

**NATIONS UNIES
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**UNITED NATIONS
HIGH COMMISSIONER
FOR REFUGEES**

BACKGROUND PAPER

ON

REFUGEES AND ASYLUM SEEKERS FROM Turkey

**UNHCR
CENTRE FOR DOCUMENTATION AND RESEARCH
GENEVA, SEPTEMBER 2001**

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ISSN 1020-8410

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List of Acronyms

ANAP	Anavatan Partisi (Motherland Party)
BBP	Buyuk Birlik Partisi (Great Unity Party)
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CERD	International Convention on the Elimination of all forms of Racial Discrimination
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CFM	Council of Forensic Medicine
CDR	Centre for Documentation and Research (UNHCR)
CHP	Cumhuriyat Halk Partisi (Republican People's Party)
CPJ	Committee to Protect Journalist
CRC	Convention on the Rights of the Child
CTV	Cultural Television
DBP	Demokrasi ve Barış Partisi (Democracy and Peace Party)
DEPAR	Değişen Türkiye Partisi (Changing Turkey Party)
DHKP-C	Revolutionary People's Liberation Party-Front
DLP	Democratic Left Party
DEP	Demokratik Party (Democratic Party)
DSP	Demokratik Sol Partisi (Democratic Left Party-DSP)
DTP	Demokrat Türkiye Partisi (Democratic Turkey Party)
DYP	Doğru Yol Partisi (True Path Party)
EU	European Union
EIU	Economist Intelligence Unit
ECHR	European Court of Human Rights
FP	Fazilet Partisi (Virtue Party)
GAP	Guneydogu Anadolu Projesi
HRA	Human Rights Association (Insan Haklari Dernegi)
HRF	Human Rights Foundation (Insan Haklari Vakfi)
HRC	Human Rights Commission
HRW	Human Rights Watch
HADEP	Halkin Demokrasi Partisi (People's Democracy Party)
IBDA-C	Islamist Great Eastern Raiders-Front
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee for the Red Cross
IDPs	Internally Displaced Persons
IMF	International Monetary Fund
IND	Immigration and Nationality Directorate of the United Kingdom
IOM	International Organisation for Migration
IPS	Inter Press Service

ISKD	Izmir Savas Karsitlari Dernegi (Izmir War Resisters' Association)
KTV	Kurdish Television
LDP	Liberal Demokratik Partisi (Liberal Democratic Party)
MDP	Milliyetci Demokrasi Partisi (Nationalist Democracy Party)
MHP	Milliyetci Hareket Partisi (National Movement Party)
MSP	National Salvation Party
MP	Millet Party (Nation Party)
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental organization
NSC	National Security Council
OECD	Organisation for Economic Cooperation and Development
OSCE	Organisation for Security and Cooperation in Europe
OHAL	State of Emergency Region Governor's Office
OYAK	Armed Forces Mutual Assistance Fund
PKK	Partiya Karkeren Kurdistan (Kurdistan Workers' Party)
RP	Refah Party (Welfare Party)
RTUK	The Turkish Radio and Television Supreme Council
SP	Social Democratic Populist Party
SSC	State Security Courts
TMA	Turkish Medical Association
TGNA	Turkish Grand National Assembly
TIKKO	Workers and Peasants' Army of Turkey
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations
USCR	US Committee for Refugees
USDOS	United States Department of State
WFP	World Food Programme
WHO	World Health Organisation
WGEID	United Nations Working Group on Enforced or Involuntary Disappearances.
WTO	World Trade Organisation

A Introduction¹

Geography, Population, Religion and Language

1. Türkiye Cumhuriyeti or the Republic of Turkey covers an area of 779,452 sq km.² It lies partly in south-eastern Europe and partly in south Asia. The European and Asian portions of the country, known respectively as Thrace and Anatolia, are separated by the Sea of Marmara, linking the Black Sea and the Aegean Sea. Turkey has an extensive coastline: on the Black Sea to the north; the Mediterranean Sea to the south; and the Aegean Sea to the west.³ Turkey is bordered on the north-west by Bulgaria and Greece; on the north by the Black Sea; on the north-east by Georgia and Armenia; on the east by Iran; on the south by Iraq, Syria and the Mediterranean Sea and on the west by the Aegean Sea.⁴

2. Turkey has a population of 65,666,677.⁵ The principle majority are the Turks who account for 85% of the population. The largest ethnic minority are the Kurds who account for 11% of the population and are concentrated in the poor areas of the east and south-east. Other minorities include Greeks, Armenians and Jews.⁶ The major cities are Istanbul, Ankara – the capital, Izmir, Adana and Bursa. The official language is Turkish. In addition, nearly 15% of the population speak a different mother tongue, usually Kurdish (about 7% mainly in the south-east)⁷, Arabic, Armenian, Greek and Caucasian dialects.⁸

3. Islam ceased to be the official state religion of Turkey in 1928.⁹ Nevertheless, 99% of the population is Muslim—primarily Sunnite, although large numbers of Shiite Muslims are found in the south-east. Christians account for less than 1% of the population.¹⁰ The Jewish community numbers about 25,000.¹¹

¹ This UNHCR Background Paper on Turkey is an update of previous background paper from October 1997. It covers the period of November 1997 until September 2001.

² Economist Intelligence Unit (EIU), *Country Profile 2000 – Turkey*, London, 2000, p. 3 (estimate as of 1 January 2000).

³ Europa Publications Limited, *The Europa World Year Book 2001*, Vol. II, 42st edition, London, 2001, p. 3911

⁴ Facts On Files News Service, *Turkey-Country Profile, 2001*

⁵ Regional Surveys of the World, *The Middle East and North Africa 2001*, Europa Publications, 2001, p. 1157 (estimate as of 1 July 2000).

⁶ Atlapedia Online, *Country Profiles-Turkey: Key Facts and Statistics on the Country 2001*

⁷ Europa Publications Limited, *The Europa World Year Book 2001*, Vol. II, 42st edition, London, 2001, p. 3911

⁸ Facts On Files News Service, *Turkey – Country Profile, 2001*

⁹ Turkey is a secular state. Although Islam was stated to be the official religion in the Constitution of 1924, an amendment in 1928 removed this privilege. See Europa Publications Limited, *The Europa World Year Book 2001*, Vol. II, 42st edition, London, 2001, p. 3934

¹⁰ Facts On Files News Service, *Turkey – Country Profile, 2001*

¹¹ United Nations, *General Assembly, Interim Report on Elimination of all forms of Intolerance and of Discrimination based on Religion or Belief, prepared by Abdelfattah Amor, Special Rapporteur on the Commission on Human Rights, in accordance with the GA resolution 54/159, A55/280/Add.1 of 17 December 1999, 11 August 2000*, p. 3

Institutions of the State and Government

4. Modern Turkish politics has been shaped by two crucial historical experiences: the foundation by Mustafa Kemal (who assumed the surname Ataturk in 1936) of a secular, unitary republic in the 1920s, and the establishment of a multiparty democratic regime since 1945. This has been interrupted by three periods of military rule in 1960-61, 1971-73 and 1980-83.¹²

5. Turkey was created in 1923 from the Turkish remnants of the Ottoman Empire. It is a Republic with a Parliament, President, Government, Public Administration, Judicial System and a National Security Council (NSC). The political structure was drawn up by the military after the 1980 coup and was approved by a referendum.¹³ In October 1981 the NSC, announced the formation of a Consultative Assembly to draft a new constitution, replacing that of 1961. Upon the ratification of the 1982 Constitution, General Evren became President of the Republic.¹⁴ According to the constitution, the Turkish republic is “ a democratic, secular and social state governed by the rule of law.”¹⁵

Legislative Branch

6. Under the 1982 constitution, legislative power rests in the Turkish Grand National Assembly (TGNA), a 550 member unicameral parliament, directly elected to 5-year terms. The president, as chief of state, is chosen by parliament for a 7-year term. Executive power rests with the President. The prime minister is the head of the government, who represents the majority party or coalition in parliament.¹⁶ As part of the government, the prime minister chairs the council of ministers composed of 32 ministers at present, nominated by the prime minister and again appointed by the president.

7. After the April 1999 elections, 5 political parties were represented in parliament and the present government is a three-party coalition. The Democratic Left Party (DLP) emerged as the strongest party, winning 136 seats and is headed by the Bulent Ecevit, who is the present Prime Minister. The National Movement Party (MHP) holds 130 seats and is headed by Devlet Bahçeli, who is one of the two deputy prime ministers. The Motherland Party holds 88 seats and is headed by Mesut Yılmaz, the second deputy prime minister. The other two parties represented in the parliament are the True Path Party (TPP, also DYP) headed by former Prime Minister Tansu Ciller and Recai Kutan’s pro-Islamist Virtue Party (Fazilet Partisi-FP). DYP has 85 seats and the FP has 103. In May 2000 presidential elections, members of parliament decided to support Ahmet Necdet Sezer who was elected President. His main focus is giving primacy to the rule of law and advocating greater protection for the rights of citizens.

8. The parliamentary opposition consists of the DYP and Independents. Until June 2001, the largest opposition party was the FP, of Islamist orientation. The Constitutional

¹² Economist Intelligence Unit (EIU), *Country Profile 2000 – Turkey*, London, 2000, p. 4

¹³ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000. p. 86

¹⁴ Facts On Files News Service, *Turkey – Country Profile*, 2001

¹⁵ Article 2 of the Constitution of the Republic of Turkey. The full text of the Constitution can be found in UNHCR/CDR’s Refworld 2000.

¹⁶ Facts On Files News Service, *Turkey – Country Profile*, 2001

Court ruled on 22 June that the party should be closed, on grounds that it was a “focal point” for anti-secularist activities. FP became the latest in a series of Islamist parties to fall foul of Turkey’s staunchly secularist system. 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. In the 1999 local elections (held at the same time as the general elections) HADEP succeeded in winning control of local councils in the southeast and some municipalities including Diyarbakir. There are 81 provinces in Turkey.¹⁷

Executive Branch

9. The NSC established by the 1961 constitution manifests the greatest powers in Turkey. It plays a unique role in the formulation and implementation of not only the national security policy, but also a wide range of political matters. The NSC is chaired by the President and is composed of the Prime Minister, Ministers of Defence, Internal Affairs and Foreign Affairs, the Chief of General Staff, Commanders of the Army, Navy and Air-Force and the General Commander of the Jandarma. Its conclusions, statements and recommendations are not legally binding, however it exerts tremendous influence on the political process in Turkey.¹⁸

The Judiciary

10. Until the foundation of the Turkish Republic, a large part of the Turkish civil laws affecting the family, inheritance, property, obligations, etc was based on the Koran, and this holy law was administered by special religious (Shari’a) courts. The legal reform of 1926 was not only a process of secularization, but also a radical change of the legal system. The Swiss Civil Code and the Code of Obligation, the Italian Penal Code and the Neuchâtel Code of Civil Procedure were adopted and modified to fit Turkish customs and traditions. According to Turkish law, the power of the judiciary is exercised by judicial (criminal), military and administrative courts. These courts render their verdicts in the first instance, while superior courts examine the verdict for subsequent rulings. The Constitution provides for an independent judiciary, and in practice the courts generally act independently of the executive.¹⁹

Supreme Council of Judges and Public Prosecutors

11. The Council is chaired by the Minister of Justice, a Ministry of Justice Under-Secretary and five judges selected by the President, thereby failing to separate the judiciary from the executive. Amnesty International expressed concerns over the make up of this ruling body of the judiciary, which appoints, transfers, promotes, disciplines and dismisses judges. Decisions of the Council are not open to judicial review. Discussion within the Turkish government about possible changes to the Supreme Council suggests that the government is aware that it is not satisfactory.²⁰ The public prosecutors according to Turkish law, are responsible for preparatory investigations of a case. They are independent and they alone determine whether cases are brought before

¹⁷ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 20

¹⁸ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar, Vienna*, 13-14 November 2000 p. 87

¹⁹ Regional Surveys of the World, *The Middle East and North Africa 2001*, 47th Edition, Europa Publications. p. 88

²⁰ Amnesty International, *Turkey: The Duty to Supervise, Investigate and Prosecute*, April 1999

court. The Minister of Justice has the power to direct a particular case to be brought to court but this power has been used only twice in the past 20 years. The public prosecutors have the right to order police and Jandarma to investigate matters brought to their attention. Allegations such as bribery, extortion or embezzlement against the police or Jandarma are investigated by them. The governor's permission is needed to investigate into allegations of crimes such as torture, negligence relating directly to the duties of the police or Jandarma. The public prosecutors can use any resources they see fit to investigate a complaint. 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.²¹

12. **Criminal Courts:** are divided into general and special courts. General courts have jurisdiction over every criminal case except those expressly reserved by law to courts of special jurisdiction, namely State Security Courts (SSC) and Military Courts. There are 3 types of general security courts which are normally presided over by one judge:

- Aggravated felony courts, located in provincial capitals.
- Courts of general criminal jurisdiction (courts of first instance), normally located in the sub-provincial capitals.
- Justice of the Peace courts, normally located in the sub-provincial capitals.

13. **Military Courts:** have responsibility over military personnel but additionally have jurisdiction over civilians in areas of martial law. It should also be noted that Turkish law still allows civilians to be tried in military courts under military law for offences against military institutions.²²

14. **Supreme Court of Appeals or Court of Cession:** are divided into a number of chambers with each having a panel of judges and a president. The Supreme Court of Appeals deals with appeals from all of the lower courts including state security courts.

15. **State Security Courts:** Article 143 of the Constitution provides for the establishment of SSCs (Devlet Güvenlik Mahkemesi), to deal with "offences against the indivisible integrity of the State with its territory and nation, the free democratic order, or against the republic whose characteristics are defined in the constitution, offences directly involving the internal and external security of the state as well as organised crime." SSCs predominantly handle cases under the Anti-Terror Law and Section 312 of the Criminal Code (incitement to racial or ethnic enmity). The following prosecutions are amongst those dealt with by the SSCs: Articles 125-139, 146-157, 161, 168, 169, 171, 172, 174 of the Turkish Penal Code.

16. SSCs began to operate in May 1984, under Law No. 2845 of 1983. There are eighteen security court panels in eight different cities. The panels, which preside over the hearings of these courts, consisted of two civilian and one military judge. In October 1998 the European Court of Human Rights (ECHR) ruled in the case of Incal v Turkey (41/1997/825/1031), that the presence of a military justice on the SSC's was

²¹ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 27

²² Regional Surveys of the World, *The Middle East and North Africa 2001*, 47th Edition, London: Europa Publications, p. 1192

inconsistent with relevant European conventions.²³ Constitutional and legal amendments removing the military judge in the SSCs were adopted by the TGNA and entered into force on 22 June 1999. As a direct effect of this reform, the military judge of the Ankara SSC in charge of the trial of Abdullah Ocalan was replaced by a civilian judge on 23 June 1999.²⁴

17. A heavy caseload may prolong SSC trials for years. Hearings may be closed and testimony gathered during interrogation in the absence of legal counsel may be admitted. No immediate access to a lawyer is provided under the law for persons falling under the jurisdiction of the SSC. In March 1997, parliament passed legislation, allowing access to a lawyer after 4 days for those charged under the Anti-Terror Law. Implementation was reported to be uneven. The lack of access to a lawyer was reported as a major factor in the widespread use of torture by police and security forces.²⁵

The Military Establishment

18. In 1960, 1971 and 1980 Turkish military leaders intervened to uphold the principles on which the constitution is based upon and to preserve internal law and order. On each occasion the armed forces emphasised their commitment to democratic principles and returned Turkey to civilian rule. However, in accordance with the Constitution, all important foreign policy and national security questions are still discussed by the National Security Council. In addition to political power, the military authorities also wield considerable economic power. In the 1960s, it created the Armed Forces Mutual Assistance Fund (OYAK), one of the largest investment companies in Turkey. OYAK is active in the automobile, petroleum, insurance, food processing, construction, banking and import-export sectors.²⁶

Law Enforcement Forces/Security Forces

19. The law enforcement forces are constituted by the Turkish National Police, the Jandarma, the Special Security Forces, Special Police Teams and the Coast Guard. The National Police has responsibility for security in urban areas. A Jandarma command area is present in each province and a company in each rural town. They work in co-operation with the governors and the Ministry of Interior and cooperate with the public prosecutors. In zones under a state of emergency, the police force acts under the direct authority of the governor concerned, who may also call army units for support. Intelligence units of the police force are present in various parts of the country and act as information units. According to the information provided by the government, they act under the strict control of the command chain.

20. The UN Commission on Human Rights working group on Enforced and Involuntary Disappearances (UNWGEID) in its 1998 report stated that the security forces were fighting the Partiya Karkeren Kurdistan (PKK-The Kurdish Workers' Party), Islamist radicals and urban terrorist groups. NGO sources complained to the members of the

²³ Immigration and Nationality Directorate of the United Kingdom, *Country Assessment – Turkey*, 1 April 2000, p. 7

²⁴ Council of Europe, European Commission, 1999 Regular Report from the commission on Turkey's progress towards accession, 13 October 1999, p. 9

²⁵ Immigration and Nationality Directorate of the United Kingdom, *Country Assessment – Turkey*, 1 April 2000, p. 7

²⁶ Regional Surveys of the World, *The Middle East and North Africa*, 47th Edition, Europa Publications, 2000

working group that detectives in the Anti-Terror departments of the Ankara and Diyarbakir police frequently resorted to arbitrary detention, torture and other forms of ill-treatment of suspects. It was claimed that, although Article 181 of the Turkish Penal Code provided hard punishments for such offences, only a few disciplinary and judicial sanctions were taken against the police. Law enforcement personnel arrested in cases of extrajudicial executions and other serious human rights violations were acquitted or only charged with use of excessive force.

21. The Turkish authorities reported to the working group that they had issued several instructions and circulars addressed to law enforcement personnel. In addition, training programmes and human rights education strategies were devised.²⁷ The International Committee of the Red Cross (ICRC) delegates held talks with the Ministry of Foreign Affairs on many occasions in 1998 and discussed strengthening cooperation with the Turkish Red Crescent Society in the fields of dissemination and tracing. In 1999, ICRC continued talks with Turkish authorities to promote international humanitarian law among the armed forces.²⁸

Village Guards: a Civil Defence Corps

22. 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, permitting 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, 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.

23. Names of proposed village guards are identified by the village council (village elders), notified to the head official of the district (kaimakan) by the village headman, and the head official approves them if he sees fit.²⁹ Participation in this system is mainly voluntary, but the US DOS Report in 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

²⁷ United Nations, Commission on Human Rights, *Civil and Political Rights, Including Questions of Disappearances and Summary Executions, Report of the Working Group on Enforced or Involuntary Disappearances*, Fifty-fifth session, Item 11 (b) of the provisional agenda, E/CN.4/1999/62/Add.2, 28 December 1998 paras. 19, 20

²⁸ International Committee of the Red Cross, ICRC, *Annual Report 1998 and 1999*.

²⁹ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 55

for 2001 noted that village guards had a reputation for being the least disciplined of the government's security forces, and were accused repeatedly of drug trafficking, rape, corruption, theft and human rights abuses. It noted that inadequate oversight and compensation contributed to this problem, and in some cases Jandarma allegedly protected village guards from prosecution.³⁰

24. A judgement by the German High Administrative Court, Nordrhein-Westfalen, on 22 January 2000 stated 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 is detained and individually reiterates his refusal, he will usually come under suspicion of supporting the PKK.³¹

25. According to the European Commission's report on Turkey for 2000, the "state of emergency" continues in four provinces (Diyarbakir, Hakkari, Sirnak Tunceli), and more than 60,000 villagers were still armed and paid by the state as village guards. Being a member of PKK or a sympathiser of separatist ideas is still punishable under article 312. Authorities fabricate reasons to accuse people and family members of suspects are equally subjected to some form of persecution. The village guards also use their guns and power to extort money from their fellow villagers, and there have been cases of rape brought to the ECHR resulting in decisions against Turkey.³²

Main Political Parties

26. Turkey's multi-party year began in 1946.³³ Articles 68-69 of the Constitution lay down provisions concerning political parties, and state 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. Article 169 of the Penal Code deals with aiding an illegal organisation, and lays down punishment of heavy imprisonment for three to five years.³⁴

27. The political parties at present in Turkey according the *Europa Regional Surveys of the World 2001* are:

➤ Anavatan Partisi (ANAP) (Motherland Party): propagates moderate nationalist and conservative policies, integration with the EU, supports free market and a rational social justice system. Chair: Mesut Yilmaz

³⁰ USDOS, 2000 *Country Report on Human Rights Practices: Turkey*, February 2001, p. 13

³¹ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 56

³² Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 94

³³ Facts On Files News Service, *Turkey – Country Profile, 2001*

³⁴ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 22

- Büyük Birlik Partisi (BBP) (Great Unity Party)
- Cumhuriyet Halk Partisi (CHP) (Republican People's Party): Left-wing party. Founded by Kemal Atatürk in 1923, the party was dissolved in 1981, reactivated in 1992, merged with Sosyal Demokrat Halkçı Partisi (Social Democratic Populist Party) in February 1995. Leader: Deniz Baykal
- Değişen Türkiye Partisi (DEPAR) (Changing Turkey Party)
- Demokrasi ve Barış Partisi (DBP) (Democracy and Peace Party): Pro-Kurdish Party
- Demokrat Türkiye Partisi (DTP) (Democratic Turkey Party): centre right. Leader: Husametin Cindoruk.
- Demokratik Sol Partisi (DSP) (Democratic Left Party-DSP): centre-left party, drawing support from the former Republican People's Party. Chair: Bülent Ecevit
- Doğru Yol Partisi (DYP) (True Path Party-TPP): centre-left party, replaced the Justice Party formed in 1961 and banned in 1981. Chair: Tansu Çiller
- Fazilet Partisi (FP) (Virtue Party): replaced the Refah Partisi (Welfare Party), dissolved by Constitutional Court; Islamic fundamentalist, interested in free-market economy. Leader: Recai Kutan
- Halkın Demokrasi Partisi (HADEP) (People's Democracy Party): pro-Kurdish nationalist party. Chair: Ahmet Turan Demir
- İşçi Partisi (Worker's Party)
- Liberal Demokratik Partisi (LDP) (Liberal Democratic Party)
- Millet Partisi (MP) (Nation Party)
- Milliyetçi Hareket Partisi (MHP) (Nationalist Movement Party): formed in 1983 formerly conservative party. Leader: Devlet Bahçeli

28. The following proscribed organisations have been engaged in an armed struggle against the government:

- **Partiya Karkeren Kurdistan (PKK) (Kurdistan Workers' Party):** primarily a separatist movement that has sought an independent Kurdish state in south-east Turkey. The PKK was formed in 1978 by Abdullah Ocalan. It has a 57-member directorate and formed a military wing in 1984, when it became a serious terrorist threat.³⁵ 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 and the death toll on all sides is estimated to 33,000 people. In June 1999, Abdullah Ocalan 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

³⁵ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p.

from Turkey, and cease military operations from 1 September 1999. 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 since.

Occasional clashes between the Turkish army and the remaining PKK militants continue to be reported. The semi-official news agency Anatolia reported on 7 July 2000 that a total of 218 fighters, including 15 of its high ranking officials, were killed in clashes between 1 January to 30 June 2000. 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. 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." Turkish Daily News on Wednesday 21 March 2001 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 about 500 PKK militants remain in southeast Turkey with around 5,000 encamped in the mountains of northern Iraq and Iran.

