



COUNTRY OF ORIGIN INFORMATION REPORT

TURKEY

29 AUGUST 2008

Contents

Preface

Latest News

EVENTS IN TURKEY FROM 25 AUGUST TO 29 AUGUST 2008

REPORTS ON TURKEY PUBLISHED OR ACCESSED SINCE 29 AUGUST 2008

Paragraphs

Background Information

1. GEOGRAPHY	1.01
Map.....	1.07
Population	1.08
2. ECONOMY	2.01
3. HISTORY	3.01
Recent history.....	3.01
Recent political developments	3.04
European Union reforms 2007.....	3.09
4. RECENT DEVELOPMENTS	4.01
Terrorism in 2007-08.....	4.01
5. CONSTITUTION	5.01
6. POLITICAL SYSTEM	6.01
Turkish Grand National Assembly (TGNA).....	6.01
National Security Council (MGK) or (NSC).....	6.03
Local government.....	6.07

Human Rights

7. INTRODUCTION	7.01
8. SECURITY FORCES	8.01
Intelligence agency (MIT)	8.03
Police	8.05
Other government forces	8.15
Jandarma/Gendarmerie	8.15
Village guard	8.17
Torture.....	8.25
Turkish Armed Forces.....	8.40
Discrimination in armed forces	8.42
Extra-judicial killings.....	8.47
9. MILITARY SERVICE	9.01
Deferring military service.....	9.06
Evasion of military service and punishment.....	9.09
Conscientious objectors (vicdani retci).....	9.11
Posting after completion of basic training	9.19
10. JUDICIARY	10.01
Organisation.....	10.01
Independence.....	10.05

The Court System	10.09
Courts	10.10
Military courts	10.11
Military criminal courts (Askeri Ceza Mahkemesi)	10.11
Military criminal court of cassation (Askeri Yargitay).....	10.14
State security courts (DGM)	10.16
The constitutional court (Anayasa Mahkemesi)	10.21
Fair trial.....	10.27
Penal code.....	10.32
Code of criminal procedure	10.36
11. ARREST AND DETENTION	11.01
LEGAL RIGHTS	11.01
Warrants and court summonses	11.07
Length of pre trial detention	11.09
Right to legal advice	11.10
Mistreatment in detention	11.20
Legislative framework to prevent mistreatment in prisons and detention.....	11. 33
Government and other initiatives to prevent mistreatment in prisons and detention	11.40
12. PRISON CONDITIONS	12.01
E and F-Type prisons	12.07
Military prisons	12.16
Monitoring of prison conditions.....	12.19
13. DEATH PENALTY	13.01
14. POLITICAL AFFILIATION	14.01
Freedom of political expression.....	14.01
Freedom of association and assembly.....	14.09
15. FREEDOM OF SPEECH AND MEDIA	15.01
Journalists.....	15.06
Media and press.....	15.17
The High Board of Radio and Television (RTÜK)	15.21
Internet.....	15.26
16. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS	16.01
Human Rights Advisory Board (IHDK)/Human Rights Presidency and Human Rights boards/councils.....	16.09
Reform monitoring group	16.19
Parliamentary human rights commission/Parliamentary human rights investigation committee	16.21
Ministry of interior's investigation office.....	16.23
Prison inspection committees/Prison monitoring board.....	16.25
The gendarmes investigation and evaluation centre for human rights abuse issues (JIHIDEM)	16.28
European Court of Human Rights (ECTHR)	16.33
17. CORRUPTION	17.01
18. FREEDOM OF RELIGION	18.01
Headscarves.....	18.13
Alevis including Alevi Kurds	18.20
Beliefs and practices of Alevis	18.25
Difficulties and problems for Alevis	18.29
Mystical Sufi and other religious social orders and lodges	18.33

Non Muslim minorities	18.35
Christians	18.40
Jews	18.45
19. ETHNIC GROUPS.....	19.01
Kurds	19.07
Kurdish language	19.14
Teaching in Kurdish	19.20
Pro Kurdish political parties	19.25
Hadep.....	19.35
Hadep membership cards	19.37
Relatives of Hadep	19.39
Dehap/Democratic Society Party (DTP).....	19.41
PKK/Kadek/Kongra-Gel and the conflict in the south east.....	19.45
Relatives of PKK.....	19.60
Newroz/Nevruz celebrations	19.62
Arabs.....	19.65
Caucasians	19.68
Armenians	19.71
Greeks.....	19.77
Roma.....	19.80
20. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS	20.01
Legal rights	20.01
Government attitudes.....	20.04
Social and economic rights	20.13
Societal ill-treatment or discrimination	20.15
Transvestites.....	20.19
Transsexuals.....	20.22
21. DISABILITY.....	21.01
People with disabilities	21.01
22. WOMEN	22.01
Legal rights	22.04
Political participation of women.....	22.12
Social and economic rights	22.18
Employment and gender equality.....	22.22
Marriage.....	22.29
Forced marriages	22.32
Violence against women	22.37
Honour killings.....	22.53
Women suicides in Turkey	22.62
Virginity testing	22.68
Treatment of women in detention.....	22.73
Complaints procedure for women mistreated in custody.....	22.80
Protection of victims of violence	22.83
Women's organisations	22.93
Women's NGOs	22.97
23. CHILDREN.....	23.01
Basic Information	23.01
Unregistered children	23.07
Age of consent	23.16
Customary marriages	23.19
Child abuse	23.24

Child labour	23.32
Legislative framework	23.46
Education	23.51
Religious education.....	23.63
Child care	23.71
Health issues.....	23.77
Mistreatment of children in detention.....	23.80
24. TRAFFICKING	24.01
Support and assistance	24.13
Training activities	24.21
25. MEDICAL ISSUES	25.01
Overview of availability of medical treatment and drugs.....	25.01
Pharmacies.....	25.08
HIV/AIDS – anti-retroviral treatment.....	25.10
Cancer treatment	25.13
Kidney dialysis.....	25.17
Tuberculosis (TB)	25.18
Deaf and hearing impaired.....	25.21
Mental health.....	25.23
Home health care	25.33
26. FREEDOM OF MOVEMENT.....	26.01
Nüfus card/identity card.....	26.09
27. INTERNALLY DISPLACED PEOPLE (IDPs)	27.01
Compensation.....	27.08
28. FOREIGN REFUGEES.....	28.01
Treatment of foreigners seeking asylum in Turkey.....	28.01
29. CITIZENSHIP AND NATIONALITY	29.01
30. EXIT/ENTRY PROCEDURES	30.01
Treatment of returned failed asylum seekers	30.06
The problem of falsified documents	30.11
The General Information Gathering System (GBTS)	30.13
31. EMPLOYMENT RIGHTS	31.01
Labour Act of Turkey.....	31.01
Major Trade Union Confederations	31.12
Main Employers' Associations	31.21

Annexes

- Annex A – Chronology of major events
- Annex B – Political organisations
- Annex C – Prominent people
- Annex D – Administration of Justice
- Annex E – The Court System
- Annex F – List of abbreviations
- Annex G – References to source material

Preface

- i This Country of Origin Information Report (COI Report) has been produced by COI Service, UK Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 24 August 2008. The 'Latest News' section contains further brief information on events and reports accessed from 25 August 2008 to 29 August 2008. This COI Report was issued on 23 September 2008.
- ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any UKBA opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.
- iii The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.
- iv The structure and format of the COI Report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.
- v The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.
- vi As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

- vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.
- viii This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the COI Service upon request.
- ix COI Reports are published regularly on the top 20 asylum intake countries. COI Key Documents are produced on lower asylum intake countries according to operational need. UKBA officials also have constant access to an information request service for specific enquiries.
- x In producing this COI Report, COI Service has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the UKBA as below.

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Website: http://www.homeoffice.gov.uk/rds/country_reports.html

ADVISORY PANEL ON COUNTRY INFORMATION

- xi The independent Advisory Panel on Country Information (APCI) was established in 2003 to make recommendations to the Home Secretary about the content of the UK Border Agency's country of origin information material. The APCI welcomes all feedback on UKBA's COI Reports, Key Documents and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk
- xii In the course of its work, the APCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. The APCI may or may not have reviewed this particular document. At the following link is a list of the COI Reports and other documents

which have, to date, been reviewed by the APCI: www.apci.org.uk/reviewed-documents.html

- xiii Please note: It is not the function of the APCI to endorse any UKBA material or procedures. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

Advisory Panel on Country Information:

Email: apci@homeoffice.gsi.gov.uk

Website: www.apci.org.uk

Latest News

EVENTS IN TURKEY FROM 25 AUGUST 2008 TO 29 AUGUST 2008

- 29 August A group of PKK terrorists opened fire on a truck in Southeastern province of Hakkari, killing the truck driver and injuring two soldiers and three village guards on Thursday.
Terrorist Attack On Truck Kills One And Injures Five Others, 29 August 2008
<http://www.turkishpress.com/news.asp?id=249249>
- 29 August Turkey's President Abdullah Gul said that a solution in Cyprus could be found under the roof of United Nations, within the framework of UN Secretary-General's goodwill mission, based on realities in the island and with a new partnership to be established by two equal communities and two founder countries.
Turkey Reiterates Need For A Fair, UN-led Solution In Cyprus Ahead Of Peace Talks, 29 August 2008 <http://www.turkishpress.com/news.asp?id=249252>
- 28 August Demolitions continue in the Sulukule district of Istanbul today. Roma communities have lived in the Sulukule area of Istanbul for centuries. The members of the Sulukule Platform say buildings are being demolished without taking precautions, while people and children are around.
Demolitions Continue In The 'Gypsy' Neighborhood Of Istanbul, 28 August 2008
<http://www.bianet.org/english/kategori/english/109364/demolitions-continue-in-the-gypsy-neighborhood-of-istanbul>
- 28 August Gen. Yaşar Büyükanıt handed over his duty to the new Chief of General Staff, Gen. İlker Başbuğ. Başbuğ emphasized that the concept of nation-state was not open to discussion and ethnically there could not be new rights under constitutional rule.
New Chief Of Staff Insists On Not Recognizing The Kurdish Identity, 28 August 2008
<http://www.bianet.org/english/kategori/english/109367/new-chief-of-staff-insists-on-not-recognizing-the-kurdish-identity>
- 26 August A court in Turkey has lifted a ban on YouTube, the video sharing website, after hundreds of sites voluntarily blocked themselves in protest at growing internet censorship. Access to YouTube had been blocked since May in the latest of a series of bans triggered by the posting of videos deemed insulting to Mustafa Kemal Atatürk, founder of the modern Turkish state... Websites can be blocked under Article 5651 of the Turkish penal code for a range of offences including insulting Atatürk
Turkish court lifts YouTube ban after online censorship protest, 26 August 2008
<http://www.guardian.co.uk/world/2008/aug/26/turkey.youtube>
- 26 August The office of the governor of Bitlis province said 14 rebels were killed in a clash with Turkish soldiers aided by village guards near the town of Mutki. Five guards were also killed. Two other rebels were killed Tuesday near the city of Mardin.
21 killed in clashes in Turkey, 26 August 2008
<http://www.iht.com/articles/ap/2008/08/26/europe/EU-Turkey-Kurds.php>

REPORTS ON TURKEY PUBLISHED OR ACCESSED SINCE 29 AUGUST 2008

Religious Freedom in Turkey 2008, published 31 July 2008

<http://www.jubileecampaign.nl/downloads/File/Religious%20Freedom%20Turkey%20July%202008%20Jubileecampaign%20NL.pdf>

(Accessed 1 September 2008)

Background Information

1 GEOGRAPHY

- 1.01 The Republic of Turkey covers an area of approximately 780,580 square kilometres. Turkey is located between south-eastern Europe and south-western Asia (that portion of Turkey west of the Bosphorus is geographically part of Europe), bordering the Black Sea, between Bulgaria and Georgia, and bordering the Aegean Sea and the Mediterranean Sea, between Greece and Syria. Its border countries are Armenia 268 km, Azerbaijan 9 km, Bulgaria 240 km, Georgia 252 km, Greece 206 km, Iran 499 km, Iraq 352 km, and Syria 822 km. (CIA World Factbook updated 15 July 2008) [103]
- 1.02 The capital city is Ankara, and there are 81 provinces consisting of Adana, Adiyaman, Afyonkarahisar, Agri, Aksaray, Amasya, Ankara, Antalya, Ardahan, Artvin, Aydin, Balikesir, Bartin, Batman, Bayburt, Bilecik, Bingol, Bitlis, Bolu, Burdur, Bursa, Canakkale, Cankiri, Corum, Denizli, Diyarbakir, Duzce, Edirne, Elazig, Erzincan, Erzurum, Eskisehir, Gaziantep, Giresun, Gumushane, Hakkari, Hatay, Icel (Mersin), Igdir, Isparta, Istanbul, Izmir, Kahramanmaraş, Karabuk, Karaman, Kars, Kastamonu, Kayseri, Kilis, Kirikkale, Kirlareli, Kirsehir, Kocaeli, Konya, Kutahya, Malatya, Manisa, Mardin, Mugla, Mus, Nevsehir, Nigde, Ordu, Osmaniye, Rize, Sakarya, Samsun, Sanliurfa, Siirt, Sinop, Sirnak, Sivas, Tekirdag, Tokat, Trabzon, Tunceli, Usak, Van, Yalova, Yozgat, Zonguldak. (CIA World Factbook updated 15 July 2008) [103]
- 1.03 As noted in the CIA FactBook (updated 15 July 2008) Turkish is the main spoken language. In addition to the official language it also mentions Kurdish, Dimli (or Zaza), Azeri, Kabardian and there is also a substantial Gagauz population in the Europe part of Turkey. [103] In addition, the following languages are also spoken by some populations in Turkey: Abaza, Abkhaz, Adyghe, Albanian, Arabic, Armenian, Ashkaraua, Bulgarian, Crimean Turkish, Dimli, Domari, Gajol, Georgian, Greek, Hértvin, Kazakh, Kirghiz, Kirmanjki, Kumyk, Ladino, Laz, Osetin, Pomak, Romani, Serbian, Tatar, Turkmen, Turoyo, Uyghur, Uzbek. [114]
- 1.04 The US State Department Report on International Religious Freedom, published on 14 September 2007, reported that:
- “According to the Government, 99 percent of the population is Muslim, the majority of which is Sunni. According to the human rights nongovernmental organization (NGO) Mazlum-Der and representatives of various religious minority communities, the actual percentage of Muslims is slightly lower. The Government officially recognizes only three minority religious communities--Greek Orthodox Christians, Armenian Orthodox Christians, and Jews--although other non-Muslim communities exist.” [5e] (SSection 1)
- 1.05 The US State Department International Religious Freedom Report 2007, released on 14 September 2007, noted that:

“In addition to the country's Sunni Muslim majority, academics estimated there were 15 to 20 million Alevi, followers of a belief system that incorporates aspects of both Shi'a and Sunni Islam and draws on the traditions of other religions indigenous to Anatolia as well... The Government considers Alevism a heterodox Muslim sect; however, some Alevi and absolutist Sunnis maintain that Alevi are not Muslims.” [5e]

1.06 The USSD Religious report 2007 also noted that:

“There are several other religious groups, mostly concentrated in Istanbul and other large cities. While exact membership figures are not available, these religious groups include approximately 65,000 Armenian Orthodox Christians, 23,000 Jews, and up to 4,000 Greek Orthodox Christians. The Government interpreted the 1923 Lausanne Treaty as granting special legal minority status exclusively to these three groups, although the treaty text refers broadly to ‘non-Muslim minorities’ without listing specific groups... There also are approximately 10,000 Baha'is; an estimated 15,000 Syrian Orthodox (Syriac) Christians; 5,000 Yezidis; 3,300 Jehovah's Witnesses; 3,000 Protestants; and small, undetermined numbers of Bulgarian, Chaldean, Nestorian, Georgian, Roman Catholic, and Maronite Christians.” [5e]

[Return to contents](#)
[Go to list of sources](#)

MAP

- 1.07 Map of Turkey courtesy of CIA World FactBook:
<https://www.cia.gov/cia/publications/factbook/geos/tu.html>



See also links to more detailed maps of Turkey:

<http://www.factmonster.com/atlas/country/turkey.html>

http://www.lib.utexas.edu/maps/middle_east_and_asia/turkey_pol83.jpg

POPULATION

- 1.08 It was reported by the CIA World Factbook, last updated 15 July 2008, the population of Turkey exceeded 71,892,807 (July 2008 est.) [103] while it was reported by Jane's Sentinel Country profile, updated 26 Feb 2008, that the population was in the region of 70,586,256 (TURKSTAT, 2007). [81a]

Return to contents
Go to list of sources

2 ECONOMY

- 2.01 The Economist Intelligence Unit (EIU) country report, released July 2008, noted that:

“Higher inflation and severe monetary policy tightening by the Central Bank in mid-2006 dampened domestic demand growth, resulting in a sharp slowdown of GDP growth from an annual average of 6.9% in 2006 to a modest 3.4% in the second half of 2007 (4.5% for the year as a whole). Growth accelerated to a surprisingly strong 6.6% in the first quarter of 2008, but we expect the rate of expansion to slow again during the remainder of this year. (p9)GDP growth accelerated from an average of 3.4% year on year in the second half of 2007 to a surprisingly strong 6.6% in the first quarter of 2008. Despite high interest rates and the weakness of consumer confidence indicators since September 2007 private consumption growth picked up to 7.3% in January-March compared with just 2.9% in the final quarter of 2007.” [107] (p16)

- 2.02 The World Bank Data and Statistics for Turkey – World Development Indicators database, April 2008 (website accessed 24 July 2008) recorded a GNI per capita [average annual income] in 2006 of US \$5400. [45]

- 2.03 The 2008 Economist Intelligence Unit (EIU) country report noted that:

“The March employment figures, which actually cover the February-April period, show a rise of 2.2% year on year in non-agricultural employment. Agricultural employment, however, continued to decline, and total employment increased by just 0.7%, which was not sufficient to offset working-age population growth. Accordingly, the rate of unemployment rose to 10.7% compared with 10.4% a year earlier, despite a decline in the already low workforce participation rate from 47% to 46.7%.” [107] (p17)

- 2.04 Jane’s Sentinel Country profile, updated 26 Feb 2008, noted that the pace of economic growth has now begun to slow and inflation remains high by EU standards. At the end of the second quarter of 2007 annual GNP growth stood at 3.9 per cent, raising questions about whether the government would be able to achieve its year-end target of five per cent. At the end of October 2007, annual consumer inflation stood at 7.7 per cent, down from 9.7 per cent at the end of 2006 but well above the government’s target of five per cent for year-end... Officially, the unemployment rate in the country as a whole stood at 9.2 per cent in August 2007, up from 9.1 per cent in August 2006. However, urban unemployment stood at 11.6 per cent in August 2007, compared with a rate of 5.6 per cent in rural areas. [81a]

- 2.05 The Turkish Statistical Institute (TurkStat) noted for the period covering April, May and June 2008 that the:

“Number of unemployed persons increased by 41 thousand persons compared to the same period of the previous year and has reached to 2 million 164 thousand persons in Turkey. Unemployment rate realized as 8.9 % without any change. Unemployment rate increased to 11 % with a 0.1 percentage points

increase in urban areas and reached to 5.6 % with 0.2 percentage points decrease in rural areas. Non-agricultural unemployment rate realized as 11.5 % without any change compared to the same period of the previous year in Turkey. The rate is realized as 10.3 % with a 0.1 percentage points decrease for male and 15.7 % for female without any change.” [89c]

[Return to contents](#)
[Go to list of sources](#)

3 HISTORY

RECENT HISTORY

- 3.01 As noted in the Foreign and Commonwealth Office (FCO) Country Profile on Turkey, updated 3 April 2008 “The Republic of Turkey was founded by Mustafa Kemal Atatürk, a military hero, in 1923. His aim was to transform Turkey into a modern, secular state, which could compare with Western European nations in terms of military and economic strength. Today, Turkey is a member of almost every Western European international organisation. It joined NATO in 1952; the Council of Europe in 1949; and became a full candidate for European Union membership in 1999.” [41]
- 3.02 As stated in the FCO country profile “Atatürk (Father Turk) was Turkey's first President; he died in 1938. The Turkish military regards itself as the main guardian of the principles of Atatürk's legacy, even to the point of intervening directly to restore political stability in 1960, 1971 and most recently in 1980... In September 1980 the Turkish military took power following a breakdown of law and order under a succession of weak and divided coalition governments during the 1970s.” [41]
- 3.03 The FCO country profile further noted that “In 1982 a new Constitution was adopted. Turgut Özal replaced Evren as President in 1989. He modernised the Turkish economy and raised Turkey's international standing until his death in 1993. In May 1993 Prime Minister Süleyman Demirel was elected President. Mrs Tansu Çiller, previously Economics Minister, was elected to replace Demirel as Chairman of the True Path Party (DYP) in early June 1993 and thus became Turkey's first female Prime Minister.” [41]

[Return to contents](#)
[Go to list of sources](#)

RECENT POLITICAL DEVELOPMENTS

- 3.04 The Power and Interest News Report (PINR) in an article published 22 July 2007 noted that:
- “On July 22, 2007, the Turkish public voted in early parliamentary elections called after the parliament failed to appoint a new president. The election of a new chief of state was the reason for the political stalemate in April and May and of the harsh split between the Kemalist military establishment of the Turkish Armed Forces (T.S.K.) and the Justice and Development Party (A.K.P.), the Islamic-rooted party led by Prime Minister Recep Tayyip Erdogan. The attempt at appointing an important Islamic political personality, such as Foreign Minister Abdullah Gul, as the new president was the last straw between the T.S.K. and the A.K.P.” [51]
- 3.05 The PINR also further reported that “The military perceived the appointment of Gul as a presidential candidate (the president is also the commander-in-chief of the T.S.K.) as a direct menace for Turkey and its secular character. It also saw the act as one that would further weaken the power of the military.” [51]

- 3.06 As noted in the Foreign and Commonwealth Office (FCO) Country Profile on Turkey, updated 3 April 2008:

“Presidential elections were originally arranged for April 2007, but the AK Party candidate Abdullah ‘Gul’s presidential candidacy was strongly opposed by the opposition party CHP, because of Gul’s supposed background in political Islam. The role of President has often been held by the secular establishment, and so the CHP refused to attend the voting. The failure of Parliament to elect a President precipitated early parliamentary elections on 22 July 2007.

“The governing AK Party were re-elected by popular vote, and gained a solid majority of seats. The official results were as follows:

“Justice and Development Party (AKP): 46.5% (341 seats)

Republican ‘People’s Party (CHP): 20.9% (112 seats)

Nationalist Action Party (MHP): 14.3% (70 seats)

Independent Candidates: 5.3% (26 seats)

Following the parliamentary elections, AK Party candidate and former Foreign Minister, Abdullah Gul was elected President by the new parliament on 28 August 2007.” [41]

- 3.07 The FCO Country profile updated 3 April 2008 further noted that since the elections, some of the main developments include the signing of a UK-Turkey Strategic Partnership in October, which outlines key areas of UK-Turkish co-operation; the signing off of amendments to the Constitution in February, which most notably allows the wearing of headscarves in universities; and an increase of military activity on the border with Iraq, including a brief cross-border ground operation in February, targeting PKK terrorist camps.

On 14 March 2008, the Chief Prosecutor of the Appeals Court filed a law suit at the Constitutional Court for closure of the governing AK party, accusing them of violating secular principles. On 31 March, the Constitutional Court ruled unanimously that the case was admissible. The Court will now look at the content of the allegations while the AKP prepares to submit its defence. This process is likely to run for some 9-12 months. [41]

- 3.08 The *Guardian* in an article published 30 July 2008 reported that:

“Turkey’s highest court has rejected an attempt to close the governing AK Party on charges of trying to introduce Islamic rule. The chief prosecutor, Abdurrahman Yalcinkaya, believed it wanted to replace Turkey’s strictly secular system with sharia law. The attempt to close the party was triggered by the government’s decision last February to allow female university students to wear the headscarf, seen as an Islamist symbol.” [38b]

[Return to contents](#)
[Go to list of sources](#)

EUROPEAN UNION ACCESSION NEGOTIATIONS 2007

- 3.09 As noted in the UK Foreign and Commonwealth Office (FCO) Country Profile Report 2008, last reviewed on 3 April 2008:

“Turkey was the second country to sign a European association agreement in 1963. This provided for the eventual establishment of an EC/Turkey Customs union, which finally came into effect on 1 January 1996. The agreement also provided for the possibility of Turkey’s eventual EC accession. Turkey formally applied for membership in 1987. The European Commission recommended against that application in 1989 because of the need for further political and economic reform in Turkey and the need for the existing Community to focus its energy on achieving the 1992 deadline for the completion of the Single Market. Nonetheless, the Commission confirmed Turkey’s eligibility for membership although Turkey’s political and economic instability, together with the Greek/Turkish disputes, made talk of EU membership unrealistic during most of the 1990s.” [41]

- 3.10 The FCO 2008 Country profile also noted that:

“The 2004 December European Council agreed to open EU accession negotiations with Turkey on 3 October 2005, endorsing the European Commission’s view that Turkey had sufficiently fulfilled the Copenhagen political criteria. The negotiations opened as planned on 3 October. Turkey’s Accession Partnership with the EU was agreed on 12 December and adopted on 23 December 2005. It sets out priorities for Turkey on meeting the Copenhagen criteria and the assistance that the EU will provide.” [41]

- 3.11 The FCO 2008 Country profile further added that:

“Turkey’s deadline for implementation of the protocol is autumn 2009, and to this end, EU Foreign Ministers said they looked forward to speedy progress on these issues. After a turbulent year of parliamentary and presidential elections in 2007, the European Commission’s Annual Report for 2007 noted that Turkey urgently needs to renew its reform momentum. It further notes that more work needs to be done implementing legislation across many key areas including anti-corruption and judicial and agricultural reform, and details how Turkey needs to consolidate its work on the cultural and fundamental rights and freedoms of all groups in Turkey, including minority groups.” [41]

- 3.12 The European Commission Turkey 2007 Progress Report recorded that “Turkey continued to make further progress in aligning its legislation with the acquis and EU practices in the area of justice, freedom and security, and the Turkish legislation is aligned to a certain extent with the EU acquis. Progress can be reported particularly in the areas of organised crime, drug trafficking and human trafficking. Considerable and sustained efforts are required in areas such as police cooperation and external borders. The same applies to migration and asylum, where there is a need to establish an asylum authority.” [71c]

[Return to contents](#)
[Go to list of sources](#)

4 RECENT DEVELOPMENTS

TERRORISM IN 2007- 08

- 4.01 On the Institute for Police Studies website accessed 4 April 2008, Gokhan Aydiner the Governor Director General of the Turkish National Police noted in his book 'Terrorism in the World and in Turkey' that:

"The definition of the Turkish Anti Terrorism Law (law no.3713) defines terrorism as a kind of act done by one or more 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 individual unity of the State and its territory and nation, endangering the existence of the the Turkish State and Republic..." [65]

- 4.02 The EU Progress Report 2007 published 6 November 2007 noted that, "Turkey considers the failure to include a reference to terrorism in the Statute [of the International Criminal Court] as a serious omission, and pleads for this issue to be taken up at the Statute review conference in 2009. Turkey does not intend to sign the Statute before that date." [71c] (p75)

- 4.03 Jane's Sentinel website, updated 26 February 2008, noted that Kurdish separatists pose the greatest threat to 'Turkey's internal stability. An escalation in PKK attacks in late 2007 has increased the pressure on Turkey to strike at the PKK's bases in northern Iraq. Starting in December 2007, the Turkish military responded by launching a series of air raids against PKK positions in northern Iraq. Through 2007 and early 2008, the Turkish security forces arrested 48 Turkish Islamists with alleged links to foreign militants on suspicion of planning major terrorist attacks inside Turkey. [81c] (Security)

- 4.04 The US State Department Country Report on Terrorism in Turkey 2007, released by the Office of the Coordinator for Counterterrorism on 30 April 2008, noted that:

"Domestic and transnational terrorist groups have targeted Turkish nationals and foreigners, including, on occasion, USG [United States Government] personnel, in Turkey, for more than 40 years. Terrorist groups that operated in Turkey included Kurdish separatist, Marxist-Leninist, radical Islamist, and pro-Chechen groups. Terrorism in Turkey is defined in the Anti-Terror Law #3713 (TMK, 1991)." [5a] (p95)

- 4.05 The same USSD report on Terrorism in Turkey 2007 further noted that:

"Most prominent among terrorist groups in Turkey is the Kongra-Gel/Kurdistan Worker's Party (KGK/PKK). Composed primarily of Kurds with a separatist agenda, the KGK/PKK operated from bases in northern Iraq and directed its forces to target mainly Turkish security forces... This persisted in 2007, when the KGK/PKK continued its terrorist tactics... the Turkish parliament on October 17 overwhelmingly passed a motion authorizing cross-border military operations

against KGK/PKK targets in northern Iraq. Turkish forces carried out extensive operations along the Turkey-Iraq border in the latter part of the year.” [5a] (p96)

See also Section 19.37 [PKK/KADEK/Kongra-Gel and the Conflict in the South-East](#)

- 4.06 The *BBC* reported on 11 September 2007: “Police in Turkey's capital, Ankara, have prevented a large bomb from exploding, the city's governor said. Sniffer dogs detected a van stuffed with explosives in the centre of the city, preventing a ‘possible catastrophe’, Governor Kemal Onal said.” [66g] As reported by the *BBC* on 23 May 2007: “Turkish officials have confirmed that a suicide bomber caused a blast which killed six people and injured more than 90 in Ankara on Tuesday [23 May 2007]...The governor described the bomber as a known member of an illegal organisation, often code in Turkey for the Kurdistan Workers’ Party, the PKK.” [66j] *The Hurriyet News* noted on 24 May 2007 that: “The young man confirmed through fingerprints taken from his body to have been the suicide bomber in Tuesday evening's attack in Ankara, 28 year old Guven Akkus, was apparently a member of the illegal Turkish Revolutionary Communists Union (TIKB).” [70a]
- 4.07 The *Turkish Daily News* reported on 14 September 2007:
- “A foiled bomb plot: ‘Witnesses told police that the suspect had driven a mini-bus packed with explosives to a multi-storey car park in the city centre Monday, a day before sniffer dogs detected the vehicle and police defused the bomb, newspapers said. The suspect told the car park attendants that he had brought in goods to sell at a nearby market. Press reports said the van contained up to 600 kilogrammes of explosives which the attackers planned to set off through a mobile phone’.” [23j]
- 4.08 The EU 2007 Terrorism Situation and Trend Report noted that: “The rise of fundraising activities by the PKK in the EU is related to the escalation of the terrorist campaign of Kurdish terrorists in Turkey...The dismantling of the French branch of TKP/ML revealed that the organisation financed its terrorist activities in Turkey through criminal activities such as kidnapping, extortion and money laundering.” [43]

[Return to contents](#)
[Go to list of sources](#)

5 CONSTITUTION

- 5.01 The website of the Embassy of the Republic of Turkey in Washington accessed on 4 August 2008 noted that:

“The Republic was declared on 29 October 1923. The [Lausanne Peace] Treaty provided the basis for the creation of the climate of peace and stability needed by the country. Turkey immediately embarked on a course of modernization and reform in all walks of life. Despite the fact that the liberation struggle had been waged against major European powers, she proceeded to establish good relations and cooperation with the West, and based her political and legal systems on modern, secular models. The goal as expressed by Mustafa Kemal Atatürk, the leader of the nationalist movement and first President of the Republic, was ‘to reach the level of contemporary civilization.’ And to achieve this aim, a doctrine for foreign relations was formulated that has held true to this day; in the words of Atatürk, ‘Peace at home, Peace in the world’.” [74a] (State and Policy)

- 5.02 The same Turkish Embassy website further noted that:

“Whilst the 1982 Constitution continued the basic structure of the 1961 Constitution, it nevertheless made significant changes in several areas. The Republican Senate was abolished in the 1982 Constitution. According to the Constitution, unconditional and unrestricted sovereignty is vested in the nation. The people exercise their sovereignty directly through elections, and indirectly through the authorized organs within the framework of the principles laid down in the Constitution.” [74b] (Constitution and Foundation)

- 5.03 The website of the Turkish Constitutional Law edited by Kemal Gözler translated by Erhan Yasar dated August 2006 stated that:

“In article 1-The Turkish State is a Republic. In article 2- The Republic of Turkey is a democratic, secular and social State governed by the rule of law. In article 7- Legislative power is vested in the Grand National Assembly of Turkey on behalf of the Turkish Nation. In article 8- Executive power and function are exercised and carried out by the President of the Republic and the Council of Ministers in conformity with the Constitution and the laws. In article 10- All individuals are equal without any discrimination before the law, irrespective of language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such considerations.” [115]

- 5.04 The Turkish Grand National Assembly website noted in the updated version of the Constitution of the Republic of Turkey the recent changes regarding the qualifications and impartiality of the President as reflected in Article 101 of the Constitution, which was amended on 31.05.2007 that:

“The President of the Republic shall be elected by the public from among the Turkish Grand National Assembly members who are over 40 years of age and have completed higher education or from among ordinary Turkish citizens who fulfill these requirements and are eligible to be deputies. The ‘president’s term

of office shall be five years. The President of the Republic can be elected to two terms at most. Nomination of a candidate for the Presidency of the Republic from among the members of the Turkish Grand National Assembly or from outside of the Assembly shall require a written proposal by 20 members of the Assembly.” [109]

See also Section 15:01 [Freedom of Speech and Media](#)

[Return to contents](#)
[Go to list of sources](#)

6 POLITICAL SYSTEM

THE TURKISH GRAND NATIONAL ASSEMBLY (TGNA)

- 6.01 “Turkey Interactive 2007”, prepared by the Turkish News Agency for the Office of the Prime Minister of Turkey noted that:

“According to Article 7 of the Constitution, legislative power is vested in the Turkish Grand National Assembly (TGNA) on behalf of the Turkish Nation and this power cannot be delegated. The TGNA comprises 550 deputies designated in elections held every five years. The Parliament can decide to hold early elections, to postpone the elections for one year in case of war or to renew the elections before its five-year term is completed (early elections). The Parliament carries out its activities through commissions in accordance with the Constitution and the Rules of Procedure which are drawn up by the TGNA itself.” [36a] (p141-142) (**Fundamental Bodies of the State**)

- 6.02 The Turkish Grand National Assembly website accessed 4 August 2008 noted in the updated version of the Constitution of the Republic of Turkey the recent changes regarding the Right to Vote, to be Elected and to Engage in Political Activity as reflected in Article 67 of the Constitution, which was amended on 31.05.2007 that:

“In conformity with the conditions set forth in the law, citizens have the right to vote, to be elected, and to engage in political activities independently or in a political party, and to take part in a referendum... However, the conditions under which the Turkish citizens who are abroad shall be able to exercise their right to vote, are regulated by law... All Turkish citizens over 18 years of age shall have the right to vote in elections and to take part in referenda. The exercise of these rights shall be regulated by law. Privates and corporals serving in the armed services, students in military schools, and convicts in penal execution excluding those convicted of negligent offences cannot vote.” [109]

NATIONAL SECURITY COUNCIL (MGK) OR (NSC)

- 6.03 The website of the Secretariat General of the National Security Council accessed 4 August 2008 noted that:

“The National Security Council shall be composed of the Prime Minister, the Chief of the General Staff, Deputy Prime Ministers, Ministers of Justice, National Defence, Internal Affairs and Foreign Affairs, the Commanders of the Army, Navy and Air Forces and the General Commander of the Gendarmerie, under the chairmanship of the President of the Republic. Depending on the agenda, related Ministers and persons may be invited to the meetings of the Council for their views. (As amended on 3.10.2001-4709/32) The National Security Council shall submit its advisory decisions about the formulation, determination and implementation of the national security policy of the State and its opinions about the maintenance of the necessary coordination, to the Council of Ministers. The Council of Ministers shall evaluate decisions of the

National Security Council concerning the measures it deems necessary for the preservation of the existence and independence of the State, integrity of the country and peace and security of the society. The agenda of the National Security Council shall be determined by the President of the Republic taking into account the proposals of the Prime Minister and the Chief of the General Staff. In the absence of the President of the Republic, the National Security Council shall meet under the chairmanship of the Prime Minister. The organisation and the duties of the Secretariat General of the National Security Council shall be regulated by the Law. No. 2945 of September 11, 1983.” [110] **(Constitutional Situation)**

- 6.04 The Secretariat General of the National Security Council website further noted that:

“In accordance with the article No.118 in the Constitution, the National Security Council was established. (Amended in the article No: 15th January, 2003-3789/1) The National Security Council, chaired by the President, consists of the Prime Minister, the Chief of General Staff, the Ministry of National Defense, the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Land Forces Commander, the Naval Forces Commander, the Air Forces Commander and General Commander of the Gendarmerie. The Secretary General of the National Security Council participates in the meetings however does not have the right to vote.” [110] **(Law of the NSC and the Secretariat General of the NSC)**

- 6.05 The *Turkish Daily News* on 1 December 2004, in “MGK opens Up”

“In line with the last few governments’ efforts to harmonize with the EU, the MGK was transformed to a more advisory body over the last few years. Included in the changes made to the council since 2001, is the increase in the number of council members in order to eliminate the majority previously held by military officers. Furthermore, on Oct. 3, 2001, an amendment replaced the inclusion, ‘The government needs to consider MGK decisions as a priority,’ with, ‘the government needs to consider MGK decisions.’ In August 2003, bi-monthly meetings replaced monthly meetings.” [23c]

- 6.06 The European Commission Turkey 2007 Progress Report published 6 November 2007, noted that:

“The National Security Council (NSC) continued to meet in line with its revised role. Ambassador Burcuoğlu was appointed as new Secretary-General in September. The total staff of the NSC decreased from 408 to 224, and the number of military personnel from 26 to 12. However, the armed forces continued to exercise significant political influence... The 1997 secret protocol on Security, Public Order and Assistance Units (commonly called EMASYA) remains in force. The protocol, signed by the General Staff and the Ministry of Interior, allows for military operations to be carried out for internal security matters under certain conditions without a request from the civilian authorities.” [71c] (p9)

[Return to contents](#)
[Go to list of sources](#)

LOCAL GOVERNMENT

6.07 The Netherlands Ministry of Foreign Affairs, Official general report on Turkey (January 2002) noted that: Turkey is divided into 81 provinces (il), each headed by a provincial governor (vali). Provinces are subdivided into districts (ilçe), administered by a district governor (kaymakam). Districts may be further broken down into subdistricts (bucak). Governors are appointed for a number of years by the central authorities in Ankara, to which they are directly accountable via a chain of responsibility extending from district governor to provincial governor and on to the central authorities in Ankara. The role of governors is to represent the central authorities in the provinces. [2a]

6.08 The Ministry of Interior the General Directorate of the administration of Provinces report on 'Civil Administration Units Municipalities Villages 2002' notes that:

"Local government administrative divisions and local government units include the following:

Number of Civil Administrative Divisions (MÜLKİ İDARE BÖLÜMLERİ SAYISI)

İl/Province 81

İlçe/Sub -province 850

Bucak/District 688

"Number of Local Government Units (MAHALLİ İDARE BİRİMLERİ SAYISI)

Belediyeler/Municipalities 3216

Büyükşehir Belediyesi/Metropolitan municipalities 16

İl Merkezi Olan Belediyeler/Province downtown municipalities 65

Büyükşehir İlçe Belediyesi/Metropolitan subprovince municipalities 58

Büyükşehir Alt Kademe Belediyesi/Metropolitan subdistrict municipalities 31

İlçe Merkezi olan Belediyeler/ Subprovince center municipalities 792

Bucak Merkezi Olan Belediyeler/District center municipalities 335

Kasaba Belediyesi/ Subdistrict municipalities 1919

Köyler/Villages 35118" [111]

6.09 The Netherlands Ministry of Foreign Affairs January 2002 report further stated that:

"Every village or neighbourhood has its own head, often known by the name 'muhtar'. The muhtar acts as an intermediary between the population and the authorities, being the sole keeper of address records. The only official document that a muhtar can issue is a residence certificate (ikametgâh ilmühaberi). In theory, anyone taking up residence in or leaving a particular neighbourhood or village is supposed to report this to the local muhtar. In practice, that is often not done, with the muhtar not being approached until a need arises for a certificate of residence somewhere." [2a] (page 20)

6.10 The United Nations Online Network in Public Administration and Finance (UNPAN) in their report 'Administrative Reform in the Mediterranean Region Summary of Turkey' 2002, reported that:

“Villages are corporative entities made up of at least 150 people with property in common (land, grazing areas, schools). The main administrative entity is the Village Assembly, which chooses its chief (Muhtar, in charge for 5 years) and the Council members. The Council issues recommendations regarding the village’s affairs and plans its activities. The head of the village presides over the village’s projects and services.” [112] (page 5)

- 6.11 The *Zaman* newspaper reported on 2 October 2007 that in 2006, the Istanbul Governor’s Office required demographic records from 958 muhtars in Istanbul. According to the result, the population of Istanbul is 33 million, many people have registered with more than one muhtar. With the use of the Muhtarlık Otomasyon Sistemi (Muhtarlik Otomation System - MOS), the Governor’s Office aims to increase the efficiency and accuracy of muhtar registration and service system reform. [84a]

[Return to contents](#)
[Go to list of sources](#)

Human Rights

7 INTRODUCTION

- 7.01 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:

“The government generally respected the human rights of its citizens; however, serious problems remained in several areas. During the year human rights organizations documented a rise in cases of torture, beating, and abuse by security forces. Security forces committed unlawful killings; the number of arrests and prosecutions in these cases was low compared with the number of incidents, and convictions remained rare. Prison conditions remained poor, with problems of overcrowding and insufficient staff training. Violence against women, including honor killings and rape, continued to be a widespread problem. Child marriage was a problem. Police corruption contributed to trafficking in women and children to, from, and within the country for sexual exploitation.” [5g] (Introduction)

- 7.02 Human Rights Watch (HRW) World Report 2008, published on 31 January 2008 stated:

“Recent trends in human rights protection in Turkey have been retrograde. 2007 saw an intensification of speech-related prosecutions and convictions, controversial rulings by the judiciary in defiance of international human rights law, harassment of pro-Kurdish Democratic Society Party (DTP) officials and deputies, and a rise in reports of police brutality. The state authorities’ intolerance of difference or dissenting opinion has created an environment in which there have been instances of violence against minority groups.” [9b]

- 7.03 The European Commission Turkey 2007 Progress Report, published on 6 November 2007 noted:

“The fight against impunity of human rights violations remains an area of concern. There is a lack of prompt, impartial and independent investigation into allegations of human rights violations by members of security forces... Overall, the Turkish legal framework includes a comprehensive set of safeguards against torture and ill-treatment. However, cases still occur, especially before detention starts. The fight against impunity remains an area of concern. Turkey needs to investigate more thoroughly allegations that there have been human rights violations by members of the security forces.” [71c] (p13-14)

- 7.04 The International Helsinki Federation (IHF) report ‘Human Rights in the OSCE Region’ (Events of 2006), published on 27 March 2007, noted that:

“The process of reforming and improving human rights protection in Turkey slowed down in 2006. The use of indiscriminate and excessive force by security forces as well as bomb attacks by non-state groups resulted in numerous deaths. Resurgence of the armed activity against the authorities seemed to bolster the nationalist reaction in the government structures, media and the civil

society, and human rights activists were both harassed by the authorities and threatened by paramilitary groups. Comprehensive reforms were still needed to ensure the independence of the judiciary and legal proceedings conforming to international standards, and efforts to prevent and remedy torture remained unsatisfactory.”[10c] (p1)

- 7.05 The Freedom House report ‘Freedom in the World 2008’, published on 2 July 2008, described Turkey as ‘partly free’. Using the following scale of 1 (being the most free) to 7 (being the least free), Freedom House assessed Turkey’s political rights as 3 and civil liberties as 3. The report stated that “Turkey struggles with corruption in government and in daily life. The AK Party originally came to power with promises to clean up government corruption, and it has adopted some anticorruption measures. However, enforcement is lacking, and a culture of tolerance of corruption pervades the general population. Parliamentary immunity prevents the prosecution of most politicians. Government transparency has improved in recent years through EU-related reforms. Turkey was ranked 64 out of 180 countries surveyed in Transparency International’s 2007 Corruption Perceptions Index.” [62a] The Freedom House Table of Independent Countries also described Turkey as ‘partly free’ with the same ratings for political rights and civil liberties. [62d]

See also Section 17 - Corruption

- 7.06 The International Federation for Human Rights (FIDH) undertook a mission in Istanbul, Turkey, from February 9 to 11, 2008 and reported that:

“FIDH and its member organisation the Human Rights Association (İnsan Hakları Derneği, IHD) express their deep preoccupation at the continuous human rights violations in the South-Eastern provinces. The organisations are particularly preoccupied by the bombing of civilian areas, in violation of fundamental principles of international human rights and humanitarian law. The organisations repeat their call to the authorities for a political and pacific settlement of the Kurdish Question, and urge the government to open talks with Kurdish organisations and civil society in this respect.” [72a]

Return to contents
Go to list of sources

8 SECURITY FORCES

8.01 The website for the Office of the Prime Minister of Turkey in their “Turkey Interactive 2007”, prepared by the Turkish News Agency accessed 4 August 2008 noted that “The enforcement of law and order and security in the country is under the jurisdiction of the general security organizations, namely the gendarmerie, the police forces and the coast guard command. All these three agencies are attached to the Ministry of the Interior.” [36a] (p167 Internal Security)

8.02 The Freedom House report, ‘Countries at the Crossroads 2007 – Turkey’, noted that:

“The military holds a special place in the Turkish republic. Since Turkey’s first military coup, in 1960, it has acted as the guarantor of Turkey’s secularism, territorial integrity, and government functioning. While it has never stayed in power long, it used the first coup, and subsequent ones in 1971 and 1980, to increase its autonomy and enhance its role during civilian rule. Turkish generals have expressed opinions on everything from judicial decisions to draft bills in the National Assembly to EU membership, and those opinions have seldom been ignored altogether. After the Welfare Party came to dominate the ruling coalition in 1996, leading to increased fundamentalism, the military forced its removal.” [62c] (p16)

8.03 The Freedom House report, ‘Countries at the Crossroads 2007’ further stated that:

“The EU continues to criticize Turkey for lack of civilian control of the military. Turkey’s EU-inspired reforms have confined the once-powerful National Security Council (NSC) to an advisory role with a civilian at its head, removed military members from political bodies such as the higher education council and RTUK, and increased transparency and parliamentary oversight of military expenditures. Moreover, the reforms have been accompanied by increased space for open public critique of the military. However, the military is still not entirely subservient to the civilian ministry of defense, and it maintains autonomy in its strategic decision making. High-ranking military officers continue to voice opinions on domestic and foreign policy issues; in October 2006 the chief of staff accused the government of encouraging Islamic fundamentalism. Meanwhile, public trust in the military is strong, and military schools are among the best in the country, which contribute to the continued power and prestige of this institution.” [62c] (p16-17)

INTELLIGENCE AGENCY (MIT)

8.03 As stated on the website of the National Intelligence Organisation (Milli İstihbarat Teşkilatı. - MIT) (website accessed on 5 August 2008)

“The Turkish National Intelligence Organization was founded as a body subordinate to the ‘Prime Ministry’, under the law no 644 dated 6 July 1965. This law after being in force for 18 years, has been replaced by Law no 2937 titled zState Intelligence Services and the Turkish National Intelligence

Organisation' as of January 1 1984 as a result of the efforts paid to eliminate any deficiencies, troubles and gaps that were come across during the practice of the previous law and to adapt to the rapidly changing and improving world conditions." [88a] (Section on Duties, Powers and Responsibilities of the MIT) "The objective of this Law is to organize the principles and methods regarding the procurement and handling of the State Intelligence as well as the ones regarding the organization, duties and functions of the Turkish National Intelligence Organization. The Undersecretariat of the Turkish National Intelligence Organization has been established, being directly subordinate to the Prime Minister." [88b] (State Intelligence services and the Turkish National Intelligence Organisation)

- 8.04 The Global Security Organisation in their website accessed 19 January 2007 also noted that:

"Intelligence gathering is the primary responsibility of the National Intelligence Organization (Milli Istihbarat Teskilati--MIT), which combines the functions of internal and external intelligence agencies... Military and civil intelligence requirements are formulated by the National Intelligence Coordination Committee. This committee includes members of the staff of the National Security Council, to which it is directly responsible. Nevertheless, a lack of coordination among the intelligence services is said to be a weakness that hampers MIT effectiveness. MIT has no police powers; it is authorized only to gather intelligence and conduct counterintelligence abroad and to uncover communist, extreme right-wing and separatist--that is, Kurdish and Armenian--groups internally. The MIT chief reports to the prime minister but was in the past considered close to the military. MIT has been charged with failing to notify the government when it became aware of past plots, if not actual complicity in military coup attempts. The organization functions under strict discipline and secrecy. Housing and headquarters offices for its personnel are co-located in a compound in Ankara." [56]

POLICE

- 8.05 "Turkey Interactive 2007", prepared by the Turkish News Agency for the Office of the Prime Minister of Turkey accessed 4 August 2008 noted that:

"The police force carries out its activities under the Directorate General of Security and includes central and provincial organisations. The area of responsibility of the Turkish police is restricted by the municipal borders. Outside these areas, police functions are carried out by the gendarmerie. [36a] (p167) (Internal Security) The Turkish Police Force, organized across the country in 1,180 stations, 750 district and 81 provincial directorates excluding the headquarters in Ankara, perform its functions by approximately 190,000 personnel, almost 170,000 of them working in security services. Around 10,000 women serve in the police force. The force recruits the graduates of the Police Academy, offering four years of higher education and training, for managerial posts". [36a] (p169) (Internal Security)

