Republic has maintained her national integrity and unity, based on the equality of her citizens.

Economic policies in Turkey have progressively moved from the state-led development model attuned to the needs of the early years of the Republic towards first a mixed economic system, and later on, a market economy, keeping in step with developments in the international economic system. Despite the recent economic crises stemming mainly from the financial structure, Turkey is currently going ahead with her policies to further strengthen the rules and institutions of a free market economy. In order to eliminate macro-economic instabilities, Turkey aims to ameliorate the harmful effects of long-term inflation on the Turkish economy, maintain public deficits at a sustainable level, realise structural reforms in areas such as the financial and agricultural sectors and social security and speed up privatisation. Turkey intends to meet the Copenhagen economic criteria through the achievement of these objectives.

Turkey, a country that contributes to the enhancement and reinforcement of peace, security, stability and prosperity in international relations, will continue to develop her relations with neighbouring countries on the basis of a peace-seeking foreign policy. In this context, Turkey will continue to undertake initiatives and efforts towards the settlement of bilateral problems with Greece through dialogue; support the efforts of the UN Secretary General, in the context of his good-offices mission aiming at a mutually acceptable settlement with a view to establishing a new partnership in Cyprus based on the sovereign equality of the two parties and the realities on the Island; act as a model for the Turkic States and the Islamic world in their further development on the basis of universal values; enhance, as a key actor, stability in the Balkans, the Caucasus, Central Asia and the Middle East; contribute to the ongoing rapprochement of Europe and Asia and hence, help extend contemporary standards throughout Eurasia.

The Republic of Turkey would like to share and is resolved to contribute to a peaceful and prosperous future based on common universal values with the Member States of the EU.

The Turkish Government regards EU membership as a new step forward, a milestone confirming the founding philosophy of and Atatürk's vision for the Republic.

For the Turkish nation, conforming to contemporary values is a way of life and an ideal to be pursued. Therefore, the Turkish nation is able and willing to assume the significant duties and responsibilities entailed by the ideal of European unification, drawing upon its centuries-old historical heritage and respect for civilization. In this context, Turkey is fully resolved to adopt and implement the EU acquis.

Turkey intends to fulfil the Copenhagen criteria and complete the accession process, on the basis of the fundamental principles of the Republic as articulated in the Turkish Constitution. The basic ideals of EU membership are one and the same as the ideals inherent in Turkey's national identity. Therefore, membership in the EU is a conscious choice for Turkey, promising new horizons in the nation's progress towards the highest contemporary standards. In this context, raising the standards of education for all citizens for further alignment with those of the EU Member States, both in terms of quality and quantity, will facilitate the achievement of the objectives set out in the National Programme.

Turkey will accede to all relevant international conventions and take the necessary measures for their effective implementation for further alignment with universal norms manifest in the EU acquis and the practices in EU Member States, particularly in the areas of democracy and human rights. In fact, Turkey has already acceded to a majority of the international conventions in these areas.

Turkey's membership in the EU will possibly be a symbol of the convergence of dynamic trends, embracing aspirations for the harmonious co-existence of cultures and enriching the spiritual fabric of the EU. In this context, a process that sustains continuous cultural interaction between Turkey and the EU may well pave the way for the common achievement of an higher moral and philosophical stature. This process would enable both parties to help shape a brighter future in a more stable and secure environment by encouraging positive developments in political, economic and social spheres.

Turkey can assume a fundamental role in the process of European unification through concrete and distinct contributions that she can offer. The combined experiences and strengths of Turkey and the EU will be a major advantage in meeting the promising, but also challenging prospects of our era. It would thus be possible to reap future benefits more fully by taking advantage of opportunities offered today by global spiritual and material assets. Hence, through mutually advantageous and beneficial contributions, Turkey and the European Union would be better prepared for and capable of shaping the dynamics of the twenty-first century, and would continue to work together in cooperation and solidarity for the advancement and the development of their peoples and the international community.

1.2. POLITICAL CRITERIA

As of 2001, the Turkish Government will speed up the ongoing work on political, administrative and judicial reforms and will duly convey its legislative proposals to the Turkish Grand National Assembly. The goal is to strengthen, on the basis of Turkey's international commitments and EU standards, the provisions of the Constitution and other legislation to promote freedom; provide for a more participatory democracy with additional safeguards; reinforce the balance of powers and competences between State organs; and enhance the rule of law. In the context of the reform process regarding democracy and human rights, the review of the Constitution will have priority. The constitutional amendments will establish also the framework for the review of other legislation.