➤ **Revolutionary People's Liberation Party-Front (DHKP-C):** formed in 1993 following a split in the Marxist-Leninist terrorist group Dev-Sol (Revolutionary Left). Its aim is to establish a Marxist-Leninist regime in Turkey by means of armed revolutionary struggle. DHKP-C subsumed its parent organisation in 1996 and is indistinguishable from its predecessor Dev-Sol in leadership, ideology, objectives and methods of operation.³⁶

29. Information produced by the German Federal Office for the Recognition of Foreign Refugees list the following political parties that have been proscribed in Turkey:³⁷

- DHKP/C (Devrimci Halk Kurtulus Partisi/Cephesi)
- THKP/C Dev-Sol (Türkiye Halk Kurtulus Partisi/Cephesi Devrimci Sol)
- TIKB/B (Türkiye Ihtilalci Komünistler Birliđi/Bolşevik)
- TKIP (Türkiye Komünist İşçi Partisi)
- KDHL (Komünist Devrim Hareketi/Leninist)
- KDB (Komünist Devrimci Birlik)
- THKP/C Dev Yol (Türkiye Halk Kurtulus Partisi/Cephesi Devrimci Yol)
- THKP/C Acilciler (Türkiye Halk Kurtulus Partisi/Cephesi Acilciler)
- MLSPB (Marksist Leninist Silahlı Propaganda Birliđi)
- TKKKÖ (Türkiye ve Kuzey Kürdistan Kurtulus Örgütü)
- HDÖ (Halkın Devrimci Öncüleri)
- TDP (Türkiye Devrim Partisi)
- TKP/(M-L) DABK (Türkiye Komünist Partisi (Marxist-Leninist) Dođu 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)

³⁶ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, pp. 23-24

³⁷ Bundesamt für die Anerkennung ausländischer Flüchtlinge Informationszentrum Asyl "Türkei. *Erkenntnisse des Bundesamtes*", February 2001

- 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/Işçinin Sesi)
- DSIH (Devrimci Sosyalist İşçi Hareketi)
- TDKP (Türkiye Devrimci Komünist Partisi)
- TIKB (Türkiye İhtilalci Komünistler Birliği)
- 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/Ilim Grubu
- Hizbullah/Menzil Grubu
- IBDA/C (İslami Büyük Doğu Akıncılar Cephesi)
- IHÖ (İslami Hareket Örgütü)
- Müslüman Gençlik Grubu
- Sözde
- Vasat Grubu/Ehl-i Sünnet vel Cemaat
- Mezhepsizler Grubu
- Selam Grubu

B Political History of Modern Turkey

Summary of Developments from 1923 to 1973

30. Mustapha Kemal Atatürk, leader of the nationalist movement and a distinguished military officer launched a reform programme under which Turkey, a former monarchy, abandoned much of its Ottoman and Islamic heritage, and proclaimed Turkey a republic in 1923. His reforms included secularisation of the State (1928), the abolition of Islamic courts and religious instruction in schools, the emancipation of women (enfranchised in 1934), the banning of polygamy, the development of industry, the introduction of the Latin alphabet, the adoption of the Gregorian calendar and the encouragement of European culture and technology. The Cumhuriyat Halk Partisi (CHP-Republican People's Party), the only political grouping authorized by Atatürk remained in power until the one party system was ended in 1946. The Demokratik Parti (DP- Democratic Party) formed by opposition leaders won Turkey's first free election in 1950 stayed in power for the next decade.³⁸ The doctrine of "Kemalism" was used by the military to

³⁸ *The Europa World Year Book 2001, Turkey*, Volume II, 42nd edition, London. p. 3911

justify three coups since 1960.³⁹ General Gursel overthrew the DP government in May 1960, claiming the DP regime had betrayed Ataturk's principle of secularism. The conservative Adalet Partisi (Justice Party) led by Suleyman Demirel remained in power between 1965 and 1971. "Guided Democracy" under the military supervision continued until 1973 with a succession of right-wing "non-party" administrations, martial law and rigorous suppression of left-wing activities. Military participation in government was ended by an election in October 1973 where Bulent Ecevit, leader of the CHP negotiated a coalition with the MSP (National Salvation Party), a pro-Islamic right-wing group.

The 1974 and 1980 Coups

31. In 1974, Turkey responded to a Greek-backed coup in Cyprus by occupying the northern part of the island to protect the Turkish Cypriot population, effectively partitioning the island. A long period of unsuccessful coalitions headed either by Bulent Ecevit or Suleyman Demirel fostered political instability and escalation of violence between left-wing and right-wing groups inside Turkey. Armed forces led by General Evren seized power in 1980, forming a five member NSC with a mainly civilian cabinet. During 1981-83, a campaign to eradicate all possible sources of political violence was undertaken, political parties were disbanded and politicians banned from future political activities. As a result, Turkey was banned from the Parliamentary Assembly of the Council of Europe and aid from the European Community-now European Union-was suspended. A new constitution was approved in November 1982, despite widely-expressed objections to excessive powers granted to the President and judicial limitations placed on the rights of trades unions and the press.⁴⁰ Turkey returned to civilian rule in 1983.⁴¹

32. With the NSC's removal of a 30-month ban on formation of political parties, former political parties remained proscribed and members regrouped under new names with new leaders. The MDP-Nationalist Democracy Party, HP-Populist Party and the ANAP-Motherland Party were the only parties allowed to participate in the November 1983 elections. ANAP won the elections and Turgut Ozal was appointed the Prime Minister in December 1983. A repeal of the ban imposed in 1987 on more than 200 politicians in 1981, enabled Bulent Ecevit to assume leadership of the DSP-Democratic Left Party and Suleyman Demirel to be elected leader of the DYP-True Path Party.

General Elections in 1991

33. In October 1990, owing to factional disaffection within the ANAP ruling party, Mesut Yilmaz emerged as the leader of the more liberal faction of the ANAP party and formed the new administration. In the October 1991, general elections, Suleyman Demirel formed a coalition administration with SHP-Social Democratic Populist Party narrowly defeating ANAP setting out a programme for political and economic reform, including implementation of amendments to discourage torture; this programme was however impeded by a lack of consensus within the government.

34. In 1993, President Turgut Ozal died of a heart failure and Suleyman Demirel was elected to the presidency. Tansu Ciller, the elected DYP party leader, formed a

³⁹ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

⁴⁰ *The Europa World Year Book 2001, Turkey*, Volume II, 42nd edition, London. p. 3911

⁴¹ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

government and became the first woman premier of Turkey. She implemented a TGNA approved economic programme, the key aspect being accelerated privatisation plans for state-owned enterprises. However the new administration was strained by sharp escalation of violence by the outlawed PKK and in early 1994, the devaluation of the Turkish Lira following a loss of confidence in the currency on the part of international credit agencies. In November 1994, the TGNA transferred 100 state enterprises to the private sector after facing opposition from the coalition government party-SHP. In February 1995, SHP announced its merger with CHP and enlarged the government majority after renegotiation of the conditions of the coalition. Ciller succeeded in passing constitutional reforms such as removal of restrictions on political associations and trade unions, lowering the age of suffrage from 21 to 18 years, expansion of the TGNA by 100 parliamentary seats to 550. She however, failed to obtain sufficient support for the amendment of the “Anti-Terrorism” legislation, which was expected to be crucial in securing the European Parliament’s ratification of the EU-Turkish customs union.⁴² concerning industrial and processed agricultural goods.⁴³

General Elections in 1995

35. In 1995, the Islamist Refah Party-RP (Welfare Party) took advantage of the discontent over corruption, high inflation and unemployment to win a majority in the general elections of December 1995. RP and the centre-right DYP formed Turkey’s first Islamist-led coalition government in June 1996. It campaigned to strengthen political and economic relations with other Islamic countries, to withdraw from NATO and the EU customs union and to increase state involvement in the economy.⁴⁴ Refah Prime Minister Necmettin Erbakan was at odds with the military, over government policies such as allowing female civil servants to wear traditional headscarves. Necmettin Erbakan resigned under intense military pressure in June 1997.⁴⁵ On 16 January 1998, Turkey’s Constitutional Court banned the RP on the grounds of a “hidden” fundamentalist agenda and conspiracy against the secular order. Necmettin Erbakan and 6 other RP officials were banned from holding political office for five years. Some 100 former RP deputies launched the FP in February 1998. In August 1998, 12 former RP deputies including Necmettin Erbakan and the FP leader Recai Kutan, were charged for illegally diverting funds from the RP prior to its dissolution.⁴⁶

Islamic Activism and Corruption

36. A tripartite government formed in July 1997 comprised of ANAP, DSP-Democratic Left and the DTP-Democratic Turkey Party under the leadership of ANAP’s Mesut Yilmaz. The new government pledged to improve law and order and vigorously improve EU membership. It approved legislation extending compulsory education from 5 to 8 years, intending to raise the entry age to Islamic schools from 11 years to 14 years and lessening Islamic influence. After 16 months under severe military pressure to curb Islamic activism, the government collapsed in November 1998 over corruption charges. Public demonstrations followed the military’s insistence on banning the wearing of Islamic dress in public buildings, notably educational establishments at the end of

⁴² The Europe World Book 2001, *Turkey*, Volume II, 42nd edition, London. p. 3912

⁴³ USDOS, Bureau for Europe, *Background Notes: Turkey*, October 1999 p. 12

⁴⁴ The Europe World Book 2001, *Turkey*, Volume II, 42nd edition, London. p. 3912

⁴⁵ Facts on File News Service, *Turkey – Country Profile, 2001*

⁴⁶ Regional Surveys of the World, *The Middle East and North Africa 2001*, 47th Edition, Europa Publications. p. 1171

February 1998. In May 1998, the TGNA confirmed an enquiry against Prime Minister Mesut Yilmaz over corruption allegations connected with tendering for government contracts. He resigned at the end of the year following corruption allegations concerning privatisation of the Turk Ticaret Bankasi and a no-confidence vote in Parliament. The same month, trial of former Minister of Interior, Mehmet Agar, was announced his involvement in the Susurluk incident. In September 1998, Tansu Ciller was investigated for misused government funds during her premiership which she admitted to withdrawing from a secret government “slush fund. Corruption charges were dismissed in November 1998 owing to insufficient evidence. In September the 10-month prison sentence handed down to the mayor of Istanbul, Recep Tayyip Erdogan, for inciting hatred was upheld and new charges of “insulting the judiciary” were added in December 1998. He resigned as mayor and as leader of the FP. In November 1998, the TGNA approved an investigation into the Minister of Public Works and Housing, Yasar Topcu, on charges that he had misused his office in the tender for the Izmit Bay Project. In December 1998, Ozer Ciller was acquitted on charges of falsifying documents.⁴⁷

General Elections in 1999

37. In January 1999, DSP’s Bulent Ecevit headed an interim government to oversee the holding of early legislative elections in April 1999. The DSP won 22% of the vote, the MHP 18%, and the FP 16%. ANAP and DYP won 13% and 12% respectively. MHP’s impressive showing was attributed to public weariness with perceived corruption in the centre-right, a military campaign to prevent a strong showing by Islamists, and a wave of nationalist sentiment following the capture of Abdullah Ocalan in February 1999. Bulent Ecevit assembled a coalition of the DSP, MHP and ANAP and won a vote of confidence in June 1999.⁴⁸ The new government commanded 351 seats in the TGNA, the first overall parliamentary majority since 1995. In January 1999, a motion to close HADEP by alleging links with the PKK did not succeed and in March 1999 the Constitutional Court ruled that HADEP was to be allowed to contest the April 1999 elections.⁴⁹

Abdullah Ocalan Leader of the PKK Captured

38. Abdullah Ocalan was captured on 16 February 1999 at the Greek Embassy in Kenya after being expelled from Syria in October 1998 and unsuccessfully seeking asylum in Russia and Italy. He was charged with treason on 23 February 1999 before a SSC and held personally responsible for the deaths of 30,000 people during the 15-year Kurdish struggle for autonomy. During the proceedings, Ocalan depicted himself as a moderate, called for a PKK ceasefire and declared his willingness to negotiate a peace agreement for the Kurdish region. He was sentenced to death in June 1999, whereupon Ocalan’s lawyers lodged an appeal in Turkey and with the ECHR.⁵⁰ Execution requires a parliamentary vote and presidential ratification, and the ECHR demanded suspension of the vote while it decided whether to hear Ocalan’s appeal.⁵¹ The Turkish Court of Appeals and the Chief Prosecutor refused Ocalan’s appeal but granted a stay on execution on 12 January 2000 until such time that ECHR considered his case.

⁴⁷ The Europe Year Book 2001, *Turkey, Volume II*, 42nd edition, London. p. 3914

⁴⁸ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

⁴⁹ Regional Surveys of the World, *The Middle East and North Africa 2001*, 47th Edition, Europa Publications. p. 1172

⁵⁰ Ibid

⁵¹ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

39. In February 2000, the PKK leadership declared a cease-fire and reportedly removed the proscribed word, “Kurdistan”, from the organisation’s title. Some 1,500 militants reportedly surrendered in October 1999. However Turkish authorities continued to harass pro-Kurdish HADEP politicians and in April 2000 launched a new offensive against Kurdish guerrillas in northern Iraq, claiming that the PKK was re-establishing positions near the Turkish border despite the cease-fire declaration. The army forcibly depopulated more than half the 5,000 villages and hamlets in the south-east, in many cases killing and torturing villagers. Parliament lifted the 12-year-old state of emergency in Siirt province in November 1999, leaving four provinces Diyarbakir, Hakkari, Sirnak and Tunceli under emergency law.⁵²

Relations with Syria, Italy and Greece

40. Relations with Syria, which deteriorated in July 1998 owing to Syria’s repeated claim to the Hatay region of Turkey, worsened in October after Turkey threatened the use of force if Syria did not expel Abdullah Ocalan and close down terrorist training camps both in Syria and in the Beka’a valley in Lebanon. It was reported that 10,000 Turkish troops had been deployed near the border and the Turkish Ambassador to Syria was recalled. Egypt and Iran attempted to mediate in the dispute and an agreement was signed between Turkey and Syria to stop the PKK from operating on Syrian territory and Abdullah Ocalan was forced to leave Syria. Turkey recalled briefly its ambassador to Italy in October 1998 after the country hosted a meeting of the Kurdish parliament-in-exile. Relations further deteriorated after Abdullah Ocalan’s application for asylum in Italy and Italy’s refusal to extradite him. Anti-Italian demonstrations were held in Turkey and Italian goods were boycotted until he reportedly left Italy in January 1999.

Earthquakes

41. An earthquake, measuring 7.4 on the Richter scale devastated the industrial region of Izmit, in north-west Turkey on 17 August 1999, killing more than 17,000 people, injuring 40,000, leaving an estimated 600,000 homeless and inflicting huge damage on the economy. On 14 November 1999, a second earthquake in the same area, measuring 7.2 on the Richter scale killed a further 7000 people. Wide spread anger focused on the slow response of the state institutions, particularly the Red Crescent Society, to the disaster and on the endemic corruption which allowed many substandard constructions of apartment blocks in a region known to be vulnerable to earthquakes. International assistance and considerable help from Greece marked the improvement of Turkish-Greek relations. Encouraged by the US President Bill Clinton in November 1999, Greece accepted the decision of the European Union (EU) Summit meeting in Helsinki, Finland in December 1999 to grant Turkey the status of a candidate for EU membership. In return, Turkey encouraged Turkish Cypriots to participate in the United Nations (UN) sponsored negotiations on Cyprus.

Turkey-European Union (EU) relations

42. Turkey has been an associate member of the then European Commission (now EU) since 1 December 1964 and made a formal application to join the EU in April 1987. The

⁵² Ibid

application was rejected by the EU until 1993 on the grounds of unsatisfactory human rights record, high rate of inflation, dependence upon the rural population, lack of social security and lack of political negotiations regarding Cyprus. Turkey entered into a customs union with the EU on 1 January 1996 after the government's guarantees on improvement of human rights and treatment of the Kurdish population as well as the withdrawal of the veto on the customs union by Greece as it received assurance of accession of Cyprus to the EU. However, EU aid over a five year period, to assist Turkey in the implementation of a new trade regime was blocked by Greece claiming Turkey's action in the Aegean as a violation of the economic agreement. The Turkish government criticized the EU for its failure to adhere to the agreement and in January 1997 warned it would disrupt expansion of NATO if EU refused to consider Turkey's membership application to the EU.

43. In December 1997, at the Luxembourg meeting of the European Council of the EU, Turkey was excluded from the list of candidates for enlargement. Turkey declined the invitation to attend the newly created EU Conference in March 1998. It threatened to boycott EU goods and withdraw its application if it was not included in the next list of candidates by June 1998. It froze its relations with the EU until 1999.⁵³ In June 1998, the EU pointed to Turkey's human rights record as its primary concern but took steps to improve relations with Turkey by expanding the Turkey/EU customs union to promote economic and social development in the country. It also decided to issue regular reports on Turkey's progress in meeting EU general standards for admission however, continuing to block aid to Turkey due to human rights concerns.⁵⁴

44. In 1999, the EU declared Turkey a candidate for EU Accession at its Helsinki Summit. Besides laying down the important conditions regarding Turkey's relation with Greece, Cyprus, the EU clearly stated that accession negotiations could not begin until Turkey met the political conditions stipulated by the Council in June 1993 – the so called Copenhagen criteria which focused on “stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities”.⁵⁵ In November 1999, the EU produced its first regular report on Turkey's progress towards accession. The commission commented on the “persistent violations of human rights”, the “great failings in the way of minorities are treated” and the “lack of real civilian control over the army”.⁵⁶

45. In April 2000, the EU stated, “with some concern, we have unfortunately noted that not much progress has been made since Helsinki”. The particular emphasis the EU placed in minority rights in Turkey was a cause of friction in September 2000 when the Turkish Foreign minister expressed irritation, that the European Parliament on releasing an aid package of 135 million euros had proposed linking the funds to progress on Kurdish cultural rights and economy in the south-east region of Turkey.⁵⁷

46. In November 2000, the EU Commission issued an *EU Accession Partnership Draft Agreement* for Turkey. But while the government's response – contained in the *National Programme for the Adoption of the Acquis* published in March 2001 – on paper met most of the EU's requirements, it did so in vague terms and failed to give precise

⁵³ The Europe Year Book 2001, *Turkey, Volume II*, 42nd edition, London. p. 3921

⁵⁴ Human Rights Watch, *World Report 1999, Turkey- Role of the International Community*

⁵⁵ The Economist Intelligence Unit, *Country Profile 2001, Turkey*, p. 9

⁵⁶ Human Rights Watch, *World Report 2000, Turkey- Role of the International Community*

⁵⁷ Human Rights Watch, *World Report 2001, Turkey-Human Rights Developments*, p. 329

commitments regarding abolition of capital punishment, the reform of the NSC or legislation of Kurdish-language broadcasting or education.⁵⁸ The *Report on the Political Criteria of the Special Committee on Turkey – E.U. Relations* prepared by the Special Committee on Turkey–EU relations attached to the Turkish Prime Minister’s Office on 28 February 2000 and the *Calendar for Democracy, the Rule of Law and Human Rights*, produced by the Secretariat of the High Coordinating Council for Human Rights of the Office of the Prime Minister in mid-2000 contained proposals for constitutional, legal and administrative reform in the direction of better protection of fundamental rights, measures for reshaping the NSC; abolishing the death penalty; redrafting laws in order to ensure freedom of expression; establishing judicial police; abolishing incommunicado police detention and combating domestic violence. However, the omissions and the lack of precision regarding the final shape of such reforms and the time line for reforms indicated in the Calendar (by the end of 2001 or 2002) left room for concern as numerous changes were already long overdue.⁵⁹

47. The Kurdish Human Rights Project pointed out the absence of the words ‘Kurd’ and ‘Kurdish’ in the EU draft accession document and the issue of internally displaced peoples not specifically addressed in the criteria to be met by Turkey for EU membership. Most of the agreement’s criteria were observed to be general with no specific deadlines or benchmarks in place to mark Turkey’s progress in improving its human rights record.⁶⁰

48. During the second half of 2001, the governments main task besides restoring economic confidence, would be to produce reforms in the constitution and legal system to satisfy the political requirements of the EU’s Copenhagen criteria as a precondition for the eventual start of the accession negotiations. In June 2001, an Inter-party Conciliation Commission of the Turkish Parliament produced a package of reform proposals which were to be debated by the Parliament in September 2001.⁶¹ The proposed reforms are expected to be possibly watered down, mainly by the MHP, as the ruling parties discuss them. During 2001-02, the potential for increased tensions with the EU also exist over Turkey’s objections to the EU’s emerging European Defence and Security Policy. The Turkish government, anxious to avoid being excluded from the European decision making on security issues, has continued to veto unrestricted and guaranteed access to NATO assets by the EU’s proposed European Rapid Reaction Force.⁶²

Prison Unrest

49. In September 1999, unrest broke out in prisons across the country as a result of poor conditions and overcrowding; Ten prisoners were killed and a number of guards held hostage. The Minister of Justice asserted that he would not resign over the unrest and announced the establishment of a special force to ensure prison security. Some 100 persons were arrested in Istanbul for distributing a press release on the prison incident.

⁵⁸ The Economist Intelligence Unit, *Country Profile 2001, Turkey*, p. 9

⁵⁹ International Helsinki Federation for Human Rights (IHF), 2001, “Turkey” in *Human Rights in OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America, Report 2001 (Events of 2000)*, pp, 296-297

⁶⁰ Kurdish Human Rights Project (KHRP), September 2000, “KHRP Offers Recommendations as Turkey’s EU Accession Moves Forward”, in Newslines, Issue 11/12, p. 6, late summer/autumn 2000

⁶¹ The Economist Intelligence Unit, *Country Report, July 2001, Turkey*, p. 8

⁶² The Economist Intelligence Unit, *Country Forecast, July 2001, Turkey*, p. 4

Unrest continued in prisons in late 1999 and early 2000. In February 2000, a protocol was signed providing for education to the prison inmates. In November 2000, political prisoners throughout Turkey went on hunger strike, protesting against plans to transfer them to high-security prisons where they would be held in “F-type” cells as opposed to communal wards. The prisoners feared that their isolation in these cells would make them more vulnerable to abuse by prison staff. Following attempts to force-feed the prisoners, in violation of international medical ethics, a stand-off ensued between the authorities and the prisoners. In December 2000, Turkish security forces raided 20 prisons in an attempt to end the hunger strikes. The three-day action resulted in the deaths of 30 prisoners and two soldiers. After the authorities regained control of the prisons, over 1,000 prisoners were transferred to the “F-type” cells, where many prisoners resumed their hunger strike.

50. On 29 March 2000, the TGNA voted against the constitutional amendments proposed by the government, including measures to reduce the seven-year presidential term of office to five years, introduce direct presidential elections and allow an incumbent Head of State to seek a re-election. The specific aim of this last provision was to allow President Suleyman Demirel to seek a second term in office. The Assembly elected Ahmet Necdet Sezer, Chief Justice of the Constitutional Court as Turkey’s 10th President in May 2000. In July 2000, Mesut Yilmaz was appointed as the Deputy Prime minister and State Minister with special responsibility for EU Affairs.⁶³ In June 2000, the TNGA announced its eighth five-year development plan; its aims included improving the economic and social infrastructure in south-eastern Turkey, improving education, reforming public spending to provide financial discipline and preparing the Ottoman archives for public accessibility. Prime Minister Bulent Ecevit spoke in favour of abolishing capital punishment thus facilitating the extradition of offenders to Turkey which is a key issue dividing the ruling coalition.

51. In August 2000, the SSC issued an arrest warrant for a popular religious leader, Fetullah Gulen, charging him with attempting to undermine the secular system; the charge was dismissed after a televised appearance of Ecevit who expressed regret at the court’s decision. In the same month the military claimed that thousands of civil servants were trying to destroy the secular system and urged the TGNA to enact measures enabling their removal. Earlier attempts by the government were vetoed twice by President Sezer.

52. In December 2000, a case seeking the closure of the FP was brought before the Constitutional Court on the grounds that it was focusing on fundamentalist activities and was an illegally established successor to the RP. The party was banned in June 2001.

Economic Situation 2000-2001

53. The Turkish economy made significant improvements throughout 2000 with the implementation of a stability programme, structural reform and increased regulation of financial systems considered imperative by the government and international investors.⁶⁴ The government was however seriously undermined by economic crises in November

⁶³ Regional Surveys of the World, *The Middle East and North Africa 2001*, 47th Edition, Europa Publications. p. 1173

⁶⁴ The Europa World Year Book 2001, *Turkey*, Volume II, 42nd edition, London. p. 3916

2000 and February 2001.⁶⁵ Severe banking crisis was provoked in November 2000 as a result of investigation by the Banking and Supervision Agency into 10 failed banks. The investigation exposed lack of confidence of foreign investors in the Turkish economy due to widening current account deficit and delays in the structural reform programme. The IMF agreed to an emergency loan of USD 7,500 million and the World Bank pledged USD 5000 million to strengthen the financial sector and accelerate privatisations.

54. In mid-February 2001, a second economic crisis was precipitated following a dispute between the President and Prime Minister: the President accusing the Prime Minister for not responding adequately to allegations of government corruption. In March 2001, Bulent Ecevit replaced the Minister of Finance, Recep Onal with Kemal Dervis, a senior economist at the World Bank, in an attempt to salvage Turkey's economic reforms and restore confidence in the financial markets. The World Commission on Dams in November 2000 found the planned Ilisu dam project on the Tigris river in breach of seven key principles for dam building, including gaining public acceptance and sustaining rivers and livelihoods. Construction of the dam was likely to displace more than 25,000 Kurdish people in south-east Turkey and submerge sites of archaeological and historical interest.

55. In March 2001, the government announced a programme of political, social and administrative reforms to prepare the country further for membership of the EU. The Commissioner responsible for EU enlargement welcomed the programme but it was observed that it did not address the Kurdish demands of greater cultural rights in education and broadcasting. Although the government was considering lifting the ban on Kurdish-language broadcasting, it faced strong opposition by the MHP.⁶⁶

C Legal Context

International Legal Context

56. Turkey has been a member of the United Nations (UN) since 24 October 1945. Since then, it has become a state party to the following international instruments relating to refugees and human rights:

United Nations Convention	Date of ratification or accession (a); date of entry into force
Convention Relating to the Status of Refugees (1951)	30 March 1962
Protocol relating to the Status of Refugees (1967)	31 July 1968 (a)
Convention on the Prevention and Punishment of the Crime of Genocide (1948)	31 July 1950 (a)
International Convention on the Elimination of all Forms of Discrimination against Women (CEDAW, 1979)	20 December 1985 (a); 19 January 1986
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, 1984)	2 August 1988; 1 September 1988

⁶⁵ Facts on File News Service, *Turkey – Country Profile, 2001*

⁶⁶ The Europe World Year Book, 2001, *Turkey*, Volume II, 42nd edition, London. p. 3916

Convention on the Rights of the Child (CRC, 1989)	4 April 1995; 4 May 1995
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Sources: UNHCR/CDR's RefWorld 2000, www.unhchr.ch, untreaty.un.org

As a state party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Turkey has signed Article 21 and Article 22 on 2 August 1988. It recognises the competence of the Committee against Torture monitoring the implementation of the Convention against Torture (CAT), on the basis of Article 22.⁶⁷ and the state complaints procedures under the Article 21.⁶⁸

57. It is important to note that Turkey has not signed or ratified the following United Nations instruments:

- Convention Relating to the Status of Stateless Persons (1954)
- Convention on the Reduction of Statelessness (1961)
- Optional Protocol to the International Covenant on Civil and Political Rights (1966)
- Second Optional Protocol of the International Covenant on Civil and Political Rights Aiming at the Abolition of the Death Penalty (1989)
- Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity (1968)
- International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)

58. Turkey has signed but not yet ratified the International Covenant on Civil and Political Rights (ICCPR, 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) on 15 August 2000. Turkey signed the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999) on 8 September 2000 and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1965) on 13 Oct 1972 but is yet to ratify them.