- 8.06 The European Commission Turkey 2006 Progress Report published 6 November 2007 recorded that, "two circulars were issued by the Ministries of

Interior and Justice in November 2005 and January 2006, respectively, to clarify the interaction between prosecutors and the judicial police... As regards the implementation of the new Code of Criminal Procedure, the establishment of the judicial police has led to some tensions between the law enforcement bodies and prosecutors. Despite the Ministries of Interior and Justice issuing two circulars, prosecutors report difficulties in effective supervision of the judicial police.” [71a] (p9). Furthermore the same 2006 report noted that, “the Human Rights Boards have yet to assume a more prominent role in the on-site monitoring of law enforcement establishments. Since October 2005, the Boards carried out 992 visits to police stations and detention centres.” [71a] (p13)

- 8.07 The European Commission Turkey 2006 Progress Report recorded that “Turkey is a party to all main international conventions on police co-operation. International police co-operation and co-operation with the EU Member States is mostly good. [71a] (p63) The EC 2007 progress report published 6 November 2007 further stated that “Turkey is party to all main international conventions and signed several bilateral agreements on police cooperation. Lack of legislation on data protection continues to be a difficulty in terms of cooperation at international level and is an obstacle the conclusion of an operational agreement with Europol. The adoption and implementation of new legislation on protection of personal data and the creation of an independent supervisory authority remain key issues. An ethical code for law enforcement agents in line with international standards awaits adoption. Turkey should continue its efforts in its regional law enforcement cooperation. [71c] (p65)
- 8.08 The US State Department Report (USSD) 2006 report also noted that “Courts investigated many allegations of abuse and torture by security forces during the year; however, they rarely convicted or punished offenders. When courts did convict offenders, punishment generally was minimal and sentences were often suspended. Authorities typically allowed officers accused of abuse to remain on duty and, in occasional cases, promoted them during their trials, which often took years.” [5h] (section 1d)
- 8.09 The same USSD 2006 report further noted that “During the first nine months of the year, 715 administrative or judicial cases were opened against security personnel and other public officials on torture, maltreatment, or excessive use of force charges. The decision of ‘acquittal’ or ‘no need to punish’ was reached in all 85 maltreatment or torture cases. Out of 630 ‘excessive use of force’ cases, 10 resulted in prison sentences, one resulted in a temporary suspension, 598 resulted in acquittal or no need to punish, and 21 remained ongoing.” [5h] (section 1d)
- 8.10 The Amnesty International (AI) Annual Report 2008 stated that:
- “Investigations into human rights violations perpetrated by law enforcement officials remained flawed and there were insufficient prosecutions... In June, parliament amended the Law on the Powers and Duties of the Police, giving police further powers to use lethal force by allowing them to shoot escaping suspects if they ignore a warning to stop. In April, all four police officers tried for killing Ahmet Kaymaz and his 12-year-old son Uğur outside their home were acquitted. The officers said that the deaths were the result of an armed clash,

but forensic reports showed that both victims had been shot at close range several times.” [12e]

- 8.12 The Amnesty International (AI) Annual Report 2008 further stated that:

“Allegations of torture and other ill-treatment continued, especially outside official places of detention. In June, Mustafa Kükçe died after being detained in several different police stations in Istanbul. Relatives who identified his body said that it was apparent that he had been tortured before his death. No case was brought against police officers. Lawyer Muammer Öz was allegedly beaten by police officers while drinking tea with family members in the Moda district of Istanbul. An official medical report failed to show that his nose had been broken in the attack. Muammer Öz told Amnesty International that police beat him with batons and their fists and told him that they would never be punished.” [12e]

- 8.13 The Human Rights Watch (HRW) World Report 2008, published on 31 January 2008 stated that:

“Ill-treatment appeared to be on the rise in 2007 and was regularly reported as occurring during arrest, outside places of official detention, and in the context of demonstrations, as well as in detention centers. This trend was further exacerbated by the passing in June of a new police law granting wide-ranging powers of stop and search. After the new law came into force, cases of police brutality were also reported in the context of the routine identity checks permitted in the new law. There were continuing reports of ill-treatment in prisons and, in January, conscientious objector Halil Savda was ill-treated at the Tekirdağ military barracks.” [9b]

- 8.14 The same HRW 2008 report further noted that:

“Fatal shootings of civilians by members of the security forces remain a serious concern. Although police typically state that the killing occurred because the individual has failed to obey a warning to stop, in some cases these may amount to extrajudicial executions. The fatal shooting of Bülent Karataş near Hozat, Tunceli, in September 2007, bore the hallmarks of a summary execution. His companion, Rıza Çiçek, who survived serious gunshot wounds, explained how he was shot by military personnel while on a beekeeping trip. Another suspected summary execution was that of the villager Ejder Demir, shot dead near Özalp, Van, in September. Nigerian asylum seeker Festus Okey died of gunshot wounds incurred while in police custody in Istanbul in August.” [9b]

[Return to contents](#)
[Go to list of sources](#)

OTHER GOVERNMENT FORCES

Jandarma/Gendarmerie

- 8.15 “Turkey Interactive 2007”, prepared by the Turkish News Agency for the Office of the Prime Minister of Turkey accessed 4 August 2008 noted that “The Gendarmerie performs its duties in areas outside the municipal borders and in district centers where there is no police force. Approximately 24 million citizens,

corresponding to almost 33% of the population, live in the responsibility areas of the gendarmerie and this figure increases to 48 million people (65% of the population) during summertime... Every province in Turkey has a gendarmerie provincial command administering a number of gendarmerie district commands equal to the number of districts.” [36a] (p170)

- 8.16 As recorded on the website of the General Command of Gendarmerie, updated on 6 August 2008: “The Gendarmerie of The Republic of Turkey, which is responsible for the maintenance of safety and public order as well as carrying out other duties assigned by laws and regulation, is an armed security and law enforcement force, having military nature...In accordance with Act No 2803 on ‘The Organization, Duties and Powers of The Gendarmerie’, the duties of the gendarmerie fall in four main points as administrative, judicial, military and other duties...The administrative duties cover the activities preventing crime in order to perform the protection, watching, safety and public order.” [99] (Section on Duties)

Village Guard

- 8.17 In correspondence from the Foreign and Commonwealth Office dated 2 July 2007 regarding the Laws amending the village law no: 5673 and its adoption date 27 May 2007 it was noted that:

“ARTICLE 1- The second paragraph of the Village Law of 18/3/1924 with no: 442 has been amended as follows;
In provinces to be determined by the Cabinet; in cases where circumstances which call for declaration of state of emergency and where severe signs of violent actions arise in villages or in their neighbourhood, or in case of any infringement of life and property of the villagers for whatsoever reason, it can be decided upon the proposal of the Governor and approval of the Minister of Interior to appoint enough number of temporary village guards. The number of temporary village guards to be appointed under these circumstances can not exceed 40.000. The Cabinet shall be entitled to increase this number by up to fifty per cent. In case the circumstances which call for appointment of village guards are no more applicable or in case of administrative necessity, the appointment of temporary village guards can be ceased in line with the due procedures regarding such appointments.” [4a]

- 8.18 In the same correspondence the FCO further noted that, “The temporary village guards shall be paid throughout the course of the service a monthly salary equivalent to a multiplication of monthly coefficient applicable to the salaries of public officers, by an indicator of 11.500...The boarding of the temporary village guards who participate in operations along with the security forces shall be born by the units under which those security forces operate and from the budget of these units... Additional article16- The duties of temporary village guards who have completed the age of 55 shall be terminated... Being convicted from a terrorist offense, temporary village guards or their widow(er)s shall not be able to receive any pension.” [4a]
- 8.19 The European Commission Turkey 2007 Progress Report published 6 November 2007 recorded that “No progress has been made towards abolishing

the system of village guards. On the contrary, amendments were adopted by Parliament in May 2007 to facilitate recruitment of village guards at the request of a provincial governor and with the approval of the Ministry of the Interior. The Law also improves the social rights and pensions of the village guards. There were cases of the hiring of new voluntary village guards, who are not paid but are armed by the state.” [71c]

- 8.20 The EC Turkey 2006 Progress report published 8 November 2006 recorded that according to official figures there are 57 601 village guards still on duty in 2006. [71a] (footnote p23)
- 8.21 The 2005 Human Rights Report, prepared by the Human Rights Foundation, issued on 29 December 2005 noted that, in June [2005] Interior Minister Abdülkadir Aksu answered a question by İzmir deputy Türkan Miçoğulları on the situation of temporary village guards. Aksu stated that a total of 57,757 village guards were employed in 22 provinces. These people received an average wage of 365 YTL. [83a] (p15)
- 8.22 The same 2005 Human Rights Foundation report also stated that “The details for the provinces were listed as: in Diyarbakır 5,187 village guards, in Şırnak 6,756, in Batman 2,887, in Bingöl 2,511, in Bitlis 3,730, in Mardin 3,323, in Muş 1,860, in Siirt 4,661, in Van 7,320, in Hakkari 7,614, in Tunceli 368, in Adıyaman 1,485, in Ağrı 1,838, in Ardahan 91, in Elazığ 2,083, in Gaziantep 555, in Iğdır 362, in Kilis 33, in Maraş 2,236, in Kars 558, in Malatya 1,365 and in Şanlıurfa 934 village guards. Since the establishment of the village guards system on 26 March 1985 a total of 2,284 village guards had been charged with ‘terror offences’, 934 with offences against property, 1,234 with offences against individuals, and 420 with offences of smuggling. Among the 4,972 accused village guards 853 had been put in pre-trial detention.” [83a] (p15)
- 8.23 The same 2005 Human Rights Foundation report further noted that “Rahmi Alkan, Sadi Kılınç and İlhan Akbulut complained to the HRA in Hakkari and said that village guards beat them when they wanted to go to a picnic near Ağaçdibi village on 22 May. Rahmi Alkan said that two village guards had asked them why they had not greeted them and they had replied that they were not obliged to do so. The village guards had become angry and pointed their loaded guns at them. When they left the picnic area another village guard had come up to them in a car and started to beat them with the butt of his rifle. Other people had rescued them from the hands of the village guards.” [83a] (p15-16)
- 8.24 *Reuters UK* published an article on 14 November 2007 “‘Turkey’s village guards face danger from all sides” by Thomas Grove noting that “Sadik Babat, a Turkish Kurd, is an unlikely figure to be working as one of 57,000 state-sponsored village guards throughout Turkey’s southeast, acting as a guide and fighting the Kurdish rebels alongside the same army that destroyed his home.... Since the ‘system’s implementation, 4,972 guards have committed recorded crimes, while 853 have been imprisoned, according to parliamentary records... Village guards say the 500 lira (\$424) monthly salary also draws enlistments in the ‘country’s poorest region.” [85]

[Return to contents](#)

[Go to list of sources](#)

Torture

- 8.25 According to the Turkish Constitution, the use of torture is prohibited, everyone has the right to life and the right to protect and develop his material and spiritual entity. Article 17 states that “no-one shall be subjected to torture or ill-treatment; no-one shall be subjected to penalty or treatment incompatible with human dignity”. [36e]
- 8.26 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that “The constitution and law prohibit such practices; however, members of the security forces continued to torture, beat, and otherwise abuse persons. Human rights organizations reported a rise in cases of torture and abuse during the year. In a July 5 report, Amnesty International (AI) noted that a ‘culture of impunity’ allowed police and Jandarma to escape accountability for torture and enabled courts to disregard medical evidence of torture and accept as evidence statements allegedly extracted under torture.” [5g] (section 1c)
- 8.27 The same USSD 2007 report also noted that:
- “According to the HRA and Mazlum-Der, there were 451 incidents of torture in the first six months of the year. The HRF reported that during the year 452 persons applied to ‘HRF’s centers for assistance. Of these, 248 cases involved torture or abuse inflicted during the year; the rest involved incidents that occurred previously. HRF stated that there were 10,449 credible reports of torture or abuse from 1990 to 2005. A number of human rights observers claimed that only a small percentage of detainees reported torture and abuse because they feared retaliation or believed that complaining was futile.” [5g] (Section 1c)
- 8.28 The International Helsinki Federation for Human Rights (IHF) (Events of 2006), published on 27 March 2007 noted that “Torture remained a serious concern, although the reported number of cases of abuse continued to decrease. The HRFT received about 200 complaints from persons alleging to be victims of torture during the year. It also registered two cases in which persons died while held in custody by the security services, and 14 deaths of remand and convicted prisoners under circumstances giving rise to concern that the victims may have been subjected to treatment amounting to torture.” [10c] (p181)
- 8.29 The IHF Human Rights 2007 report further noted that “The implementation of legislation aimed at preventing torture remained ineffective and, as observed by the UN Special Rapporteur on Torture, safeguards against torture – such as access to a lawyer and qualified forensic doctors – were not adequately enforced. An amendment to the Law on the Prosecution of Public Servants re-introduced privileges preventing prosecution of officials accused of torture and ill-treatment. Officials found guilty of torture and ill-treatment were rarely suspended.” [10c] (p181)

[Return to contents](#)
[Go to list of sources](#)

- 8.30 The Human Rights Watch (HRW) World Report 2008, published on 31 January 2008 stated:

“Ill-treatment appeared to be on the rise in 2007 and was regularly reported as occurring during arrest, outside places of official detention, and in the context of demonstrations, as well as in detention centers. This trend was further exacerbated by the passing in June of a new police law granting wide-ranging powers of stop and search. After the new law came into force, cases of police brutality were also reported in the context of the routine identity checks permitted in the new law... Fatal shootings of civilians by members of the security forces remain a serious concern. Although police typically state that the killing occurred because the individual has failed to obey a warning to stop, in some cases these may amount to extrajudicial executions.” [9b]

- 8.31 The 2008 HRW report also noted that:

“Turkish courts are notoriously lenient towards members of the security forces who are charged with abuse or misconduct, contributing to impunity and the persistence of torture and the resort to lethal force. Many allegations of torture or killings in disputed circumstances never reach the courts and are not investigated. Some controversial court rulings in the first half of 2007 stand out. In May the Court of Cassation quashed the 39-year sentences of two gendarmerie intelligence officers for the November 2005 bombing of a bookshop in the southeastern town of Şemdinli that resulted in one death.” [9b]

- 8.32 The 2008 HRW report further noted that, “As of this writing, the European Court of Human Rights has issued 242 judgments against Turkey in 2007 for torture, unfair trial, extrajudicial execution, and other violations.” [9b]

- 8.33 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey from 7 to 14 December 2005 and their report issued on 6 September 2006 noted that:

“The CPT’s delegation interviewed scores of persons who were, or had recently been (2005), in police/gendarmerie custody. The great majority of those persons stated that they had not been physically ill-treated whilst in custody. This positive development was confirmed during the delegation’s discussions with various other interlocutors, such as public prosecutors, State doctors entrusted with the medical examination of persons in olice/gendarmerie custody, and representatives of Bar Associations and local branches of the Human Rights Association. [13a] (paragraph 17) However, the picture which emerges from the information gathered by the CPT’s delegation is not entirely reassuring. The delegation did receive, in each of the three Provinces visited, several allegations of recent physical ill-treatment during police/gendarmerie custody, in a few cases of a serious nature.” [13a] (paragraph 18)

- 8.34 The same CPT 2006 report also noted that:

“Medical evidence consistent with some of the above-mentioned allegations was found in the end-of-custody medical reports and/or in medical reports drawn up on entry into prison... It should also be noted that some persons

interviewed alleged ill-treatment of a psychological nature, such as threats of physical ill-treatment or to take into custody other members of the detained person's family, not to mention verbal abuse." [13a] (paragraph 18)

8.35 The CPT 2006 report continued:

"The information gathered during the CPT's December 2005 visit would indicate that the curve of ill-treatment by law enforcement officials remains on the decline. However, there are clearly no grounds for complacency, all the more so as reports continue to appear of ill-treatment by law enforcement officials in different parts of the country. The CPT trusts that the Turkish authorities will continue to pursue vigorously their efforts to combat all forms of ill-treatment by law enforcement officials." [13a] (paragraph 20)

8.36 The European Commission Turkey 2007 Progress Report published 6 November 2007 recorded that: "During the reporting period, the European Court of Human Rights (ECtHR) has delivered a total of 330 judgements finding that Turkey had violated at least one article of the ECHR. The total number of new applications to the ECtHR from 1 September 2006 to 31 August 2007 is higher than the same period last year. More than two thirds of these new applications refer to the right to a fair trial and the protection of property rights. The right to life and the prohibition of torture are referred to in a number of cases." [71c] (p12)

8.37 The EC 2007 Progress report on Turkey also noted that: "The legislative safeguards introduced by the zero tolerance policy on torture continue to have positive effects. The downward trend in the number of reported cases of torture and ill-treatment was confirmed. The reforms regarding access to lawyers have shown positive results (See access to justice [Annex D](#)). Turkey pursued its efforts to strengthen the system for the medical examination of alleged cases of abuse. The number of forensic medicine centres in Turkey has been increased, and the Council for Forensic Medicine started a project to strengthen the implementation of the Istanbul Protocol." [71c] (p13)

8.38 The EC 2007 Progress report on Turkey further noted that:

"However, cases of torture and ill-treatment are still being reported, especially during arrest and outside detention centres. There is no independent monitoring of places of detention by independent national bodies, pending the adoption of the Optional Protocol to the UN Convention against Torture. The use of statements obtained in the absence of legal counsel or which are not confirmed in front of a judge is prohibited by the Criminal Procedure Code. However, the Court of Cassation ruled that the ban on the use of such statements does not apply retroactively. There are cases where lower Courts have not removed such evidence from the case file, although allegations of ill-treatment were made by the defendant." [71c] (p13)

8.39 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey from 19 to 22 May 2007 and noted that:

“...There had been no favourable response from the Turkish authorities to the various recommendations made by the CPT as early as 1999, and subsequently expanded on, to alleviate the harmful effects of his [Abdullah Öcalan] detention alone in Imralı High-Security Closed Prison. In particular, he was still not allowed to move freely between his cell and the adjoining room during the day, had no access - not even occasionally - to a larger exercise area with basic facilities, had no other activities and had no television set (either rented or purchased)...The CPT is firmly convinced that, whatever the circumstances, there can be no justification for keeping a prisoner in such conditions of isolation for eight and a half years. It calls upon the Turkish authorities to completely review the situation of Abdullah Öcalan, with a view to integrating him into a setting where contacts with other inmates and a wider range of activities are possible.” [13b]

[Return to contents](#)
[Go to list of sources](#)

TURKISH ARMED FORCES (TÜRK SİLAHLI KUVVETLERİ, TSK)

8.40 The Turkish General Staff website updated on 13 June 2008 noted:

“The Armed Forces of the Turkish Republic having great geopolitical and geostrategic importance comprise the Army, Navy and Air Force that are subordinate to the Turkish General Staff. The General Command of Gendarmerie and the Coast Guard Command, which operate as the parts of internal security forces in peacetime, are subordinate to the Land and Naval Forces Commands, respectively in wartime... General Hilmi Özkok the 24th Commander of the Turkish Armed Forces retired on 30 August 2006 and the 25th new Commander of the Turkish Armed Forces is now Yaşar Büyükanıt.” [106]

8.41 As recorded in Europa World online, Turkey: Defence (website accessed on 7 August 2008), “The total strength of the active armed forces assessed at November 2007 was 510,600 (including 359,500 conscripts), comprising an army of 402,000, a navy of 48,600 and an air force of 60,000. There was a gendarmerie numbering 150,000 and a coast guard of 3,250 (including 1,400 conscripts). Reserve forces totalled 378,700 in the armed forces and 50,000 in the gendarmerie.” [1b] (Turkey: Defence)

Discrimination in the armed forces

8.42 The War Resisters’ International 2005 document stated that “There have been regular reports of Kurdish conscripts in particular being subjected to discriminatory treatment, especially when they are suspected of having separatist sympathies. Different sources make different assessments of the extent to which Kurdish conscripts face discriminatory treatment within the armed forces.” [53a] (Section on Draft evasion)

8.43 Amnesty International public statement dated 8 February 2007 stated:

“Amnesty International is deeply concerned at reports that on 26 January 2007 conscientious objector Halil Savda was ill-treated by military personnel in the disciplinary ward of the military barracks in Tekirdağ where he had originally been summoned to perform military service.” [12f]

See also Section 9:10 Conscientious objectors (Vicdani Retci)

Extra-judicial killings

- 8.47 For the year 2007, the Human Rights Association (HRA/IHD) Summary table for Human Rights Violations recorded:

EXTRA JUDICIAL EXECUTIONS	Deaths	Wounded
Killed and injured by security forces in Stop Warnings, and violation of authority on arm use by officials	29	23
Killed and injured by Village Guards	5	4
Total	34	27

[73b]

- 8.48 The Human Rights Association further noted the human rights situation from 1999 to 2007 as:

Human Rights Situation in some Rights Categories between 1999 and 2007

Violations	1999	2000	2001	2002	2003	2004	2005	2006	2007
Unknown killings	212	145	160	75	50	47	1	20	42
Doubtful deaths/deaths in custody because of extra judicial execution/torture paid guard village	205	173	55	40	44	47	89	130	66
Death in clashes	857	147	92	30	104	240	496	345	424
Torture and ill-treatment	594	594	862	876	1202	1040	825	708	678
People who taken into custody	50318	35007	44181	31217	12406	9711	2702	5560	7197
Arrests	2105	1937	2955	1148	1196	774	621	1545	1440

[73a]

- 8.49 The Amnesty International (AI) report “No justice for victims of torture and killings by law enforcement officials” noted in 5 July 2007 that:

“Torture, ill-treatment and killings continue to be met with persistent impunity for the security forces in Turkey, Amnesty International said in a report published today. The investigation and prosecution of serious human rights violations committed by officers of the police and gendarmerie are flawed and compounded by inconsistent decisions by prosecutors and judges. As a result, justice for the victims of human rights violations is delayed or denied. The criminal justice system needs reform. It needs to firmly put the protection of the human rights of citizens above that of the perceived interests of state institutions and officials.” [12a]

- 8.50 The Human Rights Watch (HRW) World Report 2008, published on 31 January 2008 noted:

“Fatal shootings of civilians by members of the security forces remain a serious concern. Although police typically state that the killing occurred because the individual has failed to obey a warning to stop, in some cases these may amount to extrajudicial executions. The fatal shooting of Bülent Karataş near Hozat, Tunceli, in September 2007, bore the hallmarks of a summary execution. His companion, Rıza Çiçek, who survived serious gunshot wounds, explained how he was shot by military personnel while on a beekeeping trip. Another suspected summary execution was that of the villager Ejder Demir, shot dead near Özalp, Van, in September. Nigerian asylum seeker Festus Okey died of gunshot wounds incurred while in police custody in Istanbul in August.” [9b]

- 8.51 The European Commission 2007 Progress report published 6 November 2007 recorded that:

“No change has been made to the Turkish Armed Forces Internal Service Law and the law on the National Security Council. These laws define the role and duties of the Turkish military and grant the military a wide margin of manoeuvre by providing a broad definition of national security. No progress has been made in enhancing civilian control over the Gendarmerie when engaged in civilian activities... Overall, no progress has been made in ensuring full civilian supervisory functions over the military and parliamentary oversight of defence expenditure. On the contrary, the tendency for the military to make public comments on issues going beyond its remit, including on the reform agenda, has increased.” [71c] (p9)

[Return to contents](#)
[Go to list of sources](#)

9 MILITARY SERVICE

9.02 According to Article 1 of the Military Act No.1111 (1927), every male Turkish citizen is obliged to carry out military service. [21] (p1) The length of military service is 15 months. University graduates may perform 8 months' military service, or 12 months if they are trained to become reserve officers. All men between the ages of 19 and 40 are liable for military service. Men who have not fulfilled their military service by the age of 40 and who have not been legally exempt from service, may still be called up after the age of 40. [53a]

9.04 'Refusing to Bear Arms: A world-wide survey of conscription and conscientious objection to military service' (Turkey: 2005 update) by War Resisters' International states:

"Different military service regulations apply for Turkish citizens who are living abroad. They can postpone their service up to the age of 38, for a period of three years at a time. Turkish citizens living abroad may also partially buy themselves out of military service by paying a sum of 5,112 Euros. However, in this case they still need to perform a one-month military service. Turkish citizens who live abroad and who possess dual nationality may get legally exempt from service, on the condition that they lived abroad before the age of 18 and that they performed military service in another country. Exemption on this ground is only possible if the length of military service that has been performed in another country is considered to be comparable to the length of service in Turkey." [53a]

9.05 An article 'Lower House Seeking to Abolish Military Service in Turkey' published in the NIS News bulletin in the Hague dated 22 March 2007 stated that:

"The Lower House is pressing for Dutch citizens of Turkish origin to be exempted from national service in Turkey. The current policy is harmful for integration; in the view of a large majority...Turkey has a compulsory national service period of fifteen months. Turks living abroad can buy off this obligation for 5,112 euros. After that, they still have to serve a reduced national service period of three weeks in Turkey...The Dutch army and the police give interest-free loans to soldiers and policemen of Turkish origin who wish to buy off their obligation. They are given paid leave for the three-week course. Similar financial support for employees is provided by five of the twenty largest local authorities. In this way, Turkey receives 12 million euros a year from Dutch citizens who buy off their national service obligation, TV programme Network reported on Tuesday." [76]

DEFERRING MILITARY SERVICE

9.06 In the Journal of Turkish Weekly November 2004 an article by Prof. Dr. Bulent Cicekli on 'Turkish Citizenship Policy since 1980' by Assc. Prof. Dr. Bulent Cicekli, noted that:

"... Turkish nationals acquiring another foreign nationality upon their will without obtaining the required permission or those persons abroad avoiding to perform

military service within statutory limits despite official notification and so on may receive the sanction of dismissal (kaybettirme) (Article 25)...

"In addition to the amendments made in the Nationality Act, the facilities given to dual nationals in relation to military service constitute further incentives in favour of dual nationality. On the basis of principles to be determined by the decision of the Council of Ministers, Turkish citizens who are born or residing abroad or who have immigrated to a foreign country before the age of majority and who have also acquired the nationality of the state of residence shall be exempted from the obligation to perform military service upon their request, provided that they produce documents to the effect that they have performed military service in the other country, which they are the citizens of." [113]

9.06 The same article by Prof. Dr. Bulent Cicekli further noted that:

"Whereas in cases where military service is not obligatory as in the UK, the dual citizen is still under the obligation of performing military service...

Thus, those who are nationals of another state as well as of Turkey shall be exempted in Turkey from the obligation to perform military service in case they have performed military service in the other country of nationality. This too clearly functions as an incentive in favour of dual nationality.

With the second amendment realised by the Act No. 4112, the requirement of performing compulsory military service is no longer made a condition for permission to renounce Turkish nationality...

Renunciation of Turkish nationality is subject to the permission of the Council of Ministers under the following conditions:

- a) Having sound mind and majority,
- b) Having performed or been regarded to have performed compulsory military service. It is possible that the Ministry of Defence gives permission regarding those whose exemption from the condition of performing compulsory military service is viewed as indispensable. However, the person having renounced Turkish nationality in this manner is obliged to perform military service in case he is re-naturalised.

It is a very significant indicator of the citizenship policy not to require anymore the performance of military service in relation to the permission for renouncing nationality. Taking into account the fact that a significant portion of persons who reside abroad and may be able to request permission for renouncing nationality will be a young and male population, this importance shall be much better appreciated." [113]

9.06 According to Article 35 of the Military Act No.1111 (1927) a number of provisions allow people liable to military service to defer their service, principally for educational reasons. In accordance with Article 35c, military service for those attending a school in Turkey or abroad is deferred until the end of the year in which they reach 29. Under Article 35e, the military service of university graduates who attend a postgraduate programme is deferred until the end of the year in which they reach the age of 33. Furthermore, for those post-graduate students whose studies in local or foreign post-graduate programmes are proved to be an innovation or development in the respective field of study, military service is postponed to the end of the year in which they reach the age of 36. [21] (p13-14)

- 9.07 As recorded on the website of the Turkish Ministry of National Defence (undated, website accessed on 13 February 2006):

“All recruitment procedures of our citizens, (residing abroad with the title of employee, employer, craftsmen or any other profession having the working or residence permit), such as final military roll call, summons and conscription can be postponed by the Ministry of National Defence until the end of the year they completed the age of 38 (until December 31st of the year they completed the age of 38)...The military service of the undergraduate and postgraduate students who work as part time workers and as workers who are not subject to income tax and whose residence and working permit are given due to their status as students, can not be deferred.” [100] (Section on Deferments)

- 9.08 The Turkish government has never considered introducing legislation on conscientious objection. A brochure published by the armed forces in 1999 in fact stated: “In our laws there are no provisions on exemption from military service for reasons of conscience. This is because of the pressing need for security, caused by the strategic geographic position of our country and the circumstances we find ourselves in. As long as the factors threatening the internal and external security of Turkey do not change, it is considered to be impossible to introduce the concept of ‘conscientious objection’ into our legislation”. [53a]

[Return to contents](#)
[Go to list of sources](#)

EVASION OF MILITARY SERVICE AND PUNISHMENT

- 9.09 As recorded in the report ‘Refusing to Bear Arms: A world-wide survey of conscription and conscientious objection to military service’ (Turkey: 2005 update) by War Resisters’ International:

“Draft evasion (asker kacagi) and desertion are widespread. The exact number of draft evaders is not known, but the number is estimated to be approx. 350,000. Draft evasion is prompted by the risk of being sent to serve in South Turkey and poor conditions and human rights violations within the armed forces...Draft evasion and desertion are punishable under the Law on Military Service and the Turkish Military Penal Code. Turkish law actually makes a distinction between evasion of military registration, evasion of medical examination, evasion of enlistment and desertion. According to Article 63 of the Penal Code, draft evasion is punishable (in peacetime) by imprisonment of:

- One month for those who report themselves within seven days;
- Three months for those who are arrested within seven days;
- Between three months and one year for those who report themselves within three months;
- Between four months and 18 months for those who are arrested within three months;
- Between four months and two years for those who report themselves after three months;

- Between six months and three years for those who are arrested after three months;
- Up to ten years' imprisonment in the case of aggravating circumstances, such as self-inflicted injuries using false documents (Articles 79-81 of the Penal Code).

"Desertion is punishable under Articles 66-68 of the Penal Code with up to three years' imprisonment. Deserters who have fled abroad may be sentenced to up to five years' imprisonment, and up to ten years in case of aggravating circumstances (Article 67)." [53a] (Section on Draft evasion)

- 9.10 As recorded in the 2005 updated report by War Resisters' International, "Draft evasion is prompted by the risk of being sent to serve in South Turkey and poor conditions and human rights violations within the armed forces. There have been regular reports of Kurdish conscripts in particular being subjected to discriminatory treatment, especially when they are suspected of having separatist sympathies." [53a] (Section on Draft evasion)

CONSCIENTIOUS OBJECTORS (VICDANI RETCI)

- 9.11 As noted in an Amnesty International public statement 'Alleged ill-treatment of conscientious objector by military personnel must be investigated' of 8 February 2007:

"In Turkey it is compulsory for all men between the ages of 19 and 40 to do military service for 15 months. Amnesty International is concerned that the right to conscientious objection is not legally recognized by the authorities, and provisions do not exist for an alternative civilian service for conscientious objectors. International human rights standards recognize the right to conscientious objection." [12f]

- 9.12 The Amnesty International 2008 report stated that "Conscientious objection to military service was not recognized and no civilian alternative was available. Persistent conscientious objector Osman Murat Ülke was again summoned to serve the remainder of his prison sentence for failing to perform military service. In seeking to punish him, Turkey remained in defiance of the 2006 judgment of the European Court of Human Rights in the Ülke case, which required Turkey to implement legislation to prevent the continuous prosecution of conscientious objectors." [12e]
- 9.13 The European Commission 2007 report published 6 November 2007 also added that "There has been no progress regarding matters related to conscientious objection. Turkey has yet to comply with the judgement of the ECtHR Ülke vs. Turkey and adopt legislation that would prevent repetitive prosecutions and convictions of those who refuse to perform military service for conscientious or religious reasons on grounds of persistent disobedience of military orders." [71c] (p61)
- 9.14 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:

“The military failed to comply with a January 2006 ECHR decision ordering Turkey to pay \$16,000 (11,000 euros) compensation to Osman Murat Ülke, for mistreatment he received when he conscientiously objected to military service. The court also pointed out the necessity to create a legal mechanism to allow conscientious objectors to perform nonmilitary public service. The Turkish Military Court of Appeals Grand Chamber claimed that the decisions of the ECHR on conscientious objectors were not binding. Eskisehir military prosecutors continued to demand a sentence of 17 months and 15 days’ imprisonment of Ülke, who was first arrested in 1996 and tried several times since for ‘damaging the public image of the army,’ ‘disobeying orders,’ and ‘desertion.’ He served a total of 701 days in prison.” [5g] (section 2c)

9.15 The Amnesty International 2007 report also stated that “Birgül Özbarış, a journalist for *Özgür Gündem* newspaper, faced seven prosecutions for ‘alienating the population from military service’ because of her writings on military service and conscientious objection. She faced possible prison sentences totalling 36 years.” [12c]

9.17 The War Resisters’ International 2005 document noted that:

“The right to conscientious objection is not legally recognized. Although Article 24.1 of the 1982 Constitution guarantees the right to freedom of conscience, the Constitution does not widen this to include the right to conscientious objection to military service. In 1991, the Turkish Constitutional Court explicitly ruled that the freedom of conscience mentioned in Article 24 does not include the right to conscientious objection to military service.” [53a] (Section on Conscientious objection)

See also Section 8:35 Discrimination in Armed Forces

9.18 According to the Netherlands Ministry of Foreign Affairs General official report on military service July 2002 sources within military jurisprudence and the Turkish Ministry of the Interior and the Ministry of Foreign Affairs, decided in the second half of 2001 that Turkish citizenship would no longer be withdrawn from Turks living abroad before the age of 38. This would allow conscripts the opportunity to report to the Turkish Embassy in their country of residence before reaching this age to apply for an extension with retroactive effect. Withdrawal of citizenship may only be applied in the case of individuals who indicate to the Turkish Embassy in the country in question their point blank refusal to perform military service. This is because in such cases it is unlikely that the individuals concerned would apply for an extension before the age of 38. [2d] (Section 6.6)

POSTING AFTER COMPLETION OF BASIC TRAINING

9.19 The Netherlands report 2001 stated that “Every conscript’s unit for posting after his basic training is determined by computer by the Directorate for the Recruitment of Conscripts in the Ministry of Defence. The place of subsequent posting depends upon the basic training undergone, the place of registration and possible criminal record.” [2b] (p19) “Anyone who has been convicted of theft is therefore very unlikely to be placed in a unit responsible for managing an arms depot. Among others, spokesmen for the Turkish human rights

association IHD and various military sources say that they do not believe that a record of past criminal offences, whether or not of a political nature, results in an extra-harsh posting by way of additional punishment.... Spokesmen for the IHD also consider it unlikely that conscripts are screened on the basis of ethnic origin or religious or political convictions for the purpose of deciding on subsequent postings.” [2b] (p21)

9.20 The War Resisters’ International report noted that:

“All conscripts may be sent to serve in South Eastern Turkey as postings of conscripts are usually decided at random by computer. There is a sizeable group of conscripts of Kurdish origin who refuse to perform military service because they do not want to fight against their own people. Many Kurdish draft evaders have, in fact, left Turkey and applied for asylum abroad.”
[53a] (Section on Draft evasion)

[Return to contents](#)
[Go to list of sources](#)

10 JUDICIARY

See also [Annex D](#) “Administration of justice” and [Annex E](#) for a comprehensive description of the Court system in Turkey

ORGANISATION

- 10.01 The US State Department Report (USSD) 2007, published on 11 March 2007, noted that:

“The judicial system is composed of general law courts; specialized heavy penal courts; military courts; the Constitutional Court, the ‘nation’s highest court; and three other high courts. The High Court of Appeals hears appeals for criminal cases, the Council of State hears appeals of administrative cases or cases between government entities, and the Audit Court audits state institutions. Most cases were prosecuted in the general law courts, which include civil, administrative, and criminal courts. In 2004 parliament adopted legislation providing for the establishment of regional appeals courts to relieve the high court’s caseload and allow the judiciary to operate more efficiently. The Ministry of Justice reported that none of the regional appeals courts were operational at ‘year’s end and that the project has been postponed until 2010.” [5g] (Section 1e)

- 10.02 The 2007 USSD report noted:

“The Constitutional Court examines the constitutionality of laws, decrees, and parliamentary procedural rules and hears cases involving the prohibition of political parties. If impeached, ministers and prime ministers can be tried in the Constitutional Court. However, the court cannot consider ‘decrees with the force of law’ issued under a state of emergency, martial law, in time of war, or in other situations as authorized by parliament. Military courts, with their own appeals system, hear cases involving military law for members of the armed forces. Military courts can also hear cases involving crimes committed by both civilians and military personnel.” [5g] (Section 1e)

- 10.03 The European Commission 2007 Progress report published 6 November 2007 stated that:

“Efforts to modernise the judiciary through the use of information technology continued. Judges have reported positive results as regards the National Judicial Network Project (UYAP3) on court proceedings while the lawyers’ portal was integrated into this network in March. 864 judges and 476 prosecutors were appointed during the reporting period (1 October 2006 to early October 2007). The funds for the judiciary have increased from € 409 million in 2005 to € 482 million in 2006 and are planned to reach € 865 million by the end of 2007. In May 2007, nine locations for regional courts of appeal were identified and their geographical areas of jurisdiction defined in line with legal requirements.” [71c] (p10)

- 10.04 The EC 2007 report further noted that “In terms of the efficiency of the judiciary, judges have reported positive results of the National Judicial Network Project

(UYAP) on court proceedings. With the integration of a lawyers' portal into the network in March, lawyers are now in a position to follow their on-going court cases electronically, file new lawsuits, send documents related with their cases to the courts and deposit trial fees and charges." [71c] (p58)

[Return to contents](#)
[Go to list of sources](#)

INDEPENDENCE

- 10.05 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:

"The law provides for an independent judiciary; however, the judiciary was occasionally subject to outside influence. There were reports of judicial corruption. The law prohibits the government from issuing orders or recommendations concerning the exercise of judicial power; however, the government on occasion launched formal investigations against judges who had spoken critically of the government or state structure. The government and several high-ranking military officers on several occasions issued announcements or directives about threats to the Turkish state, which could be interpreted as general directions to the judiciary." [5g] (Section 1e)

- 10.06 The 2007 USSD report further noted:

"The High Council of Judges and Prosecutors was widely criticized for undermining the independence of the judiciary. The justice minister serves as chairman of the seven-member High Council, and the Ministry of Justice undersecretary also serves on the council. The 'council's rules stipulate that one of these two officials must preside over meetings. The High Council selects judges and prosecutors for the higher courts and is responsible for oversight of the lower courts. The High Council is located in the Ministry of Justice and does not have its own budget. While the constitution provides for job security through tenure, the High Council controls the careers of judges and prosecutors through appointments, transfers, promotions, reprimands, and other mechanisms." [5g] (Section 1e)

- 10.07 The European Commission 2007 Progress report published 6 November 2007 recorded that, "As regards the independence of the judiciary, the chairman of the Judges and Prosecutors Association YARSAV filed an application with the Council of State in October 2006 to limit the role of the Ministry of Justice in the process of selecting candidate judges and prosecutors; also, to stop conducting the planned examinations to recruit some 600 candidate judges and prosecutors... However, in August 2007 YARSAV lodged a complaint with the Council of State for the annulment of the new regulation as well. The case is pending before the Council of State." [71c] (p58)

- 10.08 Furthermore the EC 2007 report noted that, "According to a court decision of 2006, judges and prosecutors could access their appraisal files. This is no longer possible under a new regulation on judicial inspectors issued by the Ministry of Justice in January 2007. This regulation also extends the

responsibilities of the inspectors who now cover, among other things, probation centres and regional courts of appeal to be established. In March, YARSAV filed a lawsuit with the Council of State for the annulment of the regulation, arguing that the inspectors should not be attached to the Ministry of Justice. The case is still pending.” [71c] (p58)

THE COURT SYSTEM

- 10.09 As recorded by the Embassy of the Republic of Turkey website accessed 8 August 2008:

“According to the Turkish law today, the power of the judiciary is exercised by Judicial (Criminal), and Administrative Military Courts. These Courts render their verdicts in the first instance, and the superior courts examine the verdict for the last and final ruling. The superior courts are: the Constitutional Court, the Court of Appeals, the Council of State, the Military Tribunal of Appeals, the Supreme Military Administrative Court, the Court of Jurisdictional Dispute, the Court of Accounts and the Supreme Council of Judges and Public Prosecutors.” [74c] (The Court System)

COURTS

- 10.10 The same website accessed 8 August 2008 further noted that, “The courts in Turkey are in fact divided into courts of justice, administrative courts, military courts and the Constitutional Court. Except the Constitutional Court, they are further divided into lower and higher courts.” [74c] (The Court System)

MILITARY COURTS

Military Criminal Courts (Askeri Ceza Mahkemesi)

- 10.11 The INTERPOL website last modified 4 August 2008 stated in their Turkey Judicial systems that:

“Military justice is carried out through the Military courts and military disciplinary courts. These courts, unless the contrary is stated in the law, have jurisdiction to try military personnel for military offenses, for offenses committed by them against other military personnel or in military places, or for offenses connected with military service and duties. Military High Court of Appeals is the last instance for reviewing decisions and judgments given by military courts.” [34a]

- 10.12 The INTERPOL website further noted that “The High Military Administrative Court of Appeals is the first and last instance for the judicial supervision of disputes arising from administrative acts and actions involving military personnel or relating to military service, even if such acts and actions have been carried out by civilian authorities.” [34a]

- 10.13 As recorded in ‘Political Structure of Turkey’ March 2008:

“The Supreme Military Court of Appeals is the court of final instance for all rulings and verdicts rendered by military courts. It is also a court of first and final

instance with jurisdiction over certain military personnel, stipulated by law, with responsibility for any specific trials of these persons. The Supreme Military Administrative Court has jurisdiction over military personnel in administrative or active military service. The Court of Jurisdictional Conflicts is the final authority to settle disputes concerning the verdicts of the Justice, Administrative or Military Courts. This court is made up of members of the Court of Appeals, the Council of State, the Supreme Military Court of Appeals, and the Military Administrative Court of Appeals. Military Courts have jurisdiction to try military personnel for military offenses, for offenses committed by them against other military personnel or crimes committed in military places, or for offenses connected with military service and duties.” [36g] (Section on Judiciary)

- 10.14 The European Commission Turkey 2006 Progress Report recorded that “There has been progress concerning the competence of military courts to try civilians. Under the law amending the relevant provisions of the Military Criminal Code as adopted in June 2006, no civilian will be tried in military courts in peacetime unless military personnel and civilians commit an offence together. The new law also introduces the right of retrial in military courts.” [71a] (p7)

The Military Criminal Court of Cassation (Askeri Yargitay)

- 10.15 As noted by the Turkish Embassy website accessed 8 August 2008, “According to the law, this court functions as the court of appeal of all decisions and judgments given by Military courts. It is divided into five chambers.” [74c] (The Court System)

STATE SECURITY COURTS (DEVLET GÜVENLİK MAHKEMESİ)

- 10.16 As recorded in ‘Political Structure of Turkey’ March 2008:
- “State Security Courts were established to deal with offenses against the indivisible integrity of the State, against the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and with offenses directly involving the internal and external security of the state. The courts consist of a president, two regular members and one substitute, one chief public prosecutor and a sufficient number of public prosecutors. The Supreme Court of Appeals is the competent authority to examine appeals against the judgments of the State Security Court.” [36g] (Section on Judiciary)
- 10.17 The UN, Report of the Working Group on Arbitrary Detention Addendum ‘MISSION TO TURKEY’, 2007 noted that “In 1999, a constitutional amendment abolished the military judge presiding over State Security Courts, making their composition entirely civilian. In 2003, State Security Courts were abolished altogether and replaced by the special chambers of Serious Crimes Courts.” [20b] (p15)
- 10.18 The same report noted “There is also a system of military courts with jurisdiction over military personnel, including men doing the compulsory military service.” [20b] (p7)

[Return to contents](#)
[Go to list of sources](#)

10.19 The European Commission Turkey 2007 Progress Report published 6 November 2007 recorded that “The Military Court of the General Staff, for the first time, sentenced a serving lieutenant general to imprisonment for corruption. Eight officers were also sentenced. The High Tribunal gave a suspended prison sentence to a former energy minister for irregularities in the awarding of a contract. Corruption incidents, particularly in local government, were frequently covered by the media.” [71c] (p11)

10.20 The Turkish Economic and Social Studies Foundation (TESEV) report ‘Almanac Turkey - Security Sector and Democratic Oversight 2005’ notes:

“Numerous steps were also taken to reduce the influence of the military sector over the judiciary and other civilian authorities. Following the decisions of the European Court of Human Rights against Turkey, a constitutional amendment banning military judges from serving in the State Security Courts (Devlet Güvenlik Mahkemeleri, DGM) went into effect. In 2004, these courts were abolished altogether. Moreover, the authority of the MGK Secretariat General and armed forces to appoint members to the Council of Higher Education (Yükseköğretim Kurulu, YÖK) and the Higher Council of Radio and Television (Radyo Televizyon Üst Kurulu, RTÜK) were abolished.” [98a] (p27)

THE CONSTITUTIONAL COURT (ANAYASA MAHKEMESİ)

10.21 As recorded by the Embassy of the Republic of Turkey website accessed 8 August 2008, “The Constitutional Court consists of 11 regular members and four alternate members. All judges of the Constitutional Court hold office until they retire at the age of 65 like all other judges in Turkey.” [74c] (The Court System)

10.22 As recorded in ‘Political Structure of Turkey’ March 2008:

“The basic function of the Constitutional Court, established in the 1961 Constitution, is to examine the constitutionality, in both form and substance, of laws, and decrees with the power of law and the Rules of Procedure of the Turkish Grand National Assembly. Other functions of the Court are as follows: With the capacity of the High Tribunal, the Constitutional Court judges the following: the President, members of the Council of Ministers, members of supreme courts, the chairman and members of the Supreme Council of Judges and Public Prosecutors and of the Supreme Council of Public Accounts, the Chief Republic Prosecutors and the Deputy Republic Chief Prosecutors for crimes related to their offices. It audits the finances of political parties. It examines TGNA decisions to revoke the immunities of deputies, or to dismiss members of parliament. It chooses the Chairman and Deputy Chairman of the Court of Jurisdictional Conflicts. The Constitutional Court is composed of 11 regular and four substitute members. Decisions are made when the eleven members convene. The decisions of the Constitutional Court are final. These decisions cannot be amended in any manner and their application cannot be delayed.” [36g] (Section on Higher Courts)

- 10.23 The United States Department of State (USSD) 2007 report published 8 March 2008 stated that “The Constitutional Court examines the constitutionality of laws, decrees, and parliamentary procedural rules and hears cases involving the prohibition of political parties. If impeached, ministers and prime ministers can be tried in the Constitutional Court. However, the court cannot consider ‘decrees with the force of law’ issued under a state of emergency, martial law, in time of war, or in other situations as authorized by parliament.” [5g] (Section 1e)

[Return to contents](#)
[Go to list of sources](#)

FAIR TRIAL

- 10.27 The International Helsinki Federation (IHF) for Human Rights 2007 Turkey report published 27 March 2007 noted:

“Both the government and the military maintained their influence on the judiciary, and corruption remained widespread in the judiciary. Violations of fair trial and due process rights continued to be frequently reported. With respect to terrorist suspects, Amnesty International documented a range of violations, including failure to investigate allegations of torture and ill-treatment; the admission of statements made under duress as evidence; denial of equality of arms and the right to an effective defense; and excessively long pre-trial detention and protracted criminal proceedings. A considerable number of people charged with terrorism-related crimes, some of whom had been arrested as far back as in 1993, remained in detention in maximum security prisons pending trial.” [10c]

- 10.28 The US State Department Report (USSD) 2007, published on March 11, 2008, noted that:

“There is no jury system; a judge or a panel of judges decides all cases. Trials are public. The law requires bar associations to provide free counsel to indigents who request it from the court and bar associations across the country did so in practice. Defendants have the right to be present at trial and to consult with an attorney in a timely manner. Defendants or their attorneys can question witnesses for the prosecution and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and the right to appeal.” [5g] (Section 1e)

- 10.29 The USSD 2007 report continued:

“The law provides for the right to a speedy trial; however, at times trials lasted for years. Proceedings against security officials often were delayed because officers did not submit statements promptly or attend trials. In several cases such delays extended beyond the statute of limitations, causing the trial to end without a verdict. The law prohibits the use of evidence in court obtained by torture; however, prosecutors in some instances failed to pursue torture allegations, and exclusion of evidence occurred only after a separate case on the legality of the evidence was resolved. In practice a trial based on a

confession allegedly coerced under torture could proceed, and even conclude, before the court had examined the merits of the torture allegations.”
[5g] (Section 1e)

10.30 The European Commission 2007 report published 6 November 2007 noted that:

“With regards to a fair trial there has been no progress on the establishment of an organised, professional interpretation system in courts. Interpreters are not included on the list of expert witnesses and are often summoned among court auxiliary staff. As regards legal aid, amendments to the Turkish Criminal Code and the Criminal Procedure Code were adopted in December. They relate, among other things, to the compulsory commissioning of a defence lawyer. In cases where the suspect or the defendant does not have a defence lawyer and the offence is calling for a lower limit of imprisonment of more than five years, a defence lawyer shall be appointed for suspects and defendants without requesting them.” **[71c] (p 63)**

10.31 The Amnesty International report 2008 stated that “Those charged under anti-terrorism legislation continued to face lengthy and unfair trials in the special Heavy Penal Courts which replaced the State Security Courts abolished in 2004. Prosecutors relied on evidence based on statements allegedly extracted under torture. Retrials, following judgements by the European Court of Human Rights that trials were unfair, were not impartial and did not re-examine evidence. Proceedings were excessively prolonged, and provisions limiting pre-trial detention had not yet become law and did not adequately address the need to complete a trial within a reasonable time.” **[12e] (Section Fair Trial)**

Return to contents
Go to list of sources

10.32 The Human Rights Watch (HRW) World Report 2007, published in January 2007 noted:

“In May the Court of Cassation quashed the 39-year sentences of two gendarmerie intelligence officers for the November 2005 bombing of a bookshop in the southeastern town of Şemdinli that resulted in one death. This bombing was widely condemned by human rights groups in Turkey as evidence of a resort to lawlessness in the name of counterterrorism. Controversially the court ruled that the crime had been committed in the course of a counterterrorism operation and that the defendants should be retried in a military court. The decision is on appeal.” **[9b] (Section Impunity)**

10.33 The Amnesty International report 2008 stated that “In May, an armed attack on judges at the Council of State (the higher administrative court) resulted in the death of a judge, Mustafa Yücel Özbilgin, and the wounding of four other judges. The trial of the gunman and of eight others for the attack and for three bomb attacks on the premises of the newspaper.” **[12e] (Section Attacks by armed groups)**

10.34 The AI 2008 further stated that “The Şemdinli bombing trial proceeded after an investigation into the bombing which appeared to have been mired by political

interference by members of the government and senior military personnel. The Public Prosecutor's indictment was made public in March, and implicated the head of the army's land forces and other senior local military personnel in Hakkari province. The Public Prosecutor requested a separate investigation by the military prosecutor to establish whether the bombing was part of a wider conspiracy. The Ministry of Justice investigated the Public Prosecutor for possible misconduct and in April the Higher Council of Judges and Prosecutors dismissed him from office. An appeal by the Public Prosecutor was unsuccessful." [12e] (Section Interference in justice system)

PENAL CODE

- 10.32 The United States Department of State (USSD) 2007 published 11 March 2008 report stated that "The government limited freedom of expression through the use of constitutional restrictions and numerous laws, including articles of the penal code prohibiting insults to the government, the state, 'Turkishness,' or the institution and symbols of the republic." [5g] (Introduction)
- 10.33 The European Commission Progress report 2007 published 6 November 2007 stated "Progress was registered in the fight against organised crime. A national strategy against organised crime was adopted. A new law on anti-smuggling was adopted. It aims at adapting legislation to the provisions of the new Turkish penal code and code on criminal procedures." [71c] (p65)
- 10.34 The International Helsinki Federation (IHF) for Human Rights 2007 Turkey report noted "In a positive development, amendments to the military penal code adopted in June restricted the competence of military courts to try civilians unless they are involved in crimes committed together with military personnel. The amendments also allowed for retrials by military courts in cases where the European Court of Human Rights (ECtHR) finds a breach of the European Convention in relation to a trial before such courts." [10c]
- 10.35 The *Turkish Daily News* in an article published on 3 October 2007 reported that, "The government will change the much-criticized Article 301 of the penal code that penalizes insulting 'Turkishness' before the release of 'Turkey's European Union Progress Report in early November...Many see Article 301 as a violation of the freedom of expression and the EU has been demanding its removal in order for Turkey to continue its membership process." [23f]

See also Section 15:01 [Freedom of Speech and Media](#)

[Return to contents](#)
[Go to list of sources](#)

CODE OF CRIMINAL PROCEDURE

- 10.36 The European Commission 2007 Progress report published 6 November 2007 stated that:

"Some progress has been made in terms of the efficiency of the judiciary, including through amendments to the Turkish Criminal Code (CC) and the Criminal Procedure Code (CPC) adopted in December 2006. These

amendments extend the discretion of the prosecutor as regards decisions not to prosecute, while the provisions regarding mediation are simplified. Judicial supervision - introduced in the CPC as an alternative to arrest for offences requiring imprisonment of three years or less - has started functioning satisfactorily. Probation is an area where progress has been achieved in implementation: 133 probation centres employing 1,298 staff have become fully operational since November 2006.” [71c] (p 9-10)

10.37 The EC 2007 report also noted that, “However, some provisions introduced under the CPC such as return of the indictment, mediation (plea bargaining) and cross-examination have not been used sufficiently in practice. As regards the regional courts of appeal, under the 2004 legislation establishing these courts, they were due to start operating in June 2007: in the event, this did not materialise. Finally, the bar examination for a lawyers’ licence was abolished under legislation adopted in November 2006. The implementation of this provision should be monitored as it might lead to lower standards in the profession.” [71c] (p59)

10.38 The EC 2007 report further noted that:

“Amendments to the Criminal Procedure Code adopted in December 2006 introduced a new system for commissioning of a defence lawyer. Under the new system, the range of offences qualifying for compulsory commissioning of a defence lawyer might be more limited as compared to the past. After an initial disagreement with the government on the implementation of the new scheme and suspension of appointment of lawyers in protest of the new provisions, the bar associations finally reached an agreement with the government and the system started functioning again.” [71c] (p14)

10.39 The United States Department of State (USSD) 2007 report published 11 March 2008 noted that:

“International human rights organizations and the European Union (EU) stated that the courtroom structure and rules of criminal procedure gave an unfair advantage to the prosecution. Prosecutors enter the courtroom through the same door as the judge; defense attorneys enter through a separate door. Prosecutors sit at an elevated desk that is at the same level as that of the judge; the defense sits at floor level. During the trial, the prosecutor may himself call any witness desired, whereas the defense must request that the judge call a witness. Judges decide whether to ask and how to phrase defense ‘counsel’s questions, but ask all of the ‘prosecution’s questions in the exact form presented.” [5g] (Section 1d)

[Return to contents](#)
[Go to list of sources](#)

11 ARREST AND DETENTION

LEGAL RIGHTS

11.01 Article 19 of the Constitution provides as follows:

“Everyone has the right to liberty and security of person.

