

## **Human Rights Defenders in Turkey**

A Report by the International Helsinki Federation for Human Rights (IHF)<sup>i</sup>

### **1. Introduction and Summary**

While there are still deficiencies in the Turkish legal framework and actual practice regarding freedom of assembly and association, Turkish legislation no longer includes provisions that would directly restrict human rights monitoring in Turkey.

The situation of human rights defenders in Turkey has somewhat improved in recent years. While some a number of human rights defenders have been tortured, intimidated and imprisoned, no killings have taken place. The regulative framework on associations and their activities has provided larger space for them to operate and the criminal law reforms increased the level of freedom of expression. However, severe problems remain in these areas, and the government's way to address them is not consequent enough, although better than in the past.

The international community has played a key role for enabling improvements regarding the working environment of human rights defenders in Turkey. In particular, the EU accession process has helped Turkey to work out, adopt and at least begin with the implementation of reforms in key human rights areas, which has resulted in the decrease of impediments to human rights activism in Turkey as one of the effects. Human rights activism in Turkey has also improved thanks to international funding and support to local human rights NGOs – which, however, has caused resentment among government officials and the mainstream media.

While Turkish human rights NGOs have already implemented some programs aimed at increasing and improving their use of international human rights mechanisms, further measures are necessary to ensure that local monitors are well equipped to adequately monitor Turkey's human rights obligations.

### **2. The Community of Independent Human Rights Defenders**

The largest and most well-known human rights organizations in Turkey are: the Human Rights Association (IHD), Human Rights Foundation of Turkey (TIHV), Association for Human Rights and

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MEMBER AND COOPERATING\* COMMITTEES IN:

Albania – Armenia\* - Austria – Azerbaijan - Belarus – Bosnia-Herzegovina – Bulgaria – Canada – Croatia – Czech Republic – Denmark – Finland – France – Georgia\* - Germany – Greece – Hungary – Italy – Kazakhstan – Kosovo – Kyrgyzstan – Latvia – Lithuania – Macedonia – Moldova – Montenegro – Netherlands - Norway – Poland – Romania – Russia – Serbia – Slovakia – Slovenia – Sweden – Switzerland – Turkmenistan\* - Ukraine\* – United Kingdom – United States – Uzbekistan\*

COOPERATING ORGANIZATIONS: THE EUROPEAN ROMA RIGHTS CENTER – HUMAN RIGHTS WITHOUT FRONTIERS – MENTAL DISABILITY ADVOCACY CENTER

Solidarity with the Oppressed (Mazlum-Der), Helsinki Citizen's Assembly (HYD), Human Rights Platform (IHOP), Amnesty International Turkey (UAO), Human Rights Agenda Association (IHGD) and the Human Rights Institute of Turkey (TIHAK).<sup>ii</sup> Additionally, there is a large number of associations and platforms on women's and children's rights.

There is also a range of smaller NGOs, which are being affiliated either with extremist political groups or with unlawful organizations such as the Eurasia Human Rights Association (extreme right wing), or associations for solidarity with the families of prisoners (politically extreme left-wing and/or closely linked to Kongra-Gel, the former Kurdistan Workers Party PKK).

The IHD was founded in 1986 by a number of intellectuals and mothers of political prisoners during the military rule (1980-87) and the national "state of emergency" (1987-90). With the increasing focus on gross human rights violations in the context of the Kurdish conflict, the association was blamed by the state security organizations and the mainstream media of being pro-Kurdish and pro-PKK. The IHD traditionally focuses on the situation in prisons, disappearances, political and other unlawful killings and torture as well as the right to freedom of expression and peaceful association. More recently, it has also devised programs on the human rights of internally displaced persons, disabled persons, asylum seekers and refugees. The main forms of IHD activities are: monitoring and reporting, lobbying and participating in legislative drafting, providing legal assistance, as well as organizing various forms of pickets. Many Turkish applications to the European Court on Human Rights (ECtHR) have been filed by IHD lawyers. While the association itself is independent from political parties, the former and present general chairpersons of the IHD, Akın Birdal and Yusuf Alatas were nominated by the left wing-Kurdish coalition DEHAP for the parliamentary elections of 2002. The Mayor of Diyarbakır, Osman Baydemir, (DEHAP) is a former deputy chairperson of the IHD.

The TIHV was founded by IHD leaders and medical professionals in 1990. The main focus of the organization, with centers in Adana, Ankara, Diyarbakır, Istanbul and Izmir, is to provide treatment and rehabilitation services for torture victims. .

Mazlum-Der was founded in 1991, and has its members and activists mainly in Ankara, Istanbul, Izmir and the southeastern parts of the country. It started its work by focusing on the situation of right wing political prisoners, and increasingly became known to be moderate Islamist. Alongside with other areas of human rights, the organization focuses on the situation of female students, who got expelled from schools and universities for wearing headscarves. The organization is independent of all political parties, and cooperates with the IHD in its activities.