59. The three international instruments that are not yet in force and signed by Turkey are: the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000), the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000) on 8 September 2000 and the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (1990) on 13 January 1999. They have not been ratified by Turkey.

60. Turkey has been the member of the Council of Europe (CoE) since 13 April 1950. Since then Turkey has been a state party to the following international instruments related to human rights:

Council of Europe Convention	Date of ratification or accession (a); date of
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⁶⁷ Under the Convention against Torture, “ the state party recognises the competence of the committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this convention..”. See website http://www.unhchr.ch/html/menu3/b/h_cat39.htm for further details.

⁶⁸ Under the Convention against Torture, “ the State Party recognises the competence of the committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.

	entry into force
European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)	18 May 1954; 18 May 1954
Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms (1952)	18 May 1954; 18 May 1954
Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms (1994)	11 July 1997; 1 November 1998
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987)	26 February 1988; 1 February 1989
Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1993)	17 September 1997
Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1993)	17 September 1997
European Social Charter	24 November 1989; 24 December 1989

Sources: UNHCR/CDR's *RefWorld* 2000, www.coe.int

61. Turkey has signed but not ratified the Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms (1984) on 14 March 1985, the Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (2000) on 18 April 2001 and the Additional Protocol to the European Social Charter (1988) on 5 May 1988.

62. Turkey has not signed the Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty (1983).

63. Turkey became a member of the North Atlantic Treaty Organisation (NATO) in 1952 and has two NATO headquarters in Izmir. Turkey is also a member of the Organisation for Economic Cooperation and Development (OECD), Organisation for Security and Cooperation in Europe (OSCE) and the Islamic Conference Organisation (OIC). It formed a customs union with the European Union in January 1996 and is a member of the World Trade Organisation (WTO).⁶⁹

National Legal Context

64. The important legislation in force under Turkey's national legal framework concerning human rights is as follows:

Anti-Terrorism Act – Law of 11 April 1991

65. The Anti-Terror Law replaced several articles of the Turkish Penal Code. It repealed articles 141, 142 and 163, which banned communist, Kurdish nationalist and Islamic fundamentalist political activity. Many political prisoners were reported to have been released. However, with its broad definition of terrorism, the Anti-Terror Law has been used to “detain alleged terrorists and others on the charge that their acts, words, or ideas constituted dissemination of separatist propaganda.”

⁶⁹ USDOS, Bureau for Europe, *Background Notes: Turkey*, October 1999 p. 12

66. Article 1 of the Anti-Terror Law defines terrorism as; “any kind of action conducted by one or several persons belonging to an organisation with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation...by any one method of pressure, force, and violence, terrorization, intimidation, oppression, or threat.”

67. Article 8 deals with propaganda against the indivisibility of the State and is used to prosecute and imprison people for peacefully expressing their opinions. The Article has most frequently been used to prosecute writers, journalists, pro-Kurdish politicians and intellectuals. In October 1995, a number of amendments reduced the length of prison sentences under Article 8 to 1 to 3 years (from 2 to 5 years) and introduced the possibility of converting prison terms into fines and suspending future prison terms. This led to the release of 143 prisoners in 1995 and an additional 126 prisoners by mid-November 1996. The Article now demands that the prosecutor proves intent on the part of the individual to destroy the integrity of the state before reaching a decision. In its revised version, Article 8 reads:

68. “Written and oral propaganda and assemblies, meetings and demonstrations aimed at damaging the indivisible unity of the state of the Turkish Republic, its territory and as a nation, are forbidden. Those conducting such an activity are to be punished by a sentence of between one year and three years’ imprisonment and a fine of between 100 and 300 million Turkish liras. In the case of re-occurrence of this offence, sentences shall not be committed to fines.”⁷⁰

The Repentance Law

69. At the end of August 1999, the Turkish parliament passed a repentance law with the provisions that only rebels who were not involved in the fighting will get an amnesty, while others can benefit from sentence reduction. Those seeking to benefit from the law must provide information about rebel movement. Founders and high level executives of the PKK cannot benefit from the law. The law will be valid for 6 months. PKK members who benefit from the law and who are sentenced to death will have their punishment reduced to not less than nine years imprisonment, while those sentenced to life will have their punishment reduced to imprisonment for not less than six years.⁷¹

D Review of the Human Rights Situation

General Respect for Human Rights

70. In September 1998, two members of the UNWGEID visited Turkey. They concluded that the ongoing violent conflict between the Government and the PKK was the main source of continuing preoccupation of both the Government of Turkey and the international community over the situation of human rights in Turkey. Although the

⁷⁰ Immigration and Nationality Directorate of the United Kingdom, *Country Assessment – Turkey*, 1 April 2001, pp. 7-8

⁷¹ The Anatolia News Agency, *Ankara, Parliament passes repentance law to encourage Kurdish rebels to surrender* 27/8/1999

military and other activities on both sides were concentrated in south-eastern Turkey, the ramifications of the conflict affected the whole country.⁷²

71. The US State Department Report 2000 observed that the present government generally respected its citizens' human rights in a number of areas; however, its record was poor in areas such as continued extrajudicial killings 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. However 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 were 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, 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 have gone unreported.⁷³

72. 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. 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.⁷⁴

73. Similarly the Regular Report from the European Commission on Turkey's Progress towards Accession of November 2000 recorded that Turkey still did not meet the political criteria for membership of the European Union. The report said that the basic features of a democratic system continued to exist, but Turkey was slow in implementing the institutional reforms needed to guarantee democracy and the rule of law. Many aspects of the overall human rights situation remained worrying. Torture and ill treatment was far from being eradicated even though the matter was taken seriously by the authorities and parliament, and training programmes on human rights were being implemented. Prison conditions had not improved, although Turkey was embarking on a substantial reform of its prison system. Freedom of expression as well as freedom of association and assembly was still regularly restricted. A positive approach seemed to be adopted towards non-Muslim communities with regard to freedom of religion, but this needed to be developed for all religious communities, including non-Sunni Muslims. Compared with 1999, the economic, social and cultural rights situation did not improve,

⁷² United Nations, Commission on Human Rights, *Civil and Political rights, including questions of Disappearances and Summary Executions, Report of the Working Group on Enforced or Involuntary Disappearances*, Fifty-Fifth session, E/CN.4/1999/62/Add2, 28 December 1998, para 54

⁷³ USDOS, 2000 *Country Report on Human Rights Practices: Turkey*, February 2001, p. 1

⁷⁴ Human Rights Watch, World Report 2001, *Turkey-Human Rights Development*

particularly the enjoyment of cultural rights by all Turks irrespective of ethnic origin. The situation in the southeast, where the population is predominantly Kurdish, had not substantially changed.⁷⁵

74. Amnesty International's open letter to the EU leaders on 30 November 2000 summarised Amnesty International's concerns about the human rights situation in Turkey. These concerns covered 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.⁷⁶

Steps taken by the Government to Improve the Human Rights Situation

75. The Government of Turkey took legal and administrative measures to comply with its international human rights obligations and to prevent human rights violations.

76. In 1997, it constituted the High Council of Human Rights consisting of Under-Secretaries of the Foreign Affairs, Interior, Justice, Education and Health Ministries and Representatives of the Security Forces to start an advanced human rights reform process. On 3 December 1997, the Prime Minister issued a circular instructing the law enforcement agencies and officials to respect human rights strictly and the Turkish General Staff issued a "Code of Conduct" regarding human rights practices for the Turkish armed forces. In 2000, the Chairman of the Human Rights High Coordination board for Human Rights drafted a proposal for steps to be taken to meet the Copenhagen political criteria, a precondition for the start of the accession negotiations with the EU.⁷⁷

77. A Special Bureau concerning Missing Persons of the General Directorate of Security was set up on 20 December 1997. The bureau was charged with the task of investigating the fate and whereabouts of missing persons. In order to facilitate investigations and receive applications, the Bureau functions 24 hours and includes a mobile centre for speedy processing of applications. An intensive public information campaign was carried out in order to make the bureau widely known.

78. The UNWGEID in 1998, stated that both the Human Rights Association of Turkey (HRA-Insan Haklari Dernegi) and the Human Rights Foundation (HRF-Insan Haklari Vakfi) were under pressure and had suffered several acts of harassment from the authorities. Medical doctors working with the HRF were prosecuted in Adana, Diyarbakir and Istanbul. The HRA suffered serious repression, including assassination by death squads of its leaders in south-eastern Turkey, closure of its offices, charges against its members and confiscation of its publications. However, both human rights organisations continued to participate in sessions of the established High Council of Human Rights and reports submitted by them were being considered by the Special Bureau concerning Missing Persons of the General Directorate of Security.

⁷⁵ European Commission, *Regular Report on Turkey's Progress Towards Accession*, November 2000

⁷⁶ Amnesty International, *Open letter to EU Heads of State and Heads of Government*, 30 November 2000

⁷⁷ Amnesty International, *Annual Report 2001*, Turkey p. 1

79. In January 1998, the Government submitted to the Parliament, a draft law amending the Turkish Penal Code, eliminating, inter-alia, the death penalty, which had not been implemented since 1984, and enlarging the scope of freedom of expression. The Government also submitted a draft law facilitating the prosecution of public officials and substantial amendments to articles 17, 159 (insulting state institutions) and 312 (incitement to hatred on grounds of race or religion) of the Penal Code. Representatives of the civil society observed that some of the proposed amendments to the juridical and legal framework were closely linked to the negotiations regarding the European Union and remained just words.⁷⁸

80. In May 1998, Ahmet Necdet Sezer, the newly elected President, a former judge and president of the constitutional court made a series of speeches calling for the constitution and legal system of Turkey to be “cleansed” of their repressive features. He stated that Turkey could not “meet the demands of a modern society without abandoning the structure and regulations that bring to mind a police state”.⁷⁹

81. New Detention Procedures were approved by the government on 21 August 1998 in the form of the “Regulation on Apprehension, Police Custody and Interrogation”, aimed at introducing uniformity and standardisation in this field, clarifying the responsibilities and obligations of the security forces under the law, bringing about a system of registration of detention and entitling state prosecutors to carry out effective control of the security forces. Non-governmental organisation’s however, complained to the Special Rapporteur on Torture and Detention, Sir Nigel Rodley, during his visit to Turkey in November 1998 that there had been no significant positive developments after the entry into force of this new regulation. It was alleged that procedures laid down for the prompt registration of detainees and for notification of their relatives were frequently ignored. Some detentions were not registered and some were registered long after the arrest was made. Such situations continued to facilitate the practice of enforced disappearance.⁸⁰

82. The Council of Europe monitored Turkey through its political, investigative and judicial bodies. In 1998, 2,500 cases against Turkey were brought before the ECHR.⁸¹ In July 1999, the ECHR found Turkey guilty on 13 counts of violating rights of free speech and ordered it to pay some TL 110,000 million in damages. In December 1999, the ECHR found Turkey guilty of breaking the European Convention on Human Rights by its closure of the Democratic Party (DEP) and ordered a compensation of 70,000 French francs. It was also announced that human rights consultation committee was to be established in order to provide information and act on complaints received. In the year 2000 the ECHR found Turkey responsible for “disappearances”, extrajudicial execution, death in custody, torture and suppression of freedom of expression in twelve

⁷⁸ United Nations, Commission on Human Rights, *Civil and Political Rights, including questions of Disappearances and Summary Executions, Report of the Working Group on enforced or involuntary Disappearances*, Fifty-fifth session, E/CN.4/1999/62/Add.2, 28 December 1998 para 33

⁷⁹ Human Rights Watch, World Report 2001, *Turkey-Human Rights Developments*

⁸⁰ United Nations, Commission of Human Rights, *Report of the Special Rapporteur: Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1995/37*, E/CN.4/1999/61/ADD.1, 27 January 1999, para 34

⁸¹ United Nations, Commission on Human Rights, *Question of the Violation of Human Rights and Fundamental Freedoms in any part of the World, Written Statement submitted by the International Federation of Human Rights, a non-governmental organisation in special consultative status*, Fifty-fifth Session, E/CN.4/1999/NGO/19, 1999

new decisions.⁸² A report by the HRF in June 2000 asserted that as many as 1 million people had been victims of torture over the preceding decade. The government admitted in a separate report to the Council of Europe that a trade unionist who died in police custody in March 1999 may have been tortured.⁸³

83. As of October 2000, no report of the European Committee for Prevention of Torture (CPT) July 2000 mission to Turkey was published. The mission's stated priority was to examine the current changes in the prison system. Reports on visits could only be published with the consent of the government and eight reports remain unpublished.⁸⁴ One CPT report (dated 1997) on practices of detention and torture was permitted to be published of the eight visits made to Turkey since 1990. Observations of its visit to meet Abdullah Ocalan in prison in 1999 were allowed to be made public.⁸⁵

84. The Turkish-European Joint Parliamentary Commission observed that not much progress was made by Turkey in its June 2000 statement. In September 2000, the Turkish Foreign Ministry expressed irritation that the European Parliament proposed linking an aid package of 135 million euros to the progress on Kurdish cultural rights and economy in the south-east of Turkey.⁸⁶

Right to Life, Personal Security and Physical Integrity

Extrajudicial, Summary or Arbitrary Executions

85. Amnesty International reported at least 15 extrajudicial deaths in 1998⁸⁷ and the death of Erdinc Aslan, a radical leftist shot by police in October 1999.⁸⁸ According to Human Rights Watch, there were ten deaths in custody apparently as a result of torture in 1998. In 1999, deaths in custody persisted as seven deaths were reported. Extrajudicial executions both in cities and the countryside occurred though less frequently.⁸⁹

86. The Constitutional court annulled a legal provision in January 1999, which entitled security forces to "fire directly and without hesitation at persons who do not stop when warned".⁹⁰ According to the US DOS country report on human rights practices (2000, 2001), figures of extrajudicial killings were seen to be reducing since 1999 and no longer could be considered an important factor of daily life in the south-east. The Human Rights Foundation in Turkey reported no deaths of detainees under torture.

87. However, during 2000, another five detainees died under suspicious circumstances such as alleged suicides. More than 20 persons were shot dead by the police, the Jandarma, and the military allegedly for not heeding a "stop warning" during arrest, illegal entry into the country or accidental shooting. In September 2000 Jandarma shot

⁸² Human Rights Watch, World Report 2001, *Turkey-Human Rights Developments*

⁸³ The Europa World Year Book 2001, *Turkey*, 42nd edition, volume II, London, p. 3917

⁸⁴ Human Rights Watch, World Report 2001, *Turkey-Human Rights Developments*

⁸⁵ Human Rights Watch, World Report 2000, *Turkey-Human Rights Developments*

⁸⁶ Human Rights Watch, World Report 2001, *Turkey-Human Rights Developments*

⁸⁷ Amnesty International, *Annual Report 1999, Turkey*, p. 4

⁸⁸ Amnesty International, *Annual Report 2000, Turkey*, p. 4

⁸⁹ Human Rights Watch, *World Report 2000, Turkey-Human Rights Developments*

⁹⁰ Council of Europe, European Commission, *1999 Regular Report from the commission on Turkey's progress towards the accession*, 13 October 1999 p. 11

and killed 1 person and 3 villagers were allegedly killed in the Hakkari province by soldiers when returning to their home village. Relatives who retrieved their bodies found the victims' hands tied behind their backs. In December 2000 31 prison inmates and 2 security officials died following police intervention into widespread hunger strikes and violent protests over the new F-type prisons introduced by the government.⁹¹

88. During 1999 and 2000, the PKK and smaller Kurdish groups committed extra judicial killings, targeting individuals believed to be state sympathizers, such as members of government-sponsored village guards or the civil defence force, their families, local officials, and teachers who taught Turkish rather than Kurdish. Kurdish attacks on Turkish soldiers and terrorist acts including arson, shooting and bombings followed the PKK leader Abdullah Ocalan's sentencing but abated towards the end of the year.⁹²

89. In three separate incidents in August 2000, Workers and Peasant's Army of Turkey (TIKKO) allegedly abducted and killed two village officials and one villager in Tokat province.⁹³ In 1999 at least 29 deliberate and arbitrary killings were attributed to armed opposition groups like PKK, TIKKO. The DHKP-C allegedly killed informers in 1999. Police stated 13 deaths during clashes between two armed groups of Hizbullah.⁹⁴ Armed separatists and leftist groups were reportedly responsible for 39 arbitrary killings of civilians and prisoners. Marxist-Leninist Communist Party (MLKP) executed two police informers in 1999.⁹⁵

90. The UN Special Envoy for unsolved deaths visited Turkey in February 2001 with the governments permission to examine death cases after nine years of the first political assassinations in Turkey. It was reported that the Special Envoy Esmâ Jehangir would meet officials and NGOs especially in Diyarbakir and Batman where hundreds of political assassinations took place between 1992-1998.⁹⁶

Death Penalty

91. Turkey has a moratorium on capital punishment since 1984 and belongs to the list of de-facto abolitionist states.⁹⁷ The Anti Terror Law of 1991 commuted all 25 outstanding death penalties before 8 April 1991 to between 10 to 20 years imprisonment, depending on the offence committed. However, certain offences under the Anti-Terrorism law and the Turkish Penal Code still carry the death penalty.

92. There have been no executions in Turkey since 1984, although the courts have continued to pass death sentences. Before a death sentence can be carried out it needs the ratification of the TGNA, which has in recent years been very reluctant to give this authorization. Although a draft bill abolishing the death penalty was introduced earlier in 2000, the initiative for the change in law was halted following the arrest of Abdullah

⁹¹ USDOS, 2000 *Country Report on Human Rights Practices: Turkey*, February 2001, p. 4

⁹² Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

⁹³ Human Rights Watch, *World Report 2001, Turkey-Human Rights Developments*

⁹⁴ Amnesty International, Annual Report 2000, Turkey, p. 4

⁹⁵ Amnesty International, *Annual Report 1999, Turkey*, p. 3

⁹⁶ Kurdish Observer, "Unsolved deaths will be examined by UN", February 2001. [www.hra-action.org/archive4/0303ko01.html]

⁹⁷ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 89

Öcalan. Turkey has not signed the sixth protocol of the European Human Rights Declaration, which rejects the death sentence.⁹⁸ At least 80 death sentences were reportedly passed in the first 11 months of 2000 of which 28 were later commuted to prison terms. By the end of the year death sentences of 71 people have been upheld and submitted to parliament for final confirmation.⁹⁹

Arbitrary Arrest and Detention

93. On 21 August 1998, the government approved the new Regulation on Apprehension, Police Custody and Interrogation aimed at introducing uniformity and standardisation in detention procedures, clarifying the system of registration of detention and entitling State prosecutors to carry out effective control of the security forces. Article 9 states that the apprehended person shall be given the opportunity to inform his or her relatives even for crimes falling under the jurisdiction of the SSCs if there is no harm to the outcome of the investigation. Article 10 established that if the person apprehended and taken into custody or is apprehended by force, his/her health at that time should be determined by a health examination. His/her health would also be determined in case of change of location or liberation of the person. Article 11 of the Regulation provides for admission registers to be kept; to include information on the identity of the detained person, reports concerning the detention, the admission procedures, the names of the relatives informed and, if applicable, of the lawyer and of the interpreter requested, and the exit procedure.

94. The UNWGEID in 1998, was informed by government officials that a person who was arrested was required to be produced before a judge within 48 hours if the crime fell within the competence of the SSC. In case of collective crimes and crimes falling under the SSC, the public prosecutor could prolong the period of detention to four days, for reasons such as difficulty in gathering evidence or large number of defendants. This period could be further extended to seven days at the request of the prosecutor if the investigation was not complete. In regions of state of emergency this seven-day period of detention could be prolonged to ten days

95. Non-governmental sources reported that detainees were frequently not registered for several days after being taken into custody, until interrogation was over, thus facilitating the use of torture. If the detainee died, it was then easy for the police to deny that the person was ever in custody. It was reported that family members could best hope for a verbal confirmation of the detention and that in some cases of enforced disappearance, such confirmation was initially given and later denied. Relatives were reluctant to check at the police stations in fear of being detained themselves. In the absence of any official notification, a family was frequently only alerted if the relative failed to return home. Anti terror branches in particular refused to give information to relatives and lawyers alleging that they do not have the authority to do so.¹⁰⁰

⁹⁸ Immigration and Nationality Directorate of the United Kingdom, Country Assessment – Turkey, 1 April 2000, p. 8

⁹⁹ Amnesty International, *Annual Report 2001, Turkey*, p. 5

¹⁰⁰ United Nations, Commission on Human Rights, *Civil and Political Rights, including questions of Disappearances and Summary Executions, Report of the Working Group on enforced or involuntary Disappearances*, Fifty-fifth session, E/CN.4/1999/62/Add.2, 28 December 1998, para 27

Torture and Other Inhuman and Degrading Treatment and Punishment

96. According to some reports in 2000, if suspects detained under the Anti-Terror Law did not produce information and confessions then interrogators often allegedly shifted from beatings to electric shocks and other methods. A trial based on a confession allegedly coerced under torture could proceed and even conclude before the court had established the merits of the torture allegations. Torture continued to be a big problem in Turkey according to the Turkish HRF Documentation Center. The HRF reported that 537 people in 1997 and about 350 in the first half of 1998 had applied to their treatment and rehabilitation centres as victims of torture.¹⁰¹ In 2000, 1,003 applications were received. HRF witnessed a dramatic increase in torture complaints at its centres, Istanbul and Diyarbakir ranking highest in January 2001. Although the figures did not directly correlate to the number of people tortured, the coordinator of HRF believed that it was an indicator of Turkey's present human rights record.¹⁰² The Parliamentary Human Rights Commission published nine reports on its investigations on torture and ill-treatment in the year 2000. The reports contained pictures of detention places, interrogation rooms, torture equipment, transcripts of interviews of detainees, which represented a step forward in documenting and acknowledging torture.¹⁰³

97. According to November 1998 UN Special Rapporteur report on Torture and Detention, torture was not systematic in Turkey in the sense of being approved of or tolerated at the highest political level. The Special Rapporteur however found the practice of torture in numerous parts of the country to be in the category of systematic in the sense of being a pervasive technique of law enforcement agencies for the purpose of investigation, securing confessions, intimidation regardless of the approval or disapproval at the highest levels of the public service or by the government's political leadership. Turkish authorities maintained that the incidence of torture had decreased, and they attributed it to reduction in the state of terrorism, the new legislation and increased training of personnel. The Human Rights Coordinating High Committee, established on 9 April 1997 undertook important initiatives, drafting and amending legislation, to prevent the use of torture and punish those who practise torture and ill-treatment. However these developments have not yet been successful in eliminating the use of torture.

98. Numerous provisions in Turkish domestic law prohibit and criminalize torture. Article 7 of the Constitution provides that "no one shall be subjected to torture or ill-treatment incompatible with human dignity". The Penal Code criminalizes the use of torture in Article 243 where officials torturing the accused and resorting to cruel inhuman or degrading treatment to make the person confess his offence is liable for heavy punishment up to five years and can be disqualified either temporarily or for life from the civil services. Article 245 applies to police who threaten or treat badly or cause bodily injury to a person while performing their duty or executing a superior's order can be punished by imprisonment from three months to three years and will be temporarily disqualified from civil service. Amendments to the article 243 were proposed to

¹⁰¹ United Nations, Commission on Human Rights, *Civil and Political Rights, including questions of Torture and Detention, Report of the Special Rapporteur: Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1995/37*, Fifty-fifth session, E/CN.4/1996/61/Add.1, 27 January 1999, para 10

¹⁰² Turkish Daily News, "Tension rises, Torture Escalates", Turkish Probe issue no 425, 11 March 2001 [www.hra-action.org/archive4/1903ozg2.html]

¹⁰³ Amnesty International, *Annual Report 2001*, Turkey, p. 3

increase the sentences to two to eight years and for article 245 from six months to five years. Further article 24 added to article 245 prohibits the use of evidence gathered illegally, “evidence gathered illegally by investigation and prosecuting authorities cannot substitute basis for a verdict”.

99. Article 354 of the Penal Code pertains to falsification of medical certificates; proposed amendments would increase the punishment of the guilty party from four to eight years. Article 13 of Law No. 3842 amending the Code of Criminal Procedure bans torture and other prohibited interrogation methods.