“No one shall be deprived of his liberty except in the following cases where procedure and conditions are prescribed by law: execution of sentences restricting liberty and the implementation of security measures decided by court order, apprehension or detention of a person in line with a court ruling or an obligation upon him designated by law.

“Individuals against whom there is strong evidence of having committed an offence can be arrested by decision of a judge solely for the purposes of preventing escape, or preventing the destruction or alteration of evidence as well as in similar other circumstances which necessitate detention and are prescribed by law.

“Individuals arrested or detained shall be promptly notified, and in all cases in writing, or orally, when the former is not possible, of the grounds for their arrest or detention and the charges against them.

“The person arrested or detained shall be brought before a judge within at latest 48 hours and within at most four days in the case of offences committed collectively, excluding the time taken to send him to the court nearest to the place of seizure. No one can be deprived of his liberty without the decision of a judge after the expiry of the above specified periods. The arrest or detention of a person shall be notified to next of kin immediately.

“Damages suffered by persons subjected to treatment contrary to the above provisions shall be compensated for according to law, by the State with respect to the general principles of the law on compensation.” [116]

11.02 The Report of the UK Border Agency Fact Finding Mission 11 – 20 February 2007 includes general information on Arrest, Detention and Mistreatment obtained from interviews with a number of sources. Mr Ahmet Firat, Director General of the Directorate of EU Coordination Justice Ministry explained that detention time limits for people accused of ordinary crime were a maximum 4 days. Those arrested under the terror laws could be detained for up to 7 days. However, detention could never exceed 7 days. [59] (S10.8)

11.03 The Office of the High Commissioner for Human Rights (OHCHR) in their country visit to Turkey dated 9 to 20 October 2006 noted that:

“Turkey has ratified all seven principal United Nations human rights treaties, including the Convention on the Rights of the Child and, in September 2003, the International Covenant on Civil and Political Rights (ICCPR). Turkey is also a long-standing member of the European Convention on Human Rights and has

accepted the competence of the European Court of Human Rights to receive individual complaints. Turkey is a member State of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment as well and regularly receives visits by the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) established under that treaty, most recently in December 2005.” [116]

11.04 The OHCHR United Nations report of the Working Group on Arbitrary Detention who visited Turkey 9th to 20th October 2006 in their press release stated how the entry into force on 1st of June 2005 of the new Criminal Code and Criminal Procedure Code, as well as of many connected laws, had strengthened the safeguards against arbitrary detention in Turkey's criminal justice system. The new criminal procedure law establishes limitations on the duration of police custody and of remand detention of persons awaiting trial and judgment. [116a] (Press release)

11.05 The United States Department of State (USSD) 2007 report published 11 March 2008 noted “The law provides that detainees are entitled to immediate access to an attorney and to meet and confer with an attorney at any time. The government scaled back its law that allows for provision of a public attorney to indigent defendants in all criminal cases. The amended law requires the government to provide indigent detainees with a public attorney in criminal cases where the defendant faces a penalty of more than five years in prison.” [5g] (Section Arrest and Detention)

11.06 As noted in a letter from the British Embassy in Ankara to the Home Office, dated 28 September 2005:

“A new Code on Criminal Procedure (CCP) came into force on 1 June 2005. As part of the new CCP, ‘judicial controls’ [reporting conditions] were introduced which allow courts to impose a number of restrictions on suspects or defendants in criminal cases. This includes the condition of reporting regularly, within the time limits indicated, to a place specified by the judge.” [4i]

As mentioned in this letter Article 109 and article 110 of the CCP set out the detail of ‘judicial controls’:

“A109 – Judicial supervision

- (1) Where there are reasons for arrest as specified in Article 100 and where an investigation is being conducted with regard to an offence necessitating imprisonment, with an upper limit of 3 years or less, a decision may be taken to place the suspect under judicial supervision instead of placing him under arrest.
- (2) Judgements in favour of judicial supervision may also be applied to cases for which the law prohibits arrest.
- (3) Judicial supervision may involve the imposition of one or more of the following obligations upon the suspect:
 - (a) not to go abroad,
 - (b) to appear regularly within the time limits indicated at places specified by the judge,

- (c) to obey the summons of authorities or persons specified by the judge, and where necessary to comply with supervisory measures regarding the persons occupational activities or the pursuit of his education,
 - (d) not to be permitted to drive any or certain vehicles, and where necessary to leave his driving licence at a government office in return for a receipt,
 - (e) to undergo and accept medical care or treatment or examination, for detoxification purposes, particularly with respect to narcotics, stimulants or volatile substances or alcohol dependency and including hospitalization,
 - (f) to deposit an amount of money as a security, as determined by the judge at the request of the public prosecutor, after taking into account the financial circumstances of the suspect and deciding if it is to be paid in more than one instalment,
 - (g) not to possess or carry weapons, and if necessary to leave any weapons in his possession at a judicial depository, in return for a receipt,
 - (h) to provide real and personal security for monies needed to secure the rights of the injured party, concerning which the judge, at the request of the public prosecutor, shall specify the amount and time limit for payment,
 - (i) to provide assurances that he will pay alimony regularly, in accordance with any court verdict, and that he will fulfil his obligation towards his family.
- (4) In applying subsection (b) above, the judge or the prosecutor may permanently or temporarily allow the suspect to drive vehicles as part of his occupational activities.
- (5) Any time spent under judicial supervision may not be deducted from a sentence by reason of being considered as a restriction of personal liberty. This provision shall not apply to cases listed under subsection (e) of this Article.

“A110 – Judicial supervision decisions and administration by the authorities

- (1) A suspect may be put under judicial supervision at the request of the public prosecutor, and according to the decision of a Justice of the Peace.
- (2) The judge, at the prosecutors’ request, may impose one or more additional judicial supervision conditions; he may also lift or change all or part of the obligations contained in the conditions, or exempt the suspect from fulfilling some of the conditions.

“When it is deemed necessary, the provisions of Article A109 and of the present Article may be used by other designated or competent judicial authorities, in order to pursue prosecution at any level.” [4i]

WARRANTS AND COURT SUMMONSES

11.07 The United States Department of State (USSD) 2007 published 11 March 2008 report noted that:

“Warrants issued by a prosecutor are required for arrests unless the suspect is caught in the commission of a crime. A suspect may be detained for 24 hours,

with prosecutorial discretion to extend the period to 48 hours, excluding transportation time, before being arraigned by a judge. There is a functioning bail system. After arraignment, the judge may release the accused upon receipt of an appropriate assurance, such as bail, or order detention if the court determines that the accused is likely to flee the jurisdiction or destroy evidence.” [5g] (Section 1d)

- 11.08 The Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ related that:

“According to Mr. Islambay, law enforcement authorities are required to report to the Public Prosecutor on each case-inquiry. This report – Fezleke – contains all information available on the case, such as the type of the crime, names of witnesses, victims, suspects, date of the crime and so on... According to Mr. Islambay, the attorney is entitled to receive a copy of the documents from the Prosecutors Office and would thus have access to this subject index if verification was required... A person claiming to have been summoned to criminal proceedings or to commencement of sentence should be able to give documentary evidence of that... Both Mr. Islambay and Mr. Turan claimed that persons on the run could not get access to an [sic] (authentic) warrant. He or she (or the attorney) would get a copy of the document at the earliest after detention.” [16] (p22- 23)

LENGTH OF PRE-TRIAL DETENTION

- 11.09 The United States Department of State (USSD) 2007 published 11 March 2008 noted that “Lengthy pretrial detention was a problem. The law provides detainees the right to request speedy arraignment and trial; however, judges have ordered that some suspects be detained indefinitely, at times for years, without a trial. Slightly less than half of the prison inmates held during the year were convicts; the other inmates were either awaiting trial or held during trial proceedings.” [5g] (section 1d)

RIGHT TO LEGAL ADVICE

- 11.10 The USSD 2007 report noted that:

“The law provides that detainees are entitled to immediate access to an attorney and to meet and confer with an attorney at any time. The government scaled back its law that allows for provision of a public attorney to indigent defendants in all criminal cases. The amended law requires the government to provide indigent detainees with a public attorney in criminal cases where the defendant faces a penalty of more than five years in prison. Private attorneys and human rights monitors reported irregular implementation of these regulations, particularly with respect to attorney access. According to a number of local bar associations, attorney access for detainees remained consistent with the previous year, and continued to vary widely across the country.” [5g] (Section 1d)

- 11.11 The USSD 2007 further stated that:

“Private attorneys and human rights monitors reported irregular implementation of these regulations, particularly with respect to attorney access. According to a number of local bar associations, attorney access for detainees remained consistent with the previous year, and continued to vary widely across the country. Numerous bar association representatives and human rights organizations reported that in urban areas most detainees consulted with attorneys soon after being detained, while in rural areas, particularly the southeast, there was a higher number of cases where defendants did not have immediate access to an attorney. The HRA observed no change in the percentage of detainees consulting with attorneys.” [5g] (Section Arrest and Detention)

- 11.12 The EC 2007 report further noted that “Amendments to the Criminal Procedure Code adopted in December 2006 introduced a new system for commissioning of a defence lawyer. Under the new system, the range of offences qualifying for compulsory commissioning of a defence lawyer might be more limited as compared to the past. After an initial disagreement with the government on the implementation of the new scheme and suspension of appointment of lawyers in protest of the new provisions, the bar associations finally reached an agreement with the government and the system started functioning again.” [71c] (p14)

- 11.13 UN Report ‘Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, 2008’ stated that:

“According to non-governmental sources, while there are great improvements in this area, there are still cases of lawyers reporting problems in gaining access to detainees. Although lawyers have not reported that the police routinely apply for the 24 hour postponement of access to legal counsel for a detainee provided for in cases that fall under the remit of the Anti-Terror Law, there are indications that the existence of the possibility to do so is undesirable given the continuing, albeit reduced, risk of torture or ill-treatment in places of detention. Torture or ill-treatment is still reported as being most likely to occur in the first 24 hours after arrest.” [20c] (paragraph 680)

- 11.14 The same UN 2008 report further added that:

“In 2007 several lawyers have been impeded from meeting in private with detainees, in violation of the law and in cases where there had been no resort to the 24-hour postponement of access to legal counsel provided for in the revised anti-terrorism law of June 2006. Elements of law enforcement agencies continue to demonstrate negative attitudes to lawyers and adopt various tactics that obstruct them from discharging their professional duties. There have been at least three serious cases of violence against lawyers by law enforcement officials, such as the case of Mustafa Rollas. Mr. Rollas, the former head of the Izmir branch of the Human Rights Association, alleged that on 9 September 2007, he was denied access to two clients detained at a police station known as the Fuar Asayış Ekipler Amirliği in Izmir. When he protested, an altercation ensued during which he was ill-treated and verbally abused by a group of police officers. He was later handcuffed and detained.” [20c] (paragraph 681)

- 11.15 The European Commission 2007 published 6 November 2007 report also noted that “Access to a lawyer for detainees improved during the reporting period. Reports indicate that in urban areas most detainees consulted lawyers immediately after detention.” [71c] (p14)
- 11.16 The European Commission 2007 Progress report stated that “However, cases of torture and ill-treatment are still being reported, especially during arrest and outside detention centres. There is no independent monitoring of places of detention by independent national bodies, pending the adoption of the Optional Protocol to the UN Convention against Torture. The use of statements obtained in the absence of legal counsel or which are not confirmed in front of a judge is prohibited by the Criminal Procedure Code. However, the Court of Cassation ruled that the ban on the use of such statements does not apply retroactively.” [71c] (p13)
- 11.17 The European Commission 2007 Progress report also noted that:
- “Some progress was made regarding access to justice. Access to a lawyer for detainees improved during the reporting period. Reports indicate that in urban areas most detainees consulted lawyers immediately after detention. However, access to lawyers has varied across the country and according to the type of crime committed. Security forces have not always provided detainees with immediate access to lawyers, as required by law. In rural areas, particularly in the Southeast of the country, there have been a higher number of cases where defendants have not had access to a lawyer on terms similar to those applying in urban areas. Under the current legal framework, defendants are under the obligation to return the lawyers’ fees if they are sentenced.” [71c] (p14)
- 11.18 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey from 7 to 14 December 2005 and their report issued on 6 September 2006, noted that:
- “However, the delegation heard allegations to the effect that law enforcement officials still do on occasion delay access to a lawyer, so as to enable the person detained to be informally questioned without the presence of a lawyer, prior to the taking of a formal statement (in the lawyer’s presence). The CPT must once again recommend that all necessary steps be taken to ensure that the right of access to a lawyer for persons in police/gendarmerie custody, as guaranteed by law, is fully effective in practice as from the outset of custody.” [13a] (paragraph 23)
- 11.19 Furthermore the report noted that:
- “A ‘Suspect’s Rights Form’ (SRF) reflecting the latest legal situation was in use in the three Provinces visited. However, many detained persons claimed they had been informed of their rights only some time after having been brought to the detention facility, often after an initial ‘informal’ questioning session. It was also clear that a copy of the signed SRF was frequently not given to detained persons, despite the requirement in the Regulation on Apprehension that this be done.” [13a] (paragraph 24)

[Return to contents](#)
[Go to list of sources](#)

MISTREATMENT IN DETENTION

- 11.20 The European Commission 2007 published 6 November 2007 notes added that “Overall, the Turkish legal framework includes a comprehensive set of safeguards against torture and ill-treatment. However, cases still occur, especially before detention starts. The fight against impunity remains an area of concern. Turkey needs to investigate more thoroughly allegations that there have been human rights violations by members of the security forces.” [71c] (p14)
- 11.21 The EC 2007 report also noted that “As regards the prohibition of torture and inhuman or degrading treatment or punishment, legislative safeguards continue to have positive effects. The downward trend in the number of cases of torture and ill-treatment is confirmed. However, there continued to be reports of torture and ill-treatment, especially before detention starts. Impunity remains an area of concern. There is a lack of prompt, impartial and independent investigations into allegations of human rights violations by members of security forces. There is no independent monitoring of places of detention by national bodies, as provided for under the Optional Protocol to the Convention against Torture.” [71c] (p60)
- 11.22 The Report of the UK Border Agency Fact Finding Mission (UKBA FFM) 11 – 20 February 2007 includes general information on Arrest, Detention and Mistreatment obtained from interviews with a number of sources. According to a judge from the International affairs department of Prisons and Detention Facilities, there was no tolerance for ill treatment in prisons either in law or in practice. He said that the numbers of allegations of mistreatment had declined and are very rare compared to before 1998. This had been confirmed by European Committee for the Prevention of Torture (CPT) reports. The judge was not aware of any trends regarding the police detention centres as these were outside of his area of responsibility. [59] (S9.3)
- 11.23 Mr Firat the Director of EU Affairs at the Justice Ministry told the UKBA FFM that there might be incidents of alleged mistreatment of detainees but certainly no systematic abuse. According to the Istanbul protocol, police officers were required to obtain medical reports as soon as a person was admitted to detention and immediately after a person’s release from detention. In this way, the detention system was transparent and any mistreatment would not go undetected. In Turkey there was a zero tolerance policy towards mistreatment/torture. [59] (S10.4)

[Return to contents](#)
[Go to list of sources](#)

- 11.24 When asked about the nature of ill-treatment taking place, Mr Firat said again that he was not aware of any ill treatment of prisoners in Turkey. Mr Firat advised that that there might be some allegations of assault in detention

centres, but such cases would be immediately investigated and punished. [59] (S10.7)

- 11.025 Mr Husnu Ondul - Chairman of the Human Rights Association (İnsan Hakları Derneği 'İHD') told the UKBA FFM that in the past detainees had been subject to severe levels of mistreatment, including Palestinian hangings (where individuals were hung upside down), electric shocks and beatings on the feet but these severe forms of mistreatment had now been virtually stopped. Out of 500 to 800 reports of mistreatment put forward during a year, Mr Ondul estimated that about 3-4 cases might have been the subject of these forms of mistreatment. [59] (S4.3)
- 11.26 When asked about the nature of the mistreatment individuals experienced in detention or in prison at the hands of police officials, Mr Ondul said that the police implemented 32 different methods of mistreatment including: sleep deprivation, regular beatings, fist fighting, making individuals stand on one foot, making individuals strip naked and making threats to kill, rape or generally humiliate. Mr Ondul also said that police officials carried out various methods of mistreatment towards individuals of different sexual persuasions, such as transsexuals. [59] (S4.4)
- 11.27 In terms of trends in the incidents of mistreatment and locations where it took place, Mr Ondul said that there were incidents reported across the country from Istanbul to Diyarbakir, in police national offices from the West to the North and from the East to the South. He added that normally, the police would not take an individual directly to a detention centre but to another place where the mistreatment would happen, such as a car park and only then would the individual concerned be taken to a police station. He also said however, that some incidents of mistreatment took place in parts of detention centres where there was no CCTV. [59] (S4.5)
- 11.28 Mr Ondal said that in 2005, the Human Rights Association received 825 complaints of incidents of torture and mistreatment at the hands of police officials. In 2006, the figure was 708 and in 2007, again 678. The numbers of cases of mistreatment reported fluctuated depending on circumstances, both increasing and decreasing at particular points of time. [59] (S4.7)
- 11.29 In Mr Ondul's opinion, police official's also mistreated detainees as a means of punishment for alleged crimes, for example, if a person committed a petty crime or theft. He gave the example of a shopkeeper who alleged that a boy had stolen some goods from his shop. When the police officers arrived they beat the boy, who they said already had a criminal record and deserved the beating. The beating was recorded by a camera in the workplace and was shown on television. [59] (S4.10)
- 11.30 Mr Beyter, Chairman of Mazlum Der told the UKBA FFM that the mistreatment reported was mostly in the form of violent behaviour and beatings. In his opinion, there were no recent reports on levels of violence reaching the level of torture. About 70% of cases reporting mistreatment by the police authorities would cite having been beaten. Mr Beyter was not aware of reports citing any other methods of mistreatment. [59] (S5.6)

[Return to contents](#)
[Go to list of sources](#)

- 11.31 UN Report 'Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, 2008' published 18 February 2008 stated that:

"According to non-governmental sources, the use of audio- and video-taping equipment (and CCTV) in all areas of detention centres would be an important safeguard. However, in several cases reported to NGOs, the police have maintained that video or CCTV records were unavailable in the room where the alleged torture or ill-treatment occurred. In the case of the fatal shooting in police custody of Nigerian asylum seeker Festus Okey in Istanbul on 7 September 2007, the police insist that there were no cameras in the room where the incident occurred. The Government informed that the trial of the police officer, who has been accused of murdering Festus Okey, is ongoing at the 7th Criminal Court of First Instance of Beyoğlu (Registry No. 2007/308)." [20c] (p137)

- 11.32 The Amnesty International 2007 report noted that "There were continued reports of torture and ill-treatment by law enforcement officials, although fewer than in previous years. Detainees alleged that they had been beaten, threatened with death, deprived of food, water and sleep during detention. Some of the torture and ill-treatment took place in unofficial places of detention." [12c]

LEGISLATION (FRAMEWORK AND IMPLEMENTATION) TO PREVENT MISTREATMENT IN PRISONS AND DETENTION

- 11.33 The Report of the UK Border Agency Fact Finding Mission (UKBA FFM) to Turkey 11 – 20 February 2008, notes that several of the sources interviewed referred to the government's 'zero tolerance' policy on torture, which was announced by the new AKP government in 2002. [59] (1)
- 11.34 A government circular issued to Provincial governors regarding the application of the 'zero tolerance' policy stated:

"No concession in any form will be made from the careful and decisive implementation of legal and administrative procedures which have been made, in line with our government's understanding of 'zero tolerance towards torture'. The necessary investigations into allegations of torture and ill-treatment will be started without delay and completed within the shortest period of time possible. In line with legal and administrative procedures to counter torture and ill-treatment, alongside the routine inspections of managers at all levels in public sector organisations and other responsible officials, carried out with and without prior notice, Human Rights Boards and related organisations and units located in the provinces and sub-provinces will carry out visits with and without prior notice. In order to address the problems identified in these visits and inspections, the required precautions will be taken quickly and it will be ensured

that the necessary procedures relating to those who identified the fault will be carried out." [59] (21) (Translation)

- 11.35 The Report of the UKBA FFM includes information regarding the legislative position obtained from interviews with a number of sources. According to the judge from the International Affairs Department of Prisons and Detention Facilities, Turkey had the most modern Penal Code, Penal Procedure and Penal Enforcement Laws in Europe, as these laws had been promulgated in 2005, in co-operation with the Council of Europe and other international groups. Within the framework of "Turkish Prison Reform", in addition to the physical modernization of prisons, nineteen different pieces of legislation relating to prisons, including mistreatment by law enforcement officials had been put in to practice. [59] (S9.5)
- 11.36 Mr Ondul, the Chairman of the Human Rights Association advised that since Turkey was listed for EU accession in December 1999, it had continued to make improvements to the existing legislative framework in relation to mistreatment in prisons and detention. On 30 November 2002, the government had removed emergency regulations, thus allowing detainees to consult legal advisors and had increased the severity of sentences for cases of torture and mistreatment. [59] (S4.2)
- 11.37 Mr Beyter, Chairman of Mazlum Der said that there had been some improvements in the legal framework in relation to the mistreatment of individuals in detention or in prison as the government looked to reform its legislation in line with EU standards. Only recently (a few days ago), the government had amended the legislative framework to reduce police power in terms of being able act arbitrarily in how they treated citizens. [59] (S5.2)
- 11.38 Mr Beyter told the UKBA FFM that the government had been sincere in its statement on a zero tolerance on torture. For example, despite some changes to the composition of monitoring boards carrying out periodic visits to prisons to include doctors and lawyers, there were no representatives invited to join the boards from Human Rights organizations. [59] (S5.7)
- 11.39 The EU Commission Delegation informed the UKBA FFM that the prison monitoring boards did not include independent members, such as representatives of NGOs; instead they tended to appoint retired judges, and prosecutors who were often not very open minded. The monitoring boards also failed to produce regular reports of inspections so were not transparent. Turkey had yet to ratify the Optional Protocol on Torture (OPCAT), but there was hope this would happen soon as the EU delegation was lobbying for this. [59] (S.19.12)

[Return to contents](#)
[Go to list of sources](#)

GOVERNMENT AND OTHER INITIATIVES TO PREVENT MISTREATMENT IN PRISONS AND DETENTION

- 11.40 The Report of the UK Border Agency Fact Finding Mission (UKBA FFM) to Turkey 11 – 20 February 2008, notes that Mr Ondul, Chairman of the Human

Rights Association, said there was no independent Ombudsman in Turkey to investigate complaints of mistreatment. Turkey was yet to ratify the Optional Protocol on Torture (OPCAT). Therefore prisons and detention centres were not currently monitored by independent bodies. The Human Rights Foundation of Turkey was campaigning for Turkey to sign OPCAT and get it approved by the Turkish parliament. The Human Rights Association supports this campaign. [59] (S4.15)

- 11.41 Mr Beyter Chairman of Mazlum Der also advised that there was no statutory body in place to follow up complaints of mistreatment. A Human Rights body affiliated to the Prime Minister's office is in place with district and provincial branches across the country where individuals can report cases of human rights violations to. However, Mr Beyter said that individuals tended not to report incidences of mistreatment to these boards therefore the boards were unaware of any trends relating to the issue of mistreatment. Mr Beyter reported that the Chair of the Human Rights Association of the Prime Minister's Department based in Ankara had said that the chairs of the district and provincial branches affiliated to the Prime Ministerial Human Rights body have little human rights awareness and have carried out few activities in the preservation of human rights in their areas of responsibilities. [59] (S5.10)
- 11.42 The official from the Foreign Relations and European Union Department, Ministry of Interior told the UKBA FFM that the government was trying to set up an Ombudsman to investigate complaints of mistreatment, but the project had not yet been implemented. He said that the project was being taken forward in conjunction with UK authorities as part of the UK-Turkey twinning project. However, the same official did explain that there were Inspectorate Boards affiliated to the Ministry of the Interior which inspected police detention centres and prisons and which also investigated claims of mistreatment by police officials. The inspectorate board HQ was based in Ankara but had regional offices in Izmir and Istanbul. Their staff included well qualified people such as prison governors, all of whom had 6 months training on handling mistreatment/human rights violation type claims, are also given specific training on how to investigate claims of human rights violation in the law enforcement practices. [59] (S12.8)
- 11.43 The same official also said that the measures taken by the Ministry within the framework of the zero tolerance to torture and mistreatment policy and the work carried out to ensure human rights sensitive policing services and to improve detention centre facilities could be addressed under three sections:
- a) Legal reforms beginning in 1995 and continuing to 2005 saw amendments to the criminal procedure laws which included: increased punishments for police officials committing human rights violations towards detainees, permission to put forward mistreatment cases to the administration court, and a one month deadline for prosecutors to finalise investigations into allegations of mistreatment and medical reporting in police detention.
 - b) Activities to improve the infrastructure of police detention centres, including the 24 hour monitoring, the provision of CCTV recording equipment in all detention centres and general improvements to accommodation. According

to the same official, 78% of detention centres now had improved infrastructure and facilities which complied with CPT standards.

- c) The creation of a human rights based culture in police institutions which included improvements to police training on human rights issues and general awareness of daily procedures. The same official advised that at the end of 2006, 300 000 police officers had undertaken human rights awareness training. [59] (S12.9)

- 11.44 Mr Sedat Ozcan, of the Human Rights Division of the General Security Directorate told the UKBA FFM that between 2000 and 2007, 354,279 police officials had received human rights awareness training. The Human Rights Division also said that they had held courses since 2003 to inform personnel working in the anti-terrorism branch about the latest ECHR verdicts made in relation to Turkey, advice from the CPT and information on the latest issues and concerns in the field of human rights. [59] (S16.3)
- 11.45 Mr Sedat Ozcan said a draft code on police ethics was also being prepared intended to create stronger cooperation between the police and local communities. The code would provide guidelines for police in the operation of their daily duties and increase the quality of the service they provided. It would also be drafted in line with Copenhagen criteria and ensure that the role of police officer was defined as a profession. [59] (S16.8)
- 11.46 Mr Ozcan also stated that work to standardise conditions in detention centres was also underway. To date, 81%/ 2888 of detention rooms in Turkey met minimum international standards and efforts were ongoing to make improvements to the remaining 547. Human Rights Division advised that not all detention rooms could be standardised as some were situated in preserved/historical buildings. [59] (S16.12)
- 11.47 As part of work to standardise detention centres in Turkey, CCTV had been installed in centres in 16 provinces. Mr Ozcan explained that this was to avoid suicide and self harming in detention and to prevent baseless allegations made against the police for human rights violations. [59] (S16.13)
- 11.48 Ms Douglas-Todd, Resident Twinning Advisor, Independent Police Complaints Commission Project Team told the UKBA FFM that the main strength of the current complaints system in Turkey was that Turkish citizens could go to various official and non governmental bodies to initiate a complaint about a law enforcement officer, which would then be taken forward to the judicial process, if a criminal matter. The main weakness in the system was poor recording of data with regard to complaints against law enforcers. The IPCC project therefore envisaged setting up a framework to publish such data on an annual basis to allow future trend analysis. It was envisaged that the IPCC project would take four years to complete and be conducted in two phases: firstly, to conduct a consultation and set up the necessary legislative changes; and, secondly, to establish the IPCC itself. The consultation paper was expected to be issued in May 2008. [59] (S18.3)

- 11.49 The Human Rights Presidency 2007 report on Human Rights 'Conclusion and Evaluation' noted that:

"According to the arrangement sent to all Province and Sub-province Human Rights Councils of Turkey by the Prime Ministry Human Rights Presidency, delegations with three members, at least one of which is a member of a civil society organization, were gathered and these delegations started to visit police and gendarme detention centers. These delegations carry out visits to these detentions centers, with or without notice, every month and prepare reports after these visits. These reports are sent to Prime Ministry Human Rights Presidency every 3 months. This is a quite positive improvement about temporary prisons." [79] (p32)

- 11.50 The Human Rights Presidency 2007 report further noted that:

"Detention Centers within the General Command of Gendarmerie that were out of standards were closed and standard temporary prisons of sub-provinces and centers were started to be used instead of these. Among 2456 temporary prisons within this Command, 1638 were brought into standards, and studies for bringing others into standards also are being continued. All around the country, among 2888 temporary prisons that belong to the police, improvements were completed in 2341 and are being continued in 547." [79] (p32)

[Return to contents](#)
[Go to list of sources](#)

12 PRISON CONDITIONS

- 12.01 The UN, Report of the Working Group on Arbitrary Detention Addendum 2007 noted that:

“The prisons (with the exception of military prisons) are administered by the General Directorate for the Penitentiary System, which is under the authority of the Ministry of Justice. Responsibility for the legal aspects of detention in each prison is, however, vested in the local Chief Prosecutor, who delegates a prosecutor to each prison. Since 1997, the prison infrastructure has undergone a substantial renewal: since 1995, 475 new prisons have been established and since 1990, 238 old prisons have been closed. As of 6 October 2006, there were 67,795 detainees in the penitentiary system, corresponding to 91 prisoners per 100,000 inhabitants.” [20b]

- 12.02 The International Centre for Prison Studies Prison Brief for Turkey (website information last modified on 30 July 2008), stated that in 2007 the number of establishments/institutions was 458. The official capacity of prison system was 90,558 (April 2008) while the occupancy level was 105.5 per cent (April 2008). The total Prison population (including pre-trial detainees/remand prisoners) totalled 95,551 (April 2008 Ministry of Justice) and female prisoners at 3.4 per cent (March 2008). [78]

- 12.03 The UN, Report of the Working Group on Arbitrary Detention Addendum ‘MISSION TO TURKEY’, 2007 noted that:

“The first and most striking observation the Working Group made during its visit to Turkey was that both the criminal justice system and the penitentiary system were well organized, well administered and well funded. In the police stations the Working Group visited, holding cells were clean, registers clear and generally complete, and interrogation rooms designed following a model layout and equipped with a video camera.

“Courts similarly conveyed the impression that the Government allocates adequate resources to the judiciary and to prosecutorial offices. As a result, delays in criminal proceedings are generally limited and the duration of trials in which the defendant is in custody is generally reasonable. This is evidenced also by the statistics concerning the number of remand detainees among the overall number of persons deprived of liberty, which is just above 50 per cent. While it would of course be desirable for significantly less than half of the prison population to be awaiting judgement, the ratio in Turkey is reasonable by international standards.” [20b] (p15)

- 12.04 The Amnesty International 2008 report covering events from January to December 2007 noted that “Harsh and arbitrary punishments continued to be reported in ‘F-type’ prisons. A circular published in January granting greater rights to prisoners to associate with one another remained largely unimplemented. Some prisoners were held in solitary confinement and small-group isolation. Widespread protests called for an end to the solitary confinement of PKK leader Abdullah Öcalan, and for an investigation into his treatment.” [12e] (Prison conditions)

12.05 The European Commission 2007 report published 6 November 2007 noted that, "Provisions regarding the application of solitary confinement for persons sentenced to aggravated life imprisonment remain in force. Such a regime needs to be applied for as short time as possible and be based on an individual risk assessment of the prisoner concerned. Furthermore, cases of ill-treatment by prison staff have occurred." [71c] (p14)

12.06 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:

"Prison conditions generally improved during the year but facilities remained inadequate. Underfunding, overcrowding, and insufficient staff training were problems...On March 25, Ahmet Ersin, a member of parliament from Izmir and member of the 'parliament's Human Rights' Committee, complained to the press about overcrowding in Turkish prisons. Ersin gave the example of 'Izmir's Buca Prison, which had a capacity of 1,300 but housed 2,500 prisoners...According to the medical association, there were insufficient doctors, and psychologists were available only at some of the largest prisons. Several inmates claimed they were denied appropriate medical treatment for serious illness.

"Despite the existence of separate juvenile facilities, at times juveniles and adults were held in adjacent wards with mutual access. Observers reported that detainees and convicts occasionally were held together. Occasionally inmates convicted for nonviolent, speech-related offenses were held in high-security prisons." [5g] (Section 1c)

[Return to contents](#)
[Go to list of sources](#)

E AND F-TYPE PRISONS

12.07 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey from 7 to 14 December 2005 and their report issued on 6 September 2006, noted that:

"In contrast to all the other prisons visited in December 2005, the delegation heard numerous allegations of the ill-treatment by staff of inmates at Adana E-type Prison. These allegations emanated from both prisoners at the establishment and from persons who had previously been held there. The ill-treatment alleged related for the most part to slaps, punches and kicks, as well as verbal abuse; however, some allegations of falaka [beating the soles of the feet] were also received. NGO representatives met by the delegation in Adana, including members of the Bar Association, also expressed concern about the situation in the E-type Prison. The general picture that emerged was of an establishment in which a very strict code of behaviour was enforced, with any breach – no matter how minor – likely to meet with physical chastisement. Such methods are unacceptable; any prisoner considered to display disobedience should be dealt with only in accordance with prescribed disciplinary procedures. Moreover, Adana E-type Prison was grossly overcrowded at the time of the

December 2005 visit, with some 950 prisoners for a capacity of 450. To give an example of the practical effects of this situation, in one unit the delegation found 22 prisoners sharing an upstairs dormitory of some 24 m², ten of them sleeping on the floor on mattresses.” [13a] (paragraph 41)

12.08 The CPT September 2006 report noted that:

“The CPT has never made any criticism of material conditions of detention in F-type prisons, and the facts found during this most recent visit confirmed that they are of a good standard. However, the Committee has repeatedly stressed the need to develop communal activities for prisoners outside their living units; it is unfortunately very clear from the information gathered in December 2005 that the situation in this regard remains highly unsatisfactory. In each of the three F-type prisons visited, the considerable potential of the facilities for activities was far from being fully exploited. a state of affairs openly acknowledged by the staff of the establishments. Admittedly, the continuing reluctance on the part of most prisoners to make use of the workshops was largely responsible for the gross underuse of these particular facilities. However, the very limited possibilities for association (conversation) periods and sport - activities in which an increasing number of prisoners wished to engage - must have another explanation.” [13a] (paragraph 43)

12.09 The CPT September 2006 further noted that:

“According to the relevant regulations prisoners who so wish, can be brought together in groups of up to ten persons for five hours conversation per week. However, this already modest amount of association time was far from being offered in Adana (or elsewhere). Prisoners, in groups of up to nine, had five to six one hour conversation sessions per month. As for sport, prisoners wishing to take part in this activity were being offered four sessions per month (two in the gym and two in the outdoor sports facility). The Prison Director indicated that access to sport would amount to some two hours per week; however, from the activity programmes seen by the delegation, most of the sessions lasted one hour. In contrast, those few prisoners (about a dozen) who went to the two workshops which were operating spent a considerable amount of time engaged in the activities concerned. Those going to the pottery workshop had access to it for up to 10 hours per week, and prisoners attending the drawing workshop could spend there up to 25 hours a week. The only other regular weekly out-of-unit activities consisted of family visits (one hour), and telephone calls (10 minutes). Apparently, no prisoners requested to go to the library, a state of affairs which the CPT finds difficult to comprehend. To sum up, a typical prisoner in Adana F-type Prison would spend at best scarcely 5 hours a week outside his living unit.” [13a] (paragraph 44)

12.10 The CPT 2006 report further stated that:

“The situation in Tekirdağ F-type Prison No 1 was rather similar, though the groups of prisoners taking part in association and sport tended to be smaller than in Adana. Workshop activity was greater than at Adana, with more than 50 prisoners attending six workshops; certain of these prisoners spent up to 30 hours per week in the workshop concerned. A small number of prisoners

attended religious classes on a weekly basis, and access to the library was apparently possible, also on a weekly basis..." [13a] (paragraph 45)

12.11 The CPT 2006 continued:

"The Director of each of the F-type prisons visited argued that the limited number of staff at their disposal was a major obstacle in developing activities. The need to keep so many prisoners separate from others for their 'life security' was another inhibiting factor. The CPT does not underestimate these difficulties (though as regards staff resources it remains to be seen whether the problem relates to numbers or is rather one of the manner of deployment of the existing resources). However, the Committee is also convinced that one of the underlying causes of the present situation is a continuing failure on the part of the prison authorities to display a sufficiently proactive, enterprising approach vis-à-vis this subject. The situation observed to date by the CPT in F-type prisons amounts to a missed opportunity. Capable of being rightly regarded as a model form of penitentiary establishment, they currently remain open to the accusation of perpetuating a system of small-group isolation..." [13a] (paragraph 47)

12.12 The CPT 2006 report also elucidated that:

"In the same way as during previous visits to Turkey, the information gathered during the December 2005 visit revealed serious problems related to the availability of health-care resources in prisons and the training provided to doctors called upon to work in such establishments. After having been vacant for some nine months, the post of prison doctor at Tekirdağ F-type Prison No 1 had finally been filled a few weeks before the CPT's visit. However, the doctor concerned had only graduated from medical school in the summer of 2005. At Tekirdağ F-type Prison No 2, the post of prison doctor had been vacant for six months. To fill the gap, doctors came on temporary rotation from the local State Hospital Emergency Department, the doctor in the establishment at the time of the delegation's visit having been there for three weeks." [13a] (Paragraph 55)

12.13 The CPT also clarified that:

"Healthcare services were if anything even more poorly resourced at other prisons to which the delegation went during the visit. For example, at Adana E-Type Prison, there was only one doctor for almost 1,000 prisoners, and at Bayrampaşa Closed Prison only three doctors for more than 3,000 prisoners. As for Van M-type Prison (an establishment accommodating 275 prisoners at the time of the visit, but which had held more than 400 in the recent past), it had been without a full-time doctor for almost two years. Responding to an appeal from the Prison Director, the former prison doctor (who had resigned from the prison service) attended the establishment twice a week." [13a] (paragraph 55)

12.14 The CPT 2006 further stated that:

"In Tekirdağ F-type Prisons No 1 and 2, the delegation encountered a small number of prisoners who had been placed in single cells on psychiatric grounds. None of them were receiving the care required by their state of health.

In this connection it should be noted that neither of the doctors assigned to the establishments had any competence or experience in treating psychiatric disorders, and there were no consultations at the prisons by visiting psychiatrists. The delegation formed the view that the mental state of at least one of the prisoners concerned – held in a single cell in an otherwise completely empty block at Tekirdağ F-type Prison No. 2 – was such that he should be placed in a secure psychiatric establishment.” [13a] (paragraph 52)

- 12.15 The EC 2007 report recorded that “The improvement of the physical infrastructure of prisons as well as the training of staff continued. As concerns high-security F-type prisons, a circular was issued to address previously identified shortcomings of the communal activities for inmates. Prisons are subject to regular inspection visits by the Penal Institutions and Detention Houses Monitoring Boards, and visits of UN bodies and the Council of Europe Committee for the Prevention of Torture.” [71c] (p14)

[Return to contents](#)
[Go to list of sources](#)

MILITARY PRISONS

- 12.16 As noted in a Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa, dated June 2003 entitled Turkey: Conditions in military prisons, it was noted that:

“Information on Turkish military prisons is scarce and limited to scattered references often lacking in details about the prisons and the conditions in them. The Research Directorate was able to find references in publicly available documents to a few military prisons located across Turkey. Mamak Military Prison in Ankara, Mamak Military Prison in Eskisehir, Mamak Military Prison in Adana, Diyarbakir Military Prison, Umraniye Military Prison in Istanbul, Military Prison in Izmir, Edirne Military Prison, Metris Military Prison in Istanbul, Maltepe Military Prison in Istanbul, Davutpasa Military Prison, Davutpasa Military Prison in Izmir, Edirne Military Prison, Hasdal Military Prison, Gelibolu Military Prison, Kartal Military Prison in Istanbul and Selimiye Military Prison.” [7g]

- 12.17 As noted in a Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa, dated 29 May 2007 entitled Turkey: Treatment of prisoners and conditions in military prisons, it was noted that:

“In July 2005, a soldier named Murat Polat died of injuries he sustained at a military prison in Adana at the hands of 29 military officers. The 20-year old soldier was allegedly tortured and beaten by dozens of officers and conscripts in the prison, where he was serving a sentence for desertion and theft.” [7h]

- 12.18 The European Commission 2007 report published 6 November 2007 noted that “...outstanding problems in prisons include: overcrowding, lack of consistent implementation of provisions regarding communal activities, restrictions on prisoners’ correspondence, and inadequate health/psychiatric resources. Furthermore, civil and military prisons are not open to monitoring by independent national bodies, pending the ratification of the Optional Protocol to

the UN Convention against Torture. Provisions regarding the application of solitary confinement for persons sentenced to aggravated life imprisonment remain in force. Such a regime needs to be applied for as short time as possible and be based on an individual risk assessment of the prisoner concerned. Furthermore, cases of ill-treatment by prison staff have occurred.” [71c] (p14)

MONITORING OF PRISON CONDITIONS

- 12.19 The Human Rights Presidency 2007 report on Human Rights published 2 July 2008 noted that:

“Punishment execution institutions and prisons are inspected by ‘Councils of Punishment Execution Institution and Prison Monitoring’ which include representatives of civil society organizations. Law about Change in the Law of Councils of Monitoring Punishment Execution Institutions and Prisons dated 20.11.2007 and numbered 5712 was published in Official Newspaper dated 04.12.2007 and numbered 2670 and invoked. With this new law, number of members in these monitoring councils were increased from five to five principal and three backup members. It is compulsory that one of the principal members is selected from women. Concrete activities are carried out for elimination of deficiencies identified by these Councils. Declaration of the reports of these Councils to the public is necessary in order to achieve transparency.” [79] (p31)

- 12.20 The same Human Rights Presidency 2007 report also noted that “Prisons are also visited by delegations gathered by Province and Sub-Province Human Rights Boards. These visits are allowed in some provinces, whereas they are not in others. These visits should be allowed in all provinces, which is a necessity of the democratic state and the transparency principle. Regulation should be reviewed if necessary.” [79] (p31)

- 12.21 The Human Rights Presidency 2007 report also noted that “According to the arrangement sent to all Province and Sub-province Human Rights Councils of Turkey by the Prime Ministry Human Rights Presidency...these delegations carry out visits to these detentions centers, with or without notice, every month and prepare reports after these visits. These reports are sent to Prime Ministry Human Rights Presidency every 3 months. Detention Centers within the General Command of Gendarmerie that were out of standards were closed and standard temporary prisons of sub-provinces and centers were started to be used instead of these. Among 2456 temporary prisons within this Command, 1638 were brought into standards, and studies for bringing others into standards also are being continued.” [79] (p32)

- 12.22 The same Presidency 2007 report also noted that “trainings [sic] for other personnel like prison employees were held. These activities are considered positive for achieving universal standards about human rights.” [79] (p30)

- 12.23 The United States Department of State (USSD) 2007 published 11 March 2008 report noted that:

“The government has permitted prison visits by representatives of some international organizations, such as the European Committee to Prevent

Torture and the CPT, though it was unclear at 'year's end the extent to which such visits occurred during the year. The CPT reported on its Web site that it performed an ad hoc visit in May to visit Imrali Island, where PKK leader Abdullah Ocalan was detained, and visited psychiatric facilities in 2006. Domestic NGOs did not have access to prisons. Domestic human rights organizations and activists reported that prison monitoring boards composed of government officials and private individuals were ineffective." [5g] (Section 1c)

[Return to contents](#)
[Go to list of sources](#)

13 DEATH PENALTY

- 13.01 The European Commission reported in 2006 that “With respect to the right to life and, in particular, the abolition of the death penalty, Turkey ratified, in March 2006, the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which aims to abolish the death penalty. Protocol 13 to the ECHR, which abolishes the death penalty at all times, was ratified in February 2006. Turkey abolished the death penalty in its national legislation, in all circumstances, in 2004.” [71a] (p61)
- 13.02 As outlined in the May-June 2005 issue of Newspot (published on the website of the Office of the Prime Minister, Directorate General of Press and Information) in an article on the new Turkish Penal Code, “The new Turkish penal code went into effect on June 1 [2005], along with the penal procedures and the law on the execution of sentences. The new penal code changes the duration and number of penalties in certain cases...Terrorist Abdullah Öcalan and similar criminals will remain in prison indefinitely.” [36d]
- 13.03 The Amnesty International List of Abolitionist and Retentionist Countries (1 January 2006) report noted that the date provided for the last execution carried out in Turkey as being in 1984. [12h] (p4)

[Return to contents](#)
[Go to list of sources](#)

14 POLITICAL AFFILIATION

FREEDOM OF POLITICAL EXPRESSION

- 14.01 The European Commission 2007 Progress report published 6 November 2007 stated that:

“Parliamentary elections were held on 22 July 2007. Voter turnout was over 83%. Following an invitation from the Turkish authorities, the OSCE Office for Democratic Institutions and Human Rights, OSCE/ODIHR, carried out an election assessment mission. In a press statement, the OSCE/ODIHR stressed that the electoral process was characterized by pluralism and a high level of public confidence underscored by the transparent, professional and efficient performance of the election administration. A delegation from the Parliamentary Assembly of the Council of Europe (PACE) also observed the elections and came to similar conclusions.” [71c] (p6)

- 14.02 The EC 2007 Progress report also stated that:

“Three parties crossed the 10% threshold of the national vote required to be represented in Parliament. These were the Justice and Development Party (AKP) with 46.6%, resulting in 341 seats, the Republican People’s Party (CHP) with 20.9% (99 seats) and the Nationalist Movement Party (MHP) which obtained 14.3% (70 seats). 26 independent candidates were also elected. 20 of these, from the Democratic Society Party (DTP), formed their own political group. This brought the number of political groups to four. Additional parties represented in parliament are the Democratic Left Party (DSP), with 13 Members of Parliament, the Grand Unity Party (BBP) and the Freedom and Democracy Party (ÖDP) with one seat each.” [71c] (p6)

- 14.03 The EC 2007 report further noted that:

“The newly-elected parliament is now more representative of the ‘country’s political diversity. Nevertheless, the debate continued on reducing the 10% threshold, which is the highest among European parliamentary systems. This issue was also brought to the European Court of Human Rights (ECtHR), which ruled in January 2007 that the threshold does not violate the right to free elections. However, it also noted that it would be desirable for the threshold to be lowered in order to ensure optimal representation, while preserving the objective of achieving stable parliamentary majorities. The issue was referred to the Grand Chamber. Court of Human Rights (ECtHR), which ruled in January 2007 that the threshold does not violate the right to free elections. However, it also noted that it would be desirable for the threshold to be lowered in order to ensure optimal representation, while preserving the objective of achieving stable parliamentary majorities.” [71c] (p7)

- 14.04 The United States Department of State (USSD) 2007 report published 11 March 2008 noted that:

“The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. However, the government restricted the activities of a few political parties and leaders. The 2007 parliamentary elections were held under election laws that the Organization for Security and Cooperation in Europe (OSCE) found established a framework for democratic elections in line with international standards. The law requires a party receive at least 10 percent of the valid votes cast nationwide to enter parliament.” [5g] (Section 3 Right of Citizens to Change their Government)

- 14.05 As noted in the Human Rights Watch (HRW) World Report 2008, covering events of 2007 published 31 January 2008:

“Prior to the general election, the Turkish military intervened directly in the political arena by voicing opposition to the ruling Justice and Development Party (AKP) government and by decisively influencing a constitutional court decision to block the presidential candidacy of the AKP’s Abdullah Gül. The AKP nevertheless won 47 percent of the vote in the early general election precipitated by the presidential crisis, and subsequently secured the election of Abdullah Gül as president. The AKP government embarked on plans for a new constitution to replace that put in place under the military regime in 1982.” [9b]

- 14.06 The OSCE’s Office for Democratic Institutions and Human Rights (OSCE/ODIHR) in an assessment report for the Turkish parliamentary elections which took place on 22 July 2007 noted that:

“The overall conduct of the elections represents a notable achievement against a background of political tensions which arose in the spring of 2007, following the failure by parliament to elect a new president. The elections demonstrated the resilience of the election process in Turkey, characterized by pluralism and a high level of public confidence...The registration of political parties and independent candidates was generally inclusive, offering voters a wide and genuine choice. Parties had sufficient ability to convey their messages to the voters, although the campaign took place in a polarised atmosphere.