The Turkish Government will closely monitor progress in the country in the areas of human rights, democracy and the rule of law, regularly evaluate the work underway for harmonization with the EU acquis and will take all necessary measures to speed up the ongoing work.

The Turkish Grand National Assembly has already undertaken a substantial amount of work for the reforms; the Inter-Party Constitutional Harmonization Commission is currently working on amendments to the Constitution.

1.2.1 Freedom of Thought and Expression

Further development of the freedom of thought and expression in line with the EU acquis and the practices in EU Member States is a priority for the Turkish Government. The Turkish Constitution and relevant provisions of other legislation will be reviewed in order to enhance the freedom of thought and expression, in the light of the criteria referred to in Article 10 of the European Convention on Human Rights and Fundamental Freedoms, including those concerning the territorial integrity and national security, and on the basis of the basic principles of the Turkish Constitution, in particular those concerning the secular and democratic character of the Republic, national unity and the unitary state model.

With a view to enhancing the constitutional and legal guarantees of the freedom of expression, in the short-term, the Turkish Government plans to:

- review the provisions of the Constitution on human rights and freedoms, in particular those concerning the expression and the dissemination of ideas, the freedom of science, the arts, and the press;
- review Article 312 of the Turkish Criminal Code, No. 765, without prejudice to values protected therein;
- review articles 7 and 8 of the Anti-terrorism Act, No. 3713, with the same understanding;
- review the Act on the Establishment of Radio and Television Enterprises and Their Broadcasts, No. 3984;
- review the Act on Press, No. 5680, in relation to the scope of the offences and penalties prescribed.

And in the medium term, the Turkish Government plans to:

- review the Political Parties Act, No.2820;
- review the Act on the Duties and Competences of the Police, No. 2559, and the relevant regulation; the Act on the Organization, Duties and Competences of the Gendarmerie, No. 2803, and the relevant by-law; and the Act on the Coast Guard Command, No. 2692, and the relevant regulation;
- review the Act on Cinema, Video and Musical Works, No. 3257 and other relevant legislation;
- enact the new Turkish Criminal Code;
- undertake work for reimbursement of payments of reparations from public officials who are found at fault, in the light of decisions taken by the European Court of Human Rights.

1.2.2 Freedom of Association and Peaceful Assembly and the Civil Society

Encouraging the further development of civil society is a priority for the Turkish Government. Strengthening the civil society will contribute to the development of democracy in Turkey. Enhancement of the freedom of association and peaceful assembly is expected to encourage individuals to become more actively involved in social issues.

In this context, in the short term, the Turkish Government plans to:

- enact the Draft Law on the Establishment and Working Principles and Procedures of the Economic and Social Council;
- enhance constitutional safeguards for non-governmental organizations and the institutions for social and economic democracy;
- enact the Draft Law on Job Security.

And in the medium term, the Turkish Government plans to:

- review any restrictions there may be on trade union rights, and the relevant articles of the Constitution regarding the right to go on strike on justifiable grounds;
- review trade union rights on the basis of ILO Conventions Nos. 87 and 98 and of the European Social Charter;
- review the legislation on the freedom of association and peaceful assembly.

A circular issued by the Prime Ministry in August 1999 cautions against undue restrictions on public employees who may wish to organize in trade unions and confederations, and the activities thereof pending the enactment of the "Draft Law on Public Employees' Trade Unions".

1.2.3 Fight Against Torture

The Turkish Government is determined to fight against torture. To this end, the Government has strengthened legal and administrative measures, ranging from enhanced training programmes on human rights to the thorough and timely investigation of incidents of torture and prosecution of those responsible.

Recent measures introduced in this context are as follows:

- A circular was issued by the Prime Ministry in June 1999 on the effective implementation of the Bylaw on Apprehension, Custody and Interrogation and on the strict supervision of the implementation of this Bylaw.
- In August 1999, provisions of the Turkish Criminal Code on torture and inhuman or degrading treatment were amended so as to align the definitions thereof with those in international conventions. Moreover, sanctions were increased in general and criminal penalties were introduced for health services personnel issuing falsified reports on incidents of torture.
- The Act on Prosecution of Civil Servants and other Public Employees was amended in December 1999, thereby speeding up the investigation and prosecution of public personnel.