100. Government officials reported to the Special Rapporteur that security forces were increasingly working “from the evidence of the suspect rather than vice versa”. They were being trained to collect evidence in a more professional and scientific manner using the assistance of technologically advanced criminal and forensic laboratories. Pilot projects with introducing video-recording of interrogation was soon to be expanded. However, it was noted that video cameras were not a permanent fixture in interrogation rooms of police stations. Also, detention in an isolation room found at the Narcotics Department in Istanbul with padded dark walls could have a negative impact on the detainees according to an international expert i.e. extended sensory deprivation effects (lack of light and sound); short term effects like hallucinations, memory loss, depression and anxiety or longer term psychiatric effects.

101. The Special Rapporteur reported that the pattern of torture appeared to have changed in the past few years, with the practice becoming less brutal in some places. Owing to shorter custody periods, some security forces were reported to carry out interrogations and avoid leaving visible signs on detainees. Methods such as blindfolding, stripping the victims naked, hosing them with high-pressure cold water and then exposing them to a ventilator, squeezing of testicles, using grossly insulting language intimidation such as threat to their life and physical integrity or those of their families were being used. Similarly, instead of outright rape, sexual harassment and threat of rape are used against women. With regards to common criminals, beating was sometimes used more as a means of correction than of extracting a confession. Falaka (beating of the soles), “Palestinian hanging” (hands tied behind the back and the body suspended by the tied hands), electric shocks were reportedly used less frequently, especially in Ankara and Diyarbakir but, nevertheless, still occurred in some areas of the country. Some patterns of torture previously typical to the south-east of Turkey reappeared in cities like Aydin and Manisa, allegedly because police officers were transferred there from the south-east. The Turkish Parliamentary Commission on Human Rights was reported to have found evidence of torture in police custody in the south-east, when a Reuters despatch on 3 April 1998 quoted Dr. Sema Piskinsüt, then Head of Parliamentary Commission as declaring at a news conference that she had “seen the signs of torture ... electric and telephone cables, truncheons, pipes, water in interrogation rooms”.

102. Most cases of torture or ill-treatment occurred in the custody period before remand or release. The phenomenon of abducting and torturing or ill-treating people without bringing them into custody was reported to have increased in the past few years especially in Istanbul and Ankara as a method of circumventing the new regulations on custody periods. As in the case of Taylan Genc, on 4 March 1998 following a public demonstration by the Confederation of Public Labour Unions in Ankara was abducted

by plainclothes police and driven into an empty field, threatened with death if he refused to become a police informant.

103. Non-governmental sources interviewed by the Special Rapporteur on Torture, claimed that the numbers of torture allegations from the south and southeast of Turkey, especially from the emergency zone decreased because people were less eager to report cases and most independent lawyers and physicians had emigrated to Istanbul and Ankara. As a result there was little human rights monitoring taking place in this region.¹⁰⁴ The humiliating effect of torture and traumatising very often created difficulties in the process of refugee status determination.¹⁰⁵

Practice of Torture in Prisons

104. The use of excessive force to terminate disturbances in prisons was reported to be widespread by the Special Rapporteur on Torture. Prisoners were held in wards where generally torture or ill-treatment was more difficult to take place as inmates protected each other and torture or ill-treatment occurred when a prisoner was being transferred to court or another prison.¹⁰⁶ The introduction of new F-type prisons of one and three persons cells as opposed to the old system of large dormitories sparked fears that prisoners would be at higher risk of cruel, inhuman and degrading treatment. Prisoners held under the Anti-Terror law were transferred to these prisons despite wide spread protest and clashes which were ended in December 2000. Article 16 of the Anti-Terror Law was amended in May 2001 to allow prisoners access to communal activities-the library and sports facilities and receive unobstructed visits which have not been implemented.¹⁰⁷ Council of Europe sharply criticised Turkish security forces of serious abuses when they forcibly ended a hunger strike in December 2000 by inmates protesting against the modern security jails which would isolate them further and make them more susceptible to police brutality. The Council's anti-torture committee expressed grave concerns about women's detention centre in Istanbul's Bayrampasa prison when security forces set fire to a top floor dormitory and allowed inmates to be burnt to death. 6 out of 27 inmates died of their burn. Preliminary reports alleged that the same officers used bullets and grenades at the women's prisoners even when they offered no resistance to end their hunger strikes. Twenty-nine inmates and three soldiers were reported dead when troops stormed 20 prisons across the country in a security operation. The council's visiting delegation found medical evidence of beatings handed out by prison officers after they had regained control of the prisons.¹⁰⁸

105. Badly wounded prisoners sent to the new F-type prisons where reportedly informed that medical treatment would be made available only if the hunger strikes were ended. Limited rights were given to receive close relatives, lawyers and after a lot

¹⁰⁴ United Nations, Commission on Human Rights, *Civil and Political Rights, including questions of Torture and Detention, Report of the Special Rapporteur: Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1995/37*, Fifty-fifth session, E/CN.4/1996/61/Add.1, 27 January 1999, para. 14

¹⁰⁵ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000 p. 92

¹⁰⁶ United Nations, Commission on Human Rights, *Civil and Political Rights, including questions of Torture and Detention, Report of the Special Rapporteur: Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1995/37*, Fifty-fifth session, E/CN.4/1996/61/Add.1, 27 January 1999 para 24

¹⁰⁷ Amnesty International, "Isolation over Turkey's new prisons", June 2001

¹⁰⁸ BBC News, *Turkish Forces "let inmates burn"*, 16 March 2001

of effort doctors. Various democratic initiatives to raise awareness against the inhuman treatment of prisoners in the new prisons and against force-feeding were met with threats of fines and legal proceedings.¹⁰⁹

Role of Public Prosecutors

106. Prosecutors of the SSCs stated that aiding and abetting terrorist activities was primarily based on statements by the accused because there tended to be no corroborative evidence in such cases. Detainees who alleged that their confessions were coerced were released but allegations of torture were not investigated. The chief prosecutor informed the Special Rapporteur on torture that that a confession statement was admissible, even if obtained under torture if corroborative evidence existed. He stated that terrorists harmed themselves in custody to appear that the police had tortured them and that there is an assumption on part of prosecutors that police are well intentioned. Subsequent retraction of confessions made during detention, as a result of torture, were disregarded by the prosecutors of the SSCs. Lack of statistical data on the number of referred cases to public prosecutors was observed as public prosecutors believed terrorists were instructed to allege torture to discredit the police and the justice system

Incommunicado Detention

107. According to the 1998 Regulation on Apprehension, Police Custody and Interrogation, lawyers for detainees falling within the jurisdiction of the state security courts could have access to them only after the extended custody period of four days. Further meeting with lawyers in these cases were in the presence of the police. Lawyers did not have access to the case file when the decision of remand was taken. They only had access to it after the prosecutor had handed down the indictment, which normally took one to two months. The regulation did not require the detainee to be brought before the judge when the extension of the custody period was decided upon. The ECHR has taken the position that detentions of seven days under the state of emergency are only justifiable when other safe guards such as the remedy of habeas corpus and the right to consult a lawyer after 48 hours is available.¹¹⁰

108. The regulation tightened maintenance of clear records of the apprehension and custody of the individual to ensure that rights of a detainee are respected. Delays between the time the detainee was brought to the station and the time the detention was recorded were observed. Also names of the releasing officer as opposed to admitting officers were indicated. In the event that rights were violated, the failure to record the name of the admitting officer created problems of accountability for the detainees. It was reported that detainees were not informed of their rights and had been requested to sign statements, which they did not read, to the effect that they had waived the right to a lawyer.¹¹¹ During a visit by the Parliamentary Commission to Erzincan Police Headquarters in March 2000, entries in detention records for all but two held in the past

¹⁰⁹ IKM-Belgium Committee against Torture through Isolation, *Force feeding of political prisoners on hunger strikes, Announcement and Appeal to participate in Human Rights Delegation in Turkey*, March 2000

¹¹⁰ See case *Aksoy v Turkey*, ECHR (1000/1995/606/695) (18 December 1996) paras 82-83 for more information.

¹¹¹ United Nations, Commission on Human Rights, *Civil and Political Rights, including questions of Torture and Detention, Report of the Special Rapporteur: Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1995/37*, Fifty-fifth session, E/CN.4/1996/61/Add.1, 27 January 1999, para 51

two years indicated that they “did not request a lawyer”. Similar patterns were observed at Tunceli Police Headquarters.

109. Offences committed under the Law on Organised Crime come under the jurisdiction of the SSCs and is used to deny access to lawyers. In November 1999, eighty-eight member of the Science Research Foundation – an organisation that examines science from the point of view of devout Islam were detained at Istanbul Police Headquarters were held incommunicado detention for six days where many were allegedly subjected to torture, blindfolding, deprivation of sleep and access to toilet facilities, hanging by arms and electric shocks.

110. Blindfolding prisoners in police custody was a routine practice. Male and female detainees reported sexual abuse or some level of sexually insulting behaviour with male detainees being subjected to anal rape with. An amendment in August 1999 to the Regulation on Apprehension, Custody and Interrogation provided women detainees to be searched only by female police officers. However, this measure still cannot stop the sexual humiliation that may take place in the privacy of the police station

111. UN Special Rapporteur on Torture” in 1998 recommended to amend legislation to ensure no one is held without prompt access to a lawyer”. Similar recommendation was made by the European Committee for the Prevention against Torture in its 1997 report, “all persons deprived of their liberty by the law enforcement agencies-irrespective of the offence of which they are suspected-be granted, as from the outset of their custody, the right of access to an independent lawyer”. The UN Committee against Torture in its 1993 report also recommended early access to legal counsel. The 28 February 2000 *Report on the Political Criteria of the Special Committee on Turkey – E.U. Relations* prepared by the Special Committee on Turkey-EU relations attached to the Turkish Prime Minister’s Office and the *Calendar for Democracy, the Rule of Law and Human Rights*, produced by the Secretariat of the High Coordinating Council for Human Rights of the Office of the Prime Minister in mid-2000 recommend the above changes at the end of 2001.¹¹²

Role of Medical Personnel

112. Problems identified by the Special Rapporteur on Torture both from the perspective of prevention of torture and detection and investigation were lack of forensic training and equipment of medical personnel, issuing medical certificates for persons in detention and the role and questionable independence of the prison doctors. According to the Minister of State in charge of Human Rights forensic doctors are accountable to both the Council of Forensic Medicine (CFM) operating under the Ministry of Justice and the Ministry of Health. The Turkish Medical Association (TMA) is another body that can ban physicians for six months in case of misconduct and initiate court proceedings to obtain a longer ban. It also produced “alternative reports” where officials reports failed to document manifest signs of torture.

113. Prison doctors were directly employed by the Ministry of Justice and were considered hierarchically inferior to the Director of the Prisons. Non-official sources claimed that they were subject to pressure not only in issuing false medical certificates

¹¹² Human Rights Watch, *Turkey: Human Rights and the European Union Accession Partnership*, September 2000

but also in deciding if inmates required urgent or special treatment in hospitals or making determination that they were terminally ill. Number of prisoners suffering from a degenerative condition known as Wernicke-Korsakoff syndrome due to prolonged fasting in the Istanbul Sagmalcilar prison were refused postponement or reprieve from sentences as indicated under the provision of article 399 of the Code of Criminal Procedures.

114. The Ministry of Health reported shortage of doctors wishing to specialise in forensic sciences. General practitioners who lacked expertise, knowledge of diagnosis of torture, methods to carry out forensic examinations were reported to often carry out forensic duties in the rural areas. The CFM introduced pilot scheme, providing doctors with standard forms of guidance in Istanbul, Izmir and Ankara in 1998. It was hoped that the scheme would be extended to the rural areas.

115. A medical certificate or an eyewitness is required to open investigations into an allegation of torture. The Minister of Health emphasized that physicians were fully independent but the Special Rapporteur received consistent information the circumstances in which medical examinations take place make false reports a common occurrence. Policemen in Batman were reported to have their own medical stamps to bypass the involvement of medical professionals; alleged perpetrators accompanied the victim to the doctor of their own choice. Sometimes doctors issued certificates without seeing the patient or did not specify the reported injuries as a product of torture.

116. Doctors were subjected to more pervasive forms of intimidation such as detention, ill-treatment and torture as a consequence of issuing accurate medical certificates. The TMA indicated that such pressures were more common in the south-east and resulted in the reluctance of doctors working in that region. The CFM expressed ignorance of the kinds of pressure exerted on the doctors. A new practice of placing medical reports in sealed envelopes and mailed by doctors to the public prosecutor was introduced.¹¹³

117. In June 2000, Physicians for Humanity Rights campaigned for charges to be dropped against three doctors, who were members or volunteers of the HRF in Izmir. They were charged with-providing treatment to patients who were “members of an illegal organisation”, “resisting police and propagandising at the funeral of an illegal organisation member” and “disclosing opinions about decisions of remands by the courts” and “advising the court under article 30 (section 2) of the Turkish Law Press” and publishing an article expressing concerns about targeting of physicians who provide treatment to survivors of torture in the Cumhuriyet in 1999.¹¹⁴

Enforced or Involuntary Disappearances

118. The practice of enforced or involuntary disappearances could be directly attributed to low standard of record keeping in police stations and the security forces’

¹¹³ United Nations, Commission on Human Rights, *Civil and Political Rights, including questions of Torture and Detention, Report of the Special Rapporteur: Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1995/37*, Fifty-fifth session, E/CN.4/1996/61/Add.1, 27 January 1999, para 54

¹¹⁴ Physicians for Human Rights, *Campaigns-Update on cases in Turkey*, June 2000 [www.phrusa.org/campaigns/action_alerts/ky_update.html]

systematic failure to notify families of detainees.¹¹⁵ However, there has been a decrease observed in the past few years. The US Department of State reported no disappearances of political activists in the year 2000 compared to 36 in 1999.¹¹⁶ Members of the UNWGEID in September 1998 were informed by the HRA that 90% of enforced or involuntary disappearances in Turkey were connected with the Kurdish question. Remaining 10 % of victims were thought to be members of left wing extremist groups. During 1998, 13 cases were reported. The victims included members of the political opposition parties, journalists working for newspapers opposed to the government, trade unionists or villagers suspected of supporting subversive organisations.

119. Most cases submitted to the Government concerned persons of Kurdish ethnic origin in the provinces of Diyarbakir and Siirt, in the south-east Anatolia. Some of the reported disappearances took place in Antalya, Izmir and Istanbul. Most of the cases followed the same pattern: the missing persons had allegedly been arrested at their homes on charges of belonging to the PKK and taken to the police station but their detention was later denied by the authorities, in most cases police officers or state prosecutors. In many cases, torture or ill –treatment at the hands of the security forces was reported or feared. Some of the disappearances occurred during raids conducted by gendarmes accompanied, at times, by village guards. Although the total number of cases forwarded to the government was relatively low, they deserved particular attention with the view to improving the practices and the behaviour of the security forces.¹¹⁷

120. PKK’s practice of kidnapping young men or threatening their families as part of its recruiting effort and abductions by PKK terrorists of local villages and state officials virtually ended due to reduced PKK capabilities in the south-east and calls by Abdullah Ocalan to withdraw from its former operating areas in the country.¹¹⁸

Impunity

121. The Law on Prosecution of Civil Servants and other Administrative Officials was enacted in December 1999 to speed up clarification of allegations and elimination of impunity.¹¹⁹ Prosecutors have been more ready to open legal proceedings against police officers and gendarmes for ill-treatment or torture, though, conviction and appropriate sentencing remains rare.¹²⁰ In March 2000, two police officers in connection with the disappearance of suspect Mural Yildiz in 1995 were convicted and given a 3 month prison sentence for “negligence of duty” which was further converted into a fine of about (1.2 million TL). 10 police officers accused of torturing a group of young people aged between 15 and 25 in Manisa were not suspended from duty. No charges were filed against the disappearances in 1998 of editors Neslihan Uslu, Hasan Aydogan, Metin Andac and Mehmet Mandal. The 1997 disappearances of Ilyas Eren and 73 year old Fikri Ozgen who were allegedly taken into custody by plainclothes policemen

¹¹⁵ Human Rights Watch, *Turkey: Human Rights and the European Union Accession Partnership*, September 2000

¹¹⁶ USDOS, 2000 *Country Report on Human Rights Practices: Turkey*, February 2001, p. 6

¹¹⁷ United Nations, *Commission on Human Rights, Civil and Political Rights, including questions of Disappearances and Summary Executions, Report of the Working Group on enforced or involuntary Disappearances*, Fifty-fifth session, E/CN.4/1999/62/Add.2, 28 December 1998, para 50

¹¹⁸ USDOS, 2000 *Country Report on Human Rights Practices: Turkey*, February 2001 p. 6

¹¹⁹ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 92

¹²⁰ Human Rights Watch, *Turkey: Human Rights and the European Union Accession Partnership*, September 2000

remained unresolved. The government continued to ignore demands made for investigations into “patterns of disappearances” in the year 2000 according to Human Rights Watch.¹²¹

122. Upon application of the Law No 4616 (Amnesty Law) of 22 December 2000, the Constitutional Court ruled on 18 July 2001 that torture should not be included under the scope of the law. However, the law included the conditional release, suspension of trials and investigations of law enforcement officials who were charged with or convicted of ill-treatment. This could contribute to impunity for ill-treatment as most prosecutions for torture were rare and when convictions were secured they were usually for crimes classified as ill-treatment according to Amnesty International.¹²²

General Respect for Civil and Political Rights

Party Closures

123. Islamist and Kurdish political parties suffered severe intimidation in advance of April 1999 parliamentary elections. According to the UNWGEID, HADEP, a legal political party with a predominantly ethnic Kurdish membership allegedly suffered serious harassment by the authorities. Before the 1999 elections, some 500 HADEP members and supporters were arrested in raids on party offices and homes and party rallies were cancelled by security forces. Human Rights Watch reported that ballots cast for HADEP during the elections were destroyed in at least one constituency. In July 1999, five HADEP members including leader Murat Bozlak resigned after an appeals court upheld prison sentences and bans on political activity for a 1993 speech that allegedly incited racial hatred.¹²³ In February 2000, three mayors belonging to HADEP were accused of being linked with the armed group PKK, blindfolded and beaten during interrogation. They were released with on-going cases against them. In February 2000, 18 executives from HADEP were sentenced to three years and nine months imprisonment each for initiating hunger strikes following PKK leader Abdullah Ocalan’s capture by the Turkish authorities in February 1999. In November 2000, 50 local party members from Van and Hakkari region were arrested and party leader Ahmet Turan Demir faced imprisonment with the ongoing closure case against HADEP. Sympathizers of HADEP were reported to be persecuted by the authorities in Diyarbakir in November 2000 and an individual case of death of an 80 year old member in Diyarbakir in 1999 was reported.¹²⁴

124. In January 1998, the RP was dissolved by the Constitutional Court and the party’s leaders were removed from their parliamentary seats. To win the FP’s support for economic reform legislation aimed at attracting an IMF loan, parliament amended the Law on Political Parties in August 1999. The amendment raised the standard of evidence needed to shut down a party for anti-secular activity, and partially lifted the ban on former RP leader Necmettin Erbakan’s participation in politics.¹²⁵ In July 2001,

¹²¹ Human Rights Watch, *World Report 2001, Turkey-Human Rights Developments*

¹²² Amnesty International, *Turkey-The Amnesty Law – An ambiguous step*, AI Index No EUR 44/052/2001, 28 August 2001

¹²³ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

¹²⁴ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 97

¹²⁵ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

the ECHR 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 RP'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.¹²⁶

125. The Pro-Kurdish Democratic Mass Party (DKP) was closed by the Constitutional Court on the grounds of promotion of separatism in February 1999. In the same year Chief Prosecutor of Ankara also filed for a closure of the Islamist FP which was created after the closure of the RP. The decision as of May 2001 is still pending.¹²⁷

Right to Freedom of Association

126. Articles 5 and 76 of the Act 2908/1983 on Associations stipulates that it is forbidden to form associations which: work against the unity of the Turkish State; involve in activities based on the principle of region, race, social class, religion or sect; claim that there are minorities based on the same principles; or "create" minorities by promoting languages and cultures other than Turkish. Although some of the provisions provide grounds for creation of racist or discriminatory associations the ECHR is concerned that some provisions excessively restrict the possibilities for individuals belonging to different groups within Turkey to express their ethno-cultural and linguistic identity through the establishment of associations.¹²⁸

127. Authorities may restrict freedom of association and assembly on the grounds of maintaining public order, and prior notice of gatherings is required. The Gaziantep branch of HRA was closed for three months in July 1999. In January 2000, a branch of the Mazlum-Der was closed for statements found insulting to the state. Another branch was closed in May 2000 and 15 other branches and homes of executive members were raided by the police in June 2000.¹²⁹

128. Under article 4 of the Law on Associations, Akin Birdal, former President of the Turkish HRA was forced to resign from his leadership as well as give up his membership in June 1999 and imprisoned for making a speech. His release in September 1999 was seen as a manoeuvre to avoid official embarrassment during the Istanbul OSCE Summit in November 1999 and the EU Helsinki Summit in December 1999. He was returned to prison in March 2000 and re-released in September 2000.¹³⁰

129. Workers are allowed to form unions, bargain collectively and strike with the exception of workers engaged in protection of life and property. This category includes

¹²⁶ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 22

¹²⁷ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 87

¹²⁸ Council of Europe, European Commission against Racism and Intolerance, *Second Report on Turkey*, Adopted on 15 December 2000, CRI (2001) 37, Strasbourg, 3 July 2001, para C 8

¹²⁹ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties*, Turkey

¹³⁰ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 93

workers in the mining and petroleum industries, sanitation, defence and education. Labour unions held a strike in August 1999 to protest proposed pension reforms.¹³¹

Right to Fair Trial

130. The UN Special Rapporteur was informed by government officials that a person arrested has to be brought before a competent judge within a maximum period of 24 hours. If the crime falls within the competence of the SSCs, this period is 48 hours. In case of collective crimes, the public prosecutor may prolong this period to four days by written order, for reasons of difficulty in gathering evidence or a large number of defendants. The period within which suspects must be brought before a judge may, at the request of the prosecutor and decision of the judge, be extended to seven days in the investigation is still not completed. Crimes falling within the competence of the State security courts that are committee in the regions where a state of emergency is in force, the seven-day period may be extended to ten days.

131. Detainees under the Anti-Terror Law have access to a lawyer after four days in detention. It was alleged that in some cases, police officers ignore that requirement to give such access to detainees. In practice, lawyers are authorised to see their client for a few minutes, in the presence of police officers.¹³² According to the European Commission report of 1999, the ECHR delivered 13 cases lodged by individuals in 1994-1995. In nine cases, the court concluded that applicants had denied the right to have their cases heard by an “independent and impartial tribunal” because they had been tried by a SSC.

132. Abulah Ocalan’s trial did not meet international standards of fairness. He was denied adequate access to legal counsel, and his lawyers were intimidated. One resigned from the case in February, claiming inability to do his job because he feared for his life and the other was arrested for suspected ties with PKK. Yet another was charged with aiding the PKK. In response to international criticism, the Turkish constitution was amended in June 1999 to remove military judges from security court trials, including Ocalan’s.¹³³

Right to Freedom of Religion

133. The United Nations Interim Report of the Special Rapporteur on the Commission on Human Rights on the Elimination of all forms of Intolerance and of Discrimination based on Religion and Belief visited Turkey in November 2000. He observed the policy of the Turkish government in matters of religion and belief is exceedingly complex and stands in sharp contrast to the assertion by government officials that such policy is a model of tolerance and non-discrimination. The Special Rapporteur believed that the active role played by the state in religious affairs constituted excessive interference not only in the way people manifest their belief but also against the concept of freedom of religion and belief. The state intrusion in Muslim religious affairs left no room for the specific needs of the minority Muslim

¹³¹ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

¹³² United Nations, Commission on Human Rights, *Report of the Special Rapporteur: Sir Nigel Rodley, submitted pursuant to Commission on Human Rights Resolution 1995/37 on Civil and Political Rights including questions of Torture and Detention, Commission on Human Rights, Fifty-fifth session, E/CN.4/1999/61/Add.1, 27 January 1999, para 36*

¹³³ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

communities, the Alevi in terms of places of worship and religious education. Moreover, Turkization policies reinforced discriminatory treatment of minorities.¹³⁴

134. The 1982 constitution guarantees freedom of religion and belief and principle of non-discrimination on the basis of religion and belief. Article 10 of the constitution provides that all citizens are equal before law without discrimination as to language, race, colour, sex, political or philosophical opinion, religion or sect or any other distinctive feature of a similar nature. Article 70 provides any Turkish national may enter public service with the sole criterion being the person's capacities to perform the tasks involved. Article 14 provides no right established by the constitution may be exercised to threaten the indivisible unity of the state (..) by creating discrimination based on language, race, religion or sect (..), article 15 on suspension of exercise of fundamental rights and freedoms declares that no one is compelled to reveal his or her religion, conscience, thought, or opinion or be accused on account of them. Article 24 outlines acts of worship, religious services and ceremonies may be conducted freely provided it does not violate the provisions of article 14 of the constitution.

135. The Department of Religious Affairs recognised as a constitutional body in 1961 carries out work related to beliefs, worship, moral principles in Islam, to enlighten the public and manages places of worship. The state involvement in religion poses a problem as it promotes a single Hanafi concept of Islam. This may pose a problem to atheists among the Muslim majority, when part of their taxes go to finance religious activities of the state. Religious education outside the sphere is permitted by the state but the state retains the right to control it.