“Turkey has a comprehensive legal framework for elections, conducive overall to the delivery of a democratic process. However, political campaigning, and in a broader context freedom of expression, are constrained by a number of restrictions in the Penal Code, Law on Political Parties, and media laws which create the potential for uncertainty and scope for arbitrary interpretation.” [14a] (Executive Summary)

- 14.07 The same OCSE report also noted that:

“Additionally, aspects of the legislation could be reviewed in order to enhance transparency and ensure equitable conditions for all election contestants...The 10 percent threshold for political party representation in the allocation of seats in the TGNA is unusually high and remains the highest in the OSCE region. The OSCE/ODIHR noted the positive efforts made to enhance the participation of Turkish citizens of Kurdish origin in political life. Legislation, however, continues

to prohibit the use of languages other than Turkish in the election campaign.”
[14a] (Executive Summary)

- 14.08 The OCSE report further noted that “Political parties eligible for seat allocation are those which are registered to contest the election and which receive at least 10 percent of the valid votes cast nationwide. The size of the threshold in Turkey is unusually high and is the highest in the OSCE region. Candidates may compete as individuals and are not subject to the 10 percent threshold.”
[14a]

See also paragraph 19:22 [Pro-Kurdish Political Parties](#)

[Return to contents](#)
[Go to list of sources](#)

FREEDOM OF ASSOCIATION AND ASSEMBLY

- 14.09 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:

“The law provides for freedom of association; however, there continued to be several restrictions on this right in practice. Under the law, associations need not notify authorities before founding an association, but still must provide such notification before interacting with international organizations, and/or receiving financial support from abroad, and provide detailed documents on such activities. Representatives of associations said this placed an undue burden on their operations.” [5g] (Section 2b)

- 14.10 The USSD 2007 report also noted that, “Foreign associations wishing to conduct programs in the country were required to submit detailed reports to the government on each activity, despite the fact that local partners were required to report on the same projects. According to the Third Sector Foundation of Turkey, an NGO advocacy organization, the criteria for NGOs to obtain public benefit status, entitling them to certain tax exemptions, were restrictive and complicated. Applications for public benefit status must be approved by the Council of Ministers. The law does not allow applicants to appeal if their petitions are rejected. Unlike the previous year no organizations were closed by the government or courts.” [5g] (Section 2b)

- 14.11 The European Commission 2007 Progress report published 6 November 2007 stated that:

“Use of languages other than Turkish remains illegal in political life. Several investigations and court cases have been opened against officials and executives of the Democratic Society Party (DTP) for alleged infringements of Article 81/c of the Law on Political Parties which forbids the use of languages other than Turkish by political parties¹⁰. In February and April 2007 several members and executives of the Rights and Freedoms Party (Hak-par) were sentenced in two separate Court cases for having spoken Kurdish at ‘party’s general congresses. A Court case for the closure of Hak-par is pending.”
[71c] (p22)

- 14.12 The EC 2007 Progress report also noted that:

“The legal framework for freedom of assembly is broadly in line with European standards. Citizens have been able to exercise this right without interference by the authorities or the security forces in most cases. Mass demonstrations were held peacefully in Ankara, Istanbul and İzmir during the presidential election period. Few violent incidents were reported during the Kurdish New Year (Newroz) celebrations. However, there is an investigation into the use of excessive force by the police at the 1 May demonstration in Istanbul when more than 700 persons were detained.” [71c] (p15-16)

- 14.13 The USSD 2007 report also noted that, “Members of the Judges and Prosecutors’ Union (YarSav) faced legal pressure to close down the organization. The organization at various times criticized the Ministry of Justice for selecting employees based on their personal beliefs. On August 17, Ankara Governor Kemal Onal applied to the Ankara chief prosecutor and Council of State to dissolve the organization because it allegedly violated the constitution and the Law on Associations. The Council of State denied the request. At year’s end the organization continued to operate.” [5g] (Section 2b)

[Return to contents](#)
[Go to list of sources](#)

- 14.14 As noted in the Human Rights Watch (HRW) World Report 2008, covering events of 2007 published 31 January 2008:

“After its electoral victory in July, the new AKP government failed to take immediate steps to restart the stalled reform process by lifting restrictions on freedom of expression such as article 301, and elements of the legal establishment opposed to reform continued to prosecute and convict individuals for speech-related offences, as well as for staging unauthorized demonstrations. Over 2007 hundreds of individuals, among them journalists, writers, publishers, academics, human rights defenders, and, above all, officials of Kurdish political parties and associations, were prosecuted. Some were convicted.” [9b]

- 14.15 The IHD (Human Rights Association) 2007 Summary Sheet on Human Rights Violations in Turkey recorded that 34 meetings and demonstration intervened by security forces; 29 numbers of investigations were opened against 638 people and 17 cases opened in 2007 against 353 people. 16 cases opened before 2007 against 359 were postponed to 2008. In 5 concluded cases 111 people were sentenced to 170 years and 3 months imprisonment, 9879 YTL fine in total and cases against 49 people were dropped. [73b] (Violations against freedom of Meeting and Demonstration)

- 14.16 As noted in a Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa, dated 7 June 2007 entitled Turkey: Situation and treatment of members, supporters and sympathizers of the Democratic Society Party, it was noted that:

“Amnesty International (AI) reports that in October 2006 a trial began involving 56 mayors belonging to the DTP, who were accused by the Turkish government of supporting the PKK after they had sent a letter to the Danish Prime Minister requesting that the Denmark-based Kurdish television station, Roj TV, not be shut down (AI 2007; EurasiaNet 4 May 2007). As of April 2007, the trial was ongoing, and the convicted mayors could expect up to 15 years’ imprisonment if convicted (Anadolu Agency 4 Apr. 2007; RSF 9 Apr. 2007; AFP 6 Apr. 2007). Further information could not be found among the sources consulted by the IRB.” [7i]

- 14.17 The Minority Rights Group International (MRG) report on ‘A Quest for Equality: Minorities in Turkey’ published 10 December 2007 stated that:

“The amendments made to the Law on Associations in November 2004 lifted many of the restrictions on the freedom of association. Most importantly, the establishment of associations is no longer subject to prior authorization. The reforms also created more space for minorities to exercise their freedom of association, inter alia by setting up associations to develop their culture. Following these reforms, some minorities, such as Roma, Caucasians and Assyrians, have set up such associations. Associations are allowed to use minority languages in non-official correspondence. However, the law retains a ban on the establishment of associations to realize purposes prohibited under the Constitution. The over-inclusive reading of this principle by Turkish prosecutors and judges in the past has resulted in the inclusion among prohibited purposes, inter alia, of the advocacy of peaceful solutions to the Kurdish problem.” [57c] (p23)

- 14.18 The MRG 2007 report also stated that “Indeed, on 21 August 2007, MuratÖztürk, President of the Ağrı branch of the pro-Kurdish Democratic Society Party (Demokratik Toplum Partisi-DTP) was convicted to one year imprisonment under Article 7(2) of the anti-terror law for a speech he made in the Newroz celebrations on 21 March 2007.” [57c] (p23)

- 14.19 The above MRG 2007 report also stated that:

“Kurdish politicians face continuing prosecutions for their activities. In February and March 2007, a series of arrests, searches, seizures and prosecutions have been launched against leaders of the DTP, the latest of successive pro-Kurdish political parties. On 18 February, İbrahim Sungur and Abdulvahap Turan, President of the Van branch and member of the DTP respectively, were arrested for making propaganda for the PKK during a police raid on the party headquarters in Van. On 23 February, Hilmi Aydoğdu, the President of the Diyarbakır branch, was arrested on the basis that he violated Article 216 by allegedly stating in an interview that his party would ‘consider any future attack on Kerkuk [in Iraq] as an attack on Diyarbakır’.” [57c] (p27)

- 14.20 The MRG 2007 report further noted that:

“The ban against the use of minority languages has resulted in frequent prosecutions against individuals for speaking Kurdish. The former president and 12 executives of the pro-Kurdish Party for Rights and Liberties (Hak ve

Özgürlükler Partisi, HAK-PAR) were sentenced in February 2007 to six months to one year in prison for making speeches in Kurdish during their party congress and sending invitations in Kurdish to the President, Prime Minister and the President of the Parliament. The court also decided to call on the prosecutor to file a case for the dissolution of the party. A similar case for the formal closure of the Democratic People's Party (Demokratik Halk Partisi, DEHAP) is pending before the Constitutional Court." [57c] (p27)

[See Section 19 Ethnic Groups](#)

14.21 The Freedom House report 'Countries at the Crossroads 2007' stated that:

"Turkish laws establish a framework for democratic elections generally in line with international standards, although with certain restrictions. A party can be shut down if its program is not in agreement with the constitution, and this can be widely interpreted to include support for Kurdish insurgents and opposition to state pillars such as secularism and the military. Restrictions are used to target certain groups. While even small gatherings can face difficulties, the most extreme example is the Kurdish Democratic 'People's Party (DEHAP), which is accused of being the political arm of the Kurdistan Workers' Party (PKK) – recently renamed Kongra-Gel and considered a terrorist organization by the Turkish government as well as by the EU and the United States. DEHAP has faced continual legal battles and arrests. Still, DEHAP does not represent the interests of most Kurds, who, when living outside the southeast, are generally more integrated and participate in mainstream politics." [62c] (Accountability and Public Voice)

[Return to contents](#)
[Go to list of sources](#)

15 FREEDOM OF SPEECH AND MEDIA

- 15.01 The European Commission 2007 Progress report published 6 November 2007 stated that:

“As regards freedom of expression, including the media, open debate continued in the Turkish media on a wide range of issues, including those perceived to be sensitive by Turkish society. However, the prosecution and conviction for the expression of non-violent opinions under certain provisions of the Turkish Criminal Code are a cause of serious concern. The number of persons prosecuted almost doubled in 2006 compared with in 2005), and there was a further increase in the number of prosecutions in 2007. More than half of these charges were brought under the Criminal Code, and in particular under article 301, which penalises insulting ‘Turkishness’, the Republic and the organs and institutions of the state. The restrictive jurisprudence established in 2006 by the Court of Cassation on article 301 remains in force. Against this background, article 301 needs to be brought in line with the relevant EU standards. The same applies to other legal provisions which have been used to prosecute the non-violent expression of opinions and may limit freedom of expression. The potential impact of the anti-terror law on freedom of expression is a concern.” [71c] (p13-14)

- 15.02 Reporters Without Borders in an article ‘Freedom of expression still in danger in Turkey despite article 301 reform’ published on 5 May 2008 noted that: “Amendments to a law punishing insults to Turkish identity which the Turkish parliament adopted on 30 April are ‘cosmetic and insufficient,’ Reporters Without Borders said today. Furthermore, this reform concerns only article 301. Any real improvement in freedom of expression in Turkey would have to include a thorough overhaul of all the laws and regulations that restrict it. The limited nature of this reform highlights the size of the problem that free speech poses to the Turkish authorities.” [11d]

- 15.03 The Reporters Without Borders article further noted that “According to justice minister Mehmet Ali Sahin, 1,189 people were taken before a court in the first quarter of 2007 alone for article 301 violations. Nobel prize-winning novelist Orhan Pamuk and Armenian-Turkish newspaper editor Hrant Dink, who was murdered by ultranationalists in Istanbul on 19 January 2007, were among those prosecuted under the article.” [11d]

- 15.04 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:

“The law provides for freedom of speech and of the press; however, the government continued to limit these freedoms in occasional cases. The government intimidated journalists into practicing self-censorship. The government, particularly the police and judiciary, limited freedom of expression through the use of constitutional restrictions and numerous laws, including articles of the penal code prohibiting insults to the government the state, ‘Turkishness’ Atatürk, or the institutions and symbols of the republic. Other

laws, such as the Anti terror Law and laws governing the press and elections also restricted speech.” [5g] (Section 2a)

- 15.05 The IHD (Human Rights Association) 2007 Summary Table on Human Rights Violations in Turkey recorded that 11 people were tried under section 159 of the Turkish Penal Code and section 301 of the new Turkish Penal Code in 24 cases. Under article 125 on insult there are 10 people showing as being tried and under article 215 on praise a crime or a criminal a total number of 43 cases were opened in 2007. A total of 39 cases under article 215 were opened before 2007 and continue in this period. [73b] (Investigations against those who expressed their opinions)

JOURNALISTS

- 15.06 The HRW World report 2008 stated that:

“After its electoral victory in July, the new AKP government failed to take immediate steps to restart the stalled reform process by lifting restrictions on freedom of expression such as article 301, and elements of the legal establishment opposed to reform continued to prosecute and convict individuals for speech-related offences, as well as for staging unauthorized demonstrations. Over 2007 hundreds of individuals, among them journalists, writers, publishers, academics, human rights defenders, and, above all, officials of Kurdish political parties and associations, were prosecuted. Some were convicted.” [9b] (Freedom of Expression and Assembly)

- 15.07 The BIA 2007 Media Monitoring Report stated that “there are still countless violations of press freedom across the country. There were also more attacks on journalists in 2007 than in the previous year, with the shocking murder of Hrant Dink still fresh in everyone’s mind. Emrullah Özbey, owner of the local *Mus Haber 49* newspaper in the east of Turkey, said that he had been threatened for alleging that a school rector who did not give contracts to the nephew of the AKP province chair without a public bid was forcibly transferred by the Mus Educational Authority.” [102c]

- 15.11 An article by Amnesty International (AI) Turkey ‘article 301, how the law on denigrating Turkishness is an insult to free expression’, dated 3 January 2006, recorded that:

“Hrant Dink is a journalist and the editor of the Armenian-language weekly newspaper *Agos*, which is published in Istanbul. On 7 October 2005, Hrant Dink was given a six-month suspended prison sentence by the Şişli Court of First Instance No. 2 in Istanbul for denigrating Turkishness in an article he wrote on Armenian identity. The court suspended the sentence as the journalist had no previous convictions, on condition that he does not repeat the offence. The Court of Appeal overturned this decision on 24 February 2006.” [12g]

- 15.12 In the same article, Amnesty International, however, welcomes news that in another case brought against him under Article 301, Hrant Dink was acquitted by Şanlıurfa Court of First Instance No. 3 on 9 February 2006. He had been charged under Article 159 of the previous Turkish penal code (now Article 301)

for a speech he made during a conference organised by the non governmental organisation Mazlum Der's Urfa branch on 14 December 2002 entitled 'Global Security, Terror and Human Rights, Multi-culturalism, Minorities and Human Rights'. [12g]

- 15.13 Al further noted that Birol Duru is a journalist charged with denigrating the security forces under Article 301 because he reported for the Dicle news agency the issuing of a press release by the Human Rights Association (İHD) Bingöl branch which stated that the security forces were burning forests in Bingöl and Tunceli.

Erol Özkoray, publishing director of *İdea Politika* magazine, faces a trial under Article 301 on charges brought under the previous Article 159 in connection with two articles on the magazine's website, 'The new barbarians and the Taliban in epaulettes' ("Yeni Barbarlar ve Apoletli Talibanlar") and 'What's the point of the army?' ("Ordu ne işe yarar?"). Separate prosecutions against each article resulted in conviction, but the cases were combined when they were sent to the Court of Cassation. The next hearing of the case is due to take place on 2 June at the Şişli Court of Second Instance.

The trial of singer Ferhat Tunç under Article 301 is reportedly scheduled to continue on 31 May 2006 at Beyoğlu 2nd Criminal Court of First Instance. He is charged with "denigrating the judicial organs of the State" after a 2004 article entitled 'A revolutionary Leyla and a song' in Özgür Gündem newspaper in which he had commented critically on the judiciary for the decision not to release Leyla Zana and another three former DEP parliamentarians on bail pending the outcome of their retrial. The charges were originally brought under Article 159 of the previous Turkish Penal Code.

The newspaper's editor, Mehmet Çolak, is also prosecuted in connection with the same article. On 22 December 2005, Istanbul Penal Court of First Instance No. 2 sentenced author Zülküf Kışanak to five months' imprisonment on charges of insulting the Turkish Republic in his book 'How the Inheritance of Thousands of Years was Burned: Lost Villages (Bin Yılların Mirası Nasıl Yakıldı: Yitik Köyler)'. The sentence was commuted to a fine of 3000 YTL [c. US\$ 2,260]. [12g]

- 15.14 Reporters Without Borders (RSF), in their 2007 annual report on Freedom of the Press Worldwide –Turkey, noted that:

"Turks are divided on the issue. The EU enlargement commission's report on 8 November said press freedom must improve and that freedom of expression in line with European standards is not yet guaranteed by the present legal framework (...) Article 301 and other provisions of the Turkish penal code that restrict freedom of expression need to be brought in line with the European Convention of Human Rights (ECHR).

"The strong campaign for and against Turkish EU membership and the award of the Nobel Prize for literature to a writer, being prosecuted for his work forced the Prime Minister to publicly declare support for amending article 301. Several

journalists prosecuted under it said they would take their cases to the European Human Rights Court.” [11b]

- 15.15 Reporters Without Borders (RSF) in their 2007 annual report further noted that:

“Amendments to the country’s anti-terrorist law that were approved by parliament on 29 June also threatened freedom of expression by allowing imprisonment for printing news about ‘terrorist organisations’ and raised fears of unjustified prosecution of journalists who dared to mention the subject. Rüstü Demirkaya, of the pro-Kurdish news agency Diha, was jailed on 14 June in the eastern town of Tunceli for ‘collaborating with the PKK/Kongra-Gel’ after a former militant reportedly accused him of giving the PKK a laptop and 10 blank CDs and telling the party about an ongoing military operation. He faces up to 12 years in prison.” [11b]

- 15.16 The EC 2007 Progress report noted that:

“Judicial proceedings and threats against human rights defenders, journalists and academics have created a climate which has led to occurrences of self-censorship in the country, including in the academic field. The weekly newspaper *Nokta*, which published several articles on issues relating to the military, stopped its publication in April 2007 at the decision of the owner. This followed a police raid on the ‘paper’s premises at the instruction of the public prosecutor acting on behalf of the General Staff Military Prosecutor. Journalistic freedom on military issues is restricted by an internal memorandum from the General Staff, which establishes that journalists most critical of the army are to be denied accreditation to military receptions and briefings.” [71c] (p15)

- 15.16 The Committee to Protect Journalists (CPJ) in their 2007 report ‘Attacks on the Press in 2007 – Turkey’ noted that “In the last 15 years, 18 other Turkish journalists have been killed for their work, many of them murdered, making it the eighth-deadliest country in the world for journalists, CPJ research shows. The last killing was in 1999. More recently, journalists, academics, and others have been subjected to pervasive legal harassment for statements that allegedly insult the Turkish identity, CPJ research shows.” [15a]

- 15.17 The same CPJ 2007 report also noted that “In July 2006, ‘Turkey’s High Court of Appeals upheld a six-month suspended prison sentence against Dink for violating Article 301 of the penal code in a case sparked by complaints from nationalist activists. His prosecution stemmed from a series of articles in early 2004 dealing with the collective memory of the Armenian massacres of 1915-17 under the Ottoman Empire. Armenians call the killings the first genocide of the 20th century, a term that Turkey rejects.” [15a]

[Return to contents](#)
[Go to list of sources](#)

MEDIA AND PRESS

- 15.17 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:

“Turkey had an active print media independent of state control. There were hundreds of private newspapers that spanned the political spectrum... Most media were owned by large, private holding companies that had a wide range of outside business interests; the concentration of media ownership influenced the content of reporting and limited the scope of debate. Observers noted that media conglomerates increasingly used media as a tool to build pressure against government policies.” [5g] (Section 2a)

15.18 The USSD 2007 report noted that:

“Prosecutors harassed writers, journalists, and political figures by bringing dozens of cases to court each year under various laws that restrict media freedom; however, judges dismissed many of these charges. Police harassed and beat journalists during at least one demonstration. Authorities ordered raids of newspaper offices, closed newspapers temporarily, issued fines, or confiscated newspapers for violating speech codes. Despite government restrictions, the media criticized government leaders and policies daily and in many cases adopted an adversarial role with respect to the government.” [5g] (Section 2a)

15.19 The USSD 2007 report noted that:

“In April an Istanbul court began investigating journalists Lale Sariibrahimoglu of *Today's Zaman* newspaper and Ahmet Sik of *Nokta* newsmagazine under Article 301, after Sik published a *Nokta* story in which Sariibrahimoglu expressed concern about the ‘mentality’ of the military and its role in internal security. The court held its first hearing on November 12; the case continued at year's end.” [5g] (Section 2a)

15.20 In the year 2008, Turkey ranked 106 (out of 195 countries) in the Freedom House Table of Global Press Freedom Rankings and the status of its press was considered ‘partly free’. [62b] In the Reporters Without Borders (RSF) ‘Worldwide Press Freedom Index 2007’, the ranking of Turkey was 98 out of 167 countries in 2005/06 but in 2007 it ranked 101 out of 169 countries (ranging from one for the most free to 169 for the least free). The previous ranking for Turkey in 2004 was 113. [11a]

[Return to contents](#)
[Go to list of sources](#)

THE HIGH BOARD OF RADIO AND TELEVISION (RTÜK)

15.21 The United States Department of State (USSD) 2007 report published 11 March 2008 noted that:

“The government owned and operated the Turkish Radio and Television Corporation (TRT). According to the High Board of Radio and Television (RTÜK), there were 213 local, 16 regional, and 23 national officially registered television stations and 952 local, 102 regional, and 36 national radio stations. Other television and radio stations broadcast without an official license. The

wide availability of satellite dishes and cable television allowed access to foreign broadcasts, including several Kurdish-language private channels.”
[5g] (Section 2a)

15.22 The USSD 2007 report noted that:

“The government maintained significant restrictions on the use of Kurdish and other minority languages in radio and television broadcasts. RTUK regulations limited minority-language news broadcasts to 45 minutes per day, with no time restrictions for minority-language cultural shows or films. RTUK regulations required non-Turkish-language radio programs be followed by the same program in Turkish and that non-Turkish-language television programs have Turkish subtitles. Start-up Kurdish broadcasters reported that these were onerous financial obligations that prevented their entry into the market. The state-owned TRT broadcasting company provided limited national programming in Kurdish and three other minority languages.” [5g] (Section 2a)

[Return to contents](#)
[Go to list of sources](#)

15.23 The European Commission 2007 Progress report published 6 November 2007 recorded that:

“As in previous progress reports, the issue of independence, including adequate funding of the public service broadcaster TRT and RTÜK remains a matter of concern. In particular, a number of sanctions imposed by RTÜK, on private media raise question marks over its independence. With regard to the administration of the broadcasting sector, RTÜK has not reallocated frequencies and reviewed temporary licences. The new regulation on licensing and authorisation of cabled transmissions obliges cable operators not to transmit programmes of foreign origin, if these are deemed inappropriate by RTÜK. This obligation is not compatible with the Television without Frontiers Directive.” [71c] (p43)

15.24 The Freedom House report, “Countries at the Crossroads, Turkey – 2007” noted that:

“Turkey’s constitution establishes freedom of the media (Articles 28-31), and EU harmonization reforms have included many measures to reduce political pressure on the media – including an improved Press Law in 2004. Nevertheless, major impediments remain. Turkey’s Supreme Council of Radio and Television (RTUK) has the authority to sanction broadcasters if they are not in compliance with the law or its expansive broadcasting principles; fines and cancellation of programs or licenses occur. In February 2007, television station Kanal Turk reported attempts by officials to intimidate it into curtailing reporting critical of the ruling party.” [62c] (Accountability and Public Voice)

15.25 The Kurdish Human Rights Project (KHRP) in their 2007 Fact Finding Mission report ‘Reform and Regression: Freedom of the Media in Turkey’ stated that:

“The mission was uncertain about the role and independence of the media regulatory body RTÜK. Although it must decide on suspensions of broadcasting, RTÜK was reported to lack expertise and staff who speak Kurdish. Further, as was pointed out by the EU in its 2005 Progress Report, the police monitor local broadcasts on behalf of RTÜK. This was said to lead to them being unduly reliant on translations provided by the police to launch investigations against Kurdish language broadcasters. This was raised as an area of concern to the mission, given that the police increasingly harass members of the opposition media. It was the general perception of those with whom the mission met that police translations may prove less than objective due to possible personal prejudices and lack of cultural awareness of Kurdish issues. The mission further heard that under the new Anti-Terror Law, the police were raiding television and radio outlets and preventing broadcasting without RTÜK’s authorisation. Meanwhile, the government’s recent decisions in relation to RTÜK’s appointment procedure further appear to have contributed to its perceived state-orientated outlook.” [6b] (Section vi)

INTERNET

- 15.26 The United States Department of State (USSD) 2007 report published 11 March 2008 stated that “Limitations on freedom of expression expanded to the Internet, as Turkish courts on several occasions ordered telecommunications providers to block access to Web sites... The Internet was widely available in the country. It is used in schools, libraries, private internet cafes and other public locations, and the government encouraged its use.” [5g] (Section 2a)
- 15.27 The European Commission 2007 Progress report published 6 November 2007 stated that:
- “Some progress can be reported in the field of electronic communications and information technologies... The broadband market has increased significantly mainly through the ‘incumbent’s digital subscriber lines (DSL). The ‘incumbent’s internet service provider (ISP) has 97% of the market share, but all DSL access options were recently offered to alternative ISPs. Fixed network competition remains limited and the new entrants are not allowed to offer local telephone services. [71c] (p43) 8.7% of the households have internet access at home in 2005 compared to the 7.0% in 2004.” [71c] (p 80)
- 15.28 The Freedom House report ‘Freedom of the press 2007’ noted that, “An estimated 13 percent of the Turkish population was able to access the internet in 2005, and the government refrains from restricting the internet beyond the same censorship policies that it applies to other media.” [62e]
- 15.29 The Freedom House, Countries at the Crossroads, Turkey – 2007 noted that “Internet freedom can also be affected; a court ordered Turkey’s main internet provider to ban access to video-sharing website YouTube in March as a result of a video making fun of Atatürk. A draft bill on internet crimes would ban access to Turkish websites with content related to crimes defined under the new anti-terror law (see ‘Rule of Law’).” [62c]

- 15.30 The Kurdish Human Rights Project (KHRP) in their 2007 Fact Finding Mission report 'Reform and Regression: Freedom of the Media in Turkey' published October 2007 stated that:

"It learnt that in many cities in Turkey the police produce a list of internet sites that are considered to be obscene. The list is subsequently circulated to internet cafes, so that the listed sites can be blocked from public access through the use of imposed filters. According to Dicle News Agency (DİHA), the list is intended to protect against child pornography and other illicit behaviour, yet with no central monitoring body, the nature and application of this practice is quite arbitrary, and is used as a means to block Kurdish websites and those of other opposition media. The law also allows the government to block websites 'when there is sufficient evidence of the improper aspect of content'. The new Internet Censorship bill therefore has the potential to dramatically affect the media's ability to publicise material online. According to Human Rights Association of Turkey (İHD), between January to June 2007, seven websites had been banned." Footnote: 196. The law has already been used to ban access to YouTube because of the availability of materials allegedly insulting to Atatürk. Access was restored only after YouTube removed the offensive video. [6b] (p67)

[Return to contents](#)
[Go to list of sources](#)

16 HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

- 16.01 The European Commission 2007 Progress report published 6 November 2007 noted that “There have been no developments as regards the institutions in charge of monitoring and promoting human rights. These institutions, such as the Human Rights Presidency, lack independence and resources. The Law on the establishment of the Ombudsman is still before the Constitutional Court following the veto by the President in November. The Constitutional Court ordered the stay of execution of the law, but has yet to give its verdict.” [71c] (p60)
- 16.02 The EC 2007 report further noted that, “During the reporting period, the European Court of Human Rights (ECtHR) has delivered a total of 330 judgements finding that Turkey had violated at least one article of the ECHR. The total number of new applications to the ECtHR from 1 September 2006 to 31 August 2007 is higher than the same period last year... Past reforms have had positive consequences on the execution of ECtHR judgements. During the reporting period, the Committee of Ministers closed several cases such as the ECtHR judgements for convictions under the former article 8 (freedom of expression) of the Anti-Terror Law, and cases on the dissolution of political parties.” [71c] (p12)
- 16.03 The US State Department Report 2007 (USSD 2007), published on 11 March 2008, reported that:
- “A number of domestic and international human rights groups operated in many regions but faced government obstruction and restrictive laws regarding their operations, particularly in the southeast. Government officials were generally uncooperative and unresponsive to their views. Human rights organizations and monitors, as well as lawyers and doctors involved in documenting human rights violations, continued to face detention, prosecution, intimidation, harassment, and formal closure orders for their legitimate activities. Human rights organizations reported that official human rights mechanisms did not function consistently and failed to address grave violations.” [5g] (Section 4)
- 16.04 The USSD 2007 report also noted that “The government generally cooperated with international organizations such as CPT, UNHCR, and IOM; however, some international human rights workers reported that the government purposefully harassed them or raised artificial bureaucratic obstacles to prevent their work.” [5g] (Section 4)
- 16.05 The USSD 2007 further added that “The Human Rights Association (HRA) had 34 branches nationwide and claimed a membership of approximately 14,000. The HRA reported that prosecutors opened dozens of cases against HRA branches during the year. The HRF, established by the HRA, operated torture rehabilitation centers in Ankara, Izmir, Istanbul, Diyarbakir, and Adana and served as a clearing house for human rights information. Other domestic NGOs included the Istanbul-based Helsinki Citizens Assembly, the Ankara-based Turkish Democracy Foundation, the Turkish Medical Association, human rights centers at a number of universities, and Mazlum-Der.” [5g] (Section 4)

- 16.06 The USSD 2007 report further noted that “In January the Istanbul ‘governor’s office, with no prior notice, froze three of the bank accounts of Amnesty ‘International’s (AI’s) Turkey branch, worth approximately \$62,600 (75,000 lira). In May AI filed civil cases against two local government authorities, the Beyoglu district ‘governor’s office and the Istanbul ‘governor’s office, for failing to respond to ‘AI’s administrative queries related to the seizure. On May 30, the Beyoglu district ‘governor’s office issued a decision that AI had participated in ‘unauthorized fund raising.’ The decision did not specify what AI actions violated the law. In a June 22 public statement, AI stated that it does not seek or accept money from governments or political parties for its work but that its funding depends on the contributions of its worldwide membership and fundraising activities, including street fundraising or ‘face-to-face’ activities. The statement noted AI feared the incident could have been ‘a tactic of government harassment intended to impede legitimate fundraising activities.’ At ‘year’s end AI had not received an official explanation as to what activities violated the law, and the civil case continued.” [5g] (Section 4)
- 16.07 The USSD 2006 report maintained that on March 15, an Istanbul court sentenced HRA Istanbul branch chief Eren Keskin to 10 months in prison for insulting the military under Article 301 for comments she made during a 2002 speech in Germany. [5h]
- 16.08 The Human Rights Watch July 2007 Human Rights Concerns in the Lead up to July Parliamentary Elections report stated that “On July 11, human rights defender Eren Keskin received a one-year sentence converted to a fine (US\$3,400) under article 301. Çerkezköy Penal Court of First Instance convicted her for a speech made on February 20, 2005, at an event organized by the Çerkezköy district headquarters of the Kurdish party DEHAP during which Keskin had referred to Turkey’s dirty history and used the word Kurdistan.” [9f]

HUMAN RIGHTS ADVISORY BOARD (IHDK) / HUMAN RIGHTS PRESIDENCY AND HUMAN RIGHTS BOARDS/COUNCILS

- 16.09 Freedom House, in their report Countries at the Crossroads Turkey – 2007 noted that:

“Many of the EU harmonization reforms that Turkey has passed since 2001 have been specifically geared toward protection of civil liberties, including increased minority and ‘women’s rights, broadened freedom of association and religion, stronger measures to protect against and prosecute torture, and a more democratic penal code. Moreover, the government is watching implementation closely. It has set up rights-monitoring boards to receive complaints and conduct independent monitoring of police stations to help prevent torture. A Parliamentary Human Rights Investigation Committee now investigates abuses, and police, judges, and public prosecutors receive human rights training. Long-term detention has been effectively curbed by reforms. Turkey ratified a European Convention protocol abolishing the death penalty in February 2006. Nevertheless, problems remain, particularly (although not entirely) with implementation.” [62c]

- 16.09 In correspondence from the Foreign and Commonwealth Office dated 5 February 2007 it was noted that:

“Membership of the Human Advisory Board consists of academics, civil society, public sector organisations, representatives of professional organisations. The Board reports directly to the Minister for Human Rights (Gul). Their role as expert advisory committee to assist the government in its implementation of reforms. The Human Rights Boards/Councils membership consist of the 850 county level boards reporting to 81 provincial boards. They are responsible in turn to the Presidency. Each has at least 16 members, including at least 3 associations or foundations, representatives of local government, local press, trade unions, chambers of commerce, doctors, bar association, universities, political parties (only those represented in Parliament), and provincial general assembly. Their role is to provide an organised structure of semi-independent bodies to research, document and champion human rights abuses at a local level. The boards feed into the human rights presidency and use the same application form” [4c]

- 16.10 The *Turkish Daily News* of 7 January 2007 reported that:

“An advisory board established to give civil society a say in efforts to improve human rights has not been called for a meeting since October 2004. The 27-month-long break of the Human Rights Advisory Board (İHDK) has been questioned by former members of the board, while sources close to the Prime Minister’s Human Rights Presidency (BİHB) -- the body to which the board is attached -- offered the ‘board’s ‘clumsy structure,’ consisting as it does of 94 members, as a reason for not convening a meeting... According to the former head of the board, legal specialist Professor İbrahim Kaboğlu, who resigned in February 2005, ‘The absence of a call for a meeting merely, and unfortunately, displays the insincerity of the government as well as its superficiality regarding the issue of human rights’.” [23k]

- 16.11 The European Commission 2007 report recorded that “... the Human Rights Advisory has not been operating since the publication of a report on Minority Rights in October 2004. Legal proceedings were initiated against the two main authors of this report. The initial acquittal has been overruled by the Court of Cassation in September 2007, and an appeal procedure is ongoing.” [71c] (p13)

- 16.12 The Amnesty International 2007 report noted that official human rights mechanisms, such as the provincial human rights boards under the control of the Human Rights Presidency attached to the Prime Minister’s Office, did not function consistently and failed to address grave violations. [12c]

- 16.13 Information obtained from correspondence on 5 February 2007 from the Foreign and Commonwealth Offices in Ankara regarding the Human Rights Presidency and Human Rights Boards / Councils stated that:

“Membership: The Presidency is a civil service department.

“Role: The Presidency reports directly to the deputy permanent undersecretary equivalent at the Prime Ministry, but is indirectly under the authority of the

Minister for Human Rights. It is established by the Article 2 of law (no. 4643) and has a number of responsibilities:

- “To co-ordinate the work of public bodies on human rights issues
- “To follow and assess developments in human rights, ensuring that Turkey is in line with international standards
- “To co-ordinate and assess pre-service internments on human rights issues and in-service human rights training for govt departments
- “To investigate human rights abuses (it has a standard application form for investigation), assess and advise on preventative measures
- “To act as the secretariat within the prime ministry for other groups/councils working on similar issues (e.g. the advisory board).” [4c]

- 16.14 The Human Rights Presidency website’s ‘Statistics concerning applications on human rights violation claims: (2004-2007)’ stated that:

“Province and sub-province boards entitled ‘Implementation Barometrical’ have restructured in order to provide services to all citizens. Thus, Boards consist of NGO’s representatives rather than state personals. [sic] In other words, in accordance with current structure, just 2 members are state personnel out of min 16.

NGO’s representatives who work for boards are as follows:

- Minimum 3 associations and foundations carry out activities in human rights.
- Demarche’s representative
- Local press representatives
- Trade Union’ representatives
- Chamber of commerce and industry’ representative
- Chamber of MD’s representative
- Bar’ representative
- University’ representative
- Political parties who have group in Parliament.
- Province General Council’ representative
- Mayor

“In 2004, 2005, 2006 and 2007 a total of 4516 persons have applied to the Human Rights Presidency of the Prime Ministry (1773) and the Provincial (2595) and Sub-provincial (148) Human Rights Councils throughout Turkey. As an individual may claim the violation of more than one right, the number of rights claimed to be violated amount to 6787.” [79b]

- 16.15 The European Commission 2007 reported published 6 November 2007 noted that “As far as the promotion and enforcement of human rights is concerned, the Human Rights Presidency under the Prime-Minister’s office and the 931 Human Rights Boards received more applications in 2006 than during the previous year. Visits by the Human Rights Boards to places of detention and state-sponsored social services continued. However, there remains a need for better public awareness of the work of these institutions and for the allocation of adequate resources, in particular as regards staffing. Some NGOs invoke the

lack of independence of the Human Rights Boards as a reason for refusing to take part in this institution.” [71c] (p12-13)

[Return to contents](#)
[Go to list of sources](#)

REFORM MONITORING GROUP

- 16.19 As confirmed by the British Embassy in Ankara on 5 February 2007 the membership of the (EU) Reform Monitoring Group consists of senior officials and ministers from the Prime Ministry and key government departments. The role of the Reform Monitoring Group oversees the passage of all reforms relating to the EU Accession Process, including the planning and timetabling of such reforms. Its role is therefore much broader than human rights, but it does oversee the passage and implementation of human rights related legislation. [4c]
- 16.20 The Turkish Industrialists’ and Businessmen’s Association (TUSIAD) report ‘Turkey in Focus 2004’ noted that “In September 2003, AKP leaders launched the Reform Monitoring Group, comprised of Foreign, Justice and Interior Ministers. The monitoring group is designed to ensure the implementation of new laws and regulations concerning human rights and civil liberties. The Reform Monitoring Group, in addition to the newly established European Union Communications Group, regularly informs the embassies of the EU member countries of Turkey’s progress in implementing key reforms.” [26a]

[Return to contents](#)
[Go to list of sources](#)

PARLIAMENTARY HUMAN RIGHTS COMMISSION/PARLIAMENTARY HUMAN RIGHTS INVESTIGATION COMMITTEE

- 16.21 A letter dated 5 February 2007 from the British Embassy in Ankara noted that the membership is MPs only and their role is to oversee all aspects of human rights in Turkey, including petitions to Parliament on human rights issues, and ‘Turkey’s response to international human rights issues (e.g. the bombing of Lebanon, invasion of Iraq). In addition to its scrutiny role, it carries out research visits abroad and in Turkey, making visits to prisons and police stations etc. [4c]
- 16.22 The United States Department of State (USSD) 2007 report published 11 March 2008 recorded that “The parliamentary Human Rights Committee, which has a mandate to oversee compliance with the human rights provisions of domestic law and international agreements, investigated alleged abuses, prepared reports, and carried out detention center inspections. Human rights organizations reported that the purely advisory role limited its efficacy. On October 2, the committee sent a multiparty delegation to Sirnak Province in southeastern Turkey to investigate the September 29 [2007] attack on a minibus that resulted in the deaths of 12 Turkish citizens. The government had claimed PKK terrorists were responsible, but the DTP questioned that immediate assumption. On October 19, the committee adopted the ‘delegation’s

conclusion that the PKK carried out the attack. DTP MP Akin Birdal expressed reservations about the conclusion.” [5g] (Section 4)

MINISTRY OF INTERIOR’S INVESTIGATION OFFICE

16.23 A letter from the British Embassy in Ankara dated 5 February 2007 noted that the Ministry of Interior’s Investigation Office made up of Civil Servants and their role is to deal specifically with the investigation of allegations against the police. Anyone can make a complaint via the on-line application form. [4c]

16.24 The European Commission 2005 report recorded that:

“The Ministry of Interior’s Investigation Office, which was established in February 2004, has received 1,003 complaints of human rights abuses from the public. These complaints are assessed by inspectors, who follow them up with the relevant authorities within the ministry at local or central level. Most complaints received have been made against the police. To date, on only one occasion has a complaint led to disciplinary action being taken against a public official. This Office has also carried out inspections of a number of the provincial police disciplinary boards and has inspected detention procedures and places of detention in 26 provinces.” [71b] (p21)

[Return to contents](#)
[Go to list of sources](#)

PRISON INSPECTION COMMITTEES/PRISON MONITORING BOARD

16.25 A letter from the British Embassy in Ankara dated 5 February 2007 noted that the Prison Inspection Committees/Prison Monitoring Board membership is also set up by law. Their remit does not include military prisons. Each has 5 members, serving a 4 year term. Members must be over the age of 35 and professionally qualified in fields such as law, medicine, psychology, education etc. They cannot be members of a political party. They observe prison conditions, regimes, internal security etc in situ and write reports at least every 3 months which goes to the Justice Ministry and the Parliamentary Human Rights Commission. [4c]

16.26 The European Commission 2007 progress report published 6 November 2007 recorded that “The improvement of the physical infrastructure of prisons as well as the training of staff continued. As concerns high-security F-type prisons, a circular was issued to address previously identified shortcomings of the communal activities for inmates. Prisons are subject to regular inspection visits by the Penal Institutions and Detention Houses Monitoring Boards, and visits of UN bodies and the Council of Europe Committee for the Prevention of Torture.” [71c] (p14)

16.27 The European Commission 2007 report also recorded that, “civil and military prisons are not open to monitoring by independent national bodies, pending the ratification of the Optional Protocol to the UN Convention against Torture.” [71c] (p14)

THE GENDARMES INVESTIGATION AND EVALUATION CENTRE FOR HUMAN RIGHTS ABUSE ISSUES (JIHIDEM)

16.28 As noted on the JIHIDEM website (updated on 15 August 2008):

“Recently human rights has become a very important issue in Turkey, as in other countries... The Gendarmerie Human Rights Violations’ Investigation and Evaluation Center (JIHIDEM) has been founded to investigate and evaluate complaints and applications about the allegations of human rights violations taking place in the Gendarmerie area of responsibility or while carrying out the duties related to Gendarmerie. This is to investigate any allegation about human rights violation, commence a judicial or administrative inspection in case that the allegations are true, inform of applicants about the results or developments of the procedures and ensure that the public will be notified about the current developments.” [104] (The Aim of the JIHIDEM)

16.29 The JIHIDEM website (updated on 15 August 2008) further stated that in their Human Rights ‘Violations’ Investigation and Evaluation eCentre:

“The main mission is to receive complaints and applications about human rights violations forwarded to JIHIDEM by means of various ways (telephone, fax, mail, petition, personal application etc). To evaluate whether or not the complaints and applications received are within the scope of human rights violations. To investigate allegations, and to initiate judicial and administrative investigations in accordance with legal procedures. Furthermore to reply complaints and applications after investigation and to prepare reports about the replies given to the complaints and applications and statistical information about those replies and finally inform the public about activities of JIHIDEM.” [104] (The Mission of the JIHIDEM)

16.30 The JIHIDEM website further added that, “Applications can be made directly in person or by telephone, mail, petition, fax, and internet.” [104] (Application Ways)

16.31 According to information on human rights monitoring provided by the Turkish Embassy in London in August 2004, “The Gendarmes Investigation and Evaluation Centre for Human Rights Abuse Issues (JIHIDEM) became operational on 26 April 2003 within the Gendarmes General Command Headquarters and operating on a 24 hour basis in order to systematically deal with or answer complaints regarding human rights abuse issues that might arise whilst gendarmes are fulfilling their duties.” [60a] (p10)

16.32 According to the information from the Turkish Embassy:

“Within a year of its establishment JIHIDEM received 221 applications of which 65 were deemed to be within the human rights abuse definition of JIHIDEM, 73 were not within its definition and were directly related to Gendarmes’ actions and that 83 were not related to Gendarmes at all. Among the 65 applications that were investigated 19 were for ill treatment, 16 were for ill treatment/unjust custody, 12 for non-effective investigation, 6 for unjust custody, 5 for being pressurised to withdraw complaints, 3 for torture, 2 for not abiding with a

suspect's custody rights, 1 for the abuse of a person's right to life and 1 for the abuse of a person's private life." [60a] (p11)

[Return to contents](#)
[Go to list of sources](#)

EUROPEAN COURT OF HUMAN RIGHTS (ECtHR)

- 16.33 The European Commission 2007 report published 6 November 2007 recorded that:

"During the reporting period, the European Court of Human Rights (ECtHR) has delivered a total of 330 judgements finding that Turkey had violated at least one article of the ECHR. The total number of new applications to the ECtHR from 1 September 2006 to 31 August 2007 is higher than the same period last year. More than two thirds of these new applications refer to the right to a fair trial and the protection of property rights. The right to life and the prohibition of torture are referred to in a number of cases. Past reforms have had positive consequences on the execution of ECtHR judgements. During the reporting period, the Committee of Ministers closed several cases such as the ECtHR judgements for convictions under the former article 8 (freedom of expression) of the Anti-Terror Law, and cases on the dissolution of political parties." [71c] (p12)

- 16.34 The EC 2007 report recorded that:

"There are a considerable number of ECtHR judgments awaiting enforcement by Turkey. Some are related to issues requiring general legislative measures. These include among others legal restrictions on freedom of expression, and provisions in Turkish Law preventing the re-opening of domestic proceedings in certain circumstances. Furthermore, the Committee of Ministers awaits information on the measures envisaged by Turkey in order to bring the legal framework governing the situation of those who refuse to perform military service on conscientious or religious grounds into conformity with the requirements of the ECHR." [71c] (p12)

- 16.35 The EC 2007 report further noted that:

"Other pending cases before the Committee of Ministers awaiting the adoption of necessary execution measures relate to the control of actions of security forces and effective remedies against abuses. The Committee is monitoring the remaining pending issues. In the case of Cyprus v. Turkey, the Committee of Ministers decided to close the examination of the violations established in relation to the right to education and freedom of religion at its meeting in April. Issues which remain pending include restrictions on the property rights of Greek Cypriots in the northern part of Cyprus and the issue of missing persons." [71c] (p12)

- 16.36 The EC 2007 report also noted that "Overall, Turkey has made progress on the ratification of international human rights instruments and on the execution of ECtHR judgements. However, the OPCAT remains to be ratified, and further

efforts are needed for Turkey to comply fully with its obligations under the ECHR.” [71c] (p12)

See also Section 22.97 [Women NGO's](#)

[Return to contents](#)
[Go to list of sources](#)

17 CORRUPTION

- 17.01 Transparency International ranked Turkey 64th out of the 179 countries (ranging from the least corrupt, ranked one to the most corrupt, ranked 179) in its Corruption Perception Index for 2007. Turkey obtained a score of 4.1 in 2007 – a slight improvement from the 3.5 it received in 2005 and 3.8 in 2006. [55a]

See Section: [7.05](#)

- 17.02 The Freedom House report Countries at the Crossroads, Turkey – 2007 noted that:

“Turkey continues to struggle with substantial corruption in government and in daily life. The AKP rose to power, despite (or perhaps because of) being relatively unknown, in part due to the corruption and economic mismanagement of previous governments. Turkey has signed a series of international corruption conventions; the UN Convention against Corruption entered into force in June 2006. However, the ‘AKP’s commitment to fighting corruption has been cast in doubt by lack of follow-through. Perhaps even more so than with other reforms, the anticorruption framework has not translated into individuals changing their behavior, although with time it may have more significant effects... Upon taking office the AKP instituted an urgent action plan that included anticorruption measures. However, although it formed a ministerial committee closely connected to the government, it never established a single, independent anticorruption committee, nor has the draft anticorruption law been passed.” [62c]

- 17.03 The European Commission 2007 Progress report published 6 November 2007 further noted that:

“There was no progress on the development of an anti-corruption strategy. The establishment of a central body to develop and evaluate anti-corruption policies and activities remain crucial. Institutions involved in the fight against corruption, such as inspection boards, have not been strengthened. No public body is in charge of collecting data and statistics on corruption. Overall, corruption is widespread and there has been limited progress in the fight against corruption.” [71c] (p11)

- 17.04 The EC 2007 continued:

“However, no progress has been made in strengthening the legal framework and institutional set up to combat corruption. Weaknesses in the legal framework such as for election campaign financing continue... There have been no particular developments as regards the implementation of a total of 21 recommendations of the 2005 evaluation report on corruption in Turkey by the Council of Europe Group of States against Corruption (GRECO)... In the public sector, corruption remains a widespread issue for central and local governments. It has got a relatively more limited dimension in the private sector... A comprehensive anti-corruption strategy and plan with effective implementing institutions to prevent and fight corruption is still lacking. The

development of such a strategy needs to be addressed at the highest political level.” [71c] (p60)

17.04 The USSD report 2007 reported that “The law provides criminal penalties for official corruption; however the government did not implement the law effectively, and officials engaged in corrupt practices with impunity. The World Bank Worldwide Governance Indicators reflected that corruption was a problem.” [5g] (Section 3)

17.05 The USSD 2007 report also noted that:

“On May 10, a Turkish military court sentenced General Erdem Erdagi to 11 months and 25 days in prison for misusing his authority by accepting a bribe for the award of a military construction tender during his command in 2002-04 of the 8th Corps in Elazig. The sentence, the first for an active-duty officer, was five days short of the 12-month sentence that would trigger dismissal from the military. General Erdagi was charged together with a number of lower-ranking officers during a crackdown on corruption in 2003 and 2004 that led to the 2006 conviction of former naval admirals Ilhami Erdil and Aydin Gurul. Both officers filed appeals. In July 2006 the military court of appeals approved the verdict on Erdil but, based on health reasons, execution of the punishment was postponed. However, on July 3, authorities imprisoned Erdil.” [5g] (Section 3)

17.06 The USSD 2007 report further noted that “Opposition party members criticized the ruling AKP for refusing to lift the immunity of AKP parliamentarians suspected of corruption and other abuses. Government officials are required by law to declare their property every five years. The law provides for public access to government information; however, the government occasionally rejected applications on national security and other grounds, and there were no opportunities to appeal. Human Rights Foundation (HRF) reported that four of its five requests for information from the Ministries of Justice and Interior and the Statistics Institute were denied.” [5g] (Section 3)

[Return to contents](#)
[Go to list of sources](#)

18 FREEDOM OF RELIGION

- 18.01 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:

“The constitution and laws provide for freedom of religion, and the government generally respected this right in practice; however, the government imposed significant restrictions on Muslim and other religious groups.