All the above-mentioned three organizations publish periodical human rights reports. The Mazlum-Der and TIHV, alongside with the Helsinki Citizens' Assembly (HCA), were members of the governmental Human Rights Advisory Council, but both resigned in December 2003, when a number of independent academics were expelled from the council upon the publication of a report on the situation of minorities in Turkey.

The Human Rights Agenda Association (IHGD) was founded in 1983 by a group of lawyers in Izmir. It mainly focuses on minority rights and international criminal justice.

The activities of the Human Rights Institute of Turkey (TIHAK) are rather limited to the advocacy of political secularism.

In addition, there are a number of individual human rights defenders who are not affiliated with NGOs or political parties. They include Professor Ioanna Kucuradi, who has been active in the field of human rights advocacy since the late 1970s, and cooperates with the main human rights NGOs. She was the chairperson of the now defunct National Committee for Human Rights Education, and was expelled by the government from her membership of the Human Rights Advisory Council, alongside with Professors Baskın Oran, Ibrahim Kaboglu and other independent academics, in 2004. A prominent human rights activist independent of all other human rights organizations and political parties is Sanar Yurdatapan, who has been leading an initiative on the right to freedom of expression. Many others are associated with non-organized initiatives, and, like Yurdatapan, cooperate with the main human rights NGOs.

### **3. Remaining Problems**

#### **3.1. Freedom of Association**

The 2004 Law on Associations has largely removed restrictions on registration and functioning of NGOs. However, restrictions are provided for “prohibited objectives” (article 30) and article 56 of the law stipulates that “No associations will be formed with objectives in contravention of law and morality.” These vague terms are seen as potentially threatening. Article 56 was invoked unsuccessfully against a gay and lesbian association.

No cases have been reported in relation to the new legislative framework with regard to registration of human rights NGOs. If the Ministry of Interior objects to the registration of an NGO, such as on the basis of the definition of the objectives, the latter is expected to respond to the requests by the Ministry within 30 days.

Under the civil code, the activities of Turkish NGOs abroad and the activities of international NGOs within Turkey are subject to licensing by the Committee of Ministers (article 92), which is now delegated to the Ministry of Interior. Several cases have been launched under this provision particularly against Diyarbakır IHD for receiving foreign NGO, media, political and student delegations visiting the region.

The legislative framework governing the foreign funding of human rights NGOs has been liberalized under the 2004 Law of Associations. Before that amendment, the Interior Ministry blocked the EC funding of the IHD on a discriminatory basis.

#### **3. 2. Peaceful Assembly**

The administrative and police authorities have discretionary powers under the Law regarding Meetings and Demonstrations. A large number of cases against human rights activists are launched under this law, especially under article 23 regulating the criminalization of “meeting and demonstrations in contravention of law.” Many human rights activists – including several IHD leaders and members – and others have been prosecuted under this provision for participating in or monitoring of demonstrations, including on the occasion of 8 March International Women’s Day and 1 September International Peace Day.

The leaders of the Turkish Medical Association, Health Labor Union and the Association of the Rights of Medical Patients have been prosecuted for organizing a demonstration for the general right to health. Eighty-five defendants were acquitted in April 2005.

Organizing meetings and demonstrations is subject to administrative license and extensive policing. These restrictions have been applied extensively. The police mistreated and detained hundreds of rights activists in such events.

### **3.3. Freedom of Expression**

There is a large range of penal and civil provisions that indirectly restrict the monitoring of human rights in Turkey. Human rights activist are often charged with political accusations for their critical statements on human rights issues, in particular in relation to the Kurdish issue or other minority issues and the attitudes of the security officials. This includes human rights monitoring in the context of the Kurdish conflict, such as reporting of unlawful killings or interventions in relation to the international law of armed conflict.

Article 301 in the Turkish Penal Code (TPC) prosecutes the expression of opinions that are presumed to be a “denigration of Turkishness, the Republic or the Grand National Assembly”, with possible prison sentences ranging from 6 months to 3 years, or that are presumed to be a “denigration of the Government of the Republic of Turkey, the judicial institutions of the State, the military or security structures”, punishable with prison sentences from 6 months to 2 year. *In cases where denigration of Turkishness is committed by a Turkish citizen in another country the punishment shall be increased by one third. Expressions of thought intended to criticize shall not constitute a crime.* <sup>iii</sup>

However, this provision was already repeatedly applied to human rights reporting and criticism of the government or its organs, including the practices of the security officials.

- Professor Ibrahim Kaboglu, former chairperson of the governmental Human Rights Advisory Council, and Professor Baskin Oran, a former member of the Council who drafted the Council’s report on the status of minorities in Turkey, are prosecuted under article 301 of TPC.
- There were hundreds of cases against the IHD in relation to their press statements and human rights reports by the end of 2005.

Article 305 of the Turkish Penal Code criminalizes expression presumed to be harming the “fundamental national interests,” including independence of the state, its territorial integrity, national security and the fundamental characteristics of the Turkish Republic – e.g. secularism and the official language. If the person enjoys benefits from foreign persons or organizations by engaging in “propaganda” against such interests, s/he is punishable by a prison sentence from four and a half years to 15 years. The government and the military often accuse human rights activists to be in conflict with such “fundamental national interests,” which leads the judiciary to prosecute the accused individuals.