136. The practice of mentioning a persons' religion on identity cards, a practice upheld by the constitutional court in its decision in November 1979 may be considered to be at odds with the principle of secularism and freedom of religion. The Special Rapporteur reported that Turkey was preparing to suppress the mention of religion on Identity Cards.¹³⁵

137. Religious freedom is restricted by limits on worship to designated sites, constraints on building houses of worship for minority religions, and military-backed government crackdowns on political Islam. In 1998, parliament passed laws placing all mosques under government administration, requiring government authorisation for the construction of mosques, and forbidding the wearing of uniforms and masks (including headscarves) by demonstrators. Police detained 40 people in September 1998 for operating a church in Izmir without an official permit.¹³⁶

138. In 1996, the Turkish State recognised Nevruz as a pan-Turkish festival. During the Nevruz celebrations in March 2001 the Turkish authorities banned planned Nevruz celebrations, sponsored by HADEP, in Istanbul. Celebrations were also banned in the south-eastern 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

¹³⁴ Immigration and Nationality Directorate of the United Kingdom, *Report of the fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 40

¹³⁵ United Nations, *General Assembly Interim Report by Abdelfattah Amor, the Special Rapporteur for the Commission on Human Rights on Elimination of all forms of intolerance and of discrimination based on religion or belief*, A/55/280/Add.1, 11 August 2000., p. 9

¹³⁶ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

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.¹³⁷

139. Wearing of head scarves in universities is seen by authorities and the constitutional court as adversely affecting the public security and unity of the nation by showing your religion in public. Human Rights Watch in 2001 reported that the campaign to restrict the wearing of head scarves for religious reasons in educational settings or on state premises continued unabated, strongly supported by the Office of the Chief of General Staff. This campaign resulted in thousands of devout Muslim women being temporarily or permanently denied access to education, and others were suspended or discharged from employment in teaching or health care. Criticism of the government's action by the former Education Minister and leader of the Rebirth Party, Hasan Cezal Guzel, resulted in a one year prison sentence in the year 2000.¹³⁸

140. Security forces were ordered to take "all necessary measures" against "anti-secular propaganda". In February 1999, police raided a school and refused entry to students wearing traditional Islamic headscarves. In late March, former Istanbul Mayor Recep Tayyip Erdogan was jailed for publicly quoting from an allegedly anti-secular poem. Security forces reported that some 400 radical Islamists were arrested in a series of raids prior to the elections. Following the 1999 elections, FP member of parliament, Merve Kavakci was prevented from taking her oath of office and was stripped of her citizenship (Kavakci has dual U.S.-Turkish citizenship) for wearing a headscarf in parliament. Kavakci's actions prompted Turkey's chief prosecutor to initiate proceedings to ban the FP and expel its MP's from politics.¹³⁹

Right to Freedom of Expression

141. Human Rights defenders, writers, politicians, religious leaders, trade unionists in Turkey continued to be tried and imprisoned for exercising their right to freedom of expression, particularly when expressing opinions on the Kurdish question, the prisons or the role of Islam according to Amnesty International.¹⁴⁰ Human Rights Watch stated that the military was still an overriding factor in holding back change particularly with regard to freedom of expression in Turkey. Although the Turkish media and politicians furiously debated issues and openly criticised the government, those who contradicted the official line on the role of ethnicity, religion or the military in politics risked prosecution and imprisonment.¹⁴¹

142. 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. Prosecutors used Law no 5816-the Law to Protect Atatürk and article 16 of the Press Law to limit freedom of expression.¹⁴²

¹³⁷ Immigration and Nationality Directorate of the United Kingdom, *Report of the fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 38

¹³⁸ Human Rights Watch, *World Report 2001, Turkey-Human Rights Developments*

¹³⁹ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

¹⁴⁰ Amnesty International, *Turkey-The Amnesty Law-An ambiguous step*, AI-Index No EUR 44/052/2001, 28 August 2001

¹⁴¹ Human Rights Watch, *World Report 2001, Turkey-Human Rights Developments*

¹⁴² Immigration and Nationality Directorate of the United Kingdom, *Report of the fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 36

Freedom of expression in Turkey is also limited by the Criminal Code under article 312 (incitement to hatred on grounds of race or religion), article 155 (alienating the people from the institution of military service), article 159 (insulting state officials) and under the frequently used article 8 of the Anti-Terror Law prohibiting separatist statements.

143. Kurds, and political Islam continued to be highly sensitive subjects for the military and frequently earned journalists criminal penalties. At least 15 journalists were imprisoned in 1999, including Andrew Finkel, a Turkey-based correspondent with Time magazine, who was charged in June 1998 with insulting the military. In May 1999, Oral Calislar of the Cumhuriyat received a 20-month prison sentence under Article 8 of the Anti-Terror Law for interviewing Kurdish political leaders. In the same month six police officers charged with beating to death journalist Metin Goktepe in 1996 were convicted of “involuntary homicide” and sentenced to seven and a half years in prison. The verdict was highly criticised by human rights groups. In July 1999, the ECHR found Turkey guilty of human rights violations involving free expressions on 13 separate cases. Kanal-6 Television was shut down for week following a report criticizing the government’s handling of the earthquake in August 1999. Books and newspapers were reported confiscated almost daily. In September 1999, the government suspended all sentences imposed on writers and broadcasters for three years, however those prosecuted for public speeches were exempted.¹⁴³

144. Law No 4616, commonly referred to as Amnesty Law of 22 December 2000 on conditional release and the suspension of trials and sentences for offences committed up until 23 April 1999 was instrumental in the release of the former Prime Minister Necmettin Erbakan, leader of the banned RP, who was due to be imprisoned in January 2001. However, both Necmettin Erbakan and Akin Birdal, head of the HRA were forced to resign as criminal convictions banned them from politics. Akin Birdal faces new charges for statements made after his release from prison in September 2000.¹⁴⁴ Four former members of parliament from the Democratic Party (DEP)-which has been banned since 1999, Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Doan, who were convicted in 1994 of membership of an armed illegal organization (PKK) and sentenced to 15 years’ imprisonment have been excluded from this law.¹⁴⁵ Esber Yagmurdereli, the blind lawyer who was indicted for challenging the Turkish Government on the status of the Kurdish population in Turkey in October 1997 was conditionally released on 18 January 2001.¹⁴⁶

145. Law No. 3984 stipulates “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, broadcasting in Kurdish was sometimes tolerated. The state of emergency regional governor frequently banned Kurdish recordings that could have

¹⁴³ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

¹⁴⁴ Amnesty International, *Turkey-The Amnesty Law-An ambiguous step*, AI-Index No EUR 44/052/2001, 28 August 2001. See also Amnesty International document *Turkey - "Creating a silent society": Turkish Government prepares to imprison leading human rights defender*, February 1999, AI Index: EUR 44/05/99.

¹⁴⁵ See Amnesty International report for details the case of four deputies of the Turkish Parliament, *The colours of their clothes: parliamentary deputies serve 15 years’ imprisonment for expressions of Kurdish political identity*, AI Index No EUR 44/85/97

¹⁴⁶ For more information see Amnesty International document, *Turkey – 17 years in the balance: Lawyer Eöber Yamurdereli returns to prison in freedom of expression case*, November 1997, AI Index No EUR 44/74/97

been played legally elsewhere in the country. 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 The Turkish Radio and Television Supreme Council (RTUK), the broadcasting regulatory authority welcomed the President’s decision, saying that it presented the opportunity to draft a more liberal broadcasting law.¹⁴⁷

146. According the Amnesty International laws are frequently misused to restrict freedom of expression. Dr. Fikret Baðkaya, the founder and chairman of the Turkey and Middle East Forum Foundation was indicted under Article 8 of the Anti-Terror Law for “ disseminating separatist propaganda through the press” for publishing an article in June 1999, entitled “A Question of History?” in the daily newspaper Özgür Bak2Ö, in which he questioned the viability of the Turkish state’s approach towards the Kurdish problem following the arrest of Abdullah Öcalan. Istanbul SSC sentenced him to 16 months imprisonment and a fine on 13 June 2000. He was remanded to prison over a year on 29 June 2001.¹⁴⁸ In December 2000, the Istanbul state security court banned news coverage of widespread hunger strikes in Turkish prisons. The court barred reporting on, “the declarations of the outlawed organisation on death-fasts and propaganda and incitement aimed at causing hatred and enmity amongst people, or encouraging people to commit crimes.” Two issues of the daily *Yeni Evrensel* were reportedly confiscated in late December 2000.¹⁴⁹

147. In March 2001, proceedings for the closure of the HRA began after a Turkish news agency reported in January 2001 that HRA had received money from the Greek Government; which would be contrary to HRA’s status as a non-governmental association. The police after searching the HRA Ankara headquarters found bullet casings, shrapnel and illegal magazines which the HRA explained the items found as 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 and to be used as evidence in HRA reports on human rights violations.¹⁵⁰

148. The European Union (EU) and the Council of Europe called upon Turkey to comply with Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Turkey’s National Programme for the Adoption of the Acquis mentioned a “review” of some articles which have frequently been used to restrict freedom of expression, but linked the intended reform to “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”. To ensure freedom of expression in Turkey requires a basic change in attitude on behalf of the government and the judiciary, leading to a revision of both law and practice.

¹⁴⁷ Immigration and Nationality Directorate of the United Kingdom, *Report of the fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 36

¹⁴⁸ For more information see Amnesty International appeal case, *Dr Fikret Baðkaya: Prisoner of conscience for the second time*, 16 July 2001, AI Index: 44/042/2001

¹⁴⁹ The Committee to Protect Journalists, Middle East and North Africa, *Country Report Turkey 2000*

¹⁵⁰ Immigration and Nationality Directorate of the United Kingdom, *Report of the fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 37

Right to Freedom of Movement

State of Emergency

149. For most of 1980s and 1990s, the government imposed a state of emergency on eleven provinces. The state of emergency still remains in force in four provinces in the Kurdish region- Diyarbakir, Tunceli, Hakkari and Sirnak. Freedom of movement in this region is limited. Checkpoints equipped with electronic databases have been reported although it is difficult to assert the kind of information that can be accessed through these databases. The Jandarma continue to exert its right to detain anyone suspicious at check points and are not obliged to give reasons for the detention. The Emergency Region Governors have maximum power to move populations and limit right of assembly.¹⁵¹

150. Emergency rule allows governors of the provinces to impose curfews, to mobilize the military to suppress illegal demonstrations and otherwise restrict freedom of assembly. The systematic practice of village destruction, depopulation, and forced eviction of Kurds that first began in August 1984 continues.¹⁵²

Economic, Social and Cultural Rights

Education

151. ECRI welcomed the efforts made by the government in the area of provision of human rights education and urged the government to monitor the effectiveness of courses through free exchange of views, revision of relative curricula and addressing racism, discrimination and intolerance in the courses. A course in “Civic and human Rights Education “is compulsory for pupils in the seven and eight grades of primary schools. An elective course on “Democracy and Human Rights” is available for high school students.

152. ECRI reported that religious minorities recognised by the Treaty of Lausanne have their own schools as well as other religious and social institutions. Armenian community has 19 schools, the Jewish community has three and the Greek Orthodox community has a total of 26 schools. Apart from pupils belonging to these groups, however, mother tongue teaching in languages other than Turkish to Turkish pupils is prohibited by article 42 of the Constitution. Serious difficulties were reported for some children of non-Turkish mother-tongue to follow courses in Turkish in schools. Instruction in religious culture and moral education is compulsory in the curricula of primary and secondary schools. All pupils in Turkish schools, except for non-Muslims are obliged to follow courses in the majority religion. ECRI noted that the compulsory nature of religious education was the subject of public debate. The ECRI urged the government to not make religious education compulsory, in order to guarantee the respect of personal choice in matters of religion.

¹⁵¹ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000 p. 90

¹⁵² Report by the International Helsinki Federation for Human Rights to the United Nations Commission on Human Rights Fifty-Fourth Session Geneva, 16 March-24 April 1998 (Item No. 16)

153. ECRI also reported that children of immigrants without legal status in Turkey were sometimes not admitted to schools and urged that government to ensure that children's fundamental right to education is respected in all cases and practical circumstances.¹⁵³

Food

154. The World Food Programme (WFP) has not been involved in any relief or development in Turkey WFP notes that Turkey is a country with food surplus; it purchases food in Turkey for transport to other countries with food needs. Despite the government's food embargo as part of its counter insurgency strategy in south-eastern Turkey, and the lack of food as a contributing factor to internal displacement, WFP has not taken up this issue.¹⁵⁴

Health

155. According to the World Health Organisation's "World Health Report 2000" Turkey's health system ranked 70th (out of 191 countries) in the world. The WHO assessed five indicators: overall level of health; health inequalities; patient satisfaction; how the system responds to need; and how well served the people of different economic status feel. Most Turkish citizens who can afford it have private medical insurance.¹⁵⁵

E Vulnerable Groups

Ethnic Minorities

156. Turkey is an ethnically heterogeneous nation in which the major ethnic groups are Turks and Kurds.¹⁵⁶ According to the Foreign Ministry, the status of minorities in Turkey as determined by the 1923 Treaty of Lausanne (section III, articles 37-44) extends only to non-Muslim minorities in Turkey i.e. Jews, Greeks and Armenians. Turkey does not recognise citizens of Kurdish descent or Assyrians, Laz, Roma as minorities.¹⁵⁷ People of Bulgarian origin are recognised by the Treaty of Friendship with Bulgaria of 1925.¹⁵⁸

The Turkish Kurds

157. The Turkish Kurds, traditionally established in the mountainous south-eastern provinces of Turkey have moved from the countryside into the towns, major cities of Western Anatolia, and the major urban centres in the south-east. This process of displacement was accelerated during the 1990s as a result of the deterioration of the

¹⁵³ Council of Europe, European Commission against Racism and Intolerance, *Second Report on Turkey, Adopted on 15 December 2000*, CRI (2001) 37, Strasbourg, 3 July 2001 para G15

¹⁵⁴ US Committee for Refugees, *The Wall of Denial: Internal Displacement in Turkey*, January 1999, p. 34

¹⁵⁵ The World Health Report 2000 *Health Systems: Improving Performance* Also see Immigration and Nationality Directorate, Home Office, United Kingdom, Report of fact-finding mission to Turkey, 17-23 March 2001

¹⁵⁶ *Ethnic Groups Worldwide*, A Ready Reference Handbook, David Levison, Oryx Press, 1998

¹⁵⁷ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000 p. 94

¹⁵⁸ Council of Europe, European Commission against Racism and Intolerance, *Second Report on Turkey, Adopted on 15 December 2000*, CRI (2001) 37, Strasbourg, 3 July 2001, para J 25

security situation in the south-east.¹⁵⁹ The most violent form of displacement is evacuation of entire villages carried out by the Turkish armed forces to deprive Kurdish armed movements logistical support from the civilian population. State authorities claim that 350, 000 persons have been evacuated from 3,500 villages between 1984 and 1999. US DOS states 1 million as a credible number of displaced people in 2001. With a current population of 16 million Kurds constitute the largest ethnic minority in Turkey. Kurds have been denied any rights as an ethnic minority, manifestations of ethnic identity have been brutally crushed by the Turkish authorities. Numerous violations of human rights and humanitarian law, including arbitrary arrests, torture, extrajudicial killings and indiscriminate attacks have been reported against Kurds. A major source of insecurity for the civilian population has been the “village guards” system.¹⁶⁰

158. Outside south-east Turkey, Kurds do not usually suffer persecution, or even bureaucratic discrimination, provided that they do not publicly or politically assert their Kurdish ethnic identity. Kurds who currently migrate to the west of the country (including those displaced by the conflict in the south-east) bring with them their culture and village identity, often have little education (due in part to the PKK’s policy of murdering teachers) and few skills and are not prepared for urban life. Therefore, while many of the migrant Kurds in the largest cities (e.g. Ankara and Istanbul) are disadvantaged, this is normally the result of social and economic factors, not deliberate discrimination.¹⁶¹ Displaced households have found some support in cities Ankara, Istanbul, Izmir from other Kurdish migrants particularly for lodging and employment. Deprived of valid identity cards, they do not have access to social welfare. They remain exposed to threats from security forces. Discrimination against Kurds in the labour market is widespread. The conditions of return to their villages have not been fulfilled after the unilateral ceasefire of the PKK in 1999. Highly dependent on agricultural resources, they are unable to access any land to cultivate as authorities have failed to address the issue of landmines, populations, occupation of land by village guards, unequal distribution of land property.¹⁶²

^{159.} Of the four main Kurdish languages only two are spoken in Turkey, Kurmanji and Zaza. Most Turkish Kurds speak Kurmanji, but those in the north-western Kurdish area, mainly in the provinces of Tunceli and Elazig, speak Zaza. Kurdish is not a dialect of Turkish.¹⁶³ Kurdish is widely spoken on the streets, especially in the largely Kurdish southeast. However, the wording of the Anti-Terrorism Law, also passed in April 1991, means that it is still illegal to broadcast or publish in Kurdish, speak Kurdish in public meetings or in public buildings, to use it in education or in the conduct of government business.¹⁶⁴ The 1994 law on Television and Radio organisations and their broadcasts requires exclusive use of Turkish. Kurdish TV station MED TV, formerly broadcast from London was shut down in March 1999. However, KTV (Kurdish TV) was launched immediately after by the Kurdistan Democratic Party with the technical assistance of the Turkish government. In July 1999 two other TV stations, Media TV

¹⁵⁹ Immigration and Nationality Directorate of the United Kingdom, *Country Assessment – Turkey*, 1 March 1999.

¹⁶⁰ Global IDP Project, *IDPs in Turkey, Profile Summary*, August 2001

¹⁶¹ Immigration and Refugee Board, *Turkey: The Situation of the Kurds*, Documentation, Information and Research Branch, Ottawa, Canada, February 1996

¹⁶² Global IDP Project, *IDPs in Turkey, Profile Summary*, August 2001

¹⁶³ *Ethnologue*, 13th Edition 1996 Summer Institute of Linguistics

¹⁶⁴ USDOS, 1999 *Country Report on Human Rights Practices: Turkey*, 25 February 2000, p. 29

and CTV (Cultural TV) replaced by METV in March 2000 started broadcasting in Kurdish language.

160. The 1983 Foreign Language Education and Teaching Law regulated the teaching of foreign languages. Arabic English, French etc are on the list however, Kurdish, Roma and Laz are not. Istanbul based Kurdish Culture and Research Foundation attempted to teach a course in Kurdish in 1998 which was closed down and the foundation's board members were prosecuted in Istanbul's SSC under article 312 for "incitement of hatred" but were acquitted in early 2000. In March 2000, the Supreme court ruled in a case concerning a child that had been given a Kurdish name that children could be given non-Turkish origin names.¹⁶⁵

Religious Minorities

161. The Office of the Foundations (Vakiflar Genel Mudurlugu) regulates some activities of religious minorities the Greek Orthodox, Armenian Orthodox and Jews). The Vakiflar must approve the operation of churches, monasteries, synagogues, schools and charitable religious foundations such as hospitals and orphanages.¹⁶⁶ Of particular concern to the minority communities is the lack of ability for their foundations to purchase property or receive donations. Based on a ruling by the Court of Cassation in 1974, foundations are forbidden to buy or sell real estate acquired by them after 1936. On the bases of this ruling property belonging to these foundations has reportedly been reverted to the State without re-numeration. The Greeks and the Armenian communities have been particularly affected by this ruling.¹⁶⁷

162. Greek Orthodox, Armenian and Jewish children are exempt from Muslim religious study, however, non-Muslim minorities such as Catholics, Protestants and Syrians are not exempt. Jews and most Christians denominations freely practiced their religion however, Turks converted to Christianity face harassment by family or neighbours. Proselytizing remains socially unacceptable although there are no legal prohibitions against religious conversions. Some members of religious minorities claimed that they had limited career prospects in government or military service as a result of their religious affiliation. Many religious minority members fear the possibility of rising Islamic extremism and involvement of moderate Islam in politics.¹⁶⁸

163. The Special Rapporteur for elimination of all forms of religious intolerance concluded in 2000 that the minorities continued to face problems affecting their religious affairs. Authorities confiscated property of foundations, thereby depriving them of revenues. Minorities no longer have religious seminaries which undermines religious leadership and management of the communities. Authorities refused to appoint headmasters in Christian schools and they were not allowed to accept children from other communities. The process of electing Greek Orthodox and Armenian patriarchs was affected by interference by authorities. Freedom of worship was recognised but

¹⁶⁵ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000 p. 94

¹⁶⁶ USDOS, Annual Report on International Religious Freedom for 2000- Turkey, 5 September 2000, p. 1

¹⁶⁷ Council of Europe, European Commission against Racism and Intolerance, *Second Report on Turkey, Adopted on 15 December 2000*, CRI (2001) 37, Strasbourg, 3 July 2001, para J 26

¹⁶⁸ USDOS, Annual Report on International Religious Freedom for 2000- Turkey, 5 September 2000 p. 4

restricted to their place of worship. Any public show of religion was discouraged by the authorities.¹⁶⁹

Alevi

164. Like Turks, the Kurds can be divided into 2 religious groups-the Sunni Muslims and Alevi. Sunni Muslim Kurds make up 2/3rds of the total Kurdish population, while Alevi Kurds form the minority 1/3rd-and in turn represent about 1/3rd of the total Alevi population in Turkey. Alevi Kurds are generally located in the marginal areas between the mainly Kurdish south east and Turkish areas of Anatolia, concentrated in Tunceli, Sivas, Çorum, Tokat and Maras provinces. However, this cannot be considered a purely Alevite region. Alevi Kurds often betray their origin through their speech as most speak the minority Kurdish dialect Zaza (as do some Turkish Alevi).¹⁷⁰

165. Alevi, whether Kurdish or Turkish, do not observe the formal requirements of Sunni Islam. They do not go to mosques but have their payers in prayer rooms called Cemevi. Alevi do not receive any financial aid from the Directorate of Religious Affairs, which among other things provides aid to religious establishments. Moreover, the Directorate has reportedly built Sunni mosques in Alevi villages which the Alevi find offensive. Religious education is compulsory at the secondary school level and school books only include information on Sunni Islam and do not mention the existence of Alevi.¹⁷¹ There are no government salaried Alevi religious leaders, in contrast to Sunni religious leaders.¹⁷² Alevi have traditionally supported left wing parties because of their strong commitment to secularism.¹⁷³ In June 2000, 33 persons were convicted and sentenced to death or “trying to change the constitutional regime” related to the attack in 1993 in which 37 Alevi intellectuals died.¹⁷⁴

Jews

166. Jews account for 25,000 in Turkey.¹⁷⁵ It is reported that Sephardic Jews still play an important and respected role in business and the professions.¹⁷⁶ ECRI reported that manifestation of antisemitism is not prevalent within mainstream media and society. However, there is a presence of widespread antisemitic speech and material in press and radio stations connected with Islamic fundamentalist or extreme nationalist groups.