“The constitution establishes the country as a secular state and provides for freedom of belief, freedom of worship, and the private dissemination of religious ideas; however, other constitutional provisions regarding the integrity and existence of the secular state restrict these rights.

“The government oversees Muslim religious facilities and education through its Directorate of Religious Affairs (Diyanet), which is under the authority of the Prime Ministry. The Diyanet regulates the operation of the 'country's 77,777 registered mosques and employs local and provincial imams, who are civil servants. A few groups, particularly Alevi, claimed that the Diyanet reflected mainstream Sunni Islamic beliefs to the exclusion of other beliefs; however, the government asserted that the Diyanet treated equally all who request services.” [5g]

- 18.02 The USSD 2007 report noted that “the law protects only three officially recognized minorities—Armenian Orthodox Christians, Jews, and Greek Orthodox Christians—and not the vast number of other ethnic and religious minorities, including Alevi, Ezidi, Assyrians, Kurds, Caferi, Caucasians, Laz, and Roma. The report stated that these excluded minorities were prohibited from fully exercising their linguistic, religious, and cultural rights.” [5g]

- 18.02 The Minority Rights Group International (MRG) report on ‘A Quest for Equality: Minorities in Turkey’ published 10 December 2007 stated that:

“The Constitution guarantees equal protection before the law, irrespective of ‘philosophical belief, religion and sect’. It also enumerates secularism among the fundamental characteristics of the republic. However, there are a few constitutional provisions which infringe on religious freedom and go against the principle of secularism. Religion classes at primary and secondary schools are compulsory. Article 42 requires this education to be conducted under the ‘supervision and control of the state’. Article 136 provides constitutional protection to the Diyanet, which follows the Sunni Hanefi version of Islam... The Treaty of Lausanne protects the religious freedom of non-Muslim minorities and grants them the right to have religious education and instruction.¹⁸⁴ In practice, however, this protection is restricted to Rums, Armenians and Jews only, leaving out other non-Muslim minorities.” [57c] (p19)

- 18.03 The same MRG 2007 report also noted that “The ban on the training of clergy, the absence of operative Christian theological schools, and the citizenship criterion imposed on clergy eligible to provide religious services in Turkey creates a shortage of priests. Currently, there are only 31 Rum Orthodox priests

providing services in 90 churches. The Rum Orthodox theological seminary in the island of Heybeliada (Halki) remains closed.” [57c] (p20)

- 18.04 The MRG 2007 report further added that “The Alevi-Bektaşî Federation has also resorted to courts in cooperation with a number of national and international Alevi organizations in support of a petition filed with the ECtHR by an Alevi parent arguing that compulsory religious instruction violates Article 9 of the ECHR. In its first decision on these classes, the ECtHR found there had been a violation of the right to education under Article 2 of the 1st Protocol to the ECHR.” [57c] (p20)
- 18.05 The 2007 MRG report also recorded that “Another step taken with the stated purpose of protecting the religious freedom of Muslim minorities has been the abolition in April 2006 of the mandatory indication of religion in ID cards, which enables citizens to petition the registry office to have no reference to their religious affiliation in their IDs. However, the state continues to ask citizens to declare their religion.” [57c] (p20)
- 18.06 The USSD 2007 report also noted that “Academics estimated the Alevi population at 15 to 20 million... Alevi ‘cem houses’ (places of gathering) have no legal status as places of worship. In May 2006 authorities in the Sultanbeyli municipality of Istanbul reportedly banned the construction of a cem house on the grounds that the Pir Sultan Abdal Association, an Alevi group, had not acquired the necessary construction permits. Association officials said the local mayor and his staff had attended the groundbreaking ceremony and promised not to interfere with the project; however, the municipality reportedly filed a case against the association after it proceeded with construction following the ban. The case was ongoing at ‘year’s end.” [5g] (Section 2c)
- 18.07 The Freedom House Countries at the Crossroads, Turkey – 2007 also noted that “Although their rights are generally respected, freedom of religion is difficult for non-Muslims. Moreover, there are many other groups that likewise do not belong to the dominant Sunni Muslim sect and that have less protection. Other Christian and Muslim sects – including Alevis, who practice a combination of Islam and pre-Islamic religion – as well as mystical religious-social orders, have no legal status, and some of their activities are banned.” [62c]
- 18.08 The USSD 2007 report on Religious Freedom further reported that:
- “The constitution establishes compulsory religious and moral instruction in primary and secondary schools. Religious minorities are exempted. However, a few religious minorities--such as Protestants--faced difficulty obtaining exemptions, particularly if their identification cards did not list a religion other than Islam. The Government claims that the religion courses cover the range of world religions; however, religious minorities asserted the courses reflect Sunni Islamic doctrine, which they maintained explains why non-Muslims are exempt. [5e] (Section II)
- 18.09 The European Commission 2007 report noted that:

“The dialogue between the government and the non-Muslim communities continued. A delegation composed of high-level officials from various Ministries visited the religious leaders of these communities in June 2007 in Istanbul. On 19 June, the Ministry of Interior issued a Circular on freedom of religion of non-Muslim Turkish citizens. The Circular acknowledges that there has been an increase in individual crimes against non-Muslim citizens and their places of worship. It requests the governors of all provinces to take the necessary measures to prevent such incidents from happening again and to enhance tolerance towards individuals with different religion and beliefs. The impact of this Circular will need to be assessed in practice.” [71c] (p16)

18.10 The European Commission 2007 report also noted that:

“In April, three Protestants were killed in Malatya in the publishing house of the local Protestant community. The crime is being investigated under the Anti-Terror Law. Another court case against Protestants for ‘insulting Turkishness’ is ongoing amid intense security measures. Attacks against clergy and places of worship of non-Muslim communities have been reported. Missionaries have been portrayed in the media or by the authorities as a threat to the integrity of the country and non-Muslim minorities as not being an integral part of Turkish society. To date, use of language that might incite hatred against non-Muslim minorities has been left unpunished.” [71c] (p16-17)

18.11 The EC 2007 report further noted that:

“Non-Muslim religious communities - as organised structures of religious groups - continue to face problems such as lack of legal personality and restricted property rights. These communities have also encountered problems with the management of their foundations and with recovering property by judicial means. Local authorities differ from province to province on issuing construction permits for places of worship. This might lead to arbitrary implementation of the zoning law. Several churches have not been able to register their places of worship.” [71c] (p17)

18.12 The EC 2007 report further stated that, “Overall, the environment as regards freedom of religion has not been conducive to the full respect of this right in practice. A legal framework has yet to be established in line with the ECHR so that all religious communities can function without undue constraints. No real progress can be reported on the major difficulties encountered by the Alevis and non-Muslim religious communities.” [71c] (p17-18)

See also Section 18.20 on [Alevis](#)

HEADSCARVES

18.13 The USSD 2007 Report on International Religious Freedom – Turkey, published 14 September 2007 noted that:

“Many secularists accuse Islamists of using advocacy for wearing the headscarf as a political tool and fear that efforts to repeal the headscarf ban will lead to pressure against women who choose not to wear a head covering. In 2005 the

ECHR ruled that Turkish universities have the right to ban the headscarf. In February 2006 the Council of State ruled in favor of a decision by education authorities to revoke the promotion of an Ankara teacher to a military compound-based nursery school principal position on the grounds that the teacher regularly wore an Islamic headscarf outside of school. Some journalists and religious rights advocates asserted that the court's decision effectively expanded the headscarf ban into the private sphere. The court, however, maintained that the teacher had violated the principle of secularism in education by wearing the headscarf while traveling to and from school... In 2005 the ECHR ruled that Turkish universities have the right to ban the headscarf.”
[5e] (Restrictions on Religious Freedom)

18.14 The Human Rights Watch (HRW) World Report 2007, published in January 2007, noted that “Women who wear the headscarf for religious reasons are still denied access to higher education, the civil service [to hold civil service posts], and political life [denial of entry into the Parliament with a headscarf as an MP and not as a member of the public]. However, during 2006 the ban was applied much more broadly than only to state institutions.” **[9e]**

18.15 The USSD 2007 report on Human Rights Practices further noted that:

“In February the council of state ruled in favor of a decision by education authorities to revoke the promotion of an Ankara teacher to a nursery school principal position on the grounds that the teacher regularly wore an Islamic headscarf outside of school. Numerous journalists and religious rights advocates asserted that the 'court's decision effectively expanded the headscarf ban into the private sphere. The court, however, maintained that the teacher had violated the principle of secularism in education by wearing the headscarf while traveling to and from school.” **[5g]**

18.16 The USSD 2007 Report on International Religious Freedom further noted that:

“In February 2006 the Council of State ruled in favor of a decision by education authorities to revoke the promotion of an Ankara teacher to a military compound-based nursery school principal position on the grounds that the teacher regularly wore an Islamic headscarf outside of school... In May 2006 attorney Alparslan Arslan opened fire in the Council of State court responsible for the February 2006 ruling, killing Judge Mustafa Yucel Ozbilgin and injuring four other judges. His case was ongoing at the end of the reporting period. In April 2007 four suspects were arrested after an armed assailant was caught preparing for an attack against the president of the Higher Board of Education. The assailant reportedly planned the attack because he was angry with the decisions and statements of the Board president. Some Islamists see the Board as responsible for the headscarf ban in universities.” **[5e] (Restrictions on Religious Freedom)**

18.17 The Times.com published an article ‘Turkey at Odds over Headscarf Ban’ 8 February 2008 stating that “University students are currently banned from wearing headscarves under 'Turkey's strictly secularist laws, which decree that religious clothing cannot be worn in public places, including courts, state office and educational institutions...The government is now pushing through a

constitutional amendment that simply states that ‘no one can be deprived of their right to higher education’. All eyes will then be on the Constitutional Court, which could decide that the move undermines secularism.” [68a]

- 18.18 The Times.com in another article published June 2008 ‘Turkey Upholds College Scarf Ban’ noted that “‘Turkey’s pro-Islam governing party was handed a devastating legal defeat Wednesday when the ‘country’s top court ruled that a constitutional amendment to allow women in headscarves on university campuses was anti-secularist and hence unlawful.” [68b]

See Section: [22 Women](#)

- 18.19 The *Sabah* Newspaper noted in an article on the 28 September 2007 that, “A private school in Diyarbakır has issued a free dress code policy, allowing students to attend classes wearing whatever they want. This includes two females’ students who attend classes in headscarves. The authorities of the ministry and the officers in Diyarbakır said the application is against the regulations.” [87a]

See Section: [23.51 Children Education](#)

[Return to contents](#)
[Go to list of sources](#)

ALEVIS INCLUDING ALEVI KURDS

- 18.20 The Minority Rights Group International (MRG) report on ‘A Quest for Equality: Minorities in Turkey’ published 10 December 2007 stated that:

“Alevi is the term used for a large number of heterodox Muslim Shi’a communities with different characteristics. Technically falling under the Shi’a denomination of Islam, yet following a fundamentally different interpretation than the Shi’a communities in other countries as well as the Caferis in Turkey, Alevis constitute the largest religious minority in Turkey. They differ considerably from the Sunni Muslim majority in their practice and interpretation of Islam. Linguistically, they consist of four groups: Azerbaijani Turkish, Arabic, Turkish and Kurdish (both Kurmanci and Zaza). The last two categories constitute the largest Alevi groups. The number of Alevis is a matter of contention. Estimates range from around 10 per cent to as much as 40 per cent of the total population. An academic study launched in November 2006 estimates that Alevis are around 11.4 per cent of the population.” [57c] (p12)

- 18.23 The 2006 Eren Özalay report shows below the Turkish provinces with a higher rate of Alevis (blue-levels) and other provinces inhabiting a lower rate (<10%) of Alevis (white)



[61] (p11)

18.24 The USSD 2007 report on Religious Freedom recorded that:

“In addition to the country’s Sunni Muslim majority, academics estimated there were 15 to 20 million Alevis, followers of a belief system that incorporates aspects of both ‘Shi’a and Sunni Islam and draws on the traditions of other religions indigenous to Anatolia as well. Some Alevis practice rituals that include men and women worshipping together through oratory, poetry, and dance. The Government considers Alevism a heterodox Muslim sect; however, some Alevis and absolutist Sunnis maintain that Alevis are not Muslims.”

[5e] (Section I)

Beliefs and practices of Alevis

18.25 In a 2006 report written by Eren Özalay ‘Minorities in Turkey The identity of the Alevis in Accordance with the EU Legislation’ it was noted that “Another wish of the Alevi authorities is the opening of the tomb of Hacı Bektasi Veli in the town Hacibektas for Alevi practice. The tomb being the most sacred place in Anatolia for Alevis, serves as a museum open to all visitors and can not be used for particular Alevi worship. The Alevi authorities are against their kids learning the Sunni Islam tradition as Islam in public schools. The Turkish government has recently passed a regulation to teach the Alevi belief as an Islamic belief in the religion class.” [61] (p18)

18.25 The Middle East Review of International Affairs (MEDIA), in an article dated 1999 by David Zeidan on the beliefs and practices of “The Alevis of Anatolia” stated that:

“Alevis belong to the extremist Shi’a branch and like all extreme Shi’a, their reverence for Ali (Muhammad’s cousin and son-in-law, and according to the Shi’a tradition, his rightful heir) verges on deification. Alevis accept Ali as the only legitimate successor to Muhammad. Alevis interpret the Quran in an esoteric, allegoric, and symbolic (rather than literal) manner and repudiate the external forms of Islam and its five pillars. In addition to the Quran, Alevis have

their own holy books called 'buyruk' that contain doctrine and ritual and are claimed to have been written by important leaders. Alevis also have many liturgical hymns called nefes attributed to Shah Ismail and Pir Sultan Abdal." [105]

18.26 The MEDIA article also noted that:

"Observers note that Alevi society is divided into two separate endogamous groups: the ocak are the spiritual and social elite who claim descent from Ali, Hussein, or religious warriors (ghazi) and constitute a priestly caste, and the talips (disciples), the majority lay members. Religious knowledge is passed down orally in the ocak families who were responsible for the religious and social leadership of the community. Alevi rituals (ibadet) are communal, with the aim of fostering unity (birlik) and love (muhabbet) within the community. Alevi rituals differ markedly from Sunni rituals. Alevis, for example fast in the month of Muharram for 12 days in memory of Hussein's death at Karbala." [105]

18.27 The MEDIA article further stated that:

"The central ritual of Alevi religious life is the ayn-i cem (cem for short) celebration, which includes a sacrificial meal (lokma), a ritual alcoholic drink, nefes hymns accompanied by music on the saz, dance (sema), and the ritual lighting and extinguishing of candles. In the villages of Anatolia the ayn-i cem takes place only in the absence of distrusted outsiders, and is held at night under great secrecy. The ceremony is held once a year under the leadership of a dede assisted by a rehber is held in a private house and women are included on an equal footing with men. Other Alevi holy days are Nevruz, the Persian New Year celebrated on the 9th March, the Khidirellez day on the 6th May in honour of Khidr (Elijah, St. George), and the twelve day Muharram fast culminating in Ashura." [105]

18.28 The MEDIA article further commented that:

"Alevism does not possess a tradition of authoritative religious scholarship and official carriers of formal learning. Rather, it is more a flowing together of various related movements, doctrines, ideas and rituals. Other differences distinguishing Alevis from Sunnis: the use of wine for religious ceremonial functions; non-observance of the five daily prayers and prostrations (they only bow twice in the presence of their spiritual leader), Ramadan, and the Haj (they consider the pilgrimage to Mecca an external pretense, the real pilgrimage being internal in one's heart); and non-attendance of mosques. Alevis were forbidden to proselytise, and to regenerate themselves internally by paternal descent. To prevent penetration by hostile outsiders, the Alevis insisted on strict endogamy." [105]

Difficulties and problems for alevis

18.29 In a 2006 report written by Eren Özalay 'Minorities in Turkey The identity of the Alevis in Accordance with the EU Legislation' it was noted that:

“The problems that the Alevi community faces now are in the areas of political and religious representation and upward mobility in public sector... Under the heading of political representation, Alevi are not satisfied with the Religious Affairs responsible for representing the Muslim population in Turkey. Alevi claim is that the Religious Affairs represent only the Sunni-Orthodox Muslim population. Alevi expect the Cem Houses, the religious gathering places of the Alevi, in the same statue with the mosques, churches and synagogues... The recognition of the Alevi belief in the framework of Islam will also solve the religious representation problem of the Alevi.” [61] (p17-18)

18.29 The USSD 2007 report on Religious Freedom noted that:

“There are legal restrictions against insulting any religion recognized by the Government, interfering with that religion’s services, or defacing its property.

“Alevi freely practiced their beliefs and have built ‘cem houses’ (places of gathering), although these have no legal status as places of worship, and are often referred to as ‘cultural centers.’ Representatives of Alevi organizations maintained that they often faced obstacles when attempting to establish cem houses. They said there were approximately 100 cem houses in the country; a number that they claimed was insufficient to meet their needs. There was a ground-breaking ceremony in January 2007 for a new cem house and cultural complex in Istanbul’s Kadikoy district, with the support of the Kadikoy municipality. Alevi also opened a new cem house in Sivas in June 2007. Alevi in the Kartal district of Istanbul continued to fight a court battle, which began in 2004, against a decision by local authorities to deny them permission to build a cem house.” [5e] (Section 2)

18.30 The USSD 2007 report on Religious Freedom also noted that:

“In May 2006 authorities in the Sultanbeyli municipality of Istanbul reportedly banned the construction of a cem house on the grounds that the Pir Sultan Abdal Association, an Alevi group, had not acquired the necessary construction permits. Association officials said the local mayor and his staff had attended the groundbreaking ceremony and had promised not to interfere with the project; however, the municipality reportedly filed a case against the association after it proceeded with construction following the ban. The case continued at the end of the reporting period.” [5e] (Section 2)

18.31 The USSD 2007 report on Religious Freedom also noted that:

“Alevi children have the same compulsory religious education as all Muslims, and many Alevi alleged discrimination in the Government’s failure to include any of their doctrines or beliefs in religious instruction classes in public schools. Alevi currently have more than 4,000 court cases against the Ministry of Education regarding this alleged discrimination. The Government revealed in January 2007 its new religious course curriculum which was to include instruction on Alevism, but many Alevi believed the materials were inadequate and, in some cases false. Alevi also charged a bias in the Diyanet, which does not allocate specific funds for Alevi activities or religious leadership. Practically, the Diyanet budget is reserved for the Sunni community.” [5e] (Section 2)

See Section: [22.51 Children Education](#)

18.32 The USSD 2007 report on Religious Freedom further reported that:

“In January 2004 an Alevi parent filed suit in the European Court of Human Rights, charging that the mandatory religion courses violate religious freedom; the case of Zengin v. Turkey is ongoing. In November 2006 an Istanbul court announced its ruling in favor of an Alevi father who requested that his son be exempt from the religion courses at school; however, the Istanbul Governor's office appealed the decision and the case was still under Council of State (highest administrative court) review at the close of the reporting period. Six similar cases were filed in different parts of the country and remained ongoing at the end of the reporting period.” [5e] (Section II)

[Return to contents](#)
[Go to list of sources](#)

MYSTICAL SUFI AND OTHER RELIGIOUS SOCIAL ORDERS AND LODGES

18.33 As noted in the USSD 2007 report on Religious Freedom, Mystical Sufi and other religious-social orders (tarikats) and lodges (cemaats) have been banned officially since the mid 1920s; however, tarikats and cemaats remain active and widespread. Some prominent political and social leaders continue to associate with tarikats, cemaats, and other Islamic communities. [5e]

18.34 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that “A separate government agency, the General Directorate for Foundations (GDF), regulates a few administratively critical activities of non Muslim religious groups and their affiliated churches, monasteries, synagogues, and related religious property. There are 161 ‘minority foundations’ recognized by the GDF, including Greek Orthodox foundations with approximately 70 sites, Armenian Orthodox foundations with approximately 50 sites, and Jewish foundations with 20 sites, as well as Syrian Christian, Chaldean, Bulgarian Orthodox, Georgian, and Maronite foundations. The GDF also regulates Muslim charitable religious foundations, including schools, hospitals, and orphanages.” [5g]

NON MUSLIM MINORITIES

18.35 As noted in the USSD 2007 report on Religious Freedom:

“Religious minorities report difficulties opening, maintaining, and operating houses of worship. Under the law, religious services may take place only in designated places of worship. Municipal codes mandate that only the Government can designate a place of worship, and if a religion has no legal standing in the country, it may not be eligible for a designated site. Non-Muslim religious services, especially for religious groups that do not own property recognized by the GDF, often take place on diplomatic property or in private apartments. Police occasionally bar Christians from holding services in private apartments, and prosecutors have opened cases against Christians for holding unauthorized gatherings.” [5e] (Section 2)

18.36 The US State Department Report (USSD) 2007 noted that “The constitution establishes compulsory religious and moral instruction in primary and secondary schools. Religious minorities are exempted. However, a few religious minorities, such as Protestants, faced difficulty obtaining exemptions, particularly if their identification cards did not list a religion other than Islam. The government claimed that the religion courses covered the range of world religions; however, religious minorities asserted the courses reflected Sunni Islamic doctrine, which they maintained explains why non-Muslims are exempt.” [5g] (Section 2)

18.37 The USSD 2007 report on Religious Freedom also noted that:

“The authorities continued to monitor the activities of Eastern Orthodox churches but generally did not interfere with their religious activities; however, significant restrictions were placed on the administration of the churches. The Government does not recognize the ecumenical status of the Greek Orthodox Patriarch, acknowledging him only as the head of the country's Greek Orthodox community. High-level government leaders often assert publicly that use of the term ‘ecumenical’ in reference to the Patriarch violates the 1923 Lausanne Treaty. However, government officials privately acknowledge that Lausanne does not address the issue. On June 26, 2007, the Higher Court of Appeals (‘Yargitay’) reiterated the Government’s public position despite ruling in favor of the Patriarchate in a case brought against it by a defrocked Bulgarian Orthodox priest.” [5e] (Section II)

18.38 The US State Department Report (USSD) 2007 noted that “Many Muslims, Christians, Jews, and ‘Baha’is faced societal suspicion and mistrust. Jews and Christians from most denominations freely practiced their religions and reported little discrimination in daily life. However, religious minorities asserted that they were effectively blocked from careers in state institutions.” [5g] (Section 2)

18.39 The 2007 European Commission Progress report published 6 November 2007 stated that:

“As regards the educational rights of minorities, the Law on Private Educational Institutions which entered into force in February 2007 reconfirms the right of non-Muslim minorities associated by the authorities with the Treaty of Lausanne to hold minority schools. However, Turkey’s approach to minority rights remains unchanged. According to the Turkish authorities, under the 1923 Treaty of Lausanne minorities in Turkey consist exclusively of non-Muslim religious communities. In practice the minorities associated by the authorities with such Treaty are Jews, Armenians and Greeks... Overall, Turkey has made no progress on ensuring cultural diversity and promoting respect for and protection of minorities in accordance with European standards.” [71c] (p21-22)

See also Section 18.20 [Situation of the Alevi community](#)

[Return to contents](#)
[Go to list of sources](#)

CHRISTIANS

18.40 The USSD 2007 also noted that:

“Police occasionally prohibited Christians from holding services in private apartments, and prosecutors sometimes opened cases against Christians for holding unauthorized gatherings... Police occasionally prevented Christians from handing out religious literature. Christians performing missionary work were occasionally beaten and insulted. Police officers sometimes reported students who met with Christian missionaries to their families or to university authorities. Several foreigners who are practicing Christians and have lived with their families in various cities for many years reported increased governmental harassment during the year, including denial of residence and work permits that had been granted in previous years, monitoring by Jandarma, and threats to themselves and their families.” [5g] (Section 2)

18.42 The USSD 2007 on Religious Freedom also noted that “in late April 2007 police arrested four street evangelists in Istanbul for missionary activity, disturbing the peace, and insulting Islam. The arrested included a U.S. citizen, one Korean, and two Turks. The American was released 48 hours after his arrest, although he reported a state prosecutor visited neither him nor the Korean. The claim of insulting Islam was based on a book the evangelists were giving out, which explained that Christians cannot accept the 'Qur'an because it contradicts some of the teachings of the New Testament. The prosecutor ultimately charged the evangelists with a single misdemeanor of disturbing the peace.” [5e] (Section 2)

18.43 The USSD 2007 on Religious Freedom further noted that “After the April 18, 2007, killings in Malatya of three Christians, Turkish victim Ugur Yuksel was denied a Christian burial and given an Islamic/Alevitic burial instead... In October 2006 a prosecutor pressed criminal charges against two (Muslim) converts to Christianity for violating Article 301 ‘(insulting Turkishness’), inciting hatred against Islam, and secretly compiling data on private citizens for a Bible correspondence course.” [5e] (Section 2)

18.44 The USSD 2006 report further noted that “Several foreigners who are practicing Christians and have lived with their families in various cities for many years reported increasing governmental harassment during the year, including denial of residence and work permits that had been granted in previous years, monitoring by jandarma, and receiving threats to themselves and their families. These persons reported that they worshiped in their homes but did not proselytize by distributing bibles, going door-to-door, or undertaking similar activities.” [5h]

[Return to contents](#)
[Go to list of sources](#)

JEWS

18.45 As recorded in the USSD report on religious freedom 2007, there are several other religious groups, mostly concentrated in Istanbul and other large cities. While exact membership figures are not available, these religious groups

include approximately 23,000 Jews in Turkey. Jews freely practised their religion and reported little discrimination in daily life. [5e] (Section 1 and 3)

- 18.46 The Minority Rights Group International (MRG) report on 'A Quest for Equality: Minorities in Turkey' published 10 December 2007 stated that:

"The Jewish community in Turkey dates back to the Roman Empire... Their language is Ladino, a variant of fifteenthcentury Spanish. There is also an ethnic Ashkenazi minority, who speak Yiddish. There are around 23,000 Jews, in Turkey, 600 of whom are Ashkenazi... The vast majority live in Istanbul, around 2,500 in İzmir and the rest in very small numbers elsewhere. There are 19 synagogues in İstanbul, one of which belongs to Ashkenazis." [57c] (p13)

[Return to contents](#)
[Go to list of sources](#)

19 ETHNIC GROUPS

- 19.01 The Minority Rights Group International (MRG) report on 'A Quest for Equality: Minorities in Turkey' published 10 December 2007 stated that:

"The Penal Code extends its protection to everyone without making 'any distinctions on the basis of race, language, religion, sect, nationality, colour, sex, political or other opinion, philosophical belief, national or social origin, birth, economic and other social status and without extending privileges to anyone'. The Code also penalizes, in Article 216(1), incitement to enmity or hatred on the basis of race, religion, sect or region, where such incitement leads to a clear and imminent threat to national security. Incitement to hatred on the basis of sex or sexual orientation is not criminalized." [57c] (p29)

- 19.02 The MRG 2007 report also noted that "Advocacy on minority rights is considered as conspiracy against or betrayal of the state by nationalists and some public officials. Most recently, during a press conference, Chief of Staff Yaşar Büyükanıt blamed the EU for creating new minorities in the Republic by calling ethnic and religious communities, such as the Alevi and Kurds, minorities in its reports on Turkey." [57c] (p29)

- 19.03 As noted in the report 'State of the World's Minorities 2008', released on 11 March 2008:

"Turkish attitudes and laws on minorities have progressed considerably over the past decade, but many reforms lie ahead if the country's legal framework and practice are to reach international standards. Minority groups including Alevi, Armenians, Assyrians, Caferis, Caucasians, Kurds, Jews, Laz, Roma, Rum (Greek Orthodox) Christians, and Yezidis still confront systematic repression in today's Turkey. Officially, the government still only recognizes Armenians, Jews and Rum Christians as minorities, but, as used in Turkey, this term denotes clear second-class status. All other groups have faced intense pressure to assimilate." [57b] (p141)

- 19.04 The same State of the World's Minorities report 2008 noted that "in January 2007 the city council of the old-town section of the multi-ethnic southeastern city of Diyarbakir agreed to provide municipal services in Arabic, Armenian, Assyriac, English and Kurdish, in addition to Turkish, the Ankara-appointed governor of the region removed the council, the old-town mayor, as well as the popular Kurdish mayor of the city. In July, prosecutors introduced charges against the two mayors and 17 council members on charges of 'abuse of office', and they may be jailed for up to three years if convicted." [57b] (p141)

See also Section 16.01 [Government monitoring of human rights](#)

- 19.05 The USSD 2007 report also noted that "On June 14, a Council of State court, abiding by the Ministry of Interior request, decided to dissolve the Sur Municipality of Diyarbakir and dismiss its mayor, Adbullah Demirbas, after the municipality attempted to institute a program to offer multilingual services to its citizens, 72 percent of whom the municipality stated spoke Kurdish as a first

language. On October 19, the Council of 'State's Grand Chamber upheld the decision and rejected defendants' objections to the June 14 decision." [5g] (Section 2)

[Return to contents](#)
[Go to list of sources](#)

- 19.06 The EC 2007 Progress report also noted that, "Turkey is a party to the UN International Covenant on Civil and Political Rights (ICCPR). However, its reservation regarding the rights of minorities and its reservation to the UN Covenant on Economic, Social and Cultural Rights (ICESCR), regarding the right to education, are matters of concern. Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages. The management of the minority schools, including the dual presidency, remains an issue. Further efforts are needed to remove discriminatory language from textbooks." [71c] (p21)

KURDS

- 19.07 The Minority Rights Group International (MRG) report on 'A Quest for Equality: Minorities in Turkey' published 10 December 2007 stated that

"Kurds are the largest ethnic and linguistic minority in Turkey. The estimated numbers claimed by various sources range from 10 to 23 per cent of the population... Kurds speak Kurdish, which is divided into Kurmanci, Zaza and other dialects. The majority are Sunni Muslims, while a significant number are Alevis. Historically concentrated in eastern and south-eastern region of the country, where they constitute the overwhelming majority, large numbers have immigrated to urban areas in western Turkey." [57c]

- 19.08 As noted in the Minority Rights Group International (MRG) report 'State of the World's Minorities 2008', released on 11 March 2008, "As a large, unrecognized minority, Kurds continue to face systematic marginalization. Around 30,000 people have been killed in fighting between the Turkish military and the Kurdistan Workers Party (PKK) since 1984, and over 1 million people remain displaced in heavily Kurdish south-eastern Turkey... The government continues to conflate any effort to promote Kurdish rights with support for PKK terrorists." [57b] (p141)
- 19.08 The 2007 USSD report noted that "Citizens of Kurdish origin constituted a large ethnic and linguistic group. Millions of the 'country's citizens identified themselves as Kurds and spoke Kurdish. Kurds who publicly or politically asserted their Kurdish identity or publicly espoused using Kurdish in the public domain risked censure, harassment, or prosecution." [5g] (Section 2)
- 19.09 The same 2008 State of the World's Minorities report further noted that "In February, the president and 12 members of a pro-Kurdish party received 6–12 month sentences for holding their party congress in the Kurdish language. On the basis of a vague 2006 anti-terror law, another Kurdish leader was convicted and sentenced in August for a speech he gave in March... Government harassment also targeted Kurdish media outlets." [57b] (p141)

- 19.10 The *Hurriyet* newspaper published on March 23, 2008 ‘Two demonstrators die in Kurdish demos in Turkey’ noted that:
- “Two demonstrators died Sunday during the unofficial Newroz demonstrations celebrating the arrival of spring in Van and Hakkari, largely Kurdish populated eastern provinces in Turkey, as clashes between demonstrators and the police continued for fourth day. The demonstrator Ikbal Yasar died Sunday in eastern Turkey as clashes between Kurdish protestors and the police continued for the fourth straight day, hospital sources said. The 20-year-old died of a bullet wound in the town of Yuksekova in Hakkari province, which borders Iran and Iraq, after clashes erupted Sunday when a crowd of demonstrators defied an official ban on a planned gathering to mark Newroz, or the Kurdish New Year, they said.” [70c]
- 19.11 The *Hurriyet* article further added that “The 35-year-old demonstrator Zeki Erinc died earlier from injuries sustained in clashes between Kurdish protestors and the police in the eastern Turkish city of Van after he had been hospitalised Saturday with a bullet wound, government and health officials said. An official from the Van governor’s office confirmed the death, but was unable to provide details on the nature of his injuries.” [70c]
- 19.12 The USSD 2007 noted “Although the number was unknown, some minority groups were active in political affairs. Many members of parliament and senior government officials were Kurds. PM Erdogan stated during the year that there were five Kurdish-origin ministers in his cabinet and 75 Kurdish-origin MPs in AKP’s parliamentary group.” [5g] (Section 2)

[Return to contents](#)
[Go to list of sources](#)

KURDISH LANGUAGE

- 19.14 The same MRG 2007 report added that “As a result of the reforms, on 7 June 2004, the Turkish Radio-Television Corporation (Türkiye Radyo Televizyon Kurumu, TRT) commenced broadcasts in five minority languages and dialects: Zaza and Kurmanci dialects of the Kurdish language, Arabic, Bosnian and Circassian. TV broadcasts are for 45 minutes five days a week, while radio broadcasts begin at 6 a.m. and last for 30 minutes each day five days a week.” [57c] (p17)
- 19.15 The MRG 2007 report also noted that “Indeed, RTÜK relied on Article 4(b) in initially suspending for one month in October 2006 the broadcasting of the ‘Anatolia’s Voice’ radio station for playing a song about the Kurdish question and in suspending it without limitation in February 2007. These limitations have been imposed only on regional media, which are usually run by minorities. In August 2004, RTÜK relied on Article 4(a) and (b) in suspending for 90 days the broadcasting of Gün TV and Can TV in Diyarbakır and Hakkari FM radio station.” [57c] (p17)
- 19.16 The MRG 2007 report also stated that:

“A circular issued by the Ministry of Interior in September 2003 restricted the scope of the amended law to names containing the letters of the Turkish alphabet only, effectively banning names using the letters q, w and x, common in Kurdish. Thus Kurds are still precluded by law from giving their children Kurdish names which involve these three letters. There is no restriction on the use of these letters for commercial entities, such as Show TV, a national broadcaster, and all keyboards and typewriters in Turkey include these letters, so their use by public officials is feasible.” [57c] (p18)

- 19.17 The 2007 MRG report further added that “Defendants are not provided with a competent interpreter, which particularly affects older Kurds and women, who are not fluent in Turkish. Instead, translation is provided by court clerks or anyone present, who may not necessarily be competent to translate legal proceedings.” [57c] (p19)

- 19.18 The European Commission 2007 report stated that:

“As regards cultural rights, broadcasting in languages other than Turkish, in March 2007 a new radio channel in Diyarbakır, Çağrı FM, received authorisation to broadcast in Kırmanchi and Zaza Kurdish. There are now four local radio and TV stations broadcasting in Kurdish. However, time restrictions apply, with the exception of films and music programmes. All broadcasts, except songs, must be subtitled or translated into Turkish, which makes live broadcasts technically cumbersome. Educational programmes teaching the Kurdish language are not allowed. An appeal against these rules has been pending before the Council of State for three years. Court cases have been opened against some broadcasters for trivial reasons.” [71c] (p22)

See also Section 15.21 [High Board of Radio and Television \(RTÜK\)](#)

- 19.19 The USSD 2007 report further noted that “The government maintained significant restrictions on the use of Kurdish and other minority languages in radio and television broadcasts. RTUK regulations limited minority-language news broadcasts to 45 minutes per day, with no time restrictions for minority-language cultural shows or films. RTUK regulations required non-Turkish-language radio programs be followed by the same program in Turkish and that non-Turkish-language television programs have Turkish subtitles. Start-up Kurdish broadcasters reported that these were onerous financial obligations that prevented their entry into the market. The state-owned TRT broadcasting company provided limited national programming in Kurdish and three other minority languages.” [5g] (Section 2)

[Return to contents](#)
[Go to list of sources](#)

TEACHING IN KURDISH

- 19.20 The Minority Rights Group International (MRG) report on ‘A Quest for Equality: Minorities in Turkey’ published 10 December 2007 stated that:

“The first private course in Kurdish was opened in the province of Batman on 1 April 2004. Others followed in Diyarbakır, Şanlıurfa, Adana, Istanbul, Van and Mardin. However, the courses were closed down in 2005 because of bureaucratic restrictions and people’s reluctance to pay to learn their mother tongue.” [57c] (p16)

- 19.20 The Freedom House report ‘Countries at the Crossroads 2007 – Turkey’, published 25 September 2007 noted that “Ataturk’s emphasis on Turkishness over multiculturalism, has left the Kurds facing restrictions on their language, their culture, and their freedom of expression. The situation has improved with recent reforms, especially the start of Kurdish-language broadcasts. However, 2003 regulations allowing for classes in Kurdish permitted only private courses, and bureaucratic obstacles and financial problems led the last five Kurdish schools to close in 2005. Kurds voicing support for improved rights are targets for arrest.” [62c] (Civil Liberties)
- 19.21 The same Countries at the Crossroads 2007 report further noted that “Some very positive steps have been taken to expand media freedom. Perhaps most significantly, a series of recent laws have increasingly allowed broadcasts in minority languages, including Kurdish. The first broadcasts took place in 2004, and in 2006 a ban on local broadcasts as well as limitations on the length of cultural (though not political) programs was lifted.” [62c] (Accountability and Public Voice)
- 19.22 The European Commission 2007 report noted that “Children whose mother tongue is not Turkish cannot learn their mother tongue in the Turkish public schooling system. Such education can be provided only by private educational institutions. In the case of Kurdish, all such courses were closed down in 2004. Today there are no opportunities to learn Kurdish in the public or private schooling system.” [71c] (p22)
- 19.23 The UK Foreign and Commonwealth Human Rights Annual Report 2007, released in March 2008, noted “Since Turkey was accepted as an EU candidate country the democratic rights of Kurds in Turkey have been extended. Kurdish CDs and newspapers are now freely available, and limited local and national radio and television are available in Kurdish. However, no further reforms were made in 2007 and serious constraints remain including education in the Kurdish language.” [4g] (p65 Cultural Rights)
- 19.24 The above Countries at the Crossroads 2007 report added that “Some very positive steps have been taken to expand media freedom. Perhaps most significantly, a series of recent laws have increasingly allowed broadcasts in minority languages, including Kurdish. The first broadcasts took place in 2004, and in 2006 a ban on local broadcasts as well as limitations on the length of cultural (though not political) programs was lifted.” [62c] (Accountability and Public Voice)

PRO KURDISH POLITICAL PARTIES

See also [Annex B](#) for details of political parties

- 19.25 The Amnesty International Annual Turkey report 2007 covering events of 2006 noted that:
- “Officials of the pro-Kurdish Democratic Society Party (DTP) and those joining pro-Kurdish platforms faced frequent prosecutions amounting to a pattern of judicial harassment... The trial of 56 mayors from the DTP began in October. The mayors had signed a letter in December 2005 to the Danish Prime Minister, arguing that the Denmark-based Kurdish television channel, Roj TV, should not be closed down. They were being prosecuted for ‘knowingly and willingly supporting the PKK.’... People collecting signatures for a petition recognizing Abdullah Öcalan, imprisoned leader of the PKK, as a ‘political representative’, received varying sentences, with students receiving the harshest punishments.” [12c] (Freedom of Expression)
- 19.26 The Freedom House, Countries at the Crossroads, Turkey – 2007 published 25 September 2007 noted that:
- “Restrictions are used to target certain groups. While even small gatherings can face difficulties, the most extreme example is the Kurdish Democratic ‘People’s Party (DEHAP), which is accused of being the political arm of the Kurdistan Workers’ Party (PKK) – recently renamed Kongra-Gel and considered a terrorist organization by the Turkish government as well as by the EU and the United States. DEHAP has faced continual legal battles and arrests. Still, DEHAP does not represent the interests of most Kurds, who, when living outside the southeast, are generally more integrated and participate in mainstream politics.” [62c] (p4 Free and Fair Electoral Laws)
- 19.27 The Human Rights Watch 2007 report on ‘Turkey: Human Rights Concerns in the Lead up to July Parliamentary Elections’ stated that “İbrahim Güçlü, spokesman for the Diyarbakır Kurdish Association (Kürd-Der), was charged under article 301 for ‘insulting Turkishness and the Turkish Republic’ for a speech he made in 2005 about the killing of 33 Kurdish villagers in Van in August 1943 (the so-called Muğlalı incident), on the 62nd anniversary of the killings. On January 24, 2007, the Diyarbakır Court of First Instance No. 5 found Güçlü guilty and sentenced him to 18 months’ imprisonment. He has appealed the verdict.” [9f] (p11)
- 19.28 The same HRW 2007 report also noted that “During the past year, in the build-up to the general election, DTP officials in cities throughout Turkey, but especially in the southeast, have been repeatedly prosecuted for speech-related crimes such as ‘making propaganda for an illegal organization’ (article 7/1 of the Law to Fight Terrorism and article 220/8 of the Turkish Penal Code) or ‘publicly praising a crime or criminal’ (article 215 of the TPC). Such prosecutions were typically brought for public statements that mentioned the PKK and referred to its imprisoned leader Abdullah Öcalan with the formal and respectful title of ‘Mr’ (sayın).” [9f] (p13)
- 19.29 The HRW 2007 report on ‘Turkey: Human Rights Concerns in the Lead up to July Parliamentary Elections’ further noted that:

“On February 26 the Ankara Heavy Penal Court No. 9 sentenced Ahmet Türk and Ayşe Tuğluk, respectively president and vice-president of the DTP, to 18-month prison sentences for the offense of using Kurdish in a leaflet prepared by the DTP Women’s Wing on March 8, International Women’s Day. They were also punished for ‘publicly praising a crime or criminal’ for statements in the leaflet relating to Abdullah Öcalan. On March 6 Ahmet Türk was again sentenced to a six-month suspended sentence for ‘publicly praising a crime or criminal’ for referring to ‘Mr’ Abdullah Öcalan. The cases are currently under appeal. Both Türk and Tuğluk also face numerous other ongoing prosecutions for similar offenses.” [9f] (p14)

19.30 The HRW 2007 added that “From late February to early March 2007 several DTP premises in a number of provinces were raided by the security forces. Documents and computers were seized, party members and executives were arbitrarily detained, and some were later charged with speech- and language-related offenses such as those mentioned above.” [9f] (p15)

19.31 Finally the HRW 2007 report noted that:

“Kurdish political activists charged with speech-related offenses have sometimes been detained pending trial. On February 23 Hilmi Aydoğdu, chair of Diyarbakır DTP, was arrested and imprisoned in Diyarbakır D-type prison for 41 days. He had made a statement opposing possible military intervention in northern Iraq by the Turkish Armed Forces and mentioned in particular the symbolic importance of Kirkuk. Released on bail at his first hearing on April 5, he is currently on trial for ‘inciting hatred and enmity among the population’ (article 216/1 of the TPC) and faces a possible prison sentence of between one and three years.” [9f] (p15)

19.32 The Minority Rights Group International (MRG) report on ‘A Quest for Equality: Minorities in Turkey’ published 10 December 2007 stated that “Indeed, on 21 August 2007, Murat Öztürk, President of the Ağrı branch of the pro-Kurdish Democratic Society Party (Demokratik Toplum Partisi- DTP) was convicted to one year imprisonment under Article 7(2) of the anti-terror law for a speech he made in the Newroz celebrations on 21 March 2007.” [57c] (p23)

19.33 The MRG 2007 report also stated that “On 19 March 2006, the Ardahan penal court ordered the confiscation of a regional newspaper when it published an ad by the DTP titled ‘Invitation to the Newroz Celebration’. According to the court, the use of the word ‘Newroz’ (rather than Nevruz, its Turkish spelling) was contrary to Article 81(c).” [57c] (p25)

19.34 The MRG 2007 report also noted that:

“Kurdish politicians face continuing prosecutions for their activities. In February and March 2007, a series of arrests, searches, seizures and prosecutions have been launched against leaders of the DTP, the latest of successive pro-Kurdish political parties. On 18 February, İbrahim Sungur and Abdulvahap Turan, President of the Van branch and member of the DTP respectively, were arrested for making propaganda for the PKK during a police raid on the party headquarters in Van. On 23 February, Hilmi Aydoğdu, the President of the

Diyarbakır branch, was arrested on the basis that he violated Article 216 by allegedly stating in an interview that his party would 'consider any future attack on Kerkuk [in Iraq] as an attack on Diyarbakır'." [57c] (p25)

[Return to contents](#)
[Go to list of sources](#)

HADEP

19.35 The Netherlands Ministry of Foreign Affairs 2002 reported that:

"The pro-Kurdish HADEP [People's Democracy Party], was established in 1994 as a successor to the successively banned HEP, DEP and ÖZDEP.... HADEP campaigns for greater cultural rights for Kurds and a peaceful solution to the Kurdish issue. It has kept to that position by never resorting to violence. The party runs local branches in many provinces and districts, as well as women's and youth wings in a large number of localities. The Turkish authorities regard HADEP as the PKK's political wing. They therefore view this party with suspicion. The HADEP has no direct ties with the PKK, but relies largely on the same supporters." [2a] (p131)

19.36 As reported by the BBC on 13 March 2003:

"Turkey's constitutional court has banned the country's main pro-Kurdish party [HADEP] for alleged links with rebel groups... The court also banned 46 members of the party, including former chairman Murat Bozlak, from politics for five years. Hadep did not stand in last November's [2002] elections, but its candidates stood under the umbrella of the Democratic People's Party (Dehap)... Neither Hadep nor Dehap describe themselves as Kurdish parties, but both say they defend the rights of people living in the south-eastern, Kurdish-populated, part of the country." [66d]

HADEP MEMBERSHIP CARDS

19.37 As noted in a Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa, dated 28 April 2005 entitled Turkey: Whether the 'People's Democracy Party (HADEP) and the Democratic 'People's Party (DEHAP) issue membership certificates to members residing within Turkey and/or abroad, it noted that:

"Prior to the dissolution of HADEP by the Turkish Constitutional Court, HADEP did indeed issue membership cards to members residing in Turkey, although actual possession of the card was uncommon among voters and supporters of the party. According to the former coordinator, few of the hundreds of thousands of members actually carried a card since this would have made them easily identifiable targets of the state and many preferred to avoid the risk of being caught by a police or military officer while carrying a HADEP membership card. One could either apply for a card through the local party office and, after approval; the provincial organization (il orgutu) would issue the card, which was initially printed on regular, plain paper. However, as a result of 'HADEP's investigations that found that non-HADEP members were forging these cards

and claiming to be party affiliates for asylum purposes, the membership procedures and cards were modified.” [7e]

- 19.38 The Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa, further stated that:

“Under the revised HADEP membership procedures, only the ‘party’s Secretariat General in Ankara could issue cards. In addition, one had to apply at the ‘party’s district office (ilçe örgütü) and submit references from two party members or active supporters known by the party office. The applications were then sent to the provincial organizations, which forwarded them to the General Secretary in Ankara for final approval. Approved members had to sign a form at the provincial office in order to receive their official membership card, which was now ‘of a higher quality, made out of plastic, with a special cold stamp to prevent forging and duplication’.” [7e]

RELATIVES OF HADEP

- 19.39 The Netherlands Ministry of Foreign Affairs 2002 reported that “Relatives of HADEP members need not fear persecution by the Turkish authorities solely because one or more of their relatives is a member of HADEP. In certain cases, however, it cannot be ruled out that, for example, first or second degree relatives of HADEP members who are active at local level are closely watched by the State because of their relatives’ activities.” [2a] (p136)

- 19.40 As noted in a Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa, dated 06 June 2007 entitled Turkey: Status of the Kurdistan Workers’ Party (PKK) and Turkish Hezbollah; situation and treatment of members, supporters and sympathizers of these parties (2006 - 2007):

“In 28 April 2006 correspondence sent to the Research Directorate, an assistant professor of political science at Loyola University in Chicago who specializes in Islamic politics in Turkey stated the PKK [Kurdistan ‘Worker’s Party] and the Hezbollah of Turkey are considered terrorist organizations by the Turkish state. Media reports also state that the PKK is considered a terrorist organization by Turkey, the US and the European Union. Criminal charges involving terrorism have been brought against members of both the PKK and Turkish Hezbollah: for instance, out of the 512 inmates of a prison in the city of Diyarbakir, 258 allegedly belong to Turkish Hezbollah and 224 are thought to belong to the PKK.