In addition to the Ministries concerned, the Human Rights Directorate of the Prime Ministry has been authorised to undertake necessary measures for the prevention of incidents of torture and inhuman or degrading treatment that may arise despite measures already in force, which cannot be tolerated by the Government under any circumstances.

A series of laws and amendments are planned to enhance the fight against torture and inhuman or degrading treatment. In this context, in the short term, the Turkish Government plans to:

- review the Act on the Duties and Competences of the Police, No. 2559, and the relevant regulation; the Act on the Organization, Duties and Competences of the Gendarmerie, No. 2803, and the relevant bylaw; and the Act on the Coast Guard Command, No. 2692, and the relevant regulation;
- undertake arrangements to modernize the Forensic Medicine Institution.

And in the medium term, the Turkish Government plans to:

- enact the new Turkish Criminal Code;
- enact the new Code of Criminal Procedure;
- explore the availability of financial resources for training law-enforcement personnel for the prevention of human rights violations and increase the use of technology to monitor places where incidents of human rights violations continue to occur;
- introduce legal provisions on the joint and several liability of perpetrators of torture.

1.2.4 Pre-Trial Detention

In order to align legal practices and procedures related to pre-trial detention with the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and the decisions of the European Court of Human Rights, the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and to attain uniformity throughout the relevant Turkish legislation, in the medium term, the Turkish Government plans to:

- review Article 19/6 of the Constitution;
- enact the new Law on Criminal Procedure;
- amend the Act on the Establishment and Procedures of the State Security Courts, No. 2845.

1.2.5 Strengthening Opportunities to Redress the Consequences of Human Rights Violations

The Turkish Government, in the medium term, plans to:

- enact the new Code of Criminal Procedure;
- enact the Draft Law on the Indemnification of Losses Resulting from Terrorism and the Fight Against Terrorism.

1.2.6 Training of Law-enforcement Personnel and Other Civil Servants on Human Rights Issues

Work to intensify training of law-enforcement personnel and other civil servants on human rights issues is currently underway at all institutions concerned. The Turkish Government will seek to intensify international cooperation in this area both at bilateral and multilateral levels.

To this purpose, in the short term, the Government plans to:

- undertake legal arrangements to extend education at Police Academies from 9 months to 2 years;
- put into action, within the framework of the UN Decade of Education for Human Rights, the Human Rights Education Project of the Ministry of Interior and Its Affiliated Agencies (2000-2007);
- train law-enforcement personnel, within a period of 7 years, in the framework of a project developed under the 1997-2000 Police and Human Rights Programme of the Directorate of Human Rights of the Council of Europe.

Other measures in this area are covered in the section on "Justice and Home Affairs".

1.2.7 Improving the Functioning and Effectiveness of the Judiciary, Including the State Security Courts

The Turkish Government accords particular importance to improved functioning and effectiveness of the Judiciary. In the short term, the Government plans to:

- review the constitutional provisions on the State Security Courts and the Act on the Establishment and Procedures of the State Security Courts, No. 2845;
- strengthen legal defence by introducing a constitutional provision which will define this as one of the fundamental elements of judicial process, and enact the Code on the Status of Attorney at Law;
- review provisions which may be infringing upon the independence of the Judiciary, and restructure the Supreme Council of Judges and Public Prosecutors;
- undertake legal arrangements to modernise the Forensic Medicine Institution;

- step up activities under the “Decade of Human Rights Education” programme and seek further opportunities for the education and training of Turkish judges and prosecutors in Member States of the European Union and the Council of Europe;
- - provide regular in-service training for Turkish judges and prosecutors on human rights and the decisions of the European Court of Human Rights.

And in the medium term, the Turkish Government plans to:

- review, in the light of the experience gained in implementation, the Act on Prosecution of Civil Servants and other Public Employees, No. 4483;
- review the Military Penal Code, No.1632, the Act on the Establishment and Procedures of Military Courts, No.353, and the Act on Military Administrative High Courts, No. 1602;
- review the Act on the State of Emergency, No. 2935, in the light of the relevant amendments to be made in the Constitution and other legislation;

Other measures in this area are covered in the section on “Justice and Home Affairs”.

1.2.8 Abolition of the Death Penalty

According to the Constitution of the Republic of Turkey, only the Turkish Grand National Assembly is authorised to take the decision to enforce a final sentence of capital punishment. The Turkish Government respects the practice of not infringing upon the essence of the right to life, sustained by the Turkish Grand National Assembly since 1984.

The abolition of the death penalty in Turkish criminal law, its form and its scope, will be considered by the Turkish Grand National Assembly in the medium term.