¹⁶⁹ United Nations, *General Assembly, Interim Report on Elimination of all forms of Intolerance and of Discrimination based on Religion or Belief, prepared by Abdelfattah Amor, Special Rapporteur on the Commission on Human Rights, in accordance with the GA resolution 54/159, A55/280/Add.1 of 17 December 1999, 11 August 2000*, p. 26 para 150

¹⁷⁰ David McDowall 1992, *The Kurds: A Nation Denied*. London: Minority Rights Group. 1992

¹⁷¹ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 97

¹⁷² USDOS, Annual Report on International Religious Freedom for 2000- Turkey, 5 September 2000, p. 2

¹⁷³ Immigration and Nationality Directorate of the United Kingdom, *Report of the fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001

¹⁷⁴ USDOS, Annual Report on International Religious Freedom for 2000- Turkey, 5 September 2000 p. 4

¹⁷⁵ United Nations, *General Assembly, Interim Report on Elimination of all forms of Intolerance and of Discrimination based on Religion or Belief, prepared by Abdelfattah Amor, Special Rapporteur on the Commission on Human Rights, in accordance with the GA resolution 54/159 of 17 December 1999, A55/280/Add.1, 11 August 2000*, p. 3

¹⁷⁶ UNHCR/CDR, Background Report on Refugees and Asylum Seekers from Turkey, October 1997

Recent increase in numbers of publications of *Mein Kampf*, *The Protocols of the Elders of Zion* and general Holocaust denial material has been observed by ECRI.¹⁷⁷

Greek Orthodox Community

167. Many members of the Greek Orthodox community in Turkey have emigrated, allegedly because of pressure from the Turkish authorities. There are now only about 4,400 Turkish citizens of Greek origin left in Istanbul.¹⁷⁸ ECRI in its second report on Turkey in December 2000 reported legal restriction affect the functioning of foundations, administrative obstacles exist in the construction of new Greek Orthodox churches. Hostile actions such as placing a bomb on the outer wall of a Greek minority high school was reported in 1999.¹⁷⁹ Authorities monitor activities of the Eastern Orthodox churches and their affiliated operations. The government does not recognise the ecumenical nature of the Greek Orthodox patriarch, it acknowledges him as head of the Turkish Greek Orthodox community and does not interfere with his travels. The Ecumenical Patriarchate in Istanbul has sought for years to reopen the seminary on the island Halki in the Sea of Marmara. Under current restrictions, including citizenship requirements, religious communities remain unable to train new clergy for eventual leadership. Coreligionists from outside the country have been allowed to assume leadership positions.¹⁸⁰

Armenians

168. It is estimated that there are about 50,000 Armenians in Turkey, mostly living in Istanbul. The Armenian Patriarchate has reported incidents of harassment against Armenian churches in Istanbul. Church officials have complained of growing encroachment by certain Muslim extremist groups on lands belonging to the Armenian community, especially on the Princes' Islands in the Sea of Marmara. The police have responded with intensified security measures.¹⁸¹ ECRI in its second report on Turkey in December 2000 reported interference in the operation of the Advisory Council of the Armenian Church. In 1999 an Armenian church in Kirikhan, Hatay province was taken over by the Vakıflar because its congregation dwindled to two persons. The case is under administrative review. Restoration or construction of religious property was reported to be impeded by bureaucratic procedures and dependent on the authorization of the Regional Board on the Protection of Cultural and National Wealth.¹⁸²

Christians – Syrian Orthodox Christians, Assyrians and Chaldeans, Jesuits

169. Christians on the whole can practice their religion without hindrance. In Mardin province however, Syria Orthodox Christians have been leaving Turkey on account of hostility towards them in the villages. It is reported that internal flight alternative is

¹⁷⁷European Commission against Racism and Intolerance, *Second Report on Turkey*, Adopted on 15 December 2000, CRI (2001) 37, para. J 29

¹⁷⁸ Immigration and Nationality Directorate of the United Kingdom, *Country Assessment – Turkey*, 1 April 2000, p. 19

¹⁷⁹ European Commission against Racism and Intolerance, *Second Report on Turkey*, Adopted on 15 December 2000, CRI (2001) 37, para. J 27

¹⁸⁰ USDOS, Annual Report on International Religious Freedom for 2000- Turkey, 5 September 2000

¹⁸¹ Immigration and Nationality Directorate of the United Kingdom, *Country Assessment – Turkey*, 1 April 2000, p. 19

¹⁸² USDOS, Annual Report on International Religious Freedom for 2000- Turkey, 5 September 2000, p. 5

available to them but not to the Jesuits as a group. As a result many Jesuits leave for Germany, France and the Benelux countries leaving older Jesuits behind.¹⁸³ ECRI reported instances of hostile actions such as desecration of graves in Christian cemeteries. The Roman Catholic Church in Ankara is confined to diplomatic property as they do not have status of official minorities. Police detained or stopped Christians holding services in a Izmir private apartments in September 1999 and detained two Christians for a month in May 2000 on the charge of “insulting Islam” by distributing Bibles. Similar cases were opened in four jurisdictions. In the same month, Protestant service was raided by police and participants were detained for a day.¹⁸⁴

Roma/Gypsy Communities

170. Many Roma/Gypsies live in the Thrace region of Turkey. No complaints have been received by them regarding unfavourable treatment vis-a-vis members of these communities. ECRI noted the disadvantaged position of the members of these communities in areas of education, employment and reported problems in the areas of housing and relations with the police.¹⁸⁵

Opposition Groups

HADEP (The People’s Democracy Party)

171. HADEP has been under persecution since its establishment, like its pro-Kurdish predecessors HEP and DEP, which were closed by the Constitutional Court. All of the HADEP (the Kurdish Party) offices throughout Turkey and particularly the headquarters were repeatedly raided by the police in November 1998. A total of 3,500 HADEP members and leaders were arrested to be interviewed. A total of 300 HADEP executives and members were in prison including the Chairman Murat Bozlak.¹⁸⁶ In February 2000, three mayors from the Southeast belonging to HADEP were accused of links with the PKK and imprisoned. They were allegedly blindfolded and beaten during interrogations. They were released with on-going cases against them. 18 executives from HADEP were sentenced to 3 years and 9 months of imprisonment each for initiating hunger strikes after the capture of Ocalan in February 1999. Party leader Ahmet Turan Demir among other senior HADEP officials was charged. At the beginning of November 2000 authorities arrested 50 local members in Van and Hakkari provinces in the South-east. HADEP sympathisers were persecuted by authorities although it was difficult to state what kind of treatment they were subjected to. There is evidence of individual cases of HADEP members being killed, an 80 year old man was killed during interrogation in Diyarbakir in 1999.¹⁸⁷ Family members of members of HADEP are reported face harassment by the authorities according to the Dutch MFA country report of May 2001.

¹⁸³ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 98

¹⁸⁴ USDOS, Annual Report on International Religious Freedom for 2000- Turkey, 5 September 2000, p. 5

¹⁸⁵ European Commission against Racism and Intolerance, *Second Report on Turkey*, Adopted on 15 December 2000, CRI (2001) 37, para J 30

¹⁸⁶ United Nations, Human Rights Commission, *Question of the Violation of Human Rights and Fundamental Freedoms in any part of the World, Written Statement submitted by the International Federation of Human Rights, a non-governmental organisation in special consultative status*, Fifty-fifth Session, E/CN.4/1999/NGO/19, 1999

¹⁸⁷ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 97

Islamists

172. The Islamist movement is more of a problem for the Turkish government than the PKK after the capture of the PKK leader Ocalan and the decline of the violence in the Kurdish region. Both the government and the military oppose any form of religious movement. Wearing of head scarves is reportedly a proof of political Islam. A restrictive campaign supported by the Office of the Chief of General Staff has resulted in thousands of women being temporarily or permanently denied access to education or suspended or discharged from employment in teaching or health care. In February 2000 the Ministry of Education announced that more than 300 primary and secondary school teachers were dismissed for defying the dress code by wearing headscarves at work. The headscarves issue is controversial and persecution of those wearing them is increasing. Military officers are reportedly discharged from military service for sympathizing with Islamist groups or voting for the FP or having female members in the family that wear headscarves.¹⁸⁸

Armed Opposition Groups:

IBDA-C (Islamist Great Eastern Raiders-Front)

173. The IBDA-C claimed responsibility for a number of terrorist attacks in late 1999 and early 2000. In April 2001, Salih Izzet Erdis, the leader of the IBDA-C was sentenced to death on charges of seeking to overthrow the secular state.

Hezbollah

174. In January 2000, the Government launched a major operation against the fundamentalist guerrilla group Hezbollah. An armed confrontation between the police and Hezbollah members resulted in the death of its leader, Husain Velioglu and the capture of two of his closest associates; information provided by these associates led to the discovery of the bodies of nine men, believed to have been abducted by the group in Istanbul. In early 2000, the operation succeeded in detaining some 690 suspected Hezbollah members and discovered bodies of more than 50 people, believed to have been victims of the group. The government denied that it had tolerated the activities of Hezbollah owing to its anti-PKK activities and the office of the Chief of the General Staff strongly denied allegations of links between Hezbollah and the army. In February 2000, Ciller denied that the state had supplied weapons to Hezbollah during her time as Prime minister and in March 2000 two regional FP staff were arrested in suspicion of membership of Hezbollah.

DHKP-C (Revolutionary People's Liberation Party-Front)

175. Incidents of terrorism continued throughout 2000 and into 2001. In December 2000 two police officers were killed and a further three injured following an attack on a police bus in Istanbul. In January 2001 suicide bomb attack on a police building killed two people. The outlawed DHKP-C claimed responsibility for the attack. The DHKP-C was also accused by the authorities of supporting the prisoners' hunger strikes.

¹⁸⁸ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 98

PKK (Kurdistan Workers' Party)

176. In early August 1999, the PKK agreed to a ceasefire and at that time Ocalan announced that PKK was ready to surrender arms in exchange for Kurdish rights; PKK fighters withdrew from Turkey at the end of the month. In September 1999, the Kurdish Parliament-in-exile convened in Brussels where it voted to dissolve and to join the Kurdistan National Congress. Following the cease-fire, the number of confrontations in the south-east had declined substantially and in October 1999 the government reduced the number of checkpoints in the region. In February 2000, the PKK announced formally the end of its war against Turkey and said it would campaign for Kurdish rights within a framework of Peace and democracy. Also in February, 3 HADEP members were arrested on suspicion of aiding PKK and later released on bail. Turkey refused EU politicians permission to visit Ocalan in prison.¹⁸⁹

177. Armed activities after the capture of PKK's leader Ocalan have reduced considerably. It is reported that there are only 400-500 PKK activists left. The European Commission report on Turkey, Annual report on Turkey's Progress towards Accession, 8 November 2000 renders the number of armed clashes with 488 in 1999 and only 18 in the first five months of 2000. Similarly, Anatolia News Agency reported reduced number of armed clashes in the first five months of 2000. PKK continues to have strong holds in Europe, its political wing in Belgium and the Netherlands and many members in Germany.

178. The Netherlands Ministry for Foreign Affairs reported in its May 2001 country report that an Amnesty Law of 21 December 2000 has led to a release of 1660 people who were convicted before 23 April 1999 for supporting the PKK. There was disagreement reported between the army and the President and therefore those released may be at risk again. Those marginally involved in associating with the PKK face prosecution based on article 169 as supporters of an illegal organisation. The maximum punishment of three years and nine months. Family members of members of the PKK also face harassment by the authorities. However, if authorities are convinced that they are not connected with the PKK they may not be prosecuted. The PKK is a proscribed organisation in Germany. It has an agreement with the Turkish government since 1995 whereby the German government is informed of the grounds on which Turkey will prosecute PKK supporters. Germany has expelled 36 people on the basis of this agreement so far.¹⁹⁰

TIKKO (Workers and Peasants Army of Turkey)

179. Illegal armed organisation TIKKO continues its activities although it is reported that clashes have diminished considerably.

Human Rights Defenders

180. Criticizing the authorities or questioning the state's view of society is often viewed disloyalty bordering on treason. Attacks and repressive practices against human rights defenders and organisations intensified in 1998. Organised attacks were carried

¹⁸⁹ United Nations, Human Rights Commission, *Question of the Violation of Human Rights and Fundamental Freedoms in any part of the World, Written Statement submitted by the International Federation of Human Rights, a non-governmental organisation in special consultative status, Fifty-fifth Session, E/CN.4/1999/NGO/19, 1999*

¹⁹⁰ The Netherlands Ministry of Foreign Affairs, *Country report-Turkey, May 2001*

out against the Human Rights Association (HRA) branches and its executives. The HRA branches in Diyarbakir, Mardin, Balikesir and Bursa were closed down. A number of court actions were brought against the executives of the HRA and legal investigations were initiated against them. Armed assault was carried out on Akin Birdal, the President of HRA and Vice-President of the FIDH, in headquarters of the HRA on 12 May 1998. Mr Birdal was wounded by six bullets. He was sentenced to one year in prison by the Ankara State Security Court in October 1998 for a speech made on the occasion of World Peace Day on 1 September 1998. Mr Birdal was again sentenced to one year in prison in December 1998 for another speech made in 1995. Twenty court actions were brought against him. Birdal. Mazlum-Der (Association of Human Rights and Solidarity for Oppressed Peoples) was subjected to serious pressure by the police in 1998.¹⁹¹ The HRA branch in Diyarbakir remained closed in 1999. Also Mazlum-Der was closed indefinitely by order of the local governor. Its Malatya branch was closed in May 1999.

181. In September 1999, Mehmet Ali Irtemcelik, the state minister for human rights made a public statement wishing to “strike a sound and honest communication” with NGOs dealing with human rights.¹⁹²

182. Human Rights organisations continued to be obstructed from functioning in various ways ranging from ill treatment to prosecution in 2000. The Diyarbakir and Van branches of the Human Rights Association (HRA) and the Malatya branch of Mazlum-Der remained closed for much of the year. The Diyarbakir Democracy Platform, a group of civil society organisations were prevented from crossing the border into northern Iraq where they hoped to investigate the killing of an estimate forty civilians during the Turkish armed forces’ bombing of Lolan, Kendakor region in August 2000.¹⁹³

183. Members of the HRF, an organisation that provides rehabilitation to torture victims and their families were reportedly often harassed. Two staff members of the Izmir branch were prosecuted under the Law of Demonstrations for attending the funeral march of one of the victims of the violent intervention at Ulaucanlar prison. Twenty -five lawyers from the Diyarbakir Bar Association were detained and tortured and released with ongoing cases against them. Lawyers of Kurdish origin were persecuted. However the same applied to lawyers and human rights activists of non-Kurdish origin working on similar issues.¹⁹⁴

184. Saturday Mothers, a group holding weekly vigil for missing persons in the centre of Istanbul each Saturday morning, suffered police harassment. Sometimes the police prohibited them from reaching their meeting place. Some demonstrators were detained for short periods of time, their identity documents, passports confiscated and subjected to very intense pressure, including ill-treatment and detention. Govt

¹⁹¹ United Nations, Human Rights Commission, *Question of the Violation of Human Rights and Fundamental Freedoms in any part of the World, Written Statement submitted by the International Federation of Human Rights, a non-governmental organisation in special consultative status*, Fifty-fifth Session, E/CN.4/1999/NGO/19

¹⁹² Human Rights Watch, *World Report 2000, Turkey-Human Rights Developments*

¹⁹³ Human Rights Watch, *World Report 2001, Turkey-Human Rights Developments*

¹⁹⁴ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 100

authorities stated that the movement was infiltrated by members of the illegal organisations.¹⁹⁵ The weekly vigils ended in 1999 after nearly four years.¹⁹⁶

185. Local development-orientated NGOs, working co-operatively with the government fared better with the than the adversarial human rights –orientated Ngos. Calling themselves “foundations” and not focused specifically on displaced but on humanitarian needs of various impoverished groups, these Ngos also have had success in attracting funding from European Ngo’s.¹⁹⁷

Internally Displaced Persons

186. The Turkish army’s campaign to evacuate the villages suspected of supporting the PKK began in 1993. Since then armed forces have depopulated mountains, rural areas, and pushed the village populations into urban centres, creating economic hardship for large numbers of displaced people, most of who have been herders or otherwise tied to the pastoral economy. Many displaced have crowded in the provincial cities such as Diyarbakir and Batman, more than doubling their population.

187. A report by the Parliamentary Migration Commission in June 1998 stated 401,328 people were forced to migrate to 3,428 residential areas of which 905 were villages and 2,523 hamlets. Of these 517 villages and 1, 614 hamlets were evacuated in the state of emergency region resulting in the displacement of 251, 366 persons. Another 126,969 persons were displaced outside the state of emergency region having been evacuated from 303 villages and 2,345 hamlets. According to the report 6% of the total of these displaced persons returned to their places of origin, leaving 378,335 still displaced. All the statistics used above originated from the State of Emergency Region (OHAL) Governor’s Office and are regarded as the official government count. According to USCR the above count does not include villagers who fled because of conflict with village guards even if their villages were not evacuated. Although return and resettlement exist, significant return of people is will not take place until the security situation in the south-east is resolved and the economy improves.¹⁹⁸

188. IDPs are reportedly intimidated to prevent them from testifying about the causes and consequences of displacement in particular before the ECHR. In the case of *Akdivar et al. v Turkey (Council of Europe ECHR document 99/1995/605/693)* the ECHR ruled that Turkish authorities exerted “illicit and unacceptable pressure” on applicants to withdraw their petitions. In June 1998 the Turkish Parliamentary Commission on Migration placed the weight of the blame of internal displacement on government sources.

Control of the Displaced

189. In August 1998, the mayor of Istanbul Recep Tayyip Edrogan’s suggestion that an internal visa be issued to the displaced coming into cities like Istanbul was rejected

¹⁹⁵ United Nations, Commission on Human Rights, Civil and Political Rights, including questions of Disappearances and Summary Executions, *Report of the Working Group on enforced or involuntary Disappearances, Fifty-fifth session, E/CN.4/1999/62/Add.2*, 28 December 1998, para 31

¹⁹⁶ Amnesty International, Annual Report 2000, Turkey, p. 3

¹⁹⁷ US Committee for Refugees, *The Wall of Denial: Internal Displacement in Turkey*, January 1999, p. 25

¹⁹⁸ US Committee for Refugees, *The Wall of Denial: Internal Displacement in Turkey*, January 1999, p. 6

by the Foreign Ministry insisting that Turkey would not restrict rural-urban migration. However, incidences where mayors and governors have denied entry or summarily expelled internal migrants have been reported by USCR. In June 1997, local official in Van had reportedly pushed back 270 people from Doganli village in Hakkari province the scene of intense conflict. In August 1998, Kemal Yazicioglu, governor of Ordu reportedly pushed back hundreds of Kurdish migrants refusing entry to hundreds more. The most extreme form of controlling displacement is reported to be murder or disappearance of those who speak about their conditions.¹⁹⁹

190. Istanbul is accommodating 1.5 million new immigrants whereas Izmir and Ankara have received many migrants. The simple fact of being a Kurd does not automatically lead to discriminatory behaviour 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. All nationals in Turkey are required to register by law with the local *muhtar* (headman, neighbourhood representative) but the requirement is ignored. A high portion of those displaced by the events of the southeast have not been registered. This is practiced more so for tax evasion as opposed to any fear of political repression.²⁰⁰ Kurds migrating westwards bring their culture, village identity but very few skills and little education. Private spoken communications in Kurdish are legal but the use of minority languages including Kurdish in television, radio broadcasts, by political parties and in schools is restricted by the constitution.²⁰¹

Compensation /Cash Assistance /Employment

191. USCR noted that the government failed to compensate people forcibly displaced by the conflict in the south-east including persons displaced by the action of the security forces. The little compensation provided was distributed in a discriminatory manner based on presumed loyalties of the recipients. Kurdish Ashiret tribes who have traditionally had good relations with the government were reportedly treated better than the rest.

192. Most displaced people engaging in husbandry and small plot agriculture before displacement live in urban areas. Slum areas in cities are comprised of Kurdish migrants. Some have adapted to the city and work in construction, transportation but adults and the aged particularly have not been able to adapt. The aged population receive no help from charities and there is no welfare system in place for the destitute and other vulnerable unemployed population.

Emergency Shelter and Long Term Housing

193. The 1997 Turkish Parliamentary Commission report stated that 5,524 houses were built to accommodate IDPs in central Diyarbakir, Hakkari, Sirnak, Tunceli, Van, Bignol, Bitlis, Mardin and Mus. However, occupancy has been reportedly part of a reward system tied down to the village guards system. Also flats built for the poor were being rented by professional who could afford the expensive rents. The government

¹⁹⁹ Please refer to US Committee for Refugees, *The Wall of Denial: Internal Displacement in Turkey*, January 1999 for details on cases of displacement, pp 11-15.

²⁰⁰ Immigration and Nationality Directorate, Home Office, United Kingdom, *Report of fact-finding mission to Turkey (17-23 March)*, 22 August 2001, p. 16

²⁰¹ USDOS, *Turkey Country Report on Human Rights Practices 2000*, February 2001

sponsored resettlement scheme was criticised by the Parliamentary Commission as it concluded, “statements by the elected governments concerning projects for their return have not been taken seriously by the migrants since there has been no wholehearted support at their inception nor the needed state support to carry them out”. Only 2000 localities have been officially identified as safe, the other declared unsafe and villagers not allowed to return” Return to some villages has been obstructed by village guards from other villages”. The “Village Centres Project” was announced in November 1994 and “Return to Villages” within the south-east in July 1995 for the displaced. This project was intended to settle people from the mountains in large centralised villages on state owned lands near major population centres. The state planned to provide arable land and housing based on loans to be paid back in 15-20 years

194. Health professionals reported that health was the most negative indicator of rapidly growing urban population and lack of infrastructure. They attributed health problems to overcrowded living conditions, inadequate heat, unsanitary conditions, malnutrition, insufficient and dirty drinking water, improper disposal of sewage and garbage and previous trauma resulting in psychological disorder

195. Education among displaced children was reduced as they were required to but could not afford to buy the basic educational tools like books etc even if public education is free. Not being able to adjust in their new residences, migrants discontinued their education.²⁰²

196. According to the Turkish Ministry of Foreign Affairs, the support for the PKK in the south-east was due to the lack of economic opportunities in the region. The government made considerable investments by way of a development programme named GAP (Güneydogu Anadolu Projesi) in south-eastern Anatolia, entailing 13 major projects for hydropower generation and irrigation, agricultural and housing projects in areas most affected by the insurgency.²⁰³ GAP has reportedly not been beneficial as waters from the Euphrates via the dams and reservoirs benefited lands of a few where land ownership remain feudally based. Electricity generated is being used outside the region and not to build industry in the south-east. There are no health or educational reforms accompanying the GAP project. Reservoirs have displaced 100,000 people by submerging 150 hamlets and villages under water. Cash compensations instead of building villages was given to those who moved to the western parts of the country who have joined ranks with the migrant urban poor.²⁰⁴

197. USDOS reported 10, 000 people returning to their villages or moving to “consolidated villages” near their original homes in the year 2000. According to the Jandarma, over 28, 000 people returned to the State of Emergency region and adjacent provinces during 2000. The Jandarma stated that there were 238,900 additional applications for returns to 621 villages and 461 smaller hamlets but only a third of these were appropriate, mainly for security reasons. Those who did return under the scheme received financial help and cattle from the government. However the project is also seen by NGOs as a deliberate move by the authorities to push people away from their

²⁰² US Committee for Refugees, *The Wall of Denial: Internal Displacement in Turkey*, January 1999 p. 22

²⁰³ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 17

²⁰⁴ US Committee for Refugees, *The Wall of Denial: Internal Displacement in Turkey*, January 1999 p. 26

original villages and to assimilate and keep control of those in the new “consolidated villages”.²⁰⁵

Internal Flight Alternative

198. According to ACCORD, groups at risk moving from the east to the west of the country experienced an improvement in comparison to their situation in the regions they came from. However people charged with certain crimes, subject to prosecution were not able to have an easier life in the cities in the west. Some faced harassment from state authorities in Istanbul. In UNHCR’s perspective, if persecution emanates from the state authorities then there is no internal flight alternative or relocation. The situation may look different with regard to village guards or people persecuted by non-state agents.²⁰⁶

199. The Netherlands Ministry for Foreign Affairs country report of May 2001 reported that Istanbul, Adana, Antalya, Ankara and Izmir offered possibilities for those who wish to resettle. Cities in the south-east are less suited as they were overcrowded. Socio-economic integration depends on individuals. People were more likely to succeed if they had knowledge of Turkish, job qualifications and the financial means. According to the MFA internal flight alternative is not always available for those who do not have knowledge of Turkish, who do not have the financial means and lack the support of their families or clan. Yezidi and Assyrian Christians were reported to have problems with integration outside the south-east by virtue of their older age, limited social, religious and cultural possibilities and the limited number of their groups elsewhere in Turkey.²⁰⁷

200. Internal flight alternative with regard to women from the south-east was more complicated. The position on women in Turkey depends on the geographical /residential background (rural/urban), on the social rank of the women’s family, their education and their religious traditions. Women from the south-east are restricted to the domestic domain and work in the fields. Such women leaving their families for the city to live in the western parts of the country, to seek protection is highly unlikely according to ACCORD. Given the displacement and migration to cities for economic or other reasons honor killings and abuse has been widely observed. It is widely believed that honor killings and abuse are not only confined to rural areas within conservative families in Istanbul as well.