“It is illegal to be members, supporters, and sympathizers of both organizations in Turkey. Citizens suspected to have any kinds of ties to these organizations are harassed by security forces and violations of their human rights have been common. While the European Union-demanded reforms have liberalized Turkish legal systems, the progress in application has been much limited.” [7b]

[Return to contents](#)
[Go to list of sources](#)

DEHAP/DEMOCRATIC SOCIETY PARTY (DTP)

- 19.41 The The US State Department (USSD) 2007 report on Human Right Practices published 11 March 2008 noted that:

“DEHAP reconstituted itself as the Democratic Society Party (DTP) in 2006; nonetheless the Constitutional Court deliberations in the legal case seeking 'DEHAP's closure on charges of separatism were ongoing at 'year's end. DTP officials speculated that the court was deliberately delaying its decision because the case deals with controversial political issues... During the year police raided dozens of DTP offices, particularly in the southeast, and detained hundreds of DTP officials and members. During the year prosecutors opened scores of investigations and trials against DTP members. Police raids on DTP offices in Van and Siirt Provinces resulted in the detention of approximately 50 DTP members during the year.

“Jandarma and police regularly harassed DTP members through verbal threats, arbitrary detentions at rallies, and detention at checkpoints. Security forces also regularly harassed villagers they believed were sympathetic to DTP. Although security forces released most detainees within a short period, many faced trials, usually for supporting an illegal organization or inciting separatism.”

[5g] (Section 3 Elections and Political Participation)

- 19.42 The USSD 2007 report also recorded that “Following October 21 [2007] PKK terrorist attacks in Hakkari Province, some Turks attacked DTP offices throughout the country, setting DTP office buildings and furniture on fire, throwing rocks, breaking windows, and shouting obscenities. Some DTP politicians and Turkish citizens of Kurdish origin considered such violence to be inflamed by government policies and alleged that security forces did not take proper measures to prevent such incidents.” **[5g] (Section 3 Elections and Political Participation)**

- 19.43 The USSD 2007 report also noted that:

“There were no developments during the year regarding the appeal of Aydin Budak, the DTP mayor of Cizre. In June 2006 Budak was sentenced to one year and three months in prison for stating in a speech that was aired on Roj TV that the isolation of Abdullah Ocalan was something provocative.

“DTP Erzurum provincial chairman Bedri Firat continued his appeal of a July 2006 conviction. Firat was sentenced to two years in prison for allegedly issuing propaganda supporting the PKK in a speech during Nevruz celebrations in which he stated that Kurds were subject to genocide and praised Abdullah Ocalan.

“There were no updates during the year in the 25 open cases against DTP member Tuncer Bekirhan.” **[5g] (Section 3 Elections and Political Participation)**

Return to contents
Go to list of sources

- 19.44 As noted in Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa, dated 7 June 2007 entitled Turkey: Situation and treatment of members, supporters and sympathizers of the Democratic Society Party (DTP):

"In July 2006, AFP reported that 'Ankara's public prosecutor accused DTP leaders Ahmet Turk and Aysel Tugluk of distributing Kurdish-language leaflets regarding the imprisonment of PKK leader Abdullah Ocalan. In February 2007, they were found guilty of [translation] 'praising criminals' and sentenced to 18 months' imprisonment. On 6 March 2007, Ahmet Turk received an additional six month sentence for using a Turkish term of respect when referring to Abdullah Ocalan, because this was considered a sign of approval of the PKK leader. In February 2007, the Kurdish mayor of 'Turkey's Karapinar district, Zulkuf Karatekin, was fined 3,000 lira for allowing members of the pro-Kurdish Democratic Society Party (DTP) to use a municipal vehicle to plant seedlings to mark the birthday of Abdullah Ocalan, the outlawed leader of the PKK.

"The Ardahan Criminal Court sentenced a DTP representative to 10 months in prison in May 2007, after he was accused of making a speech in which he 'denigrated and insulted' 'Turkey's parliament and general staff. Also in May 2007, 'Turkey's Appeals Court Prosecutor ordered that the DTP cancel the membership of 116 members, including prominent leader Leyla Zana, because of their criminal records. If it does not comply, the DTP has been told that it may be shut down, in the same way that four pro-Kurdish parties were banned in the past." [7c]

[Return to contents](#)
[Go to list of sources](#)

PKK/KADEK/KONGRA-GEL AND THE CONFLICT IN THE SOUTH EAST

- 19.45 The Minority Rights Group International (MRG) report on 'A Quest for Equality: Minorities in Turkey' published 10 December 2007 stated that "In the context of the armed conflict between the Turkish armed forces and the PKK during 1984–99, masses of civilians were displaced from their homes in eastern and south-eastern Turkey." [57c] (p24)

- 19.46 The Human RightsWatch 2007 report on 'Turkey: Human Rights Concerns in the Lead up to July Parliamentary Elections' noted that:

"There are also troubling indications that the Turkish armed forces and armed opposition groups, notably the Kurdistan Workers' Party (PKK), are deliberately trying to undermine the reform process. In 1999, after the capture of PKK leader Abdullah Öcalan, the PKK declared a ceasefire. The ceasefire ended in 2004, followed by a gradual resumption of armed clashes, although not a return to pre-1999 levels. In 2006 the number of armed clashes rose, but dropped again after the PKK renewed its ceasefire in October. In 2007 the number of armed clashes has risen once again: according to official figures, 64 military personnel were killed in the first six months of 2007, and the PKK reported that 96 of its members were killed in the same period... The PKK has apparently also renewed violent attacks on civilians. Most recently, on May 22, a suspected

PKK suicide bombing killed eight civilians and injured over 100 in a busy shopping district in Ankara. Such violence has inevitably increased political tensions in the pre-election period and risks further undermining the Turkish population's trust in the democratic process and human rights reforms." [9f] (p4)

- 19.47 It was noted in Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa, Country Fact Sheet 'TURKEY: Armed Groups and other Non-State Actors' dated 8 August 2007 that:

"Kurdistan Workers' Party (Partiya Karkeren Kurdistan, PKK): The PKK was established in 1978 and began its quest for an independent Kurdistan in 1984. The PKK has also been known as the Congress for Freedom and Democracy in Kurdistan (KADEK) and KONGRA-GEL. In August 1999, the leader of the PKK, Abdullah Öcalan, called on the PKK to halt violent activities, and, in September 1999, a ceasefire between the PKK and the Turkish government was proclaimed. In April 2002, a dissolved PKK, under the framework of KADEK, stated that it would pursue Kurdish rights under the auspices of the Turkish state using political rather than armed struggle. In May 2002, the EU stated that it still classified the PKK as a 'terrorist' group and the Turkish government claimed that the 'PKK's transformation into KADEK was a ruse. A June 2004 PKK announcement legitimized the use of armed defence as a PKK tactic based on the claim that the Turkish government had violated the 1999 ceasefire. Since April 2005, there have been skirmishes between the Turkish Forces and the armed wing of the PKK, the 'People's Defense Forces (Hezen Parastina Gel, HPG)." [7f]

- 19.48 The EC 2007 Progress report noted that "Landmines remain a security concern. In 2006 Turkey reported about one million mines within the country. Every year there are several casualties among civilians and security forces due to anti-personnel landmine explosions. Under the Ottawa Convention, of which it is a signatory party, Turkey has taken the commitment to clear the earth-laid landmines by 2014 and to eliminate its stocks by 2008." [71c] (p23)

- 19.49 The International Helsinki Federation (IHF) on Human Rights Violations 2006: Turkey report noted that "69 persons were reportedly killed due to explosion of land mines and unexploded ordinances remaining from clashes and military operations in southeastern and eastern Turkey, injuring a further number of 161 persons, including a large number of children." [10a] (p435)

- 19.50 The EC 2007 Progress report stated that "IDPs in urban areas live in poverty with little or no access to social, educational and health services. The factors hindering the return of IDPs, i.e. the absence of basic infrastructure, lack of capital, limited employment opportunities and the security situation persist in the east and south-east. The presence of landmines and village guards also remain obstacles to the safe return of IDPs." [71c] (p24)

- 19.51 Internal Displacement Monitoring Centre (IDMC), Turkey: Progress on National IDP Policy Paves Way for Further Reforms, 26 July 2007, reported that:

"Since the conflict began, both sides have treated villagers in southeast Turkey as a soft target. In the 1980s the PKK frequently massacred whole families.

Many women and children are caught in the cross-fire and killed in the course of armed clashes when the PKK attacks village guards in their villages, but relatives of village guards are also sometimes deliberately and arbitrarily killed. Eleven children were apparently deliberately killed when PKK members attacked the village of Daltepe, near Siirt, in October 1993.” [3] (p40)

- 19.52 The IDMC Turkey: Progress on National IDP Policy Paves Way for Further Reforms, 26 July 2007 report also noted that:

“Selahattin Günbay, Düzce village, Mardin province. The most recent reported killing by a village guard was that of thirteen-year-old Selahattin Günbay on March 19, 2005. Selahattin Günbay and two of his relatives were grazing sheep near the village of Düzce, near Nusaybin in Mardin province, when village guards warned them not to graze their animals in that area. When Selahattin Günbay took no notice, one of the village guards shot him dead with an automatic weapon. Four village guards were arrested in connection with the killing and are awaiting trial.” [3](p192)

- 19.53 The same IDMC 2007 report further noted that “Violent clashes between Kurds and security forces reignited in Turkey over the last week; jolting memories here back to an old problem that still stands as a dangerous block on the nation's path toward greater prosperity and democracy. After a decade of calm, at least 20 people were killed in protests, most in the guerrilla battleground of the Kurdish southeast but also in cosmopolitan Istanbul. Among the dead were a 6 year-old boy and a 78-year-old man, Halit Sogut, whose relatives asked on Tuesday...” [3] (p73)

- 19.54 As noted in the European Commission 2007 report that “There has been a further deterioration of the situation in terms of attacks by the PKK and other terrorist groups. The PKK is on the EU list of terrorist organisations. Several hundred terrorist attacks have been recorded since the beginning of the year causing multiple casualties. On 22 May a suicide bombing in Ankara claimed the lives of 9 people. There was an increase of terrorist attacks targeting civilians throughout the whole country.” [71c] (p23)

- 19.55 The EC 2007 report continued that “As part of the fight against terrorism, three security zones were established from June to December 2007, covering parts of three provinces along the border with Iraq. Strict security measures are applied in these zones, including restrictions on access. On 17 October 2007, the Parliament adopted a motion authorising the Government to intervene militarily in the northern part of Iraq.” [71c] (p23)

- 19.56 The EC 2007 Progress report further noted that “Cross-border terrorist activities of the PKK, listed on the EU list of terrorist organisations, represent a security challenge to Turkey. The possibility of carrying out a military operation into Northern Iraq was widely discussed in Turkey. In August, Turkey signed a memorandum of understanding with Iraq on enhancing mutual cooperation in the field of security.” [71c] (p74)

- 19.57 On 19 August 2008 the *Turkish Daily News* reported a landmine explosion in the southeastern province of Şırnak killed a soldier and injured eight others.

The Şırnak 'governor's office said a landmine believed to have been planted by the outlawed Kurdistan Workers' Party, or PKK, exploded near a military vehicle. The landmine exploded as a military convoy was passing a road linking the towns of Cizre and Şırnak. [23a]

- 19.58 The USSD 2007 recorded that "According to the HRF [Human Rights Foundation], landmines and unattended explosives killed three civilians and injured three, through October 4 [2007]. Both security forces and the PKK used landmines. According to the government, 27 civilians were killed and 134 were injured, 139 members of the security forces were killed and 216 were injured, and 295 terrorists were killed and 193 were injured in armed clashes related to the struggle against the terrorist PKK organization during the year. Most of the clashes occurred in the southeast." [5g] (Section 1a)
- 19.59 The IHD (Human Rights Association) 2007 Balance Sheet on Human Rights Violations in Turkey recorded 158 deaths, 290 wounded amongst the Security Forces; 266 death among armed militants and 69 wounded and 14 people killed by landmines. [73b] (Violations of Right to Live)

RELATIVES OF PKK

- 19.60 The UNHCR Directorate for Movements of Persons, Migration and Consular Affairs in their 2001 report Official General report on Turkey noted that:

"Those known to have or suspected of having one or more family members in the PKK can expect some attention from the authorities. Depending, among other things, on the degree of kinship and the (suspected) position of their relative(s) within the PKK, family members may be subjected to varying degrees of intimidation, harassment, official obstruction, questioning and similar problems. It is perfectly conceivable, even probable in many cases, for the families of (suspected) PKK members to be kept under observation by the authorities or questioned and interrogated, also because they could as often as not be potential suspects themselves. In many cases the Turkish authorities probably assume that some relatives of PKK supporters harbour sympathies for the party. However, if the authorities are convinced that relatives of (suspected) PKK members do not have any links to the PKK they are not persecuted." [20]

- 19.61 The same report further noted that, "Countless people in Turkey have one or more relatives in the PKK without having any significant problems with the authorities as a result. The families of prominent PKK supporters such as Abdullah Öcalan and Şemdin Sakık were probably always under intensive surveillance by the authorities and lived under a certain degree of pressure, but they were not actually persecuted for their relationship with the PKK leaders. Öcalan's family attended his trial on İmralı Island. One of Sakık's brothers is openly politically active." [20]

[Return to contents](#)
[Go to list of sources](#)

NEWROZ / NEVRUZ CELEBRATIONS

- 19.62 As outlined by the Netherlands Ministry of Foreign Affairs report 2002 Newroz (or in Turkish Nevruz) is the New Year celebrated by Kurds, Persians and in Central Asia on the 21 March. [2a] (p87)
- 19.63 The US State Department (USSD) 2006 report published 6, March 2007, recorded that:
- “Unlike the previous year, police did not interfere in Nevruz celebrations. There was no information regarding police detention of DEHAP officials and students in connection with 2005 Nevruz celebrations... The six juveniles charged for allegedly burning the Turkish flag during Nevruz celebrations in Mersin in 2005 remained free while their trial continued at year's end... On July 27, the Erzurum Second Heavy Penal Court convicted and sentenced DTP Erzurum Provincial Chairman Bedri Firat to two years in prison for allegedly issuing propaganda supporting the PKK in a speech during Nevruz celebrations, by stating that Kurds were subject to genocide and for praising Abdullah Ocalan. 'Firat's appeal of the verdict was pending at year's end.' [5h] (Section 2)
- 19.64 The European Commission 2007 report recorded that “Few violent incidents were reported during the Kurdish New Year (Newroz) celebrations.” [71c] (p15)

ARABS

- 19.65 According to World Directory of Minorities (1997) “There are probably about one million Arabs in the provinces of Urfa, Mardin, Siirt and Hatay (Alexandretta). Unlike the Turkish Sunni Majority Sunni Arabs belong to the Shaf'i tradition (which they share in common with most Sunni Kurds). They are denied the opportunity to use their language except in private, and the use of Arabic is forbidden in schools.” [57a] (p382)
- 19.66 The World Directory of Minorities continued “About 200,000 Alawi, or Nusayri Arabs live in the northern most settlements of the larger Alawite community in Syria. They are a distinct religious community from Alevis but have in common reverence for Ali, the prophet's son-in-law, as an emanation of the divinity. Alawites have an uneasy relationship with Sunnis, but are more comfortable with Christians.” [57a] (p382)
- 19.67 The Minority Rights Group International (MRG) report on ‘A Quest for Equality: Minorities in Turkey’ published 10 December 2007 stated that “The vast majority of the displaced are Kurds, while a small number are Assyrians, Ezidis and Arabs. Most of these now live in the large cities in eastern Turkey and particularly the metropolises in western Turkey, however a significant number of them have fled to European countries and Iraq.” [57c]

CAUCASIANS

- 19.68 The Minority Rights Group International (MRG) report on ‘A Quest for Equality: Minorities in Turkey’ published 10 December 2007 stated that:

“Mistakenly referred to as Circassians, this group consists of various peoples of Caucasian origin: Abkhazians, Chechens, Circassians, Daghistanis, Ossetians and various Turkic groups. ‘Caucasia’ refers to the original homeland of these groups, whose ancestors immigrated [sic] from Russia in the mid-nineteenth century. Each group has its own language. The mother tongues of Abkhazians, Chechens, Circassians and Daghistanis belong to the Iberian-Caucasian language family; whereas Ossetians speak an Indo-European language and Turkic groups speak Turkic languages. Ninety per cent of Caucasians in Turkey are Circassian, while the majority of the remaining 10 per cent is Abkhaz. All Caucasians are Muslim... Caucasians live in 15 provinces in north-west, central and southern Turkey. According to the Federation of Caucasian Associations, the number of individuals who self-identify as Caucasian is 3 million.” [57c] (p11)

- 19.69 The Encyclopedia of the World’s Minorities 2005 noted that there are Circassian diaspora communities in Turkey believed to be the largest in the world, with estimates numbering more than 4 million; however they are scattered throughout the entire country. [46] (p313–316)
- 19.70 The World Directory of Minorities (1997) estimated that there are probably about one million people of Circassians or Abkha descent in Sakariya, Bolu, Bursa, Eskişehir, Sinop, Samsun, Tokat and Kayeri. There are also about 80,000 Sunni Georgians and 10,000 Orthodox Christian Georgians located mainly in the Artvin province in the north east and around 150,000 Laz (a south Caucasian language related to Georgian) speakers in Turkey. [57a] (p382-383)

ARMENIANS

- 19.71 The EC 2007 Progress report noted that according to the Turkish authorities, under the 1923 Treaty of Lausanne, minorities in Turkey consist exclusively of non-Muslim religious communities. In practice the minorities associated by the authorities with the Treaty are Jews, Armenians and Greeks. [71c] (p21)
- 19.72 The EC 2007 Progress report further added that “As concerns relations with the South Caucasus, in February, Turkey signed the framework agreement on the Baku-Alkhalaki-Kars railway with Azerbaijan and Georgia. With Armenia, meetings between high level Armenian and Turkish officials took place. Furthermore, Turkey took the symbolic steps of inviting Armenian representatives to the funeral of the assassinated Turkish journalist of Armenian origins Hrant Dink in January 2007 and to the inauguration of the restored Armenian Church of the Holy Cross Akdamar in March. However, there were no further substantial developments. Turkey maintained its land border with Armenia closed.” [71c] (p74)
- 19.73 The MRG report on ‘A Quest for Equality: Minorities in Turkey’ published 10 December 2007 stated that:
- “Armenians are among the ancient people of Anatolia. The majority of Armenians in Turkey today belong to the Orthodox Church, while there are also a few Catholic and Protestant Armenians. Their number was around 2 million during the Ottoman Empire. Today, slightly more than 60,000 remain. Of these,

around 60,000 are Orthodox, 50,000 of whom live in Istanbul, around 2,000 are Catholic and a small number are Protestant. Catholic Armenians have an archbishop in Istanbul and their spiritual leader is the Roman Catholic Church in Rome. The Orthodox community has its own Patriarchate in Istanbul. Armenians run private schools providing primary and secondary education in their mother tongue.” [57c] (14)

- 19.74 The USSD 2006 report on Human Practices mentioned that “There are 161 ‘minority foundations’ recognized by the GDF, including Greek Orthodox foundations with approximately 70 sites, Armenian Orthodox foundations with approximately 50 sites, and Jewish foundations with 20 sites, as well as Syrian Christian, Chaldean, Bulgarian Orthodox, Georgian, and Maronite foundations. The GDF also regulates Muslim charitable religious foundations, including schools, hospitals, and orphanages.” [5h]

- 19.75 As noted in the ‘State of the World’s Minorities 2008’ report, released in March 2008:

“Turkish attitudes and laws on minorities have progressed considerably over the past decade, but many reforms lie ahead if the country’s legal framework and practice are to reach international standards... Minority groups including Armenians. still confront systematic repression in today’s Turkey. Officially, the government still only recognizes Armenians... as minorities, but, as used in Turkey, this term denotes clear second-class status... The January 2007 murder of Armenian rights campaigner and writer Hrant Dink offered a stark reminder of Turkey’s ongoing failure to protect the rights of individuals from minority communities.” [57b] (141)

- 19.76 The same 2008 report further noted that, “Dink had been convicted and sentenced to six months imprisonment in 2005 under the notorious Article 301 of the Turkish penal code for ‘denigrating Turkish identity’. This provision often has been used to suppress any discussion or acknowledgement of the 1915 Armenian genocide. Such concepts are not only enshrined in law; schoolchildren continue to learn negative stereotypes of Armenians and other minorities from their textbooks.” [57b] (p141)

GREEKS

- 19.77 The US State Department (USSD) Report on International Religious Freedom 2007 published 14 September 2007 estimates that there are up to 4,000 Greek Orthodox Christians in Turkey. [5e] (Section 1) The World Directory of Minorities (1997) states that “There are probably 3,000 ageing Greek Christians, mainly in Istanbul, the residue of 80,000 still there in 1963. Formal expulsions police harassment and a climate of fear and popular animosity have since then reduced the community to its present number.” [57a] (p381)

- 19.78 As noted in the European Commission 2007 report published 6 November 2007, “The Greek minority continues to encounter problems with education and property rights. In this context, problems affecting the Greek minority on the islands of Gökçeada (Imvros) and Bozcaada (Tenedos) continue to be reported.” [71c] (p22)

- 19.79 The EC 2006 report further noted that, “The June 2005 ruling by the Council of State narrowing the scope for the Directorate General for Foundations to take over the management of foundations was not applied during the reporting period. In this respect, no progress can be reported on the Büyükkada Greek Girls’ and Boys’ Orphanage, whose management remains under the control of the DG foundations.” [71a] (p16)

[Return to contents](#)
[Go to list of sources](#)

ROMA

- 19.80 The MRG report on ‘A Quest for Equality: Minorities in Turkey’ published 10 December 2007 stated that:

“While the general perception is that the Roma in Turkey live mainly in Eastern Thrace near the Bulgarian and Greek borders, in fact they live all across the country and, in terms of absolute numbers, are not concentrated in any particular region. Various groups are included under the general heading of Roma/Gypsy, such as ‘Roma’ who live predominantly in Eastern Thrace, ‘Teber/Abdal’ who live across Anatolia and ‘Poşa’ who live in north-east Anatolia, Çankırı, Kastamonu and Sinop. While there are various Roma languages such as ‘Romani’ (an Indo-European language spoken by the Roma) and ‘Abdilti’ (an Altaic language spoken by the Teber), the mother tongue for the majority of Roma has become Turkish. A recent study shows that there are around 2 million Roma in Turkey. According to one researcher, who has identified 70 Roma neighbourhoods in Istanbul alone, the real number may be as high as 5 million, as most Roma live in overcrowded households and many do not have identity cards. The vast majority of Roma are Muslim (nearly half Sunni and half Alevi), while there are a small number of Rum Orthodox Roma, as well as a small but increasing number of Protestants who have converted from Islam in the last decade.” [57c] (p14)

- 19.81 The same 2007 MRG further added that the targeting of the Roma in hundreds of cases of forced evictions within a matter of few months also raises questions about discrimination on the basis of race and ethnicity. Indeed, the Ulaşılabilir Yaşam Derneği, (UYD) reports that while the houses of Roma in Küçükbakkalköy and Kağıthane were destroyed, the houses of their next-door neighbours – who are Turks – were left untouched. [57c] (p20)
- 19.82 BBC News reported in an article ‘Istanbul’s Roma face upheaval’ published on 10 October 2007, that “A run-down district behind a decaying stretch of Istanbul’s Byzantine city walls, Sulukule has been home to the Roma (Gypsies) for 10 centuries. It is thought to be the oldest Roma settlement in the world. But the area has been earmarked for a regeneration project the Roma fear will force them out... They are offering current residents credit to buy the new houses or apartments to rent across town. But many Roma are extremely poor, and they call that unrealistic.” [66c]

- 19.83 The US State Department USSD 2007 report on Human Rights Practices published 11 March 2008 noted that:

“The Roma continued to face persistent discrimination and problems with access to education, healthcare, and housing. The government took no apparent steps during the year to assist the Roma community. A number of NGOs undertook activities to address problems faced by the Roma community. The European Roma Rights Center, Helsinki Citizens Assembly, and Edirne Roma Culture Research and Solidarity Association conducted a program to train the Roma community on civil society organization and activism. In December the Roma Culture and Solidarity Association of Izmir began literacy courses for Roma women in the region.

“The law states that ‘nomadic Gypsies’ are among the four categories of persons not admissible as immigrants.” [5g] (Section 5)

- 19.85 The EC 2007 Progress report also noted that further to an April 2006 decision by the Council of Ministers, an urban renewal programme targeting ‘wrecked urban areas’ is being implemented. In this context Roma neighbourhoods have been demolished in several provinces, in particular in Istanbul. Istanbul municipalities have taken no steps to provide shelter, basic sanitary facilities or other social and economic services for Roma people after the demolitions. Inhabitants of the Sulukule district in Istanbul and civil society organisations have applied to the Administrative Court of Istanbul to suspend the expropriations and evacuation of the district. [71c] (p22-23)
- 19.86 The State of the World’s Minorities 2008 report, released on 11 March 2008 noted that, “Widely dispersed Roma communities remain the most chronically marginalized groups across Europe. Roma largely remain mired in poverty, with widespread discrimination blocking paths to employment and Roma children often segregated into separate, inferior classrooms that fail to prepare them for entry into the job market.” [57b] (135)
- 19.87 The State of the World’s Minorities 2008 report also added that “Discrimination often extends to housing, and many Roma routinely face the threat of eviction. Authorities too often tolerate rampant anti-Roma racism and violence, with police sometimes among the perpetrators. Roma women confront compounded discrimination, and in several countries have been subjected to forced sterilization. Roma communities generally have poor access to healthcare, and lower life expectancy rates reflect this.” [57b] (p135)

[Return to contents](#)
[Go to list of sources](#)

20 LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

LEGAL RIGHTS

- 20.01 “Turkey does not have a legislative statute that relates to homosexuality, although homosexuality is not illegal, gay and lesbian Turks are not specifically protected by any legislation. Furthermore, gay activists have complained that municipalities use morality-based laws to discriminate against gays and lesbians in Turkey” as noted in a Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa, dated 11 June 2007 entitled ‘Turkey: Treatment of gay, lesbian and transgender people by Turkish society; treatment by authorities; legislation, protection and services available. [7j]
- 20.02 The Country of Origin Research Documents of the Canada Immigration and Refugee Board, Ottawa, above also noted that “In January 2004, ‘Turkey’s Parliamentary Justice Commission created a draft law, including a clause to make ‘discrimination based on sexual orientation’ illegal (Kaos GL N.d.; The New York Times 5 Feb. 2006; France 13 July 2005). However, this clause was removed in July 2004, prompting a gay rights advocate to state that although there have been considerable improvements in overall human rights in Turkey, lesbian, gay, bisexual, and transgendered (LGBT) rights have been left out.” [7j]
- 20.03 The website of KAOS in an overview of issues concerning LGBT Movement in Turkey and European Union 2006 noted that:
- “Although it is legal in Turkey to be lesbian, gay, bisexual or transgender, discrimination and persecution are also prevalent. It is too early to be optimistic about the future when it comes to LGBT rights. There is still massive discrimination in both the public and private sector. It is very difficult for someone to press charges when he/she faces discrimination based on sexual orientation; Turkish laws do not recognize crimes of discrimination based on sexual orientation or gender identity. Transgenders, who are often the most visible part of the LGBT community, continue to face discrimination and physical harassment by society. Just like gays and lesbians, they have little legal recourse. Although security forces have been very harsh to transgenders in the past, with the considerations regarding human rights by the European Union (EU) and the Turkish public, the situation is slowly improving.” [96c]

GOVERNMENT ATTITUDES

- 20.04 The Human Rights Watch website published an article ‘End Harassment of Gay Rights Groups’ dated 16 April 2008 reporting that:
- “A police raid on a Turkish human rights organization is the latest incident in an escalating pattern of harassment of gay rights groups. On April 7, 2008, approximately 12 police in plainclothes entered the headquarters of the Lambda Istanbul Cultural Center. Their warrant cited suspicion that Lambda ‘facilitates prostitution, acts as a go-between [and] provides a place for [prostitution],’ criminalized under Article 227 of Turkey’s Penal Code. The raid took place 10 days before an April 17 court hearing in a case against Lambda Istanbul

brought by the Istanbul Governor's Office, accusing the group of violating Turkish moral values and its family structure." [9c]

- 20.05 The Country of Origin Research Documents of the Canada Immigration and Refugee Board, Ottawa, dated 11 June 2007 also noted that:

"Gay and lesbian rights organizations assert that Turkish homosexuals risk losing their jobs if their sexual orientation is revealed, and Turkish legislation does not protect them in these situations (US 6 Mar. 2007, Sec. 5). For example, homosexuals are considered 'unfit to serve' in the Armed Forces (Kaos GL Oct. 2006b). The Turkish military regards homosexuality as a psychological disorder (Kaos GL N.d.), and according to the Kaos Gay and Lesbian Cultural Research and Solidarity Organization (Kaos GL) (the first non-governmental organization to focus on LGBT rights), soldiers who are suspected of being homosexual face humiliation and/or dismissal (Kaos GL Oct. 2006b)." [7j]

- 20.06 The same Information and Research Branch (IRB) document also stated that "According to an Istanbul police official cited in The New York Times, between 1996 and 2003, there were '36 homicides classified as bias crimes involving sexual orientation' (5 Feb. 2006)... Many gay men who are victims of harassment or assault fail to report these incidents for similar reasons (IHT 2 May 2007)." [7j]

- 20.07 In the Human Rights Watch (HRW) report dated May 2008 'We Need a Law for Liberation' noted that:

"Article 72 of the Turkish Constitution states; 'Military service is the right and duty of every Turk' except for some. Turkey bans gay men from military service; the commentary to the regulation reads, 'It must be proved with documentary evidence that the defects in sexual behavior are obvious, and that when revealed in a military context would create problems'. What constitutes an 'obvious defect' or one that would 'create problems' is not spelled out. Gay men seeking exemptions are compelled to undergo psychological and, sometimes, humiliating anal, examinations based on mythologies about homosexuality." [9d]

- 20.08 The HRW May 2008 report further noted that "A discharge on the basis of 'psychosocial illness' also cuts off the possibility of future state employment. Private employers who seek information about potential hires will usually only be informed that the man was unable for military service, but even that classification can create a suspicion of homosexuality (or psychosocial illness), making employment difficult." [9d]

- 20.09 The Country of Origin Research Documents of the Canada Immigration and Refugee Board, Ottawa, dated 5 April 2007 entitled 'Treatment of homosexuals in the military; process to establish that a man is gay; consequence of refusing to undergo this process (2005 - 2007)' reported that:

"In March 2006, the gay rights group Lambda Istanbul published the results of a survey that it conducted in 2005 through face-to-face interviews with 393 gay men, lesbians and bisexuals in Istanbul (15 Mar. 2006). Of the 27 male

respondents who stated that they had applied for an exemption from military service, 29 percent stated that they were obliged to submit a photograph showing them engaged in homosexual intercourse, while 62 percent noted that they were forced to undergo an anal examination (Lambda Istanbul 15 Mar. 2006).” [7k]

See Section: [9 Military Service](#)

20.10 As reported on 5 June 2008 on the website of the Kaos GL News:

“On June 5th, 2008, in the latest in a series of legal attacks on LGBT organizations and publications in Turkey, on May 29 a court in Istanbul, the nation’s largest city, ordered the dissolution of Lambda Istanbul. The organization has been under attack from Istanbul’s governor, Muammer Güler, since 2007, when his office brought a legal action to close the organization, claiming that Lambda violates both the Penal Code, as an association in violation of law and morals, and Article 41 of the Turkish Constitution, which is concerned with the peace and welfare of the family... The day after the court ban on Lambda Istanbul, Luis Maria de Puig, the president of the Parliamentary Assembly of the Council of Europe, issued a stark reminder to the Turkish government that freedom of expression and freedom of association are enshrined in the European Convention on Human Rights, which Turkey has ratified.” [96d]

20.11 The European Commission 2007 report recorded that “As regards anti-discrimination policies, the principle of anti-discrimination is enshrined in the Constitution and upheld in several laws. However, there is no specific protection against discrimination on grounds of age or sexual orientation. A closure case against an association, which represents lesbian, gay, bisexual and transgender people, is ongoing. Transsexuals and transvestites are, on occasion, subjected to physical harassment. There is a need for the police to properly investigate such cases.” [71c] (p20)

20.12 As noted in a Country of Origin Research Documents of the Canada Immigration and Refugee Board, Ottawa, dated 5 April 2007 entitled ‘Turkey: Treatment of homosexuals in the military; process to establish that a man is gay; consequence of refusing to undergo this process (2005 - 2007)’, reported that:

“According to Human Rights Watch (HRW),[i]t has been the practice of the military to subject candidates for military service who are seeking exemption on the basis of being gay to physical as well as psychological examination, to establish their sexual orientation and practice, despite the fact that such degrading physical examinations have been conclusively discredited. (13 Sept. 2006).” [7k]

[Return to contents](#)
[Go to list of sources](#)

SOCIAL AND ECONOMIC RIGHTS

- 20.13 The KAOS website reported in their submission to the 14th National Report by Turkey on the implementation of the European Social Charter Article 1.2: Prohibition of discrimination in employment on the ground of sexual orientation and gender identity discrimination: “Against a background of widespread hostility to the rights of lesbian, gay, bisexual and transgender (LGBT) people in Turkey, full and effective protection from employment discrimination on the grounds of sexual orientation and gender identity is essential.” [96e]
- 20.14 The KAOS website in 2005 also noted that the most important problem of lesbians living in Turkey is perhaps the difficulty of coming out. Even though lesbianism (along with gays and transgenders) is not considered a crime and not forbidden by law in Turkey, it’s very hard to come out because of the fact that discrimination against sexual orientation is not forbidden. During the discussions about the New Turkish Penal Law, the LGBT organisations like Kaos GL and Lambda Istanbul made campaigns with feminist organisations in order to make discrimination on the grounds of sexual orientation a crime. Yet, the article making discrimination against sexual orientation a crime has been removed from the draft by the instruction of the Minister of Justice. Turkey still does not have any LGBT rights. [96b]

SOCIETAL ILL-TREATMENT OR DISCRIMINATION

- 20.15 The KAOS website reported on March 2008 that lesbians face particular problems, being exposed to discrimination on the basis of both their gender and their sexual orientation. In many social groups women in Turkey represent the ‘honour’ of their families and community. Many lesbians are obliged to marry because of societal and economic pressure. In January 2005 a husband who killed his wife’s girlfriend was given a diminished punishment by Istanbul Second District Criminal Court of Major Cases because his wife’s lesbianism was considered ‘unjust provocation’. [96e]
- 20.16 TThe Human Rights Watch (HRW) report dated May 2008 ‘We Need a Law for Liberation’ noted that:
- “Human rights violations against lesbian and bisexual women and girls in Turkey are inextricable from the abuses that women in Turkish society face in general. Human Rights Watch interviewed 24 lesbian or bisexual women and girls in 2003 and 2007. The most overwhelming factor that they cited to Human Rights Watch is the subjection of women and their sexualities to the family and its values—including honor or custom... In recent years, the Turkish government has made advances in protecting women... The Law on the Protection of the Family; passed in 1998, in May 2007 a reform extended the definition of victim of domestic violence.” [9d]
- 20.17 The US State Department (USSD) 2007 Human Rights Practices report published 11 March 2008 notes that “While the law does not explicitly discriminate against homosexuals, gay and lesbian rights organizations Lambda Istanbul and Kaos GL claimed that vague references in the law relating

to ‘the morals of society’ and ‘unnatural sexual behavior’ were sometimes used as a basis for discrimination by employers. The law also states that ‘no association may be founded for purposes against law and morality.’ This article has been applied in attempts to shut down or limit the activities of NGOs working on gay and lesbian issues.” [5g]

- 20.18 The USSD 2007 report also noted that on 24 February 2007?, Bilgi University students established the ‘country’s first gay and lesbian university club. Approximately 15 parents lodged complaints with the university administration, and the Turkish Higher Education Council opened an inquiry into the university. ‘Bilgi’s dean of students, Professor Halit Kakinc, responded that closing down the club would violate human rights. The club was operating normally at the end of the year. [5g]

[Return to contents](#)
[Go to list of sources](#)

TRANVESTITES

- 20.19 The Country of Origin Research Documents of the Canada Immigration and Refugee Board’s website also reported that “many Turkish transvestites and transsexuals work as prostitutes because they cannot find regular jobs due to the prejudice they face (IHT 2 May 2007; Kaos GL 5 Oct. 2006; Turkish Daily News 9 Apr. 2007)... In August 2006, a group of transsexuals were reportedly denied the right to set up an association in the city of Bursa for reasons of public morality (Kaos GL 5 Oct. 2006).” [7j]
- 20.20 The KAOS website on March 2008 also noted that although neither the European Court of Human Rights (ECtHR) nor the Committee had addressed the question of employment discrimination on the ground of gender identity, the ECtHR had, in recent years, delivered a series of judgements recognising the rights of transgender people to legal recognition of their gender reassignment, to contract a different-sex [sic] legal marriage, to access gender reassignment treatments and (indirectly) to parenthood. [96e]
- 20.21 The Netherlands Ministry of Foreign Affairs 2002 reported that “Turkish law does not prohibit transvestism. Nor does government policy discriminate against transvestites in any way. Attitudes to transvestites in Turkey are also ambivalent. Some nationally known transvestites from the world of show-business are highly regarded in Turkey. Huysuz Virjin is a famous transvestite who presents a popular talk show on television. The transvestite singer Zeki Müren, who died in 1996, was given a state funeral for his services as a singer.” [2a] (p142)

TRANSEXUALS

- 20.22 The Country of Origin Research Documents of the Canada Immigration and Refugee Board, Ottawa, report dated 11 June 2007 entitled ‘Turkey: Treatment of gay, lesbian and transgender people by Turkish society; treatment by authorities; legislation, protection and services available’ noted that:

“Although sex changes are legal in Turkey (Kaos GL 5 Oct. 2006), Lambda activists report that transsexuals and transvestites experience more discrimination than gay and lesbian Turks because they are visibly more different (Turkish Daily News 9 Apr 2007). Reuters reports that human rights organizations have noted an increase in police action against transsexuals since the centre-right Justice and Development Party (AKP) (US 31 May 2007) took power in 2002; one human rights official connects this increase to the ‘party’s more ‘Islamic-minded’ police (Reuters 3 Oct. 2006). Kaos GL offers examples of specific incidences in 2006 where police did not protect transvestites and transsexuals from violent attacks that occurred in Eryaman, outside of Ankara (Kaos GL Oct. 2006a).” [7j]

- 20.23 The US State Department (USSD) 2007 report published 11 March 2008 further noted that on 15 May 2007, members of the groups Pembe Hayat and Kaos GL protested at the Esat Police Station in Ankara. Protestors claimed that transsexuals and transvestites had been unjustly taken into custody and faced mistreatment during their detention. Police officers on duty prevented the protestors from making a press statement during the demonstration. [5g]

[Return to contents](#)
[Go to list of sources](#)

21 DISABILITY

PEOPLE WITH DISABILITIES

- 21.01 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that “The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; the government generally enforced the law effectively. The law does not mandate access to buildings and public transportation for persons with disabilities. The Presidency Administration for Disabled People, under the Prime Ministry, is responsible for protecting the rights of persons with disabilities.” [5g] (Section 2)
- 21.02 The European Commission 2006 Progress report published 8 November 2006 stated that “As regards the rights of disabled people, several implementing legislation were issued following the entry into force of the Law on People with Disabilities in 2005. These cover areas such as workplaces and educational services for disabled people. More needs to be done to establish decentralised structures and services for disabled people and also to facilitate access to education of children with disabilities.” [71a] (p19)
- 21.03 The European Commission 2007 Progress report published 6 November 2007 stated that “No progress can be reported on access to education, health, social and public services for persons with disabilities. In particular, physical barriers to access to public buildings remain... (p20) As regards the treatment of socially vulnerable and disabled persons and the principle of nondiscrimination, Turkey has signed in March [2007] the UN Convention on the Rights of Persons with Disabilities... However, lack of data and research on disability prevents informed policy-making.” [71c] (p61)
- 21.04 The Freedom House 2007 ‘Countries at the Crossroads’ report published 25 September 2007 noted that “In July 2005 a new law on people with disabilities was passed, which added disability to the list of characteristics against which discrimination is punishable under the penal code. The law also promises better access for disabled persons to public areas and services but lacks the sanctioning power that may be required for enforcement.” [62c]
- 21.05 The Freedom House 2007 report further noted that “The interests of people with disabilities are addressed by the High Council of Disabilities, which brings public officials together with nongovernmental groups. Although the council has admirable aims, the needs of such people continue to exceed the limited services provided. Employers are required to reserve 3 percent of their workforce for employees with disabilities, but discrimination persists. Information about government services and regulations is not readily available in formats accessible to people with disabilities.” [62c]
- 21.06 As noted in the Mental Disability Rights International (MDRI) entitled ‘Behind Closed Doors: Human Rights Abuses in the Psychiatric Facilities, Orphanages and Rehabilitation Centers of Turkey’ (released on 28 September 2005) report:

“There is no enforceable law or due process in Turkey that protects against the arbitrary detention or forced treatment of institutionalized people with mental disabilities. There are virtually no community supports or services, and thus, no alternatives to institutions for people in need of support. As a result, thousands of people are detained illegally, many for a lifetime, with no hope of ever living in the community. Once inside the walls of an institution, people are at serious risk of abuse from dangerous treatment practices. In order to receive any form of assistance, people must often consent to whatever treatment an institution may have to offer. For people detained in the institution, there is no right to refuse treatment. The prison-like incarceration of Turkey’s most vulnerable citizens is dangerous and life-threatening.” [90] (Executive Summary)

[Return to contents](#)
[Go to list of sources](#)

22 WOMEN

- 22.01 The Constitution of the Republic of Turkey states: “All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.” [36e]
- 22.02 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that “The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, problems in implementation of these laws existed. The government and NGOs focused on eliminating societal violence and discrimination against women and minorities, as well as trafficking, but problems continued in these areas.” [5g]
- 22.03 The Freedom House 2007 ‘Countries at the Crossroads’ report published 25 September 2007 noted “Women’s rights in Turkey are not fully realized in the cities and are observed even less in rural districts. Although the legal framework is strong, women still face discriminatory practices. NGOs and the Ministry for Women and Families report that about a third of women in Turkey are victims of violence.” [62c]

LEGAL RIGHTS

- 22.04 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, notes that in a written statement, Mr Ahmet Firat, Director General and Zumra Yilmaz, Head of Department – Directorate of EU Coordination, Justice Ministry made the following comments regarding the legal framework in relation to violence against women:

“In recent years, numerous positive steps towards preventing violence against women and protecting the rights of women have been taken. Legal reforms aimed at women and developed with the contribution of public institutions and women’s NGOs have been put into practice. The Family Protection Law No. 4320 came into force in 1998. This law was amended in 2007. Various arrangements were made in the Turkish Civil Code enacted in 2002 and the Turkish Penal Code (TPC) enacted in 2005 with a view to combating violence against women. The Family Protection Law aims to prevent violence, protect victims (women and children, in particular), and punish persons resorting to violence. In this regard, 166 Family Courts were established and 157 of them are currently in operation. Through the amendments made to the Family Protection Law in 2007 the definition of a ‘victim’ was clarified and the scope of the protection provided to victims was expanded. Taking into account that other family members alongside the spouse could also be exposed to violence the provisions of the article were broadened. The scope of the prohibition to use alcohol and drugs and measures imposed on the person resorting to violence

as well as the measures to be taken to protect the victim of violence have been broadened.” [59] (S10W)

- 22.05 The Report of the UK Border Agency Fact Finding Mission includes information regarding Legal Rights for Women obtained from interviews with a number of sources. Mrs Olcay Bas, Head of Department and Directorate General for Women’s Status stated that, in terms of legal avenues of redress available to female victims of human rights violations, the 4320 law on protection of the family was introduced in 1998 and provided women with the necessary legal remedy. Following a series of meetings between public sector organisations and the legal representatives of NGOs, under the co-ordination of the Directorate General on the Status of Women, a Bill to make changes to the law was drafted, which would bring about the removal of some problems in the implementation of the law, which had been widely implemented since the date it came into force. The Bill was passed by the General Chamber of the Turkish Grand National Assembly and came into force on 4 May 2007. [59] (S13.3)
- 22.06 Women for Women’s Human Rights – New Ways (WWHR) said that the Penal Code reform of 2004 contained amendments in 35 articles increasing sentences for perpetrators of crimes against women including domestic violence, sexual assault and rape in line with international standards. For example, a perpetrator of a sex abuse crime, if successfully prosecuted, could receive a sentence of 5-20 years. In WWHR’s view, implementation of the new Penal Law would take some time, but some good examples of successful prosecutions under the new law had been documented. More generally, WWHR said that there has been an increasing number of prosecutions of cases relating to domestic violence/sexual assault/honour killings. The change is not dramatic but is noticeable. [59] (S.1.13)
- 22.07 WWHR said that despite Turkey being a large country physically with limited financial resources, positive developments were being taken forward in the area of women’s human rights and will continue. A legislative framework was in place but the implementation was slow. Also, organisations representing women’s interests had extended to parts of the country where they did not used to be. [59] (S1.16)
- 22.08 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, also asked Ms Senay Ertem, Head of the Board for Women’s Rights (within the Bar Association), about the legislative framework in place for redress against human rights violations against women. She advised that that new legal mechanisms were in place and implementation was improving slowly. However, the regulations pertaining to law 4320 on protection of the family and its changes had been put into effect immediately, and in this way women and family members who suffered every kind of violence were provided with a direct point of legal protection, allowing them to receive quick responses to their enquiries and applications for protection. [59] (S6.7)
- 22.09 The CEDAW 32nd Session, January 2005 Based on Shadow Report for Turkey prepared by Women for Women’s Human Rights - New Ways, endorsed by the Turkish Penal Code Women’s Platform, stated that:

“One of the most significant amendments in the new Civil Code (adopted by the Parliament in 2001) has been the adoption of the ‘Regime Regarding the Ownership of Acquired Property’ as the de facto property regime governing married couples. This enables the equal sharing of all acquired property during marriage, and as such recognizes the value of the unpaid work of women that goes into the reproduction of daily life of the family.” [95a]

- 22.10 The Women for Women’s Human Rights (WWHR) website accessed on 24 August 2008 noted:

“The new Civil Code has taken a new approach to the family and to women’s role in the family. The old legal approach, which assigned women a legislatively subordinate position in the family with rights and duties defined in respect to the husband, has been abandoned in favor of one that defines the family as a union based on equal partnership. Consequently, this new concept is also reflected in the language of the new Code. The terms ‘the wife’ and ‘the husband’ are replaced by ‘the spouses’, the new approach to the family is reflected in several changes:

- The husband is no longer the head of the family; spouses are equal partners, jointly running the matrimonial union with equal decision-making powers;
- Spouses have equal rights over the family abode;
- Spouses have equal rights over property acquired during marriage;
- Spouses have equal representative powers;
- The concept of ‘illegitimate children’, which was used for children born out of wedlock, has been abolished; the custody of children born outside marriage belongs to their mothers. [95b]

- 22.11 The Minority Rights Group International (MRG) report on ‘A Quest for Equality: Minorities in Turkey’ published 10 December 2007 stated that:

“Defendants are not provided with a competent interpreter, which particularly affects older Kurds and women, who are not fluent in Turkish. Instead, translation is provided by court clerks or anyone present, who may not necessarily be competent to translate legal proceedings... The recognition of the right to public services in minority languages is particularly important for minority women, specially Kurdish women living in rural areas, many of whom are illiterate and/or do not speak Turkish. A study undertaken by the Diyarbakır municipality’s Centre for Research on Women’s Issues, based on interviews with 472 married women in 97 villages, shows that around 80 per cent of these women are illiterate.” [57c] (p19-20)

[Return to contents](#)
[Go to list of sources](#)

POLITICAL PARTICIPATION OF WOMEN

- 22.12 The European Commission 2007 Progress report published 6 November 2007 noted that “There are no legal obstacles to the participation of women in general, and minority women in particular, in public affairs and politics in

Turkey. However, there are de facto hurdles and the extremely low representation of women in political life has been an issue of public debate.” (p26) The EC 2007 report further added that women continue to have low participation in the political and economic life of the country and to be victims of violence. [71c] (p62)

22.13 As noted in the UK Foreign and Commonwealth Office (FCO) Human Rights Annual Report 2007, released in March 2008 “Low female participation in representative bodies and the workforce continues, but there is growing public awareness of this issue. The number of women in parliament doubled at the July 2007 election, although it remains at a lower proportion than in any EU country.” [4g] (p68)

22.14 A *Turkish Daily News* article dated 26 January 2007 ‘Turkish ‘woman’s election to gender equality chair ‘meaningful’ stated that:

“It is significant when a Turkish woman (Ankara deputy Gülsün Bilgehan) becomes head of a Council of Europe committee in charge of gender equality and women rights. She was unanimously elected on Monday head of the Parliamentary Assembly of Council of Europe (PACE) committee on equal opportunities for women and men. Few committees at PACE are chaired by Turks but it is particularly meaningful that a Turkish woman was elected to chair a committee dealing with women rights, equality, honor killings, domestic violence, forced marriage and education of girls.” [23n]

22.15 The *Turkish Daily NNews* also reported on 26 January 2007 that, “Arzuhan Doğan Yalçındağ, yesterday elected chairman of the Turkish Industrialists and Businessmen's Association (TÜSİAD), is the acting CEO of Doğan TV and a Doğan Holding board member. Yalçındağ started her professional life in 1990 in Milpa, founding the company Mail Order with the German firm Quelle. Yalçındağ is one of the founders of the Aydın Doğan Foundation and remains a board member of the institution. She is also a member of the Turkish Education Volunteers Foundation (TEGV), Turkish-American Businessmen's Association, and Turkey Third Sector Foundation, as well as the founding member of the Women Entrepreneurs Association. She is currently lobbying for Turkey in the European Union member countries in her role as the founding president of the ‘Women’s Initiative for the European Union.’” [23i]

22.16 The *Hurriyet* newspaper further reported on 15 October 2007 that, “The AKP (Justice and Development Party) is launching three new programs aimed at increasing the number of female mayors in Turkey. The programs come in response to Prime Minister Recep Tayyip Erdoğan’s request for more female participation in local government. Women account for only 18 of ‘Turkey’s 3500 mayors. Nine belong to the DTP (Democratic Society Party) and hold office in the southeast. The AKP has only two female mayors, in the Doğan kent district of Giresun and the Yeşilköy district of Hatay. Songül Erol Abdil, the mayor of Tunceli, is the ‘country’s lone provincial chairwoman.’” [70b]

22.17 The European Commission Turkey 2007 Progress Report published 6 November 2007, noted that, “The campaign conducted by an NGO to raise awareness about participation by women in politics and to promote female

candidates in the July 2007 elections has been successful in drawing public attention to the issue. The need for more women in Parliament and the possibility to introduce quotas for this purpose was publicly debated. In the 2007 elections, almost double the number of women (51) was elected to Parliament compared with the previous Parliament.” [71c] (p18) The total number of seats in Parliament is 550. [5d] (Section 3)

SOCIAL AND ECONOMIC RIGHTS

- 22.18 The UN Human Rights Council: Addendum to the Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Mission to Turkey, 5 January 2007 noted that:

“Limited opportunities for women in the region and their limited access to education, employment, information, health services and justice are major constraints to their rights as citizens, potential political power, ability to negotiate the terms of their existence and finding redress for their problems. Local women’s voices must be heard and their initiatives supported. Without a reliable institutional and legal framework guaranteeing their rights and protection, women’s individual and collective resistance can bring fatal consequences.” [20d]

- 22.19 The UK Foreign and Commonwealth Office (FCO) Human Rights Annual Report 2007, released in March 2008, notes:

“Implementation of a satisfactory legal framework tackling violence against women continues, but the issue remains a concern. Lack of accurate data and an overall government strategy have been key obstacles to progress in this area, and the Turkish government has started to take action to address both issues. There have been a number of studies in the areas of women’s participation in the Turkish economy. According to the Turkish Statistic Institute (2005 figures), 69.5 per cent of men and 26.5 per cent of women actively participate in the workforce. The EU average for women is 60 per cent. The number of women entrepreneurs in Turkey is only 12.5 per cent, compared with the EU average of 25 per cent. The UK is supporting a project in this area.” [4g] (p68)

- 22.20 The European Commission 2007 Progress report on Turkey published 6 November 2007 noted that “As concerns ‘women’s rights, amendments have extended the Law on Protection of the Family to all individuals in the family, including family members living separately. They have also abolished all fees for applications and administrative transactions related to court proceedings. The Turkish authorities have issued circulars to governorates, judges and prosecutors, with the aim of improving services to victims of violence.” [71c] (p18)

- 22.21 The EC 2007 Progress report further noted that “Implementation of the prime ministerial circular to combat honour killings and domestic violence against women is underway, under the coordination of the Directorate-General for the Status of Women. Cooperation between public institutions and civil society has improved and regular meetings are held.” [71c] (p18)

Employment and Gender Equality

- 22.22 The CEDAW 32nd Session, January 2005 based on the Shadow Report for Turkey prepared by Women for Women's Human Rights - New Ways, endorsed by the Turkish Penal Code Women's Platform, noted that:

"Currently, women's labor force participation rate in Turkey is approximately 26%, which is the lowest rate amongst the OECD countries; and 49% of employed women are actually unpaid family workers. The urban female labor force participation rate, which is a more accurate indicator of female employment, is only 17%. Currently there is no coordinated plan of action by the Government to redress the gross gender inequality in the economic arena."
[95a]

- 22.23 The European Commission 2007 Progress report published 6 november 2007 mentions that "Even though economic growth has been strong, few new jobs have been created, as employment grew by only 1.3% in 2006. The employment rate hovered around 44-45% in 2006-2007. In particular, the female employment rate remained low at 22-23%." [71c] (p27)

- 22.24 The EC 2007 Progress report stated that "In general, 'women's participation in the labour market remains low, although women occupy some high-profile positions. 'Women's participation in national and local elected bodies remains limited... The legal framework guaranteeing gender equality is in place. However, further efforts are needed to translate it into social reality. The gap between men and women in economic participation and opportunity, educational attainment, health and survival, and political empowerment remains significant. (p18) Labour force participation rates are low, particularly for women and older people, and increased only marginally in 2006 and 2007." [71c] (p30)

- 22.25 The Freedom House 2007 Countries at the Crossroads report published 25 September 2007 noted that:

"Women are also discriminated against in certain professions. Only about 28 percent of women participate in the formal workforce, and just 7 percent outside agriculture. Although women have had the right to vote and run for office since 1934, only 4 percent of parliamentarians are female. Education rates for girls are generally high, but in some rural provinces more than 50 percent of girls between the ages of 6 and 14 are out of school. The World Economic Forum ranked Turkey 105th out of 115 countries surveyed in terms of its gender gap."
[62c]

- 22.26 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that "Women continued to face discrimination in employment to varying degrees and were generally underrepresented in managerial-level positions as well as in government. Women generally received equal pay for equal work in professional, business, and civil service positions, although a large percentage of women employed in agriculture and in the retail, restaurant, and hotel sectors worked as unpaid family labor." [5g] (Section 5)

- 22.27 The EC 2007 Progress report also added that “As regards anti-discrimination and equal opportunities, limited progress was achieved and further alignment is required. A circular was issued by the Turkish Employment Agency banning gender-based discrimination in job matching services. Male nurses are now allowed. The administrative capacity of the Directorate-General for the Status of Women was strengthened. Low participation of women in the labour market and access to education remain points of concern.” [71c] (54)
- 22.28 The Freedom House 2007 Freedom in the World report published 2 July 2008 stated that the amended constitution provides women full equality before the law, but they face discrimination in employment and are under-represented in government. [62a]

[Return to contents](#)
[Go to list of sources](#)

MARRIAGE

- 22.29 The Office of the Prime Minister, Directorate General of Press and Information, accessed 24 August 2008 recorded that the legal age for marriage has been raised for both men and women (Article 124). However, under extreme situations and with sufficient cause, both men and women who are over the age of 16 can be married with the permission of the judge. [36f]
- 22.30 Human Rights Council: Addendum to the Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Mission to Turkey, 5 January 2007 noted that:
- “The 1998 Law on the Protection of the Family grants abused spouses or other family members living with the perpetrator the right to go to court to apply for a protective order... In granting the protective order, the court can require that the perpetrator leave the family home for a period of up to six months or impose other protective measures. Failure to abide by a protective order can result in imprisonment of up to six months... In practice, the law has not lived up to the high expectations and seems to be rarely used. In Batman, for instance, there were only 20 applications for a protective order in all of 2005. The lawyers I spoke with explained that the courts regularly fail to enforce such orders... Therefore, lawyers often advise their female clients to file for divorce and find a new home rather than seek an ineffective protective order and further aggravate the conflict with the perpetrator.” [20d]
- 22.31 In the United Nations Development Programme report on Youth of Turkey 2008 it was noted that “Although the law prohibits children from marrying, families — particularly those in remote rural areas — have sufficient leeway to give their adolescent daughters in marriage, owing to inadequate birth registration procedures. Furthermore many rural communities consider an ‘*imam nikah*’ or religious ceremony sufficient to formalise a union. As a result many marriages remain officially unregistered and essentially invisible to the State.” [35b]

Forced Marriages

- 22.32 The Amnesty International (AI) report 'Turkey: Women confronting family' noted in June 2004 that "Forced marriage, in contrast to arranged marriage, has been described as any marriage conducted without the valid consent of both parties and may involve coercion, mental abuse, emotional blackmail, and intense family or social pressure. In the most extreme cases, it may also involve physical violence, abuse, abduction, detention, and murder of the individual concerned." [12i]
- 22.33 The same AI 2004 report also adds that "Forced marriage violates a woman's right to choose her partner, a right enshrined in the Universal Declaration of Human Rights and provided for in the International Covenant on Civil and Political Rights and the Women's Convention, to both of which Turkey is a state party." [12i]
- 22.34 As noted in a Country of Origin Research Documents of the Canada Immigration and Refugee Board, Ottawa, dated 28 September 2004 entitled 'Turkey: Forced marriage in Turkey; outcome when a woman refuses to marry the designated man; outcome when a woman elopes with another man; attitude of state and availability of state protection (July 2001 -September 2004)':
- "Young girls living in rural areas, specifically in eastern Anatolia, face difficulties, in trying to oppose forced marriage since under tribal custom they are considered the property of either their father before marriage or by their husband afterwards and if they resist social pressure from the community, 'they do so at their peril'. Similarly, according to one of the leaders of WWHR, rural women are likely to be marginalized in the context of changes induced by the new Civil Code, including the raising of the legal age for marriage to 18, as they 'must contend with traditions and customs, [including underage marriage] that have little to do with the legislative revisions their urban sisters enjoy'." [7a]
- 22.35 The European Commission 2006 Progress report published 6 November 2007 mentioned that "According to the preliminary results of the UN Special Rapporteur on Violence against Women, causes of suicides are early and forced marriages, domestic violence and denial of reproductive rights... In parts of the South East it still occurs that girls are not registered at birth. This hampers the fight against forced marriage and crimes in the name of honour since these girls and women cannot be properly traced." [71a]

VIOLENCE AGAINST WOMEN

- 22.37 The EC 2007 Progress report on Turkey stated that:

"The Turkish authorities have issued circulars to governorates, judges and prosecutors, with the aim of improving services to victims of violence. Implementation of the prime ministerial circular to combat honour killings and domestic violence against women is underway, under the coordination of the Directorate-General for the Status of Women. Cooperation between public institutions and civil society has improved and regular meetings are held with

public institutions and 'women's NGOs to monitor the implementation of the circular." [71c] (p18)

- 22.38 The EC 2007 progress report further noted that "With regard to gender equality and 'women's rights, and, in particular, domestic violence, amendments to the Law on the Protection of the Family adopted in April have included into the scope of the law spouses living under separate roof and the workplace; also, they have introduced medical consultation or treatment in a health institution as a new measure that can be enforced by courts on violent family members." [71c] (p62)
- 22.39 The Freedom House 2007 Countries at the Crossroads published 25 September 2007 recorded that "Although the legal framework is strong, women still face discriminatory practices. NGOs and the Ministry for Women and Families report that about a third of women in Turkey are victims of violence." [62c]
- 22.41 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that "the law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, problems in implementation of these laws existed... The law prohibits rape, including spousal rape; however, the government did not effectively enforce the law." [5g] (Section 5)
- 22.40 The Freedom House 2007 Freedom in the World report published 2 July 2008 stated that "Domestic abuse and so-called honor crimes continue to occur; a 2007 study from the Turkish Sabanci University found that one in three women in the country was a victim of violence. The 2004 penal code revisions include increased penalties for crimes against women and the elimination of sentence reductions in cases of honor killing and rape." [62a]
- 22.41 The Report of the UK Border Agency Fact Finding Mission to Turkey (UKBA FFM) 11 – 20 February 2008, interviewed a number of sources on the issue of violence against women. The Social Services and Child Protection Agency (SHCEK) said that most cases of domestic violence in Turkey involved women who suffered violence from their husbands. SHCEK advised that, in Turkish society, men were seen as the dominant power and the use of violence against their wives was culturally condoned. [59] (S11.4)
- 22.42 The EU Commission Delegation to Turkey (which represents the European Commission on the diplomatic and political level) advised that domestic violence was more common in the South Eastern region, but was a problem throughout the whole country. In this region, there was less access for women to education, judicial and social services. The EU delegation also cited the example of the city of Urfa, where women were particularly vulnerable to domestic violence as a result of strong tribal bonds and a lack of shelters. [59] (S19.2)
- 22.43 In 2006, Social Services and Child Protection Agency (SHCEK) informed the UKBA FFM that it had conducted a study into which regions applications for assistance from female victims of domestic violence were coming from.

SHCEK said that, in descending order, the highest number of applications came from the Mediterranean region, the Aegean region, Anatolia, the Black Sea and the Marmara region. All these regions had similar numbers of cases. However, in analysing the figures further, SHCEK found that 67% of applications were from women living in major cities, 28% from women outside of major cities and 5% from women living in villages. [59] (S11.9)

22.44 In the United Nations Special Rapporteur's report 'violence against women, its causes and consequences', by Yakin Erturk, dated May 2006, it was noted that "The situation of women in the eastern regions is particularly worrisome. Their limited access to education, employment, information, health services and justice are major constraints on their citizenship rights, their ability to negotiate the terms of their existence and to obtain redress for their problems." [20d]

22.45 The FCO have provided information from an article on domestic violence which appeared in the Turkish newspaper, *The Milliyet* on 8 June 2007. The newspaper quoted the Directorate-General of Policing crime statistics for 2005 and 2006 as showing that, in this two-year period, there were 333,237 crimes committed which had elements of violence against women. A Turkish woman suffered from violent crime once every 3 minutes, on average, during those two years; 1,985 women lost their lives and 56,445 women were injured in these occurrences. [59]

22.46 In the same article it was recorded:

"Occurrences increased in one year

"In 2005 there were 46,612 instances of beatings, climbing to 71,564 in 2006. 36, 72 women were the victims of beatings.

"In 2005 the number of instances of mistreatment of family members was 9, 901 and in 2006 17, 64. The total number of victims in 2005 and 2006 was 23, 683.

"The number of instances of threat was 10,809 in 2005, rising to 28, 88 in 2006. The total number of women who were victims was 13,186 in total.

"Whilst the number of women suffering from violence as 5,257 in 2005, it rose to 9,317 in 2006.

"Moreover, whilst 8,773 women were injured in 30,621 suicide attempts, 858 women lost their lives in 3,266 occurrences of suicide." [59] (Information provided by the FCO, 29 May 2008)

22.47 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted "Women's NGOs reported that more than 150,000 women were victims of domestic violence between 2001 and 2005...more women called the police emergency hotline to report domestic violence and went to police stations to file abuse reports. On October 15, the Istanbul governor and the Foundation to Support Contemporary Life, backed by EU funds, launched a domestic violence hot line staffed by operators who screen calls and then forward legitimate calls to police, attorneys, or psychologists. In the first ten days of the program, approximately 150 calls were received." [5g] (Section 5)

22.48 A *Turkish Daily News* article dated 28 February 2007 stated that:

“Violence against women in Turkey has come out from behind closed doors and is now squarely in the public arena...The campaign started in an effort to raise public awareness of domestic violence against women, an issue that thrives universally in silence and shame. Since then, the director of corporate communications at *Hürriyet*, and of the Stop Violence against Women Campaign, Temuçin Tüzecan said the project has really taken a life of its own.” [23e]

- 22.49 Mr Tuzecan, Director of the Stop Violence against Women campaign, informed the UKBA FFM that *The Hurriyet* ran a 24 hour telephone hotline (02126569696) for female victims of human rights violations. [59] (S2.7) Working in cooperation with the state authorities and part funded by the EU, the hotline was staffed by seven full time psychologists and two full time lawyers. Mr Tuzecan explained that anybody with access to a phone in Turkey or abroad could obtain guidance from the *Hurriyet* hotline, which had been up and running for 3 months and had taken 6,000 calls to date. [59] (S2.8)
- 22.50 Several helpline services available to women were mentioned by the sources interviewed by the UKBA FFM. SHCEK's telephone hotline 'Call 183', noted above, provided support and guidance to women on issues of domestic violence/abuse. Those reporting abuses could be reached immediately as call offices were available across Turkey. If necessary, SHCEK (in cooperation with the Turkish National Police) could remove people from violent home environments. Other hotlines were also available to women throughout Turkey providing support and guidance, such as the Turkish National Police Helpline 'call 155', the Gendarmerie helpline 'call 156' and a line run by IOM 'call 157' to deal with cases of human trafficking. [59] (S11.18)
- 22.51 Women for Women's Human Rights (WWHR) advised that despite Turkey being a large country physically with limited financial resources, positive developments were being taken forward in the area of women's human rights and will continue. A legislative framework was in place but the implementation was slow. Also, organizations representing women's interests had extended to parts of the country where they did not used to be. [59] (S1.16)
- 22.52 The International Helsinki Federation Annual Report on Human Rights Violations (2006): Turkey, 8 June 2006 noted that:
- “Derya Orman, Gülselin Orman and Seyhan Geylani Sondas were arrested by the police in Istanbul in April because one of them did not have an identity card with her. They stated that the police requested them 'sexual favors' in the station in order to release them. They reported that they were stripped naked, sexually harassed and forced to sexual intercourse by the officers on duty, including a policewoman. HRA officials reported that the applicants were mistreated by the prosecutor when they went to his office to file complaints against the police officers.” [10a] (p441)

[Return to contents](#)
[Go to list of sources](#)

Honour killings

- 22.53 In a letter from the Foreign and Commonwealth Office dated 23 June 2008 it was noted that “An honor killing is generally a murder committed by male family members against female members who has brought ‘dishonor’ to the family, including seeking a divorce or allegedly committing adultery.” [4s]
- 22.54 The report of the Special Rapporteur ‘violence against women, its causes and consequences’ by Yakin Erturk, dated May 2006, stated “Honour (namus) is an important value in Turkish society; it serves to reproduce the rigid control exercised over women and their sexuality... Accordingly, the family must ensure that the code of honor is observed by its members as transgressions (or mere rumors of such transgressions) are seen as ‘stains’ on the entire family. These stains may have to be cleansed at any cost, if necessary through murder.” [20d] (Summary p2)
- 22.55 The same Special Rapporteur report also adds that “What distinguishes honour-related killings from other forms of violence against women is the way they are organized and executed. A family council, which may also include members of the extended kin, decides upon and organizes the murder. A young man or boy is often assigned to commit the crime because it is hoped that the young offender will receive a more lenient sentence. Such murders are often presented as acts of retribution against a woman who supposedly committed an act of grave immorality. However, the demonstrative manner in which they are carried out reveals that they serve mainly to terrorize women as a group in order to uphold patriarchal privilege.” [20d] (p10)
- 22.56 The European Commission 2007 Progress report published 6 November 2007 maintained that domestic violence against women continues to be widespread. Honour killings, early and forced marriages continue to occur. Moreover, access to reliable data on the incidence of violence against women and of honour killings continues to be a problem. More shelters for victims of domestic violence are needed to meet the demand, and services should be improved. Training for law enforcement bodies, judges and prosecutors should be stepped up. [71c] (p18)
- 22.57 The EC 2007 report further added that in January 2007 the Ministry of Justice issued a Circular to public prosecutors regarding cases of custom and honour killings, asking for judicial proceedings of victims to be dealt with rapidly, confidentially and in a humane manner. [71c] (p62)
- 22.58 Interviewed by the the UK Border Agency Fact Finding Mission to Turkey (UKBA FFM) 11 – 20 February 2008, the Turkish NGO Women for Women’s Human Rights – New Ways (WWHR) said that honour killings tended to be more prevalent in South East and Eastern areas of Turkey (eg Diyarbakir and Van), particularly in Kurdish ethnic/religious communities. However, WWHR noted that honour killings were not confined to this section of the community/geographical area; the issue also affected women such as those in immigrant communities in Istanbul. WWHR also advised that honour killings were unknown in the Alevis community and certain geographical areas, including provinces in the East such as Tunceli. [59] (S1.9)

- 22.59 On the issue of reporting incidences of honour killings, WWHR stated that the number of reported honour killings had increased - not because of an increased number of killings but rather an increased willingness to report cases to the authorities. WWHR said that, although still an issue in Turkish society, the number of cases of honour killings did not appear to be on the rise. However, because of increased reporting and the fact that honour killings were often recorded as suicides (ie where girls were forced by their families to kill themselves), it was not possible to be definitive about the level of incidence. [59] (S1.8)
- 22.60 The report of the Special Rapporteur 'violence against women, its causes and consequences' by Yakin Erturk, dated May 2006, noted that, "In the past, courts granted reduced sentences for honour murders considering that the perpetrators had been unjustly provoked by the victim's 'inappropriate behaviour'. Article 82 of the Penal Code now stipulates that killings in the name of töre have to be considered as a case of aggravated homicide and the perpetrator(s) must be sentenced to life imprisonment." [20d]
- 22.61 The EU Commission Delegation told the UKBA FFM that with the new Turkish Penal Code which entered into force in 2005, honour killings are now dealt with under article 82, as an aggravated ground for homicide. However, because honour killing crimes were not specifically profiled in statistics recorded for crimes committed under Article 82, it was difficult to get a precise picture of just how prevalent the honour killing issue actually was. Also, a particular profile of honour killing was forced suicide which was often dealt with in crime statistics as a suicide, again making statistical analysis on prevalence of honour killings in Turkey difficult. [59] (S19.3)

[Return to contents](#)
[Go to list of sources](#)

Women suicides in Turkey

- 22.62 A *Sky News* investigation dated 12 November 2007 reported that women were being forced to commit suicide for bringing dishonour on their families. The report suggested that this phenomenon appeared to be a result of the tightening of laws against honour crimes. '... the stricter sentences handed to men accused of killing women for shaming the family are causing a rise in the number of honour suicides, say campaign groups. Families in predominantly Kurdish southeast Turkey are pressing young daughters or wives to take their own lives to spare the men of the family from serving time. Women's organisations in the city of Batman say that around 80 female suicides were recorded in the city in 2006 alone'. [29a]
- 22.63 On 23 August 2007, an article published in the *Guardian* noted that "On the streets of Batman, a city with a population of 250,000, an alarming number are harbouring suicidal thoughts, and acting on them. Across Turkey, men are twice as likely as women to take their own lives, but, defying that trend, more than 300 women in Batman have attempted suicide since 2001... The numbers are increasing. By June this year [2007], 19 had tried to take their lives and most

were successful. But 'women's groups and human rights advocates believe the suicides are tantamount to murder. Stories have emerged of girls as young as 12 being locked in rooms for days with rope, poison or a pistol." [38a]

22.64 *Los Angeles Times* in their 9 January 2007 article stated that:

"The killing of women and girls by male relatives who think the females have brought shame to the family's honor is an atrocity that has plagued Turkey and other Islamic countries for generations. Thousands of women have died, been attacked or compelled to commit suicide in so-called honor killings.

"In Turkey, the government has finally taken action. Under pressure from an invigorated women's movement and eager to win approval from the European Union, the government has launched a major campaign against honor killings.

...

"Turkish imams have joined pop music stars and soccer celebrities to produce TV spots and billboard ads condemning all forms of violence against women... the nation's top Islamic authority has declared honor killing a sin.

"Late last year, jail sentences for men and boys who commit the crime were stiffened, and new provisions in the penal code make it harder for a court to reduce sentences." [42]

22.65 *An International Herald Tribune* article dated 12 July 2006 noted that:

"In the past six years, there have been 165 suicides or suicide attempts in Batman, 102 of them by women. As many as 36 women have killed themselves since the start of this year, according to a United Nations 'official's finding on violence against women. There have been so many unnatural deaths that the United Nations dispatched a special envoy to the region last month to investigate. After a fact-finding mission, the envoy, Yakin Erturk, concluded that while some suicides were authentic, others appeared to be honor killings disguised as a suicide or an accident." [82]

22.66 The same *International Herald Tribune* article further noted that:

"In an effort to bring honor killings out from underground, Ka-Mer, a local 'women's group, has created a hotline for women who fear their lives are at risk. Ka-Mer finds shelter for the women and helps them to apply to the courts for restraining orders against relatives who have threatened them. Ayten Tekay, a caseworker for KaMer in Diyarbakir, the regional center, said that of the 104 women who had called Ka-Mer this year, more than half had been uneducated and illiterate. She said that in many cases the families had not wanted to kill their relatives but that the social pressure and incessant gossip had driven them to murder." [82]

22.67 UN Human Rights Council: Addendum to the Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Mission to Turkey, 5 January 2007 noted that:

“More specifically, there are reasonable grounds to assume that some recorded cases of suicides in fact constitute grave violence, either because the victim was forced to commit suicide or because a murder was disguised as a suicide. Patriarchal oppression, manifesting itself in diverse forms of violence against women, including forced marriage, early marriage, incestuous sexual abuse and honour-related violence, is often a factor that underlies suicides.” [20d]

Virginity testing

- 22.68 The CEDAW 32nd Session, January 2005 Based on Shadow Report for Turkey prepared by Women for Women’s Human Rights - New Ways, endorsed by the Turkish Penal Code Women’s Platform noted that:

“The new Turkish Penal Code Article 287 on ‘Genital Examination’ does not explicitly state that ‘virginity testing is banned’ and fails to seek the consent of the woman as a necessary precondition; hence as it stands the article continues to provide a basis for this widespread practice of women’s human rights violation.” [95a]

- 22.69 International Helsinki Federation Annual Report on Human Rights Violations (2006): Turkey, 8 June 2006 noted that “In April [2005] , Iskenderun Aggravated Penal Court acquitted the police officers on the basis of insufficient evidence since the Forensic Institute reported that the girls objected to virginity test which was supposed to obtain evidence on their rape claims.” [10a] (p441)

- 22.70 UN Human Rights Council: Addendum to the Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Mission to Turkey, 5 January 2007, noted that:

“Other surveys demonstrated links between suicidal behaviour and factors such as forced virginity testing or childhood sexual abuse... Virginity testing - a practice often used by families to ‘determine’ a girl’s chastity - has also partially been criminalized. Virginity testing authorized by a judge or prosecutor remains legal even if the woman refuses to consent to the intrusive practice.” [10b] (p16)

- 22.71 The same UN Human Rights Council 2007 report further called for Turkey to “Amend remaining discriminatory articles in the Penal Code, such as article 287, which allows virginity testing without the woman’s consent under certain circumstances and article 104 that may be interpreted as criminalizing consensual sexual relations between teenagers aged 15 to 17.” [10b] (p21)

- 22.72 The CEDAW 32nd Session, January 2005 Based on Shadow Report for Turkey prepared by Women for Women’s Human Rights - New Ways, endorsed by the Turkish Penal Code Women’s Platform further noted that “Unfortunately the practice of virginity testing still exists in Turkey, performed in various public institutions and penitentiaries and even employed by families when women are suspected of having premarital sexual relations. The practice not only discriminates against women based on virginity, but also violates women’s human rights and bodily integrity, sometimes to the extent that it causes women to commit suicide or to be killed by their families in the name of ‘honor’.” [95a]

Treatment of women in detention

22.73 As reported in a recent BIA News article dated 2 November 2006:

“A recent study of violence against women by state security forces has shown that at least 70 women were raped while under detention between 1997 and 2006 while 166 others were sexually harassed. The total number of women who have sought legal support and assistance in this period is 236. A report issued by the Judicial Assistance Project for Sexual Harassment and Rape under Detention said that only two of the 236 applications made for support came from Germany while the rest of the incidents were recorded in Turkey... The ‘project’s lawyer Eren Keskin told bianet that harassment and rape were specifically employed as deterrent methods in east and southeast Turkey while kidnapping of women concentrated in the cities of Tatvan and Mardin. Keskin acknowledged that women subject to this form of violence had ‘great difficulties’ in applying for judicial aid and said that as most women faced such incidents at very young ages, there was a need for a new institution other than the ‘coroner’s office, which could deal with psychological reports.” [102f]

22.74 The International Helsinki Federation (IHF) for Human Rights 2006 Turkey report published 8 June 2006 noted:

“Derya Orman, Gülselin Orman and Seyhan Geylani Sondas were arrested by the police in Istanbul in April because one of them did not have an identity card with her. They stated that the police requested them ‘sexual favors’ in the station in order to release them. They reported that they were stripped naked, sexually harassed and forced to sexual intercourse by the officers on duty, including a policewoman. HRA officials reported that the applicants were mistreated by the prosecutor when they went to his office to file complaints against the police officers.” [10a] (441)

22.75 The UN High Commissioner for Refugees, UNHCR Global Report 2006, Turkey, June 2007, stated that:

“Cooperation with the Government and NGOs to meet the basic protection and material needs of refugees and asylum-seekers with an emphasis on the protection of refugee women and children... More than 240 refugee women and adolescent girls were provided with sanitary supplies on a monthly basis. Medical care, health and psychosocial support was provided to victims of SGBV. The Turkish Social Services and Child Protection Agency provided protection to 25 separated children, as well as legal assistance to victims of domestic violence.” [20a] (p2-3)

22.76 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, interviewed a number of sources on the issue of treatment of women in detention noted that Mr Ondul, the Chairman of the Human Rights Association advised that since Turkey was listed for EU accession in December 1999, it had continued to make improvements to the existing legislative framework in relation to mistreatment in prisons and detention. On 30 November 2002, the government had removed emergency regulations, thus

allowing detainees to consult legal advisors and had increased the severity of sentences for cases of torture and mistreatment. [59] (S4.2)

- 22.77 Mr Ondul, Chairman of the Human Rights Association also said that while avenues of legal redress were available to individuals who had been subjected to mistreatment at the hands of the police authorities, police impunity remained a problem. Officers were able to continue their police duties while prosecutions against them are ongoing. [59] (S4.8)

See also Section 11 [Arrest and Detention – Legal Rights](#)

- 22.78 Mr Ondul, Chairman of the Human Rights Association, also added that there was no independent Ombudsman in Turkey to investigate complaints of mistreatment. Turkey was yet to ratify the Optional Protocol on Torture (OPCAT)... The Human Rights Foundation of Turkey was campaigning for Turkey to sign OPCAT and get it approved by the Turkish parliament. [59] (4.15)
- 22.79 Mr Beyter Chairman of Mazlum Der told the UKBA FFM that there was no statutory body in place to follow up complaints of mistreatment. A Human Rights body affiliated to the Prime Minister's office is in place with district and provincial branches across the country where individuals can report cases of human rights violations. However, Mr Beyter said that individuals tended not to report incidences of mistreatment to these boards therefore the boards were unaware of any trends relating to the issue of mistreatment. [59] (5.10)

Complaints procedure for women mistreated in custody

- 22.80 A letter from the British Embassy in Ankara to the Country of Origin Information Service, dated 27 March 2007, sets out details of the complaints procedure for women mistreated in custody, in terms of answers to a series of questions:

"I refer to your letter of 21 February for additional information on the complaints procedures available for women, who have been mistreated in custody in Turkey. The answers to your questions follow.

1. What precisely does a Turkish woman need to do in order to complain about her treatment by the Turkish police either during her arrest/questioning or while being held in police detention?

There are currently a number of different avenues of complaint available in Turkey:

- a) The most usual route is to submit a written allegation to the Provincial Chief Prosecutor, who will then arrange an investigation.
- b) Alternatively, complaints about police treatment can be submitted directly to the Interior Ministry
- c) A third option is to submit a complaint to the provincial Human Rights Board. The Boards consist of local government and non-governmental representatives and are have responsibilities across the full range of civil and political rights. They are unable to instigate a prosecution but they do

have investigative powers and will submit their findings to the prosecutor. In 2004, 9.64% of applications to Human Rights Boards related to torture and mistreatment.

2. What forms does she need to fill in?
 - a) This option does not require a form, although complaints must contain details of places, times, persons and their actions. A lawyer may submit a complaint on the victim's behalf.
 - b) This option is most commonly pursued via an online form available on the Ministry of Interior Website at www.icisleri.gov.tr. The form must be completed in Turkish.
 - c) The Regional Human Rights Boards use a standard 4-page application form, copies of which are available on-line, from public and NGO offices. The form can be filled in personally, or by a relative or representative. Forms can be submitted by e-mail, fax, post or via a 'human rights application box' located in various public buildings in every town. An English version is available from the Prime Ministry website at www.basbakanlik.gov.uk. Applications must be submitted in Turkish.

3. If she is required to attend in person can she be accompanied by a lawyer or other representative, such as a representative of an NGO?

If required to attend in person, she may always be accompanied by a lawyer. NGO representatives are unlikely to be allowed to attend police interviews, but may accompany the plaintiff at other stages of the proceedings.

4. Can the complaint be lodged from a different police district from the one where the alleged ill-treatment took place?

As outlined above, complaints are not submitted directly to the police. Complaints to the prosecutor and human rights board are submitted in the same province (an average province in Turkey has a population of 700,000 - 1 million). Complaints to the Interior Ministry are handled centrally, but involve local prosecutors.

5. How effective are these remedies in practice?

Investigations into allegations of mistreatment occur after almost all allegations are submitted, but as outlined in the 2006 Progress Report, impunity remains a problem in Turkey. Prosecutions are often made but convictions are rarer.

6. Are there any human rights groups active in Turkey who provide assistance to women in this situation?

There are no human rights groups focusing exclusively on women in this situation, but a number do provide this service to men and women. The most important of these is the Human Rights Association, which has branches in 35 cities in Turkey. Each can be contacted by phone or e-mail.

Details are available from the website www.ihd.org.tr. The Human Rights Foundation will also compile medical evidence for submission to prosecutors and rehabilitation for torture survivors. It has offices in Ankara, Istanbul, Izmir, Adana and Diyarbakir. Contact details for each branch are available on the website www.tihv.org.tr.” [4r]

- 22.81 The same letter noted that an “EU Twinning Project which aims to set up an independent Complaints Authority for both police and gendarmerie in Turkey was launched on 12 March [2007]. The UK IPCC will be the twinning partner in this project. Procedures are therefore expected to change.” [4r]

Return to contents
Go to list of sources

- 22.82 A letter from the British Embassy in Ankara to the Country of Origin Information Service, dated 17 April 2007, sets out details of the complaints procedures available for women who have been mistreated in custody by the National Guard or Jandarma:

- “1. Complaints are dealt with by a centralised body known as the Gendarme Human Rights Violations Investigation and Assessment Centre (JIHIDEM), which is responsible for the investigation and assessment of complaints and their submission to the prosecutor for action. Applications can be made to JIHIDEM in a variety of different ways:
 - Via an on-line form available on the Gendarme website (an English version is available at <http://uyg.jandarma.tsk.mil.tr/JIHIDEM/FORM/frmlngBasvuruGD.aspx>)
 - In person, by phone or by petition to the relevant provincial command centre
 - In person, by phone, fax, letter, petition directly to JIHIDEM.
2. Contact details for JIHIDEM are as follows
 JIHIDEM
 Jandarma Genel Komutanligi
 Korg. Hulusi SAYIN Kislasi 06500
 Bestepe, Ankara

 Phone: 0312 456 1186
 Fax: 0312 212 8463
 0312 215 1417
3. I can find no indication that applications must be made in Turkish, but this is highly likely to be the case. Information about the complaints procedure and forms are available only in Turkish and English (for the diplomatic community). As outlined in my previous letter (above), there are various human rights groups in Turkey who will assist anyone wishing to make a complaint.
4. According to JIHITEM’s own statistics, as of 8 April 2007 only 20% of total applications fell within JIHITEM’s remit. 65% of applications had something to do with Gendarme activity; the remaining 35% had been sent to the

wrong organisation. Of the valid applications, 70% were found to be ungrounded, with judicial procedures being initiated in the remaining 30% of cases (please note that these statistics are taken from the Turkish version, not the English version, which has been mistranslated and implies that no judicial proceedings of any kind have been initiated). Statistics on the total number of applications are not available but I understand that total application numbers are extremely low. We are not aware of any successful prosecutions. These figures call into question the effectiveness of the JIHITEM as it is currently constituted.” [4p]

[Return to contents](#)
[Go to list of sources](#)

Protection of victims of violence

- 22.83 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that “Women’s NGOs reported that more than 150,000 women were victims of domestic violence between 2001 and 2005. The government continued to show slow progress on implementing a 2004 law stipulating the need for shelters for women victims of domestic violence in towns with a population of more than 50,000. According to the government, it’s Institution for Social Services and Orphanages operated 23 shelters for female victims of domestic violence and rape with a total capacity of 405. The government reported that provincial government offices, municipalities, and NGOs operated 18 shelters, and that one private foundation operated a shelter... Government officials worked with advocacy groups such as KA-MER to hold town hall meetings and set up rescue teams and hot lines for endangered women and girls.” [5g] (Section 5)
- 22.84 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, notes that Mr Zorluoglu, Head of the Directorate General for Regional Authorities said that under the municipality law 5393, each municipality with 50,000 people or more was obliged to establish shelters for women and children. Smaller municipalities could build shelters too but there was no legal requirement for them to do so. He further added that the building of shelters was a new area of responsibility for municipalities but he was hearing at the centre more about the municipalities building shelters. [59] (S14.3)
- 22.85 Several of the sources interviewed during the 11 February 2008 FFM mentioned the fact that according to the new municipality by-laws there should be a women’s shelter in each municipality of 50,000 or more people. Women for Women’s Human Right’s – New Ways (WWHR) said this provision had yet to be fully implemented. (S1.3) The Social Services Child Protection Agency, SHCEK, said that there was no time frame for the completion of such shelters. (S11.14) Mr Temucin Tuzecan, Director of Stop Violence against Women campaign, said that the majority of these shelters had not been built because a lack of government guidelines. [59] (S2.13)
- 22.86 The Social Services and Child Protection Agency (SHCEK) indicated that they directly operated 23 shelters (also known as ‘Guest-Houses’) across Turkey. Each shelter had a manager of university graduate level education in a relevant

social science, social workers, psychologists, nurses and other staff. The staff worked together to identify the conflict dispute and the type of legal aid or support assistance that a woman might require. Shelters also worked with women who wished to reunite with their families. [59] (S11.6)

22.87 SHCEK's 23 centres had a total capacity to accommodate 477 women. SHCEK explained that there was ongoing work to build 10 more shelters, but this would need to be assessed in light of availability of staff and suitable accommodation. However, ideally, SHCEK would prefer to concentrate on working to prevent the abuse of women, thus preventing the need to build more shelters. [59] (S11.7)

22.88 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, noted that Ms Zumra Yimaz, Head of the Directorate of EU Coordination, Justice Ministry, said that the right to seek a remedy is laid down in section two of the Turkish Constitution under 'Fundamental Rights and Duties'. Article 36 provides that: "Everyone has the right of litigation either as plaintiff or defendant before the courts through lawful means and procedure. No court shall refuse to hear a case within its jurisdiction". In light of this article, women and men alike have equal rights and freedoms and can therefore access the judiciary with equal ease. [59] (S10W)

22.89 Ms Zumra Yimaz further added that, pursuant to the last paragraph of Article 1 of the Family Protection Law, all applications lodged at the Family Court for incidents of domestic violence, as well as the execution of the verdict, are exempt from fees. In addition, if individuals who wish to file a lawsuit in the civil courts for other reasons prove that they are poor by way of a document issued by the headman, they will be able to benefit from Articles 465 to 472 of the Code of Civil Procedure that govern 'judicial assistance.' [59] (S10W)

22.90 The UKBA FFM, interviewed a number of sources on the issue of Protection of victims of violence noted that Mrs Olcay Bas, Head of Department, Directorate General for Women's Status also said that there was no gender discrimination and both men and women had equal access to the justice system, including legal representation. (S13.14) Professor Fendoglu, President of Human Rights Presidency, Prime Ministry, agreed that the legislative framework, in line with EU standards, provided equal access to both men and women. [59] (S17.10)

22.91 The Turkish NGO, Women for Women's Human Rights – New Ways (WWHR) told the FFM that, for women seeking redress against human rights violations and other issues, there were many women lawyers available who were active within the Bar Association, some of whom provided a free legal service for those unable to afford legal costs. [59] (S1.14)

22.92 When asked whether there were female lawyers able to take up sensitive cases and to what degree free legal assistance was provided to women who did not have the means to pay, Mr Firat and Mrs. Zumra Yilmaz stated in their written submission:

"Pursuant to the last paragraph of Article 1 of the Family Protection Law all applications lodged at the Family Court for incidents of domestic violence as well as the execution of the verdict are exempt from fees. In addition, if

individuals who wish to file a lawsuit at civil courts for other reasons prove that they are poor through a document issued by the headman they will be able to benefit from Articles 465 to 472 of the Code of Civil Procedure that govern 'judicial assistance'. [59] (S10W)

"Judicial assistance comprises:

"Temporary exemption from all trial related fees and expenses.

Payment of costs for witnesses and experts by the state as an advance payment.

Exemption from providing collateral for the trial costs.

Temporary exemption from notification fee and costs.

Legal representation, where necessary, whereby the fee for such representation shall be paid later.

Payment of all fees and costs collected by the execution office by the state as an advance payment.

Temporary exemption from stamp duty.

Temporary exemption of fees and duties for documents and copies issued by notary publics.

"For criminal prosecutions, victims do not pay any prosecution fees. At the end of the prosecution, the suspect found guilty covers the prosecution fees."

[59] (S10W)

Women's organisations

- 22.93 An Amnesty International News article 'Turkey: Shelters not Cemeteries' stated that:

"At present, the role of women's rights activists is crucial to ensure that at least a small proportion of women obtain protection – some of these organizations are the:

- Women's Support and Solidarity Centre in Antalya,
- the Purple Roof Foundation in Istanbul,
- the Women's Centre (Ka-Mer) in Diyarbakır,
- the Women's Solidarity Foundations (KADAV) in Ankara and Izmit.

A worker at an NGO told Amnesty International, 'Everyone sends women who have experienced violence to us. Everyone. [sic] The government, the police, everyone. We don't have the facilities to meet the demand'." [12b]

- 22.94 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that "Government officials worked with advocacy groups such as KA-MER, the leading 'women's organization in the southeast, to hold town hall meetings and set up rescue teams and hotlines for endangered women and girls." [5g] (Section 5)

- 22.95 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, noted that The Social Services Child Protection Agency (SHCEK) explained that their organization provided support and social assistance to women, children and the elderly in Turkey. It provided services

through social centres across Turkey as well as family telephone help-lines and awareness raising initiatives to help those in need. [59] (S11.2)

- 22.96 The Turkish NGO Women for Women's Human Rights – New Ways (WWHR) told the FFM that it cooperated with social services agencies which run community centres throughout the country and provides a holistic human rights education programme for women. The community centres are an important means of support to women from the lower socio-economic strata in Turkish society. [59] (S1.12)

Women's NGOs

- 22.97 The UN Human Rights Council: Addendum to the Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Mission to Turkey, 5 January 2007, noted that:

"There is a dynamic women's movement in Turkey and many individual women have demonstrated a high level of performance in all walks of life, and yet this potential is excluded from formal politics. The development indicators for women are in dire contrast to the country's aspirations, its legal and constitutional provisions and its international commitments. Violence against women in the private sphere is systematic and widespread. A nationwide mobilization for the advancement of women - with political will and commitment - is urgently needed to turn promises into reality." [20d]

- 22.98 The Stop Violence Against Women website accessed 30 October 2007 stated that, "Nongovernmental organizations, or NGOs, play vital roles in articulating and enforcing international human rights standards. NGOs lobby on national and international levels for strengthened human rights standards... As advocates for social change, NGOs have been instrumental in achieving legal reform and have played important roles in advancing 'women's rights as human rights. Despite their diversity, NGOs can be broadly defined as independent voluntary association[s] of people acting together on a continuous basis, for some common purpose." [97a]

- 22.99 The same Stop Violence Against Women website have further noted the six different Women NGO's listed in Turkey as follows:

Foundation for 'Women's Solidarity (Kadin Dayanisma Vakfi)
Mithat Pasa Caddesi, No. 10/11 Sihhiye
Telephone: 90-312-430-4005, Email: Kadindv@yahoo.com.tr

Human Resources Development Foundation (Insan Kaynagini Gelistirme Vakfi)
Sira Selviler Caddesi, Kristal Apt. No. 152/3-4 Beyoglu
Telephone: 90-212-293-16-05, Email: ikgv@ikgv.org

Flying Broom
Büyükelçi Sokağı 20/4 Kavaklıdere, Ankara, Türkiye 06700
Telephone: 90-312-427-00-20, Email: ucansupurge@ucansupurge.org
Fax: 90-312-466-55-61
Website: <http://www.ucansupurge.org/>

Foundation for the Support of 'Women's Work
İstiklal Cad. Bekar Sokak, No: 17 Beyoglu - Istanbul/TURKEY
Phone: 90-212-292-26-72, Email: kedv@kedv.org.tr
Fax: 90-212-249-15-08
Website: <http://www.kedv.org.tr/>

Human Rights Association
HRA Headquarters, İHD Genel Merkezi
Tunalıhılmı Cad. 104/4 Kavaklıdere, Ankara, Turkey
Telephone: 90(312)-466-49-13-14, Email: posta@ihd.org.tr
Website: <http://www.ihd.org.tr/index.html>

Kadin2000
Arjantin Caddesi 22/10, Kavaklıdere 06700, Ankara, Turkey
Telephone: 0312-467-13-37, Email: info@kadin2000.gen.tr
Fax: 0312-468-18-33
Website: <http://www.kadin2000.gen.tr/>

Women for Women's Human Rights - New Ways Foundation
İnönü Caddesi, 37/6 Saadet Apt. Gümüşsuyu, 80090, Istanbul-TURKEY
Telephone: 90-212-251-00-29, Email: wwhrist@superonline.com
Fax: 90-212-251-00-65
Website: <http://www.wwhr.org>

Return to contents
Go to list of sources

23 CHILDREN

BASIC INFORMATION

23.01 The 'Child Information Network in Turkey' website, defines a child as "for the purposes of the present Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier." [80]

23.02 The Republic of Turkey signed the UN Convention on the Rights of the Child on 14 September 1990 and ratified it with the decision of the Council of Ministers dated 9 December 1994, No: 4058. The Convention came into force on 11 December 1994. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in the armed conflict was signed on 8 September 2000 and ratified with the decision of the Council of Ministers dated 16 October 2003, No: 4991. The Optional Protocol came into force on 18 March 2004.