1.2.9 Cultural Life and Individual Freedoms

The official language and the formal education language of the Republic of Turkey is Turkish.

This, however, does not prohibit the free usage of different languages, dialects and tongues by Turkish citizens in their daily lives. This freedom may not be abused for the purposes of separatism and division.

1.2.10 Alleviating Regional Disparities to Increase Economic, Social and Cultural Opportunities for All Citizens

The Government has adopted a comprehensive strategy to alleviate regional disparities and increase cultural and social opportunities for all citizens.

Since separatist terrorist activities ongoing since 1984 have been effectively curbed, the Turkish Government has undertaken a series of measures for economic and social development. The implementation of this strategy is planned for the medium term.

1.2.11 Full Enjoyment by All Individuals without Any Discrimination and Irrespective of Their Language, Race, Colour, Sex, Political Opinion, Philosophical Belief or Religion of All Human Rights and Fundamental Freedoms; Freedom of Thought, Conscience and Religion

Article 10 of the Constitution prohibits all forms of discrimination, and adopts the principle of equality of all citizens before the law.

In the short term, in accordance with this principle, the Turkish Government plans to:

- conclude the UN Convention on the Elimination of All Forms of Racial Discrimination;
- reinforce in the Constitution the principle that men and women have equal rights;
- enact the Draft Turkish Civil Code which envisages improvements in gender equality;

- enact the Draft Law on the Organisation of the Directorate General on the Status and the Problems Women and Draft Law on the Organisation of the Family Research Institution;
- Immediate Action for the Elimination of Worst Forms of Child Labour (No.182) and put into effect the National Action Plan prepared in cooperation with the ILO on this subject.

In the medium term, the Turkish Government plans to:

- conclude the Optional Protocol to the UN Convention on the Elimination of All Forms of Discrimination against Women;
- conclude Protocol No. 4 to the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in Protocol No.1;
- conclude Protocol No. 7 to the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms;
- conclude the European Social Charter (Revised) and the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints;
- conclude Protocol No. 12 to the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms;
- take further practical measures, within the framework of the legislation on protection of the public order, to facilitate the practice by non-Muslim foreign nationals residing in Turkey the requirements of their religions, and in relation to other practices concerning them;
- take measures in accordance with the ILO Convention (No. 159) Concerning Vocational Rehabilitation and Employment (Disabled Persons).

1.2.12 Alignment of the Turkish Constitution and Other Relevant Legislation with the EU acquis

The Turkish Government plans to review, in the short term, the Constitution in the light of the European Convention on Human Rights and Fundamental Freedoms, and to undertake, in the medium term, necessary amendments in other legislation.

1.2.13 International Covenant on Civil and Political Rights and its Optional Protocol, and International Covenant on Economic, Social and Cultural Rights

The fact that Turkey has signed these conventions demonstrates the Government's political will and resolve in this regard. Legislation initiating the process of ratification will be submitted to the Turkish Grand National Assembly along with any reservations there may be.

1.2.14 Detention Conditions in Prisons

The Turkish Government is resolved to eliminate any unfavourable conditions that may exist in prisons and has undertaken intensive efforts to this end.

The ward system, discontinued in Europe in the 1960s and 1970s, is also being phased out in Turkey. In accordance with the recommendations of the Council of Europe and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, prison rules and standards are being aligned with the United Nations Standard Minimum Rules for the Treatment of Prisoners and the European Prison Rules of the Council of Europe.

In the short term, the Turkish Government plans to:

- ensure, through the Ministry of Justice, that the supervision and control over prisons by administrators and prosecutors are rendered more effective;
- enact the Draft Law Amending the Act on Terrorism which would render possible the extension of open visits and workshop activities to the prisoners convicted of such crimes.

Other measures in this area are covered in the section on “Justice and Home Affairs”.

1.2.15 The National Security Council

The National Security Council, which is a constitutional organ, has the status of a consultative body in areas of national security. Relevant articles of the Constitution and other legislation will be reviewed in the medium term to define more clearly the structure and the functions of this Council.

1.2.16 State of Emergency

The lifting of the State of Emergency, introduced to fight terrorism, in the remaining four provinces is an integral part of the comprehensive strategy for economic, social and cultural development in the area. The State of Emergency will be lifted with due regard to threat assessment and developments on the ground with respect to security

<http://www.mfa.gov.tr/grupa/ad/adc/EUintroduction.htm>