201. The Turkish Parliament’s Commission on Migration noted that villagers were driven out of their homes by security forces who burnt houses crops and livestock. There remain two important obstacles to the return of the villagers. Security forces have not yet abandoned their abuses and as reported by the newspaper *Ozgur Bakis*, Savet village was raided by the security forces and threatened with forcible evacuation in February 2000. Secondly, the government lacks a clear will for all displaced returnees to return to their original villages and presses forward with its “central villages” projects where some villagers have been permanently resettled on government land, in communities under the watchful eye of the security forces. The rate of the returns to villages has been slow and the USDOS report of human rights practises for 1999

²⁰⁵ USDOS, *Turkey Country Report on Human Rights Practices 2000*, February 2001

²⁰⁶ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 100

²⁰⁷ The Netherlands Ministry of Foreign Affairs, *Country report-Turkey*, May 2001

reported a government figure of 26, 481 returnees.²⁰⁸ USCR country report 2001 stated 50,000 families representing 400,000 people applied for permission to return in 2000. Fewer than 50,000 were believed to have returned to their places of origin. The report states that the government's return programme involves a political loyalty test, such as agreement to participate in the village guards system-the same system they were fleeing. Blocking the would-be returnees and preventing them from farming or rebuilding in the vicinity of their villages has been reported. In October 2000, homes, temporary shelters and crops belonging to twelve families displaced in 1993, returning to Akcapinar hamlet in the Lice district of Diyarbakir were reportedly burnt by soldiers from the Lice Gendarmerie Command. The villagers claimed to have obtained prior permission to return from the local authorities. USCR predicts significant returns to villages in 2001 assuming that the security situation remains calm.²⁰⁹

202. The UN Representative on Internally Displaced Persons is reported to visit Turkey in the fall of 2001.²¹⁰

Women

203. Women face discrimination in family matters of inheritance, marriage, and divorce. It is widely believed that they suffer serious economic discrimination in that possessions bought during the marriage are not split upon divorce, remaining in the husbands name. Honor killings and abuse is not confined to the rural areas. Given the displacement or migration to the cities, economic or for other reasons, such incidents take place within conservative families of Istanbul as well. Social norms make it difficult to prosecute rape cases, and the penalty for rape may be reduced if the woman was not a virgin prior to her attack. In January 1999, the Turkish Justice Ministry announced that family members and authorities will no longer be allowed to subject women and girls to gynaecological tests to determine virginity.²¹¹ However, it was reported in July 2001 that the government planned to re-institute the practice of virginity exams for Turkish high school girls. Imposition of these tests and subsequent denial of education opportunities based on test results represents a form of gender discrimination under the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW). Article 16 of the Convention against Torture requires states parties to prevent cruel, inhuman or degrading treatment or punishment when committed by or with the acquiescence of a public official. This decree also contravenes the fundamental right to privacy and the right to be free from sex discrimination enshrined in Article 5 of the Universal Declaration of Human Rights, Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention on Human Rights and Fundamental Freedoms all prohibiting cruel, inhuman or degrading treatment.²¹²

204. Honour crimes have become a part of a national debate over women's rights in Turkey. Honour killing-a practice steeped in village traditions is occurring with increasing frequency in cities throughout Turkey where massive migrations to urban

²⁰⁸ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 101

²⁰⁹ US Committee for Refugees, *Country Report: Turkey*, 2001

²¹⁰ United Nations Commission on Human Rights *Report of the Representative of the Secretary General on Internally Displaced Persons, Mr. Francis Deng, submitted pursuant to Commission on Human Rights resolution 2000/53, E/CN.4/2001/5*

²¹¹ Freedom in the World 1999-2000, *The Annual Survey of Political Rights and Civil Liberties, Turkey*

²¹² Human Rights Watch, Human Rights News, *Turkey: Virginity Tests Reinstated*, 25 July 2001

areas have left families struggling to reconcile modern lifestyles and liberties with generations-old rural customs. As Turkey's younger generation, especially girls, become better educated and more exposed to city life, they are increasingly rebelling against parents, traditions that prohibit socialising with the opposite sex, choosing a husband or visiting freely with friends outside the home. Researchers estimate at least 200 girls and women murdered each year by their families. Accurate statistics do not exist because police records do not break down homicides into specific types, and honour crimes often go unreported. Perpetrators of such crimes are legally permitted shorter prison terms than those who commit similar crimes for other reasons. Sentences for rape are eased if the victim is not a virgin.

205. In the feudal, patriarchal society of rural villages, where a woman's honour is a family's only measurable commodity in an impoverished community, male members gather to vote on the death of women. In Turkey where killing a family member draws a penalty of death or life in prison, the penalty is reduced if the judge rules that there was incidence of provocation for the killing—such as a question of honour. If the defendant is a minor, the penalty is frequently cut to two years or less. The most recent case of honour killing reported was in August 2001 in Istanbul where a girl aged thirteen was murdered by her father. Under pressure from the EU, Parliament is to vote in the coming months on significant changes to the country's civil code.²¹³

206. Sexual harassment of women by government officials often occurs according to the Dutch Ministry of Foreign Affairs country report on May 2001. The IHD reported that three quarters of the women in custody have been harassed in custody.²¹⁴ In November 2000 132 women—97 of them Kurds—sought help from a legal aid programme in Istanbul. 45 women alleged rape and 87 reported forms of sexual abuse by police officers, gendarmes, soldiers and village guards. Zeynep Avci arrested in 1996 during the operations against PKK was subjected to sexual harassment, rape, electric shocks at Izmir Police Headquarters. She was exposed to further gender-based discrimination when authorities attempted to discredit her with allegations of a previous abortion. She filed a case with the ECHR after authorities failed to initiate action and an impartial investigation.²¹⁵

207. Turkey is a destination and transit country for trafficking women and girls for the purpose of prostitution. ECRI noted that there have been complaints that victims of trafficking remain without assistance and no formal protection, aid or education to victims is provided.²¹⁶

Children

208. Turkey has ratified the UN Convention on the Rights of the Child, which affirms that special efforts must be made to protect children against torture or other cruel treatment. However, Turkish children as young as 12 years were reportedly subjected to torture. It is a cause for concern that special protections for minors, including the

²¹³ International Herald Tribune, *Turkey: Honor killings follow women to the city*, 9 August 2001

²¹⁴ The Netherlands, Ministry of Foreign Affairs, *Country Report-Turkey*, May 2001

²¹⁵ Amnesty International, *Annual Report 2001*, Turkey p. 4

²¹⁶ Council of Europe, European Commission against Racism and Intolerance, *Second Report on Turkey, Adopted on 15 December 2000*, CRI (2001) 37, Strasbourg, 3 July 2001. para O 52

immediate provision of lawyers, is considerably narrow when they are accused of a crime falling under the jurisdiction of the SSCs.²¹⁷

209. The phenomenon of torture of street children, generally charged with stealing, is increasing, especially following the recent immigration from the south-east to large cities like Istanbul and Ankara. Five children between the ages of six and eight were tortured at the Security Directorate in Beyolu, Istanbul. They were reportedly beaten and sexually harassed by police officers. The certificate issued by the Forensic Medicine Institute states that the children could not work for seven days.²¹⁸ In May 2000 based on the investigation of the Human Rights Commission of the Turkish Parliament at the Bakirkoy Prison for women and children, the use of torture during interrogation; stripping naked, falaka, beating by truncheons, electric shocks, use of cold water under pressure was reported by juveniles. Evidence of sound insulated rooms for torture were also found.²¹⁹

210. On 12 January 2001, 29 children aged between nine and 16 were reported taken into custody and charged with supporting the illegal PKK. They were arrested while shouting pro-PKK slogans and detained. Mistreatment was alleged by the family members and only one child aged seven years was released.²²⁰ In February 2001, the European Court of Human Rights found the Turkish State in violation of articles 2, 3, 5 (right to liberty and security as well as article 13 (right to an effective remedy) of the European Convention with regard to complaints lodged by a Kurdish applicant Hamsa Hinek, on behalf of her two children who disappeared since they were detained by Turkish soldiers in May 1994. The court awarded 70,000 pounds to Mrs Hinek and her sons' heirs as compensation.²²¹

211. In January 2001 brief detentions of 130 children were reported by police in the Turkish town of Kirikkale, east of Ankara for "hanging out in internet cafes" over worries that they could be corrupted by potentially accessing pornographic websites and playing backgammon. The children were instructed to stay at home and were warned that they would be detained again if seen at the Internet cafes.²²²

Child Soldiers

212. Turkey has signed the Convention on the Rights of the Child (1989), Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (16 May 2000) on 8 September 2000 and supports a "straight-18" position. There are no indications of children under 18 in the government armed forces. The opposition PKK is known to recruit and deploy children under 18 years of age.

²¹⁷ Immigration and Nationality Directorate of the United Kingdom, *Country Assessment report – Turkey*, 1 April 2000, p. 20

²¹⁸ United Nations, Commission on Human Rights, *Report of the Special Rapporteur: Sir Nigel Rodley, submitted pursuant to Commission on Human Rights Resolution 1995/37 on Civil and Political Rights including questions of Torture and Detention, Commission on Human Rights, Fifty-fifth session, E/CN.4/1999/61/Add.1*, 27 January 1999 para 17

²¹⁹ Human Rights Watch, *World Report 2001, Turkey-Human Rights Developments*

²²⁰ Human Rights Action, "Turkey child arrests creates outcry", Chris Morris, 12 January 2001

²²¹ Kurdish Human Rights Project, "Justice delivered for Kurdish mother of "disappeared children-Turkey held responsible by European Court and fined 70,000 pounds", Press release, 28 February 2001

²²² Human Rights Action, "Around 130 children were detained in a central Anatolya town out of fear that they were being corrupted by Internet", Emily Fitzloff, 9 January 2001

213. The PKK issued a military service law in 1990, by which every Kurdish youth aged 18 to 25 without exception was obliged to join the PKK army. In 1994, the PKK systematically recruited children and created children's regiments. For example a children's battalion named *Tabura Zaroken Sehat Agit* was run by a committee of five children aged 8 to 12 years. Both boys and girls are recruited by the PKK. In 1998, 3000 children were said to be part of the PKK forces of which 10 percent were girls. The youngest child witnessed with the PKK was 7 years old.²²³

214. It is reported that the PKK conducted recruitment drives in Swedish schools in 1998. Seventeen minors were invited to attend "summer camp" in northern Sweden before being recruited for the PKK. By mid August only 3 returned and parents reported their children missing to the police.²²⁴ In 1999, PKK reportedly used "cultural associations" to indoctrinate children, in camps in the Larzac (South of France). The toughest were sent to the frontline after a final training at the Iranian border. Kurdish families did not complained to the police, instead preferred to claim that their child had run away.²²⁵ The PKK in Germany forced children, teenagers to join "political courses" taking place in Belgium and Netherlands. According to the German NGO, *Gesellschaft für bedrohte Völker* (GfbV) children below the age of 14 were abducted by PKK.²²⁶ According to Turkish authorities similar abductions have occurred in Armenia.²²⁷

215. There is no evidence that the Turkish Hezbollah used child soldiers.²²⁸

Journalists

216. Journalists are a group at risk. According to the Committee to Protect Journalists (CPJ) at least 29 journalists were in prison in Turkey on journalism-related charges at the end of 1997-more than any other country. All but two were prosecuted under Articles 168 and 169 of the Penal Code for allegedly aiding or joining a banned "terrorist" or "separatist" organisation. 37 Turkish journalists released from jail in the course of 1997-the largest number of releases CPJ has recorded in one year in one country.²²⁹

217. In 1998, prominent journalists Haluk Gerger, Ragip Duran and lawyer activist Esber Yagmurdereli were imprisoned on free expression charges.²³⁰ An amnesty law was passed on 14 August 1998 which granted three-year suspended sentences to "responsible" editors jailed for their publications' reporting of news and opinion regarding the government's 12-year conflict with Kurdish insurgents. Six newspaper editors were freed including Ocak Yurtcu a former editor of the Turkish daily Ozgur Gundem. He was released in August 1998 after nearly 32 months of his 15-year jail-

²²³ The Coalition to stop the use of Child Soldiers, *Global Report 2001, Turkey*

²²⁴ Couturier, C., "Kurdish rebels send teenagers to war: Turkish soldiers say they are gaining the initiative in the war on the south", *Financial Times*, 28/6/97.

²²⁵ Leclerc, J. M., "La diaspora kurde sous la loi du racket", *Valeurs Actuelles*, 27/2/99

²²⁶ "GfbV appelliert an Bundesregierung: Sorgen Sie für die Rückkehr der von der PKK in Deutschland entführten kurdischen Minderjährigen in ihren Familien!", *GfbV*, 23/11/98.

²²⁷ Statement of the Turkish delegation to the European Conference on the Use of Children as Soldiers, Berlin, 18 October 1999

²²⁸ The Coalition to stop the use of Child Soldiers, *Global Report 2001, Turkey*

²²⁹ Committee to Protect Journalists, *The case of Turkey: Verifying Reports of Imprisoned Journalists*, 1997

²³⁰ Human Rights Watch, *World Report 1999, Turkey-Human Rights Developments*

term on charges related to his newspaper's coverage of the conflict with Kurdish separatists. Reporters, cartoonists and other journalists who have been convicted under the sweeping provisions of Turkey's anti-terror law and penal code were not included in the law.²³¹ Ten journalists were reportedly tortured, at least 60 assaulted and nearly 260 interrogated or imprisoned over relatively long periods of time including noted journalist Ismail Besikci, who spent more than 20 years behind bars for his writings on the Kurdish question.²³²

218. In 1999, despite promises to reform laws used to prosecute journalists, the government continued to use laws to criminalize reporting on sensitive political topics such as the Kurdish issue and the role of Islam in politics. As of 1 January 1999, 27 journalists were in prison for expression of opinion or for their association with pro-Kurdish and leftist publications.²³³ Hasan Deniz, an editor of the Kurdish nationalist daily *Ozgur Bakis* was charged under article 169 of the Turkish Penal Code (aiding an illegal organisation) in June 1999 for reporting that PKK supported Ocalan's call for end of the brutal 15 year conflict between the Turkish army and the Kurdish rebels in southeast Turkey.

219. Although a vast majority of accused journalists work for the Turkey's pro-Kurdish, Islamist, and leftist press, foreign correspondents and prominent mainstream Turkish reporters were not immune to state prosecution. On 18 May 1999, Oral Calislar, reporter for the *Cumhuriyet* was convicted by the Istanbul State Security Court of disseminating separatist propaganda under Article 8 of the Anti-Terror Law. Calislar's offence was a 1993 book in which he reprinted interviews with Abdullah Ocalan, leader of the outlawed Kurdistan Workers' Party. The interviews were published earlier that year, without incident in the *Cumhuriyet*. Andrew Finkel, a U.S. national and a Turkey based correspondent for *Time* magazine, freelance reporter for *The Times of London*, *The Economist* was charged in September 1998 for having insulted the Turkish military. He had written an article titled "Surnak 1998" in the *Sabah*, a mass-circulation Turkish daily describing a media tour organised by the military to the south-eastern garrison town of Surnak.²³⁴ Nadire Mater, a freelance journalist writing for the news agency Inter Press Service (IPS), was released on 29 September 2000 after standing trial for "insulting" Turkey's military in a book of interviews with former conscripts of the civil conflict in south-eastern Turkey titled "*Mehmed's Book: Soldiers who fought in the South east speak out*".

220. The Supreme Radio and Television Board (RTUK) a regulatory body handed down 4000 days of suspensions between January and August 2000. In February, the RTUK imposed a one-day ban on CNN-Turk, a joint venture of the US network and Turkish media group for asking a guest on a talk show if jailed Abdullah Ocalan could be compared to Nelson Mandela.²³⁵

²³¹ Committee to Protect Journalists, *The Campaign to Free Imprisoned Turkish Journalists*, 1998

²³² United Nations, Commission on Human Rights, *Written Statement submitted by Reports Sans Frontieres, a non-governmental organisation in special consultative status*, Fifty-fifth session, E/CN.4/1999/NGO/105, 17 March 1999

²³³ Committee to Protect Journalists, *The Campaign to Free Imprisoned Turkish Journalists*, 1998

²³⁴ Committee to Protect Journalists, *CPJ Protests: Committee to Protect Journalists is outraged by conviction of journalist Oral Calislar*, May 1999

²³⁵ The Committee to Protect Journalists, Middle East and North Africa, *Country Report Turkey 2000*

221. A new Press Law was enacted in to counter criminal organisations that includes an article permitting 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 brought dozens of such cases to court each year, judges dismissed many charges brought under these laws.²³⁶

222. In the year 2000, Turkey continued government censorship, criminal prosecutions, physical attacks and imprisonment of local reporters and editors. The authorities continued to silence dissident voices mostly in pro-Kurdish, leftist and Islamist media. At the year’s end 14 journalists were in prison for their affiliation with leftist or pro-Kurdish publications. Pro-Kurdish and leftist newspapers continued to be suspended or banned. Successive Turkish governments have failed to adopt substantive legal reforms, opting for temporary solutions instead such as the 1999 amnesty bill for writers and journalists.

Treatment of Returnees

223. The authorities were clearly interested in those returnees who had been previously detained or are known to the authorities (e.g. as someone involved with, or suspected of association with the PKK). Ngo sources regarded returnees as being at very high risk on return. 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 unsuccessful asylum seekers on their return to Turkey. Unsuccessful asylum seekers returned to Turkey appeared to be routinely questioned and are liable to be detained for anything between a few hours and four days. The NGO reported that they had no information about what subsequently happened to returnees after returning to their original home area, because there was no follow-up mechanism in place. 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.

224. The Turkish Border Police can question any returnee at the airport who has been deported from another country. This is to identify the individual and to check whether they are wanted in connection with legal proceedings. In general there is no follow-up unless the individual is wanted for legal proceedings. If a returnee is known to the police, he may be taken into custody for further interview. Undocumented returnees are generally not subject to ill-treatment while being kept in custody however ill-treatment cannot be ruled out.

225. Amnesty International in German states reports that Turkish authorities are more likely to be suspicious of cases where a person returning to Turkey is not carrying a valid personal document in accordance with regulations or carrying documents that indicate asylum procedures abroad. Returnees with pending legal proceedings can be detained up to seven days the first four days without access to a lawyer. The risk of torture is even more if the returnee has a political background.

²³⁶ Immigration and Nationality Directorate of the United Kingdom, *Report of the fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 36

226. 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 noted that returnees were still liable under national law, in the same way as other Turkish nationals, for crimes committed before departure from Turkey or after return. According to UNHCR arrests or prosecutions of returnees for such acts have been comparatively rare.

227. There are no statistics on the number of returnees as it is a subject of controversy. The NGO commented that returnees “are not dearly looked upon” by the Turkish authorities. The English and Welsh Court of Appeal noted in its judgement of 28 January 2000 in the case of Abdullah Turgut that a great majority of European countries i.e. Germany, France, Finland, Austria, Denmark, Norway, Switzerland and Sweden continue to extradite to Turkey. The Government of the Netherlands stopped the extradition after a reported death of a rejected asylum seeker in July 1999, however resumed their policy of extradition in December 1999. Belgium made no return due to its administrative difficulties. Greece and Italy were the only countries that did not have a policy to extradite.²³⁷

228. Monitoring of returnees has only been done in isolated and exceptional cases based on an agreement between the Ministries of Interior and Foreign Affairs that provides for the monitoring of people who are deported. According to German authorities asylum claims that have been submitted in Germany or other countries are not punishable in Turkey. Apart from interrogation by the police generally it is assumed that nothing happens to the returnees. However the report by two German NGOs—Lower Saxonian Refugee Council and Pro Asyl in cooperation with the HRF documented 32 cases of torture and ill-treatment of rejected Kurdish asylum seekers upon return from Germany. The report criticized the German authorities for asserting that most cases included typical patterns of persecution such as fleeing reprisals by the security organs, draft evasion refusal to serve as village guards which had been deemed customary and “mere harassment”. Two of the asylum seekers were detained at the airport and accused of having demonstrated for the PKK in Germany and subsequently interrogated and tortured for nine days.²³⁸

229. Turkey has not denied passports to undocumented would-be returnees. The Turkish government now recognises that the majority of asylum seekers abroad have done so purely for economic reasons. The competent authority issuing passports is the General Directorate of Security or the District Security Office in smaller districts. Once undergone a police check a passport is generally issued in two days time. As regards detention certificates, authorities register the name of the detainee, the detaining officer's name and badge number. In practice this information is not registered and therefore

²³⁷ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, pp. 50-12

²³⁸ Lower Saxonian Refugee Council/PRO ASYL: von Deutschland in den türkischen Folterkeller-Zur Rückkehrgefährdung von Kurdinnen und Kurden, 2nd edition, May 2000, p3 9 (in German)

cannot be tracked. Often there is discrepancy between records of the Ministry of Interior and the Police Directorate of Security with regard to data on prosecution of police officers of ill-treatment. This incompatibility means relevant information although present is difficult to access.²³⁹

Refugees

230. Large number of new arrivals in Europe at the beginning of 1998 drew attention to Turkey as a source of refugees and migrants. There is also disagreement between the EU states and Turkey over the cause of the problem. The EU regards the conflict in south-eastern Turkey as a source of the exodus, while the Turkish government claims those leaving Turkey and Iraq are primarily economic migrants. Turkey is also under pressure to control the smuggling of would-be refugees in transit through Turkey, particularly from Iran and Iraq.²⁴⁰

231. The Turkish government ratified the 1951 Convention relating to the Status of Refugees in 1962 but maintains the geographical limitation, restricting its asylum commitment to applications from European countries. Non-European refugees are granted temporary asylum in Turkey following a status-determination procedure with UNHCR Branch Office in Ankara opened in 1960. Increased presence of UNHCR staff in the border areas since 1996 has allowed for better monitoring and intervention in favour of refugees and asylum-seekers decreasing the incidence of refoulement.²⁴¹

232. Turkey receives refugees from Iran Iraq, Afghanistan, Bosnia and Herzegovina and Kosovo, the majority from Iran or Iraq, a considerable number from the Bahai faith. Turkey remains a transit stop only applying for temporary residence permits from Turkish authorities allowing them time to register with UNHCR for a permanent refuge in a third country-particularly the United States, Canada, Australia, New Zealand, the Scandinavian countries and Switzerland. The usual waiting period is a year to eighteen months.²⁴²

233. Non-Europeans coming to Turkey are required to register with the police within ten days of entering the country. This ten-day period could lead to exclusion of people in need of protection, which could be decisive for the administration practice. The system is dangerous for the non-European refugees and various stages of the process put them at risk of refoulement. On one hand the state procedure is characterised by the activities of the police and security forces with a decentralised data collection in the individual provinces and a centralised decision taken in Ankara; on the other hand, actual verification of refugee status by the UNHCR in Ankara. The UNHCR decision is accepted by the national authorities if the national procedure is undergone properly by the applicant within the ten-day period. There have been reports of refugees from Iran, Iraq, Pakistan and Afghanistan and other countries found on the border with Greece or within Turkey being immediately sent back to their country of origin.²⁴³

²³⁹ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 104

²⁴⁰ Writenet Country Papers, *The Kurds-A Regional Issue: update to April 1998*, Sarah Graham-Brown, April 1998

²⁴¹ UNHCR, *Country Profiles, Turkey*, September 1999

²⁴² Agence France Press-*Flood of Iranian refugees passes through Turkey*, 16 June 2000

²⁴³ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 102

Asylum Seekers

234. ECRI noted that asylum seekers in Turkey are not allowed to work nor are they entitled to any form of social assistance, although asylum seekers' health and children's education expenses are covered. Reception centres are not available. There were a limited number of associations providing material assistance to refugees. Asylum seekers with no family ties in Turkey may therefore become more vulnerable to illegal activities, making them more vulnerable to prejudice on the part of the society in general.²⁴⁴ In May 2000, nine Bangladeshi, Afghan and Pakistani asylum seekers were reported shot dead by Turkish security forces as they crossed the border at Dogubayazit, near Agri in eastern Turkey.²⁴⁵ Amnesty International reported forcible repatriations of Iranian refugees. Two persons were forcibly returned to Uzbekistan on 26 March 1999 despite a formal request from the ECHR not to deport them.²⁴⁶

Immigrants without Legal Status

235. Estimated numbers of illegal immigrants from Iran range from 500,000 to two million. The media contributed to the perception that the Hizbullah had direct links with the Iranian government thus adversely affecting the situation on Iranians in Turkey.²⁴⁷ ECRI reported instances of use of excessive force by law enforcement officials against aliens without legal status. Many have been reported to come from Central and East Europe. The issue of illegal immigration is perceived almost exclusively as one of security and as a potential threat to the economy. Reports of immigrants, including Black Africans rounded up by authorities during crackdowns on illegal immigration were reportedly subjected to harsh and degrading treatment. Immigrants without legal status were reported to be also particularly vulnerable to exploitation in the labour market especially those working as domestic aids.²⁴⁸

Draft Evaders

236. Turkey has a compulsory military service system and makes no provision for conscientious objection. Article 72 of the Constitution defines military service as the right and duty of every Turkish citizen regardless of ethnic background. The manner in which this service is performed either in the Armed Forces or Public Service is regulated by the Military Service Law No. 1111. The government of Turkey considers military service as an important aspect of the principle of equality before the law and believes that excluding anyone from performing compulsory military service will compromise the application of the law. It dissociates itself from the Commission on Human Rights resolution 1998/77 which affirms the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and

²⁴⁴ Council of Europe, European Commission against Racism and Intolerance, *Second Report on Turkey, Adopted on 15 December 2000*, CRI (2001) 37, Strasbourg, 3 July 2001, para O 45

²⁴⁵ Human Rights Watch, *World Report 2001, Turkey-Human Rights Developments*

²⁴⁶ Amnesty International, *Annual Report 2000*, Turkey, p. 4

²⁴⁷ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 102

²⁴⁸ Council of Europe, European Commission against Racism and Intolerance, *Second Report on Turkey, Adopted on 15 December 2000*, CRI (2001) 37, Strasbourg, 3 July 2001, para O 48

Political rights. It does not recognise the conscientious objection to military service as stated in the two international instruments.²⁴⁹

237. No different treatment of Kurdish recruits in the Turkish army has been reported.²⁵⁰ 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 south-east. In the past, conscripts were not sent to serve in their home provinces. Traditionally, 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 shortly before 1993, and postings were determined at random by computer. The Chief of General Staff could under exceptional circumstances, overrule decisions made by the above method.

238. 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 south-east 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".²⁵¹ Since the cessation of armed struggle after the capture of Ocalan, specific risks at present of Kurds entering the military to be sent to the Kurdish areas are not clear.²⁵²

239. 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.

240. Normal military service is for 18 months for average soldiers and 12 to 16 months for soldiers in the ranks. 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 (doctors, teachers

²⁴⁹ United Nations, *Commission on human Rights, Civil and Political rights, including the question of conscientious objection to military service, Report of the Secretary-General submitted pursuant to Commission resolution 1998/77*, Fifty-sixth session, E/CN.4/2000/55, 17 December 1999

²⁵⁰ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 96

²⁵¹ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 55

²⁵² Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 97

and civil servants) may be permitted to perform special service. Teachers, for instance, who are willing to take a job in the south-east are exempt from military service.