### 3.4. Access to Information

Turkish human rights organizations have a major problem of access to the media. The mainstream media conglomerates have been hostile to human rights NGOs, in particular to the IHD. The largest daily *Hurriyet*, belonging to the largest media corporation in Turkey, often accuses the IHD of being pro-PKK, and is unbalanced in publishing accusations against human rights NGOs and censoring their statements and reports, including their replies to the accusations.

- In July 2005, a prominent novelist, Adalet Agaoglu, resigned from the IHD, accusing the latter of not being adequately critical of the PKK and of emphasizing the human rights violations against the Kurdish population. *Hurriyet*'s headline was that "IHD is pro-PKK."<sup>iv</sup> Commenting that the other founding members would also resign, the newspaper did not publish any corrections later.<sup>v</sup>

### 3.5. Direct Attacks on Human Rights Defenders

National and local leaders of the IHD have been threatened by legal and illegal Turkish nationalist organizations as well as by the police and the gendarmery. For instance:

- Turkish Revenge Brigades, believed to be a paramilitary organization supported by unknown elements in the gendarmery forces and the Mafia organizations associated with the Nationalist Action Party (MHP), sent threatening letters to Istanbul IHD leaders in April 2005.<sup>vi</sup>
- Huseyin Aygun, former chairperson of Tunceli Bar Association and the owner of a local newspaper, stated in February 2005 that he was threatened to death by a gendarmery commander for human rights monitoring and advocacy activities he was engaged in. In relation to this statement, he is prosecuted for insulting the commander.
- Rıdvan Kızgın, Bingöl IHD chairperson, was sentenced to prison terms of 2 years and a half on 1 December 2005 in relation to a fact-finding report released in 2003, criticizing the gendarmery for a violation of the right to life. Kızgın was forced by the gendarmery several times to withdraw the report. IHD stated that their local leaders in Bingöl appeared before courts 269 times.<sup>vii</sup>

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#### **Endnotes:**

<sup>i</sup> This report is based on information from local human rights monitors.

<sup>ii</sup> The websites of these NGOs may be reached at the following links respectively: IHD: <http://www.ihd.org.tr/eindex.html>, TIHV: <http://www.tihv.org.tr/eindex.html>, Mazlum-Der: <http://www.mazlumder.org/>, HYD: <http://www.hyd.org.tr/>, AI Turkey: <http://www.amnesty-turkiye.org/>, IHGD: <http://www.rightsagenda.org/>, TIHAK: <http://www.tihak.org.tr/>.

<sup>iii</sup> Article 301 was introduced with the legislative reforms of 1 June 2005 and replaced Article 159 of the old penal code. The International Helsinki Federation for Human Rights (IHF), opposed the use of Article 159 to prosecute non-violent critical opinion and repeatedly called on the Turkish authorities to abolish the article.

<sup>iv</sup> *Hurriyet*, "İHD, PKK'cı artık istifa ediyorum", 30 July 2005, available at <http://www.hurriyetim.com.tr/haber/0,,sid~1@w~1@nvid~610863,00.asp>, accessed 25 December 2005. For a criticism of Adalet Agaoglu and *Hurriyet* by another IHD founding member, see Murat Celikkan, "İHD ve Adalet hanım", *Radikal* (a national daily belonging to the same media conglomerate), 3 August 2005, available at <http://www.radikal.com.tr/haber.php?haberno=160383>, accessed 25 December 2005.

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- <sup>v</sup> For a comprehensive report, including the distortion of Ms Agaoglu's statement, BiaNet, "İrkçılık Ayyuka Çıkmiş; İHD'ye Suçlama Yersiz" (Racism Proliferating: Accusations Against the IHD Unfounded), 1 August 2005, available at <http://www.bianet.org/2005/08/01/64668.htm>, accessed 25 December 2005. Ms Agaoglu was criticised for not being aware of the IHD's diverse activities in the field of human rights and their criticism of the armed activities of the unlawful organisations in Turkey, to which she responded by saying that the organisation did not send her their bulletins. See [Erdal Karayazgan](#), "Adalet Aęaoęlu'nun İstifası ve Öz Yasaklarımız" (Adalet Agaoglu' Resignation and Self-Censor), Birikim, 28 December 2005, available at <http://www.birikimdergisi.com/birikim/makale.aspx?mid=41>, accessed 25 December 2005.
- <sup>vi</sup> Human Rights Agenda Association, press statement of 22 April 2005, available at [http://www.rightsagenda.org/basin/2005\\_04\\_22\\_ihd\\_istanbul.htm](http://www.rightsagenda.org/basin/2005_04_22_ihd_istanbul.htm), accessed 25 December 2005.
- <sup>vii</sup> IHD, press statement of 1 December 2005, available at <http://www.ihd.org.tr/basin/bas20051201.htm>, accessed 25 December 2005.