241. The official possibility of pecuniary compensation was available to only Turkish citizens working outside Turkey for more than three years who then had to perform one month military service instead of sixteen months. However, in November 1999, this pecuniary compensation became available not only to expatriate Turkish citizens but to every Turkish male citizen over the age of thirty who had not completed his military service.²⁵³ 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 USD 8000. Men over 40 years of age are able to make a cash payment of USD 10,000 to avoid the call-up altogether. The option to buy out of military service in this way still exists.²⁵⁴ More than 70,000 men have used this arrangement including some Kurdish activists according to the July 2000 Dutch Ministry of Foreign Affairs country report on Turkey. Also a special Amnesty Law for draft evasion and desertion from the military service was adopted in December 2000. There is no reported information on the implementation of this law according to the Dutch MFA.²⁵⁵

Treatment of Draft Evaders

242. Draft evaders are tried according to article 63 of the Military Penal Code and are punishable with imprisonment for up to three years in a house of correction. 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. 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. There is nothing to suggest that Kurds or other groups who evade the draft are treated differently because of their ethnic or religious background. However, 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.²⁵⁶ Amnesty International in March 1998 reported that Cengiz Suslu, absconding from military service was held in incommunicado detention in Istanbul for seven days and was admitted to a hospital. He reported anal rape by truncheon and electric shocks to his genitals. He was denied access to a lawyer for more than two weeks after his arrest.²⁵⁷

243. Article 377 of the draft Penal Code imposes imprisonment up to two years for conscientious objectors. The occurrence of forced circumcision are scarce at present as compared to some years. Claims to avoid military service due to fear of circumcision were a valid ground of granting asylum as the practice did exist.²⁵⁸ Conscientious objector Osman Murat Ulke, Chairperson of the Izmir War Resisters' Association

²⁵³ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 96

²⁵⁴ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001

²⁵⁵ The Netherlands Ministry of Foreign Affairs, *Country Report, Turkey*, July 2000

²⁵⁶ Immigration and Nationality Directorate of the United Kingdom, *Report of fact-finding mission to Turkey (17-23 March 2001)*, 22 August 2001, p. 55

²⁵⁷ Amnesty International, *Annual Report 1999, Turkey*, p. 2

²⁵⁸ Austrian Centre for Country of Origin and Asylum Research and Documentation, *UNHCR/ACCORD 6th European Country of Origin and Information Seminar*, Vienna, 13-14 November 2000, p. 97

remained in custody serving sentences for ‘alienating the public from the institution of military service’, ‘persistent insubordination’ and ‘desertion’.²⁵⁹

Homosexuals

244. There are no laws specifically concerning homosexual acts. Articles 419, 547, 576 in the Penal Code intended to safeguard public morals can be used against homosexuals.²⁶⁰ The Dutch Ministry of Foreign Affairs in its May 2001 country report states that homosexuals do not meet with any restrictions from the government. Socially, however they may experience problems as some forms of sexual behaviour are not acceptable to the rural population or by conservative cities such as Konya. Transsexuals are not prosecuted and the authorities officially accept a change of sex. Transvestites in Turkey are treated similarly like the homosexuals.

F UNHCR Operations²⁶¹

Introduction

245. The Main objectives for the UNHCR operation in Turkey, as laid out in the Global Appeal 2001 are:

- To further strengthen UNHCR’s partnership with the Government of Turkey for the protection of refugees and asylum-seekers.
- To ensure rapid and reliable refugee status determination of asylum-seekers from non-European countries.
- To identify and promote durable solutions for refugees through resettlement, voluntary repatriation and local integration; offer social counselling and support for refugees, with a special focus on women and children.
- To facilitate and assist the voluntary repatriation from northern Iraq of Turkish refugees, and of Bosnian and Kosovar refugees from Turkey to their countries of origin.
- To raise public awareness of asylum seekers/ refugees and UNHCR’s mandate.

Recent Developments

246. As a consequence of the application by Turkey of a geographical limitation to the 1951 Convention (recognising only refugees from Europe), non-European refugees, particularly Iranians, are only granted temporary protection in Turkey. The Government continues to rely on UNHCR’s assessment of the eligibility of non-European asylum-seekers, and nearly all these refugees need to be resettled through UNHCR. Lately, the number of Iranian refugees who were previously living in northern Iraq has increased. 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.

247. In the context of Turkey’s candidacy for membership of the European Union, UNHCR helps and encourages Turkey to uphold best international practice for the protection of refugees and asylum-seekers. In the past two years, UNHCR has taken on

²⁵⁹ Amnesty International, *Annual Report 1999, Turkey*, p. 2

²⁶⁰ The International Lesbian and Gay Association, Turkey, updated 5.12.99, [<http://www.ilga.org/>]

²⁶¹ Based on UNHCR, *Global Appeal 2001 – Strategies and Programmes*, 2000, p. 171-173.

new responsibilities to assist the Government to train its personnel in refugee law and in the application of Turkey's 1994 Asylum Regulation. As a result, protection of refugees from non-European countries has improved. Closer co-operation with the Government in training activities also increased the Government's confidence in the fairness and impartiality of UNHCR's advice. Refugees without private means are largely dependent on UNHCR's assistance during their stay in Turkey. This takes the form of food, shelter, basic health care, schooling, as well as legal and social counselling. Recently, UNHCR has entered into new partnerships with national NGOs and local authorities to supplement its assistance.

248. The great majority of Kosovar refugees opted for voluntary repatriation in 1999. For the remaining European refugees (as well as Bosnians), UNHCR seeks to ensure due respect for the rights refugees enjoy under the terms of the 1951 Convention. The Office also provides limited material assistance to refugees, as well as counselling geared towards durable solutions, including local integration. Support for UNHCR's mandate from the political leadership, the higher levels of administration and influential NGOs, as well as the public at large, is crucial for the adoption of policies which would enable the transfer to the Turkish authorities of responsibilities for protection and assistance.

Constraints

249. Given the temporary nature of asylum for non-European refugees, their local integration in Turkey is not feasible. Almost all these refugees must be resettled in a third country. A failure to process asylum claims reasonably promptly will have a potentially negative impact on many aspects of the protection situation in Turkey. Some of the consequences are: individual security problems in border areas; frustration among asylum-seekers; growing assistance costs; and increased stress for staff assessing eligibility. UNHCR shoulders the burden of direct operational responsibility for refugee status determination and durable solutions. Refugees and asylum-seekers are scattered throughout the country; adding difficulty when addressing the social and material needs of this population.

Strategy: Protection and Solutions

250. Given Turkey's geographical limitation to the 1951 Convention, UNHCR must continue to handle refugee status determination. Despite a continuing high level of new applications, progress has been made in reducing the backlog, using streamlined procedures, more staff (funds permitting) and the transfer of more responsibility to the field office in Van. The aim is to reduce the average waiting period for the first interview 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.

251. Achieving these targets will mainly depend on UNHCR's ability to obtain adequate funding for its refugee status determination activities. As a candidate for membership of the European Union, Turkey is expected by the end of 2000 to have produced a National Plan of Action for the Adoption of the EU Acquis (NPAAA) on asylum standards. UNHCR will seek close co-ordination and compatibility between its own programme and the NPAAA. In so doing, it will seek increased funding from the EU. UNHCR will start to transfer an important part of the refugee status determination

process to the Government. This may take several years and will not be accomplished fully while the geographical limitation is maintained and non-European refugees must be resettled. UNHCR will seek to persuade and assist the Government to create a specialised office for refugee status determination. This would be in line with the observations of the European Union concerning Turkey's progress on its candidacy for entry into the Union. The creation of a specialised office would also be necessary in the context of an eventual transfer of responsibility for refugee status determination for non-Europeans from UNHCR to the State.

252. UNHCR's expanding programme of training and technical co-operation is also enhancing its dialogue with the Government on the general improvement of the Turkish asylum system to bring it in conformity with international standards. Training and public awareness programmes aimed at the Ministry of Interior, police, judges, universities, NGOs, bar associations and civil society, will be continued to improve the climate for asylum. Other improvements to the asylum system will include a database of refugees and asylum-seekers in Turkey and the creation of a pool of interpreters to assist government staff. UNHCR's strategy for advocacy has focused in the past on the Government; the key determinant of migration and asylum policy in Turkey. Nevertheless, an increased effort is now devoted to raising public awareness of UNHCR's mandate and the plight of refugees of all national and ethnic origins.

Assistance

253. Most refugees and many asylum-seekers rely on UNHCR's limited resources for material support. In addition to a minimal monthly subsistence allowance, medical costs are covered, and, in a few cases, accommodation. Travel costs are paid for refugees invited to Ankara for refugee status determination and resettlement interviews. For refugee women and children, support includes education, social counselling, and specialised health and psychological care. Direct support for the remaining Bosnian and Kosovar refugees is being steadily reduced, as durable solutions are implemented. UNHCR strives to involve local authorities, health services and Turkish NGOs in addressing the social, psychological and material needs of asylum-seekers and refugees in Turkey. Given its own limited funding, UNHCR gives priority to the special needs of refugee women and children. The voluntary return of Turkish refugees from northern Iraq is facilitated by UNHCR, in co-operation with the Government and UNHCR offices in Iraq. Reintegration is eased somewhat by a return package, including a basic two-month supply of food and domestic items. UNHCR staff conduct follow-up visits.

Desired Impact

254. The immediate impact of UNHCR's current activities will be an efficient and fair asylum procedure in Turkey, making temporary asylum in Turkey a viable option while durable solutions are sought, such as resettlement to a third country. UNHCR's longer-term goal is the gradual assumption by the Turkish Government (and wider society) of UNHCR's current responsibilities, principally refugee status determination, training of personnel and social assistance to refugees. Public relations activities will help ensure that this process occurs in the context of receptive and well-informed public opinion.

Organisation and Implementation

Management

255. UNHCR's main office is in Ankara, with a presence in Istanbul, Silopi and Van. A total of eight international, nine Junior Professional Officers and 27 national staff manage the country programme. Of the eight international staff, three are Regional Advisors (on gender, children and legal training) based in Ankara. In 2001, UNHCR will reinforce its capacity to undertake refugee status determination and resettlement processing through an implementing partner. Training and support for staff have been stepped up, with equal emphasis on maintaining the quality of the refugee status determination procedure and helping staff to cope with stress. A task force in the Ankara office will plan and monitor activities in support of UNHCR's policy priorities for women and children. Further measures will be taken to improve the security of premises, especially in Van.

Co-ordination

256. UNHCR collaborates not only with seven implementing partners, but also with intergovernmental organisations including IOM (for resettlement and voluntary repatriation) and UNICEF (for refugee women and children). UNHCR involves non-implementing as well as implementing partners in the monitoring and evaluation of projects through periodic meetings of Project Review Committees. UNHCR actively supports the UN Resident Co-ordinator system in Turkey in various ways, including by participating in the CCA/UNDAF process and convening the inter-agency caucus on gender.

G A Statistical Overview of Turkish Asylum-Seekers and Refugees

Turkish asylum-seekers and refugees: trends and patterns

This section presents recent trends in the number of Turkish asylum-seekers and refugees in countries neighbouring Turkey, Europe as well as in other regions.

a. Asylum in the region and durable solutions

By the end of 2000, over 12,600 Turkish citizens had found asylum in Iraq, the only country in the region with a sizeable Turkish refugee population. During 2000, the UNHCR Office in Iraq, who assists all Turkish refugees in the country, recorded the arrival of 217 Turkish prima facie refugees.

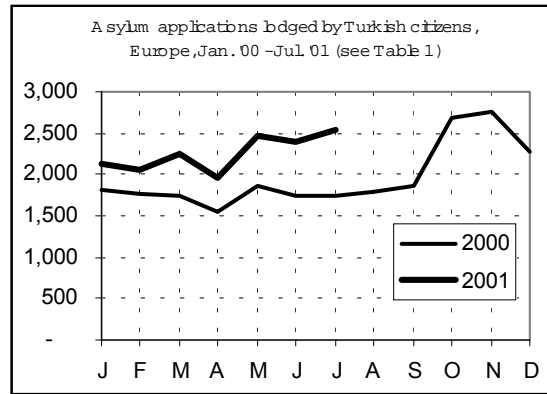
The UNHCR Office in Iraq facilitated the repatriation of 264 Turkish refugees during 2000. Except for 6 Turkish refugees who returned from Pakistan, no other Turkish refugees were reported to have repatriated during 2000. One Turkish refugee was resettled by UNHCR during 2000.

During the first six months of 2001, the Turkish refugee population in Iraq increased by 648 persons as a result of births (424) and newly registered refugees who were already present in the country (224). In addition, 188 Turkish asylum-seekers applied for refugee status under the UNHCR mandate.

b. Asylum applications lodged in Europe, North America, Australia and New Zealand, January 2000 – July 2001

During the second quarter of 2001, Turkish citizens lodged some 7,330 asylum applications in Europe, North America, Australia and New Zealand, an increase with 8 per cent compared to the first quarter (6,810). During the period January to July 2001, Germany was the main recipient of Turkish asylum applications lodged in the European Union (42%), followed by France (23%) and the United Kingdom (16%) (see Table 1).

The number of Turkish asylum applications lodged in Europe during the first seven months of 2001 (15,790) was 29 per cent higher than during the same period in 2000 (12,190) (see chart).



c. Refugee status determination of Turkish asylum applications, 2000

During 2000, Turkish citizens in more than 50 asylum countries lodged almost 31,000 asylum applications. Some 4,100 Turkish asylum-seekers were granted refugee status, 1,250 were allowed to remain for humanitarian reasons, whereas almost 17,500 Turkish asylum requests were rejected (see Table 2).

In countries of the European Union, almost 3,100 Turkish asylum-seekers were granted refugee status, 950 were granted a humanitarian status and almost 16,100 applications were rejected. This resulted in a Convention refugee recognition rate for Turkish asylum applicants in the European Union of 15 percent. If grants of humanitarian status are included, the recognition rates rises to some 20% (see chart).

Refugee status determination in EU-countries, 2000					
Origin: Turkey					
(code) Country of asylum	Procedure*	Decisions since 1 January			Total recognition rate**
		[a] Refugee status	[b] Other (hum.)	[c] Rejected	
AUS		18	-	165	9.8
BEL	AR	9	-	64	12.3
BEL	FI	51	-	80	38.9
DEN	AR	-	-	20	-
DEN	FI	5	-	21	19.2
FIN	AR	-	*	6	25.0
FIN	FI	*	19	16	55.6
FRA		523	-	2,486	17.4
GBR	BL	-	630	-	100.0
GBR	FI	60	70	1,055	11.0
GFR	NA	1,782	42	6,879	21.0
GFR	RA	367	43	488	45.7
GRE		30	23	333	13.7
IRE	FI	*	-	5	37.5
ITA		222	-	3,327	6.3
LUX		-	-	-	..
NET	AR	9	38	779	5.7
NET	FI	11	9	38	34.5
NET	JR	-	-	-	..
SPA		-	-	7	-
SWE	AR	*	59	110	35.3
SWE	FI	*	16	191	8.2

Source: See Table 2
* See notes Table 2
** Column $([a]+[b])/([a]+[b]+[c]) * 100\%$

Table 1. Asylum applications lodged in Europe, North America, Australia and New Zealand									
Period: January to July 2001									
Nationality: Turkey									
(All figures are provisional, subject to change).									
Country of asylum	No. of applications								Total
	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	
Austria	79	70	76	84	130	134	204	-	777
Belgium	68	83	68	73	91	76	59	88	606
Bulgaria	-	3	2	-	3	-	1	-	9
Czech Rep.	13	-	-	1	10	-	7	-	31
Denmark	7	7	8	12	19	10	8	-	71
Finland	8	-	4	3	9	8	10	-	42
France	373	477	546	520	440	433	453	-	3,242
Germany	909	737	845	658	917	851	1,025	1,004	6,946
Greece	4	6	8	7	3	102	-	-	130
Hungary	-	3	4	1	1	5	10	4	28
Ireland	-	1	4	-	-	1	-	-	6
Liechtenstein	-	-	-	-	-	-	-	-	-
Luxembourg	-	-	1	1	-	3	2	-	7
Netherlands	174	154	152	131	141	100	92	87	1,031
Norway	22	17	10	17	10	9	12	-	97
Poland	-	-	-	-	1	1	-	-	2
Portugal	-	-	-	-	-	-	-	-	-
Romania	3	1	1	2	5	2	2	-	16
Slovakia	-	-	1	6	10	-	6	-	23
Slovenia	5	1	8	26	108	75	50	34	307
Spain	5	1	1	2	2	2	-	-	13
Sweden	22	24	32	36	42	24	34	-	214
Switzerland	115	125	128	103	194	221	238	190	1,314
UK (cases)	310	355	355	270	325	330	335	-	2,280
Canada	92	110	121	110	172	149	199	138	1,091
USA (cases)	-	9	12	8	16	22	12	10	89
Australia	6	5	18	16	20	11	12	-	88
New Zealand	-	-	-	3	1	5	-	-	9
Europe	2,117	2,065	2,254	1,953	2,461	2,387	2,548	1,407	17,192
European Union	1,959	1,915	2,100	1,797	2,119	2,074	2,222	1,179	15,365
Grand total	2,215	2,189	2,405	2,090	2,670	2,574	2,771	1,555	18,469

Table 2. Applications, refugee status determination and pending cases, 2000

Origin: Turkey

Values between 1 and 4 have been replaced with an asterisk.

(code) cntry of asylum	Procedure (1)		Pending 01-Jan	Applied since 1 Jan.	Decisions since 1 January					Pending 31-Dec	Calculations***				% change pend. cases
					Type*	Level**	Total	Recog- nized	Other (hum.)		Rejected	Otherw. closed	Total	Refugee recognition rates	
	Total	Incl. o/w. cl.		Excl. o/w. cl.											
		Ref. status	Total	Ref. status	Total										
ALB	G		6	34	7	-	*	31	40	-	17.5	17.5	77.8	77.8	-100.0
ARG	G		-	*	-	-	-	-	-	*	..	..	..	..	..
AUL	G	AR	-	-	21	-	65	7	93	-	22.6	22.6	24.4	24.4	..
AUL	G	FI	-	111	38	-	99	5	142	23	26.8	26.8	27.7	27.7	..
AUS	G	AR	-	592	18	-	165	157	340	-	5.3	5.3	9.8	9.8	..
AZE	U		-	*	-	-	-	-	-	*	..	..	..	..	..
BEL	G	AR	-	-	9	-	64	*	76	-	11.8	11.8	12.3	12.3	..
BEL	G	FI	-	838	51	-	80	10	141	-	36.2	36.2	38.9	38.9	..
BLR	G		-	-	-	-	-	-	-	-	..	..	..	..	..
BSN	U		6	*	-	-	*	6	7	*	-	-	-	-	-66.7
BUL	G		86	39	19	10	*	67	99	26	19.2	29.3	59.4	90.6	-69.8
CAN	G		372	869	355	-	102	54	511	731	69.5	69.5	77.7	77.7	96.5
CYP	U		8	*	*	-	6	-	7	*	14.3	14.3	14.3	14.3	-62.5
CZE	G	AR	*	*	-	-	*	*	*	-	-	-	-	-	-100.0
CZE	G	FI	11	90	-	-	*	75	76	25	-	-	-	-	127.3
DEN	G	AR	-	-	-	-	20	-	20	-	-	-	-	-	..
DEN	G	FI	-	68	5	-	21	-	26	-	19.2	19.2	19.2	19.2	..
ECU	U		-	25	-	-	-	-	-	25	..	..	..	..	..
EST	G		*	-	-	-	-	-	-	*	..	..	..	..	0.0
FIN	G	AR	-	-	-	-	*	6	8	-	-	25.0	-	25.0	..
FIN	G	FI	-	76	*	19	16	14	50	-	2.0	40.0	2.8	55.6	..
FRA	G		-	3,735	523	-	2,486	-	3,009	-	17.4	17.4	17.4	17.4	..
GBR	G	BL	-	-	-	630	-	55	685	-	-	92.0	-	100.0	..
GBR	G	FI	-	3,925	60	70	1,055	585	2,455	-	2.4	5.3	5.1	11.0	..
GFR	G	NA	2,354	8,968	1,782	42	6,879	426	9,129	2,808	19.5	20.0	20.5	21.0	19.3
GFR	G	RA	1,083	5,387	367	43	488	4,742	5,640	1,063	6.5	7.3	40.9	45.7	-1.8
GRE	G		-	591	30	23	333	-	386	350	7.8	13.7	7.8	13.7	..
HUN	G		29	116	*	*	53	58	115	30	1.7	3.5	3.5	7.0	3.4
ICE	G	FI	-	*	-	-	-	-	-	*	..	..	..	..	..
IRE	G	FI	-	22	*	-	5	*	10	-	30.0	30.0	37.5	37.5	..
IRQ	U		*	-	-	-	-	-	-	*	..	..	..	..	0.0
ISR	U		*	-	-	-	*	-	*	*	-	-	-	-	-50.0
ITA	G		-	-	222	-	3,327	29	3,578	-	6.2	6.2	6.3	6.3	..
JOR	U		-	*	-	-	*	-	*	-	-	-	-	-	..
JPN	G/estimate		45	40	-	-	*	7	10	75	-	-	-	-	66.7
LUX	G		-	*	-	-	-	-	-	-	..	..	..	..	..
MOR	V		-	-	-	-	-	-	-	-	..	..	..	..	..
MTA	G		-	*	-	-	*	-	*	*	-	-	-	-	..
NET	G	AR	-	-	9	38	779	321	1,147	1,528	0.8	4.1	1.1	5.7	..
NET	G	FI	-	2,277	11	9	38	2,597	2,655	803	0.4	0.8	19.0	34.5	..
NET	G	JR	-	-	-	-	-	-	-	238	..	..	..	..	..
NOR	G	AR	-	-	-	8	254	-	262	-	-	3.1	-	3.1	..
NOR	G	FI	-	164	*	11	221	-	233	-	0.4	5.2	0.4	5.2	..
PAK	U		*	*	-	-	-	-	-	*	..	..	..	..	100.0
POL	G	AR	-	-	7	-	-	-	7	-	100.0	100.0	100.0	100.0	..
POL	G	FI	-	9	-	-	*	11	12	-	-	-	-	-	..

Table 2 (continued)

(code) cntry of asylum	Procedure (1)		Pending 01-Jan	Applied since 1 Jan.	Decisions since 1 January					Pending 31-Dec	Calculations***				% change pend. cases		
					Total	Recogn- ized	Other (hum.)	Rejected	Otherw. closed		Total	Refugee recognition rates		%			
	Incl. o/w. cl.	Excl. o/w. cl.	Ref. status	Total						Ref. status		Total					
	Type*	Level**	Total	1 Jan.	Recogn- ized	Other (hum.)	Rejected	Otherw. closed	Total	Total	Ref. status	Total	Ref. status	Total			
ROM	G		-	28	7	-	29	5	41	-	17.1	17.1	19.4	19.4	..		
SPA	G	JR	-	21	-	-	7	*	11	-	-	-	-	-	..		
SVK	G		-	12	-	-	-	*	*	11	-	-	..	..	..
SVN	G		42	1,119	-	-	-	108	108	1,053	-	-	..	..	2,407.1
SWE	G	AR	-	-	*	59	110	-	170	-	0.6	35.3	0.6	35.3	..		
SWE	G	FI	-	229	*	16	191	21	229	-	0.4	7.4	0.5	8.2	..		
SWI	G	FI	987	1,431	505	271	526	349	1,651	1,130	30.6	47.0	38.8	59.6	14.5		
SYR	U		86	*	*	-	*	10	12	76	8.3	8.3	50.0	50.0	-11.6		
UKR	G		-	*	*	-	*	-	*	*	50.0	50.0	50.0	50.0	..		
USA	G	EO	54	52	13	-	15	22	50	56	26.0	26.0	46.4	46.4	3.7		
USA	G	IN	54	69	40	-	20	24	84	56	47.6	47.6	66.7	66.7	3.7		
Total			5,230	30,962	4,111	1,253	17,477	9,807	33,333	10,127	12.3	16.1	18.0	23.5	93.6		
Notes																	
*Type																	
**Level																	
G	Government				FI	First Instance				NA	New applications						
U	UNHCR				AR	(Including) admin. review/appeal				RA	Re-opened applications						
V	Government and UNHCR; Unknown				JR	(Including) judicial review/appeal				IN	Immigration and Naturalization Service (
															EO	Executive Office for Immigration Review	
															BL	Backlog procedure	
*** Calculations																	
Recognition rates (%)																	
- Including otherwise closed, Refugee status. Recognized divided by Total decisions * 100%																	
- Including otherwise closed, Total. Recognized plus Other (hum.) divided by Total decisions * 100%																	
- Excluding otherwise closed, Refugee status. Recognized divided by Total decisions (except Otherw. closed) * 100%																	
- Excluding otherwise closed, Total. Recognized plus Other (hum.) divided by Total decisions (except Otherw. closed) * 100%																	
Change pending cases(%). Pending cases 31 Dec. minus pending cases 1 Jan. divided by pending cases 1 Jan. * 100%																	
Source. Governments, UNHCR. Compiled by UNHCR.																	

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