23.03 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:

"The government was committed to furthering 'children's welfare and worked to expand opportunities in education and health. Government-provided education through age 14 or the eighth grade was free, universal, and compulsory... On December 1, the government enacted a new law on children that includes language implementing the Hague Convention on International Child Abduction... Child abuse was a problem. There were a significant number of honor killings of girls by immediate family members, sometimes by juvenile male relatives." [5g] (Section 5)

23.04 The European Commission 2007 Progress report published 6 November 2007 on Turkey noted that "The Ministry of Labour and Social Security has started to develop a national strategy against child poverty. In order to provide the basis for tackling the incidence of street children, a government circular was issued to collect data on children working and/or living on the streets. Seven cities with large numbers of street children have adopted action plans under the new scheme... (p18) The current legislative framework does not tackle the issue of children working on the streets." [71c] (p53)

23.05 In the NGO Report on Turkey's Implementation the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography report of 2006, compiled by Ankara Child Rights Initiative, it was stated that:

"Children living and/or working on the streets constitute a highly vulnerable group of children with respect to OPSC related crimes. Recent temporary Committee on street children at the Turkish Grand National Assembly (TGNA) revealed that 41,982 children living and/or working in the streets have been provided protection measures by SHCEK. Reports of the temporary Committee also revealed that there is no healthy system of statistics that would help

measure the situation of children in Turkey for better policy decisions to be taken.” [80b] (p3)

- 23.05 The same NGO 2006 report indicated that “Former State Minister responsible for women and children affairs Güldal Akşit indicated that around 37% of children living on the streets are from relatively underdeveloped Eastern and South Eastern Anatolian regions. Overcrowded families with highly limited income and employment opportunities living in one room apartments in these big cities affect children and become another reason for the children to work on the streets to bring additional income.” [80b] (p3-4)
- 23.06 The NGO 2006 report further noted that “Although there is a new service provision model introduced to help protect the children living and/or working on the streets, there is much more to be done to address the root causes of the problem. It is expected that around 635,000 children are in risk of finding themselves in the streets, thus vulnerable to all sorts of abuse including forced labour, sale, pornography, and prostitution.” [80b] (p4)

Unregistered children

- 23.07 The UN Convention on the Rights of the Child, Article 7 states that ‘The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.’ [91c]

- 23.08 In a letter from the Foreign and Commonwealth Office dated 14 August 2008 it was noted that:

“Children’s birth registry status can be analysed also in terms of the type of marriage of their parents. Three-fourth of children born to parents with imam marriage (religious marriage) have no birth registry. The proportion of children in this status is 15 percent among parents with both civil and religious marriage, and 10 percent for parents with civil marriage only. It is further observed that non-registry is also more common among children born to parents who were married with such practices as başlık (bridemoney paid to the family of the bride by the family of the groom) and berdel (marriage allowed by families on the condition that one sibling of the groom gets married with one sibling of the bride).” [4j]

- 23.09 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, interviewed a number of sources on the issue of unregistered children. Mrs Pieters the Deputy Representative of United Nations Children’s Fund (UNICEF) advised the FFM that in order to register the birth of a child in Turkey, a parent needed to be married. Consequently, individuals who were unmarried would often register their children to married members of their family. Mrs Pieters said that UNICEF was doing an analysis of the Birth Registrations

laws which would shortly be published. Also, an awareness raising campaign would be launched jointly with the Directorate General for population under the Ministry of Interior. [59] (S3.15)

23.10 Mrs Pieters also said that when a child was born to an unwed mother it was often placed in an institution, given to a childless family member to bring up, or put up for fostering. Mrs Pieters gave an example of four pregnant girls in an Istanbul prison, who had been told that their babies were stillborn, when the babies had actually been given for adoption. [59] (S3.14)

23.11 On the children born out of wedlock, Mrs Nurdan Tornaci, Deputy Director General and Nilgun Geven, Head of Department for Women's Branch Department of Services for Women, Children and Society (SHCEK) reported to the UKBA FFM that there was still a certain stigma attached to this issue in Turkish society and that often children assumed to be born out of wedlock were left on the streets. In cases of child abandonment, SHCEK would take in the children concerned and look after them; some may then be fostered or adopted. SHCEK said that every year there were about 500 adoption cases, of which approximately 250 children were abandonment cases, probably born out of wedlock. [59] (S11.19)

23.12 In a letter from the Foreign and Commonwealth Office dated 22 July 2008 it was noted that:

"It is obligatory to register your child at birth in Turkey. However, registration can only be carried out at offices in the provincial capitals (81 cities in Turkey) which can make it difficult for rural communities to register. Notwithstanding this, registration is very high, because communities are aware that they cannot claim benefits for their children unless they are registered. This means that there is a high level of registration overall - 85% - and no difference between registration of girls and boys, or of Sunni Turks and other minority groups such as Roma.

"If a child is not registered at birth, they are registered by the authorities on entering the education system, which means that the majority of children are registered. One problem that remains is the tendency of rural communities not to register children who die, or not to register a younger child given the same name as a dead elder sibling." [4k]

23.13 The European Commission 2007 Progress report on Turkey published 6 November 2007 noted that "There has been a significant decrease in the proportion of unregistered children compared with 10 years ago. However, the proportion of children under five years of age who were not registered at birth remains high in particular in the East of the country." (p62) "This creates obstacles for children's subsequent access to health and education services. Official statistics show that the ratio of children who die at birth is still high." [71c] (p19)

23.14 The European Commission 2007 report noted that, regarding asylum seekers, "The children of applicants for asylum have the right to attend Turkish schools. Primary schools can be attended free of charge. 312 out of 1045 children of

asylum seekers at school age are enrolled in education. Awareness among asylum seekers on education opportunities needs to be improved.” [71c] (p64)

- 23.15 The BIA News Center article ‘Report States 833 Lost Children In Turkey’ published 5 August 2008 reported “Prime Ministry’s Human Rights Directorship (IHB), 7183 children were lost last year, 6350 of these were found and 833 of them are still lost. The provinces with the highest number of lost children were Istanbul, Balıkesir, Bursa, Ankara, Şanlıurfa and Mardin.” [102d]

Age of Consent

- 23.16 United Nations Statistics Division accessed 25 August 2008 recorded the minimum legal age for marriage is 17 years for both men and women in 2005. [35c]
- 23.17 The Office of the Prime Minister, Directorate General of Press and Information, published 24 August 2008 recorded that the legal age for marriage has been raised for both men and women (Article 124). However, under extreme situations and with sufficient cause, both men and women who are over the age of 16 can be married with the permission of the judge. [36f]
- 23.18 The Child Soldier Global 2004 report states that “National service is the right and duty of every Turk (Article 72). The Military Code provides for voluntary recruitment to some elements of the armed forces at a minimum age of 18, but the government has stated that this is not applied in practice. Other legislation apparently permits the deployment of 15 to 18 year olds in civil defence forces during national emergencies.” [40]

[Return to contents](#)
[Go to list of sources](#)

Customary marriages

- 23.19 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:
- “Child marriage occurred, particularly in rural, poverty-stricken regions; however, ‘women’s rights activists claimed that underage marriage has become less common in the country in recent years. Children as young as 12 were at times married in unofficial religious ceremonies. Families in rare instances engaged in ‘cradle arrangements’, agreeing that their newborn children would marry at a later date, well before reaching the legal age.” [5g] (Section 5)
- 23.20 In the NGO Report on Turkey’s Implementation the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography report of 2006, compiled by Ankara Child Rights Initiative, it was stated that:
- “Prof. Dr. Türkan Saylan, President of one of the leading girls education NGO with more than 90 branches all over Turkey, in one of her recent remarks stated that there are still girl children in some areas who are being sold in marriage for 200 YTL (around € 125) in rural Turkey.” [80b] (p8)

- 23.21 The same NGO 2006 report further added that “in Diyarbakir (South Eastern Turkey), 12 year-old girl had been kidnapped and been raped by the kidnapper, later she was forced to marry her kidnapper to clean her honour as she was left pregnant. Two years later, her nose was cut off by her father-in-law when she resisted his rape attempt.” [80b] (p8)
- 23.22 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, noted that regarding under age marriages, Mrs Pieters the Deputy Representative of United Nations Children’s Fund (UNICEF) in Turkey said that underage marriages affected particular sections of society including the Kurdish, Roma and Arab communities. Mrs Pieters advised that 99% of such marriages did not get prosecuted owing to cultural stigma. [59] (S3.12)
- 23.23 The United Nations Development Programme report on Youth of Turkey 2008 notes that “in many cases, child marriage is motivated to a considerable extent by fear that a girl’s family honour will be ruined if her virtue is compromised in any way. The same fear is at the root of the issue of honour killings — a persistent threat to adolescent girls and young and adult women alike especially in rural areas where hundreds of Turkish women die each year by way of reparation for their family’s allegedly damaged reputation.” [35b]

Child Abuse

- 23.24 In the NGO Report on Turkey’s Implementation the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography report of 2006, compiled by Ankara Child Rights Initiative, it was noted that “Over the years several child abuse and neglect stories have shown that the system of institutionalization of children needs to be reviewed overall and from an OPSC point of view too as overcrowded institutions including orphanages, care centres, boarding schools, reformatories, mental health institutions, and the like.” [80b] (p4)
- 23.25 The US State Department Report (USSD) 2007 report Human Rights Practices published 11 March 2007 noted that “Child abuse was a problem. In 2005 police arrested over a dozen nurses, caretakers, and other employees of the Malatya state orphanage in connection with an investigation into the alleged torture and abuse of children at the institution. On December 26, a Malatya penal court sentenced nine suspects to one ‘year’s imprisonment for negligence and misuse of authority. A second case against five other employees continued at ‘year’s end.” [5g] (Section 5)
- 23.26 International Helsinki Federation Annual Report on Human Rights Violations (2006): Turkey, 8 June 2006 noted that “Mistreatment of children was also reportedly common in state orphanages, as indicated also by a public scandal coming out with the broadcasting of images of children subjected to severe and group violence by their care takers in an orphanage in Malatya in October.” [10a] (p441)
- 23.27 The European Commission 2007 Progress report on Turkey published 6 November 2007 stated that “The way in which children are treated in institutions

remains a cause for concern. Efforts are required to review the existing standards of care and protection of the Social Services and Child Protection Agency and to improve the capacity of its staff. Efforts to encourage foster parenting as an alternative to institutional care need to be intensified.” [71c] (p19)

23.28 The *Turkish Daily News* reported in ‘Two more caretakers arrested in Malatya’, dated 10 November 2005, that: “Two more caretakers were arrested by the court as part of an investigation into a scandal at the Malatya Childcare Center, reports said on Wednesday. This increases to seven the number... The Interior Ministry launched an internal investigation into Malatya Governor Osman Derya Kadioğlu. Interior Minister Abdülkadir Aksu also sent an inter-departmental circular to the local ‘governor’s offices of 81 provinces, warning officials that such mistreatment of children protected by the state should never happen again.” [23b]

23.29 A *BIA 2* article, published 31 July 2006, ‘Turkey: Children may be tried under New Anti-Terror Law’, noted that:

“Initiative representatives Lawyer Seda Akco and Mustafa Ruhi Sirin have written to President Ahmet Necdet Sezer and main opposition Republic Peoples Party (CHP) chairman Deniz Baykal this week, asking them to take the law to the Constitutional Court for it to be abolished due to an article that allows children above the age of 15 being tried by High Criminal Courts for TMK offences... The new law allows all children above the age of 15 to be put on trial at High Criminal Courts in cases which involve TMK offences.” [80c]

23.30 In the NGO Report on Turkey’s Implementation the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography report of 2006, compiled by Ankara Child Rights Initiative, it was noted that:

“There is no sound data regarding child pornography in Turkey. One reason of this failing is that there is no specific legal provision on child pornography. [In] The new Turkish Penal Code, there is a section called Obscenity Article 226(3) dealing with limited issues of child pornography. It is estimated that child pornography mostly happens on internet in Turkey. There are several problems in combating child pornography, especially on the Internet and mobile phones.” [80b] (p6-7)

23.31 The same NGO 2006 report further added that “One example of a girl child sex worker reveals society’s perception in this matter: ‘I went to complain to the police about an incident where I was hitchhiking for prostitution and my client slit my throat. The police told me that I am an indecent woman and the man I was complaining about is a reputable businessman. I never go to the police again!’” [80b] (p7)

Child Labour

23.32 The Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, states under Article 32 that:

“1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the 'child's education, or to be harmful to the 'child's health or physical, mental, spiritual, moral or social development.

“2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

“(a) Provide for a minimum age or minimum ages for admission to employment;

“(b) Provide for appropriate regulation of the hours and conditions of employment;

“(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.” [91c]

- 23.33 In the NGO Report on Turkey's Implementation the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography of 2006, compiled by Ankara Child Rights Initiative, it was stated that, “Child labour in all circumstances until 15 years of age is prohibited in Turkey. However, a recent report estimated that there are around 3,850,000 working children in Turkey. 511,000 of them amongst children between 6-14 years of age and 469,000 of them registered working children between 12-14 years of age.” [80b]
- 23.34 The European Commission 2007 Progress report published 6 November 2007 noted that “With respect to 'children's rights, efforts to combat child labour have continued. A child labour survey revealed a decrease in the proportion of working children, from 10.3% in 1999 to 5.9% in 2006.” (p18) “Child labour is still widespread in seasonal agricultural work and on the streets. Shortcomings remain in the labour law and its implementation, and the national resources allocated to tackle child labour are insufficient.” [71c] (p19)
- 23.35 The Report of the UK Border Agency Fact Finding Mission (UKBA FFM) includes information regarding Child Labour for Children obtained from interviews with a number of sources. Mrs Pieters the Deputy Representative of United Nations Children's Fund (UNICEF) told the FFM that while the child labour laws officially covered the whole country, agricultural regions were effectively exempt from the provisions. There were no legal grounds or other means available to ensure that children who were registered in schools regularly attended them and did not instead go out to work in the fields. [59] (S3.1)
- 23.36 Mrs Pieters mentioned that, especially in the rural areas, workers were employed on a family 'clan' basis whereby older family members obtained employment for their families through a verbal contract with an employer. As a consequence employers could not be held legally responsible for any under age child working. [59] (S3.2)

- 23.37 Mrs Pieters said that figures released in April 2007 by the Turkish Statistical Institute with the support of the International Programme for the Elimination of Child Labour, indicated that 958,000 children aged between 6-17 were engaged in some form of economic employment/activity in 2006. Of these, 120,000 were not attending school. She also said that the first survey on child labour in 7 years showed that longer years of schooling and the decline in the importance of agriculture as a source of employment had caused a marked reduction in child labour. In rural areas, according to this survey, child labour had declined by 50% between 1999 and 2006. Mrs Pieters also said that the number of children working in agriculture had gone down because of the modernisation of the agricultural sector and the fact that families have moved away to urban sectors. [59] (S3.4)
- 23.38 When asked by the UKBA FFM about the prevalence of child labour, Ms Douglas-Todd, Resident Twinning Advisor, Independent Police Complaints Commission Project Team, said that this was reported to be widespread in Van, but even more so in Istanbul and that police 'turn a blind eye'. [59] (S18.8)
- 23.39 Regarding children employed in the urban sector, Mrs Pieters the Deputy Representative of United Nations Children's Fund (UNICEF) told the mission that number of children engaged in economic employment/activity in this sector had fallen from 478,000 in 1999 to 457,000 in 2006. However, there had been an increase in the number of children employed aged between 6 and 14 from 109,000 to 116,000. The statistics further indicated that out of the total number of children in employment, 392,000 were engaged in agriculture, 271,000 in industry and 294,000 in trade and other services. However these figures did not take into account children who took responsibility for domestic tasks such as cooking, cleaning, shopping and care of siblings or older members of the family. According to the 2006 survey 53% of girls and 33% of boys carried out house hold chores but as girls got older they were more likely to continue with domestic chores than boys. [59 FFM] (S3.5)
- 23.40 The NGO 2006 compiled by Ankara Child Rights Initiative states that "Although problem of children in agricultural sector are being addressed more and more, there are still report of abuse of economically disadvantaged segments of the society by brokers who hire children between 12-16 years of age from their families in Eastern and South Eastern Turkey to work in Western Northern parts of Turkey mostly during summer months. These children not only are exposed to forced hard labour in fields but also to all forms of abuse including sexual." [80b] (p6)
- 23.41 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:
- "There are laws to protect children from exploitation in the workplace; however, the government did not effectively implement these laws. The use of child labor was particularly notable in agriculture, carpentry, the shoemaking and leather goods industry, the auto repair industry, small-scale manufacturing, and street sales... The law provides that no person shall be required to perform work unsuitable for their age, gender, or capabilities, and the government prohibits children from working at night or in areas such as underground mining. The law

prohibits school-aged children from working more than two hours per day or 10 hours per week.” [5g] (Section 6)

23.42 The USSD 2007 report also noted that “The Ministry of Labor and Social Security effectively enforced these restrictions in workplaces that were covered by the labor law, which included medium and large-scale industrial and service sector enterprises. A number of sectors are not covered by the law, including small-scale agricultural enterprises employing 50 or fewer workers, maritime and air transportation, family handicraft businesses, and small shops employing up to three persons.” [5g] (Section 6)

23.43 The NGO 2006 report compiled by Ankara Child Rights Initiative stated that “Due to economic hardships, child labour is being used as cheap labour in parts of Turkey. For example recently Food Processing Trade Union branch in Erzurum (Eastern Turkey) reported that number of children working is increasing as a source of cheap labour.” [80b] (p6)

23.44 The USSD 2007 report also noted that “An informal system provided work for young boys at low wages, for example, in auto repair shops. Girls rarely were seen working in public, but many were kept out of school to work in handicrafts, particularly in rural areas... Small enterprises preferred child labor because it was cheaper and provided practical training for the children, who subsequently had preference for future employment in the enterprise.” [5g] (Section 6)

23.45 The *BIA News Center* on 15 May 2008 reported in an article, ‘School Principle Beats and Injures 12 Students’ that:

“A school principle beats up 12 students for not cleaning the school garden by hitting their hands with a big pair of compasses. The students are hospitalized and the principle is suspended until the investigation is completed. The incident happened in Silifke, a district of Mersin in the eastern section of the Mediterranean region of Turkey.” [102a]

Legislative Framework

23.46 The Report of the UK Border Agency Fact Finding Mission includes information regarding Legislative Framework for Children obtained from interviews with a number of sources. Mr Yilmaz Head of the Department of Child Labour told the mission that the Turkish government had adopted laws and regulations relating to the prevention of child labour in line with international standards. There were also many international organisations operating in Turkey that worked with the government to regulate child labour, such as the International Labour Organization (ILO) and the United Nations (UN). Mr Yilmaz reported that in 2006, the ILO had chosen Turkey as one of the most responsible and sensitive countries taking forward work to prevent child labour. [59] (S15.1)

23.47 Mr Yilmaz said that there were a number of Turkish byelaws related to the prevention of child labour but that constitutionally, article 50 of the Turkish Labour Law was the strongest provision in place. Byelaws concerning the education of children and the prevention of child labour included:

- Law no 4857 (Article 71 of the Turkish Labour Law) which prohibits children from being engaged in hard labour.
 - Law no 222 which concerns the obligation to complete compulsory primary and secondary education for 8 years (6 to 14yrs).
 - Law no 2821 which concerns the syndicate trade union law provision on child labour.
 - Law no 2559 which concerns the provision of guidelines for the police and local authorities on preventing child labour.
 - Law no 1580 which concerns the responsibilities of municipalities regarding child labour.
 - Law no 2828 which pertains to social services and child care services.
 - Law no 5395 which concerns child protection.” [59] (S15.2)
- 23.48 The Report of the UKBA Fact Finding Mission noted that Mrs Pieters, the Deputy Representative of United Nations Children’s Fund (UNICEF) said that UNICEF had undertaken a comparative study assessing the differences between the provisions in Turkish national laws that addressed issues relating to children and those in EU directives. This study would be used to lobby the government on amendments needed to strengthen the existing legislative framework for children. She said that child laws relating to freedom of expression and freedom to be taught in one’s own language dated back to 1932 and were in need of major amendments. Amendments made in 2004 had not addressed the need to extend coverage to the agricultural sector. While ratifying the United Nations Convention on the Rights of the Child, Turkey submitted reservations on articles 17, 29 and 30. These reservations remain today. The Turkish authorities should be encouraged to withdraw these reservations during the review of their 2 and 3 State Party Report in 2009. [59] (S3.3)
- 23.49 Ms Douglas-Todd, the Resident Twinning Advisor, told the mission that legislation was in place and there were many active campaigns in relation to child labour, but implementation remained a problem. [59] (S18.8)
- 23.50 When the fact finding team asked about any evidence on prosecutions and convictions brought forward on the unlawful use of child labour the Deputy Representative of United Nations Children’s Fund (UNICEF) Mrs Pieters stated that there were no statistics maintained by the government or the Bar Association on this subject. Mrs Pieters said that each Bar Association office across the country had a department for dealing with children’s issues but these were not very efficient. Mrs Pieters also mentioned that 60 Bar offices across the country had offices known as ‘Child Rights Commissions’ but only 40 of these were quite active. Officially speaking, legal redress was available to children, though concerns remained around the fact that there were no children’s courts and some children’s cases had been referred to the adult courts. [59] (S3.11)

EDUCATION

- 23.51 The Child Information Network in Turkey, accessed 26 August 2008?, noted that under Article 28:

“States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity; they shall, in particular

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.” [91c]

23.52 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that “The government was committed to furthering ‘children’s welfare and worked to expand opportunities in education and health. Government-provided education through age 14 or the eighth grade was free, universal, and compulsory. Turkey Statistical Institute and World Bank figures showed that gross enrollment for grades one to eight was 96 percent, while net enrollment for those grades was 90 percent. The maximum age to which public schooling was provided was 18. Only 40 percent of children have a high-school diploma, according to the Organization for Economic Cooperation and Development. One in 10 girls does not attend compulsory primary school.” [5g] (Section 5)

23.53 The European Commission 2007 Progress report on Turkey published 6 November 2007 mentioned that “As concerns education, the gender gap in primary education decreased to 4.6% in the 2006- 2007 school year from 5% in the 2005-2006 school year. The first phase of the campaign on education for girls conducted by the Ministry of National Education and UNICEF ended. Between 2004 and 2006 a total of 191,879 girls and 114,734 boys were integrated into primary education. A cash transfer scheme reinforced the campaign by providing direct income support to families. Private-sector and NGO campaigns aimed at increasing enrolment rates in primary and pre-school education continued.” [71c] (p19)

23.54 The EC 2007 report further noted that “the primary school enrolment rate remains at 90%. In the area of education, improved monitoring of progress and drop-outs, especially of girls from primary education, is needed. More efforts are needed to reduce regional disparities in schooling rates. Girls’ enrolment in primary education has increased, but the gap in secondary education remains wide.” [71c] (p19)

23.55 The Report of the UK Border Agency Fact Finding Mission includes information regarding Education for Children obtained from interviews with a number of sources. Mrs Pieters the Deputy Representative of United Nations Children’s Fund (UNICEF) reported that Turkey did not have enough schools for its 10.8

million school age children, despite the fall in the pace of population growth. Over the past ten years, the Ministry of National Education had mobilised resources to combat the issue including, in cooperation with UNICEF, the launch of a girls' education campaign 'Haydi Kizlar Okula' (Come on Girls, to School). This campaign was launched because in many parts of the country, local communities saw no point in girls attending school, expecting women to play a traditional role in society later in life. Many conservative families were unwilling to educate their daughters, particularly beyond the age of 11. As well as doubting the benefit of education for girls, they did not want them to mix with boys and did not think it safe to travel to school on a bus. [59] (S3.6)

- 23.56 Mrs Pieters said that there were some parents who were willing to send both their daughters and sons to school, but in cases of financial hardship, the sons were given preference to continue schooling, as daughters were more likely to be asked to stay at home to help out with domestic chores. The government had enlisted the help of community leaders and field workers in an effort to overcome these preconceptions and provide families with financial support so that their children could attend school. Despite this, overcrowded school facilities and other unfavourable circumstances provided families with a powerful excuse to not send girls to school. [59] (S3.7)
- 23.57 Mrs Bas Head of Department, Directorate General for Women's Status told the mission that the 'Come on Girls to School' campaign which was being run in rural areas and was becoming widespread across the whole of Turkey. (S13.14) Mrs Bas also said that there were many initiatives being implemented to increase the proportion of girl children attending schools. [59] (S13.18)
- 23.58 Ms Sahin AKP MP for Gaziantep added that raising educational awareness among young girls on human rights was a key priority and seen as an important means of eradicating abuses against women at a later stage in their lives. The campaign had so far seen 250,000 girls return to school. [59] (S20.8)
- 23.59 With regard to absenteeism from school, Mrs Pieters told the mission that Turkey had no strict guidelines on children who were absent or missing from school. Until recently, there was no data kept on numbers absent. However, with UNICEF support, the government had now made it mandatory for schools to record absentees and take action against parents for non-attendance. The new system (e-school) recorded all children in each sub district from the ages of 6-14 who attended school and teachers and school principals then fed this information into a database. School principals and Teachers were also required to open a file for each student to further track their progress and attendance. The province of Urfa had shown positive results in school attendance since the introduction of the new recording system and Mrs Pieters indicated that the new system would provide a useful tool for UNICEF to conduct a trend analysis in 2009 on the proportion of children working in Turkey. [59] (S3.9)
- 23.60 As recorded in Turkey's Statistical Yearbook 2007, in the education year 2007/2008, 98.53 per cent of males and 96.14 per cent of females were in primary education; in secondary education 61.17 per cent of males and 55.81 per cent of females and for higher education year 2006/07, 21.56 per cent of

males and 18.66 per cent of females were in higher education.
[89a] (p96 Education and Culture)

[Return to contents](#)
[Go to list of sources](#)

- 23.61 In a letter from the British Embassy in Ankara to the Country of Origin Information Service, dated 27 March 2007:

"I refer to your letter of 21 February for additional information about services for children who are deaf, or whose hearing is impaired, in the province of Izmir. We are aware of at least one state-funded school for deaf children in the city of Izmir. This provides education from pre-school level up to 8th grade:

"Tülay Aktaş İşitme Engelliler İlköğretim Okulu
Mevlana Mahallesi, 373/2 Sokak
No:6/1, Bornova - IZMİR
Tel: 90 232 3397826
Fax: 90 232 3392537
email: taktasio@ttnet.net.tr

"There is no secondary school for the deaf and hearing impaired in the province. At present children have the choice between being assisted to attend a normal secondary school or attending a specialist school in one of the neighbouring provinces in the Aegean region.

"Pre-school education is also available. We are aware of two state-funded specialist toddler groups in Izmir itself, in the Carsi and Konak districts. Provision is likely to be much more limited outside of the main towns, as in the UK. To access these services a child's parents must first submit documentation to the local Directorate of Education confirming that his or her hearing is impaired. A state hospital will usually be able to provide a suitable report." [4q]

- 23.62 The International Deaf Children's Society (IDCS) released a report by Mary C Essex on 'Resources for Deaf people in Turkey' which noted that:

"Turkey has been doing a good job of special education and there are many resources available for people with disabilities. There are 47 elementary schools and 14 high schools for the Deaf throughout Turkey. All of these schools are under the auspice of the Turkish Ministry of Education. Other Key National Offices that provide support for People with Disabilities are:

"Ministry of Social Services and Child Protection Services
Milli Sosyal Hizmetler Çocuk Esirgeme Kurumu Bakanligi.

"Turkish Rehabilitation Centers (SHCEK): There are 385 updated lists of centers with 41 centers for Hearing and Speech Impaired 337 centers for the Mentally Retarded and 7 Spastic centers. These centers serve an early infant program and work with families and children from 0 – 21." [28]

RELIGIOUS EDUCATION

- 23.63 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that “The constitution and laws provide for freedom of religion, and the government generally respected this right in practice; however, the government imposed significant restrictions on Muslim and other religious groups... The government oversees Muslim religious facilities and education through its Directorate of Religious Affairs (Diyanet), which is under the authority of the Prime Ministry.” [5g] (Section 2c)
- 23.64 The USSD 2007 report further noted that “The law establishes eight years of compulsory secular education for students. Subsequently students may pursue study at imam hatip (Islamic preacher) high schools...The constitution establishes compulsory religious and moral instruction in primary and secondary schools. Religious minorities are exempted. However, a few religious minorities, such as Protestants, faced difficulty obtaining exemptions, particularly if their identification cards did not list a religion other than Islam.” [5g] (Section 2c)
- 23.65 The European Commission 2007 Progress report on Turkey published 6 November 2007 stated that “application lodged by a family who are followers of Alevism, the ECtHR held unanimously, in October 2007, that there had been a violation of Article 2 of Protocol No.1 (right to education) to the ECHR. The Court took note of the Government's acknowledgement that these classes do not take into account the religious diversity which prevails in Turkish society; it further considered that the religious instruction syllabus in Turkey could not be considered to meet the criteria of objectivity and pluralism necessary in a democratic society, and that there is no appropriate method to ensure respect for parents' convictions. Consequently, the Court held that Turkey should bring its educational system and domestic legislation into conformity with the ECHR.” [71c] (p17)
- 23.66 As outlined in the Human Rights Watch (HRW) World Report 2008, published on 31 January 2008:
- “In an October judgment that may have implications for the draft constitution, the European Court of Human Rights found that the failure to grant an Alevi schoolgirl exemption from constitutionally enshrined compulsory religious education classes focused on Sunni Islam constituted a violation of the right to education (Hasan and Eylem Zengin v. Turkey).” [9b]
- 23.67 The Minority Rights Group International (MRG) report ‘A Quest for Equality: Minorities in Turkey’ published 10 December 2007 stated that:
- “Compulsory religious instruction in schools is discriminatory not only against Alevis, as is often emphasized by the EU 195 but also against other non-Sunni Muslims and Sunni Muslims who either do not conform to the Sunni Hanefi faith or do not agree with its official version. It is also discriminatory against atheists, agnostics and secularists, who may not wish their children to receive any religious education.” [57c] (p21)

- 23.68 The USSD International Religious Freedom Report 2007 on Turkey published 14 September 2007 stated that:

“Alevi children have the same compulsory religious education as all Muslims, and many Alevis alleged discrimination in the ‘Government’s failure to include any of their doctrines or beliefs in religious instruction classes in public schools. Alevis currently have more than 4,000 court cases against the Ministry of Education regarding this alleged discrimination. The Government revealed in January 2007 its new religious course curriculum which was to include instruction on Alevism, but many Alevis believed the materials were inadequate and, in some cases false.” [5e]

- 23.69 The *BIA News Center* on 11 March 2008 reported in an article, ‘Compulsory Religious Education is Hypocritical Violation of Rights’ that:

“Constitutional law expert Gürcan has criticised the continuing obligation of school children to attend Religious Education classes. They have been controversial for two reasons. For one, many people argue that religious education should not be compulsory. Secondly, although the name of the class is ‘Religious Culture and Ethics’, students are mostly instructed in religious practices of Sunni Islam, rather than learning about different religious beliefs.” [102b]

- 23.70 The EC 2007 Progress report concluded by stating that “Overall, there has been progress with regard to child labour, access to, and reduction of the gender gap in primary education and the registration of children at birth. However, sustained further efforts are needed in all these areas.” [71c] (p20)

CHILD CARE

- 23.71 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that “The government operated 113 orphanages, including 48 for girls and 65 for boys, serving a total of 6,116 children during the year. The government operated 43 children and youth centers and eight surveillance homes that provided daycare services and temporary boarding.” [5g] (Section 6)

- 23.72 The Report of the UK Border Agency Fact Finding Mission includes information regarding Child care and orphanages obtained from interviews with a number of sources. Mrs Nurdan Tornaci, Deputy Director General and Nilgun Geven, Head of Department for Women’s Branch Department of Services for Women, Children and Society (SHCEK) told the mission that SHCEK provided orphanages for children aged up to 12, dormitories and nurseries to educate children aged between 13-18, rehabilitation centres for children working on the street, homes for the elderly and the disabled, and shelters for women subject to domestic violence. SHCEK also worked on child custody issues, particularly in cases of children of foreign nationals. [59] (S11.3)

- 23.73 Mrs Pieters the Deputy Representative of United Nations Children’s Fund explained that UNICEF was working to come up with recommendations to present to the Turkish parliament on minimum standards of care. UNICEF’s

research had identified the need for more qualified social workers trained in early childhood development to work in orphanages. She also explained that the training of more social workers would take time as there were only two facilities in Turkey that provided the necessary training. [59] (S3.13)

23.74 The European Commission 2007 Progress report published 6 November 2007 stated that “The way in which children are treated in institutions remains a cause for concern. Efforts are required to review the existing standards of care and protection of the Social Services and Child Protection Agency and to improve the capacity of its staff. Efforts to encourage foster parenting as an alternative to institutional care need to be intensified.” [71c] (p19)

23.75 On 10 November 2005 the *Turkish Daily News* reported regarding the Malatya Case that:

“Two more caretakers were arrested by the court as part of an investigation into a scandal at the Malatya Childcare Center. This increase to seven the number of people arrested for responsibility in the mistreatment of children at the center... The Interior Ministry launched an internal investigation into Malatya Governor Osman Derya Kadioğlu. Interior Minister Abdülkadir Aksu also sent an inter-departmental circular to the local ‘governor’s offices of 81 provinces, warning officials that such mistreatment of children protected by the state should never happen again.” [23b]

23.76 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that “In 2005 police arrested over a dozen nurses, caretakers, and other employees of the Malatya state orphanage in connection with an investigation into the alleged torture and abuse of children at the institution. On December 26, a Malatya penal court sentenced nine suspects to one ‘year’s imprisonment for negligence and misuse of authority. A second case against five other employees continued at ‘year’s end.” [5g] (Section 5)

HEALTH ISSUES

23.77 The United Nations ‘Children’s Fund Turkey (UNICEF) in the title page of their 2006 report, ‘Child First’ stated that:

“For over fifty years the United Nation’s Children’s Fund has been contributing its international experience and resources to programmes and projects for children in Turkey. In partnership with government, civil society, the private sector, children, their families and communities, UNICEF continues to help build a society where every child benefits from good health care. Some of Turkey’s successes for children and their families include infant mortality rates reduced from 43 to 29 per thousand live births and under five mortality rates reduced from 52 to 37 per thousand and polio-free certification by the European Regional Commission for Poliomyelitis Eradication.” [91a]

23.78 The same UNICEF 2006 report, ‘Child First - Routine Immunisation’ noted that:

“Diphtheria, pertussis, tetanus, tuberculosis, hepatitis B, polio and measles are potentially fatal diseases to which children are particularly vulnerable. All seven of these diseases are vaccine-preventable yet, according to the Turkey Demographic and Health Survey 2003 (TDHS), only 45% of children under five years of age — 34.4% in rural areas — received all of the necessary vaccinations before their first birthday.” [91b]

- 23.79 The European Commission 2007 Progress report on Turkey published 6 November 2007 noted that, “With regard to the coordination of social security systems, efforts to build the administrative capacity of the Social Security Institution, the competent authority under Community legislation, continued in particular through the establishment of an EU department. Preparations with a view to introduction of the European health insurance card have not started.” [71c] (p35)

See also Section 25.01 [Medical Issues](#)

[Return to contents](#)
[Go to list of sources](#)

MISTREATMENT OF CHILDREN IN DETENTION

- 23.80 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that “At ‘year’s end, prosecutors had not opened a case regarding 2005 allegations that wardens at the Sincan ‘Children’s and Youth Prison beat five inmates between 19 and 21 years old on the soles, a practice known as ‘falaka’. Following the allegations, the Ankara chief prosecutor and Forensic Medicine Institute confirmed the existence of bruises and wounds. Prosecutors had one of the five boys identify the perpetrators from a group of 45 wardens. Ozgur Karakaya one of the youths identified the six wardens but was not told their names. Human rights groups were unable to determine the status of the prosecutorial investigation at ‘year’s end.” [5g] (Section 1c)

[See Section 11 Mistreatment in Detention](#)

- 23.81 The Child Rights Information Network (CRIN), in an article posted in 19 June 2008, stated that:

“Members of a Kurdish ‘children’s choir face up to five years in prison as they go on trial in south eastern Turkey. The choir - whose members are aged from 12 to 17 - is accused of spreading propaganda for the outlawed Kurdish separatist rebel group, the PKK. The charges were brought after the group took part in a world music festival in San Francisco, and sang a march in Kurdish. The ‘prosecutor’s indictment claims the song is the anthem of the PKK.” [94a]

- 23.82 The *BBC* however reported on the 19 June 2008 that “A Turkish judge has thrown out a case against members of a Kurdish ‘children’s choir, who faced up five years in prison over a song they sang.” [66h]

- 23.83 *CRIN* further reported in another article posted March 21, 2008 stating that “In the city of Hakkari, as in few other Kurdish cities, the Turkish government did not give permission for Newroz celebrations. When members of the public insisted on holding the celebration, police attacked civilians and brutally beat them, including women and children. During one of the beatings, plainclothes police officers dislocated a 15 years old boy’s arm in front running cameras. The boy’s name is Cuneyt Ertus, and he was immediately taken to the police station where he was interrogated and tortured for two days. Cuneyt then was sent to prison which is more than 100 miles away from his hometown for resisting arrest and was released 21 day’s later.” [94b]
- 23.84 *BIA News Center* reported in May 2008, ‘Families Accuse Police for Torturing Their Kids’ that:
- “Families of the high school children who were tortured in the police station turn to the Association of Human Rights. They report the crime and the Public Prosecutor starts an investigation. According to the report by Erkan Çınar in daily *Birgün*, on May 8 the three children were taken inside the station forcefully and were beaten for more than an hour. Their heads were banged on the walls, their testicles were kicked and they were choked. They were not allowed to see their families. Later they were sent to Çiğli Police Department and from there to the Department of Public Order. When they were taken to Egekent State Hospital, ice was put on their swellings and bruises.” [102e]
- 23.85 The European Commission 2007 Progress report on Turkey published 6 November 2007 noted that “However, cases of torture and ill-treatment are still being reported, especially during arrest and outside detention centres. There is no independent monitoring of places of detention by independent national bodies, pending the adoption of the Optional Protocol to the UN Convention against Torture.” [71c] (p13)
- 23.86 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, noted that a judge from International Affairs Department of Prisons and Detention Facilities explained that children 13-15 years old convicted of crimes were sent to one of 133 probation centres which implemented non-custodial sentences and provided social and psychological support to prisoners after conviction and to victims. Children 16-18 years old convicted of crimes were sentenced to either non-custodial or custodial according to the nature of the crime. He also explained that in Turkey all victims of crime were also supported by probation centres. Each probation centre has a protection board which consists of people from local businesses, civil society organizations, public organisations and which provides support to both victims and prisoners and provides work for them. [59] (9.13)
- 23.87 The EC 2007 report further noted that “Overall, the Turkish legal framework includes a comprehensive set of safeguards against torture and ill-treatment. However, cases still occur, especially before detention starts. The fight against impunity remains an area of concern.” [71c] (p13)

[Return to contents](#)
[Go to list of sources](#)

24 TRAFFICKING

- 24.01 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:

“The law prohibits all forms of trafficking in persons; however, there were reports of trafficking in women and children to the country for the purpose of sexual exploitation. There were allegations that official corruption contributed to the trafficking problem... Allegations that government officials, police and Jandarma officers participated in human trafficking continued during the year. The courts initiated cases against a number of such officials, several of which were ongoing at year’s end.” [5g] (Section 5)

- 24.02 The Freedom House report, Countries at the Crossroads 2007 – Turkey published 25 September 2007 noted that “Turkey is a destination and transit country for trafficking in women and children for prostitution and forced labor. The government has been making serious efforts to curb human trafficking, including a hotline number for victims and numerous arrests. The 2005 penal code includes an article mandating prison terms for traffickers.” [62c]

- 24.03 The US Department of State ‘Trafficking in Persons Report’, released on 4 June 2008 stated that:

“Turkey is a significant destination, and to a lesser extent, transit country for women and children trafficked primarily for the purpose of commercial sexual exploitation... Women and girls are trafficked from Moldova, Russia, Ukraine, Belarus, Bulgaria, Kyrgyzstan, Turkmenistan, Uzbekistan, Azerbaijan, Georgia, and Romania for sexual exploitation. This year, three victims were reported trafficked to Turkey from outside of Eastern Europe and Eurasia—from Morocco, Tunisia, and Sri Lanka. Some victims are reportedly trafficked through Turkey to the area administered by Turkish Cypriots for the purpose of sexual exploitation.” [5i]

- 24.04 As highlighted in the IOM (International Organisation for Migration) document ‘Republic of Turkey Migration Profile’, dated September 2007:

“Turkey is a major destination for human trafficking for sexual exploitation because of its proximity to main source countries... Majority of the victims of human trafficking identified in Turkey are between 18 to 24 years old, with mainly secondary school education... A small number of men from Turkey were trafficked to the Netherlands for the purpose of forced labour in 2006... More than one third of women trafficked to Turkey are mothers with children and illegal profits from trafficking top more than 1 billion USD annually. The vast majority of victims recruited to Turkey had a personal relationship with their recruiter.” [86a]

- 24.05 The US State Department Report (USSD) 2007 Trafficking in Persons Report published 4 June 2008 noted that “The Government of Turkey does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government significantly increased its

law enforcement response in 2007 by convicting and punishing more traffickers. It further improved interagency and NGO cooperation and continued to institutionalize and implement comprehensive law enforcement training. In addition, the Government of Turkey made efforts to address trafficking-related official complicity among law enforcement. However, a lack of secure and consistent government support for Turkey's trafficking shelters frustrated solid improvements in Turkey's anti-trafficking efforts." [5i]

- 24.06 The USSD 2007 Trafficking in Persons Report published 4 June 2008 noted that "The Government of Turkey demonstrated strong anti-trafficking law enforcement and prosecutorial efforts during the reporting period. Article 80 of the Penal Code prohibits trafficking for both sexual exploitation and forced labor, and prescribes penalties of eight to 12 years' imprisonment, which are sufficiently stringent and commensurate with prescribed penalties for other grave crimes, such as sexual assault." [5i]
- 24.07 The USSD 2007 Trafficking in Persons report also noted that "The government reported convicting four traffickers during 2007 under its recently amended Article 80... In addition to the four Article 80 convictions, the government, in 2007, prosecuted 160 suspects and convicted 121 trafficking offenders, a dramatic increase from the 36 convicted in 2006. Penalties imposed on traffickers convicted under Article 227 averaged three years' imprisonment and included fines, some of them substantial." [5i]
- 24.08 The NGO 2006 compiled by Ankara Child Rights Initiative however stated that "Although the magnitude of the problem of child trafficking is not fully known, considerable efforts have been observed addressing the problem of human trafficking in Turkey... For example, Dutch Foundation for Missing Children reported that for the last four years, 36 children were abducted to Turkey only from the Netherlands." [80b] (p5)
- 24.09 In addition the 2006 US State Department Report (USSD) report on Human Rights Practices published 6 March 2007 noted that "A 20 year-old Moldovan woman recounted a common trafficking scenario. She was promised work as a restaurant waitress by a close friend. Upon arrival in the country, her friend abandoned her at a hotel. An Azerbaijani woman arrived and told her she had been sold for \$3,000 and would have to pay back the money over five months of prostitution. She worked with four other girls at the same hotel. Clients beat her regularly. She was forced to service 15 clients per day, often without protection. She became pregnant. Police rescued the victim and six other women after she called the trafficking hotline from a 'client's mobile phone. All were identified as victims of trafficking and received shelter and assistance." [5h]
- 24.10 On 1 July 2008 the *Turkish Daily News* reported 'Turkey launches campaign to combat human trafficking' stating that:
- "Human trafficking is a problem that has gone beyond international borders... The European Commission-funded campaign is being implemented by the International Organization for Migration's, or OIM, Turkey office in close cooperation with the Turkish government. The two-year project aims at providing support to Turkish institutions in their fight against human trafficking,

and protecting victims in line with EU directives... On the same day as the launch, a short promotional TV film and radio spot, titled 'React to Human Trafficking, Don't Be Indifferent!' was introduced for broadcast on television and radio channels nationwide. The film draws attention to the crime of human trafficking and 'Turkey's 157 emergency hotline for the rescue of the victims.' [23d]

- 24.11 The European Commission 2007 Progress report on Turkey published 6 November 2007 noted:

"Progress continued in combating trafficking in human beings. A legislative amendment was made on the offence of human trafficking to allow for effective judicial implementation. The Minister of Interior issued a circular to all personnel working on the cases of human trafficking followed by a handbook on the subject. 422 traffickers were arrested in 2006 and 279 more as of end of September 2007. The free emergency helpline for trafficking victims, which rescued 122 individuals as of end of September 2007, was opened to international calls." [71c] (p65)

- 24.12 The EC 2007 further recorded that "In 2006, 246 persons were identified as victims and returned voluntarily to their countries of origin. In the first nine months of 2007, 124 were identified as victims. 101 of those returned voluntarily to their countries of origin. Victims of trafficking continued to benefit from two shelters run by civil society organisations. Protocols on cooperation and information exchange for the fight against human trafficking were ratified with Kyrgyzstan and with Moldova. Awareness raising and training activities to enhance the combating of trafficking in human beings need to be conducted." [71c] (p66)

See also Section 28.01 [Foreign Refugees](#)

[Return to contents](#)
[Go to list of sources](#)

SUPPORT AND ASSISTANCE

- 24.13 The US State Department Report (USSD) 2007 Trafficking in Persons Report published 4 June 2008 noted:

"The government continued its victim assistance efforts; however international donors stepped in to help remedy a funding shortfall for one trafficking shelter during the reporting period. Although there was no interruption in core services, a funding shortfall forced one shelter to forego staff salaries and divert other resources in order to finance these core services. A lack of consistent and guaranteed funding for Turkey's trafficking shelters weakened the government's overall protection efforts in 2007. The government has reported that it is focused on finding a long-term financial solution to this problem." [5i] (Country narratives – Turkey)

- 24.14 The USSD 2007 Trafficking report also noted that:

“The government encourages victims to participate in trafficking investigations and prosecutions, offers them free legal assistance, and offers legal alternatives to their removal to countries where they would face retribution or hardship. Foreign victims may apply for humanitarian visas and remain in Turkey up to six months with the option to extend for an additional six months; the government issued three humanitarian visas for victims in 2007. The government does not punish identified victims for crimes committed as a result of being trafficked. The government took steps to ensure the responsible and secure repatriation of trafficking victims by following specific exit procedures and contacting governments about their documentation and notifying them of subsequent repatriation.” [5i] (Country narratives – Turkey)

- 24.15 The IOM document ‘Republic of Turkey Migration Profile’, dated September 2007 also noted that “In 2003 an amendment was made to the Citizenship Law in order to prevent foreigners marrying Turkish citizens and claiming Turkish citizenship simply through a declaration at the time of marriage. This puts an end to traffickers exploiting this provision for their benefit. .. The National Task Force on Combating Trafficking in Human Beings has been established in 2002... Turkey’s first Action Plan to Combat Human Trafficking was prepared by the Task Force and is being currently implemented.” [86a]

- 24.16 The Turkish Ministry of Foreign Affairs website last updated on 10 July 2008 in ‘Turkey’s Fight against Illegal Migration’ noted that due to the magnitude of the problem, the solutions are beyond the means of a single country, requiring international burden sharing. Providing shelter, food, medical treatment as well as bearing the return costs of such high numbers of illegal immigrants puts a heavy financial burden on Turkey’s resources.

Statistical Data on Illegal Migration: Nearly 700.000 illegal migrants were apprehended in Turkey within the period 2005-2007. One of the main features of illegal immigration is the fact that it is being conducted by organised networks.

Year	Apprehended Illegal Migrants	Apprehended Human Smugglers
2005	57,428	834
2006	51,983	951
2007	64,290	1242

[60c]

- 24.17 The Turkish Ministry of Foreign Affairs last updated on 10 July 2008 also added that “Due to her unique geographical position, Turkey is a destination country. Victims of THB are mostly from old Soviet Republics and the Statistical Data is as follows:

Fight Against THB*	Number of rescued victims	Number of voluntarily returned	Number of accommodated in shelters	Number of human traffickers apprehended
2004	239	61	18**	227
2005	256	220	142	379
2006	246	197	190	422
2007	148	117	114	308

* Trafficking in human beings is frequently confused with human smuggling. Human smuggling is to assist for profit purposes, persons who do not possess a permanent residence in Turkey to enter and reside illegally and Turkish nationals to exit the country illegally.

** The number of the victims of human trafficking who accommodated, had medical and psychological assistance in shelters between November 2004-December 2004.” [60b]

24.18 The Turkish Ministry of Foreign Affairs last updated on 10 July 2008 further noted that, “On 19 December 2006 ‘forced for prostitution’ is included in the description of THB in article 80 of Turkish Criminal Code. Thus, forced prostitution, the most important dimension of human trafficking, will be punished with this article. Positive outcome of the amendment of the Article 80 is expected by the beginning of 2008.” [60b]

24.19 The Turkish Ministry of Foreign Affairs, updated 10 July 2008, noted that the 157 toll free, tip-off number/emergency helpline for the victims of trafficking became operational in May 2005. The operators provide services in Russian, Romanian, English and Turkish. The helpline can be reached throughout Turkey including from mobile phones. The international helpline became operational in April 2007 (+ 90 312 157 11 22). Shelters have been established in Istanbul in 2004 and in Ankara in 2005 for the victims of trafficking. [60b]

24.20 A country profile by Migration Research.com dated April 2006 stated on the topic of human smuggling and trafficking that:

“Turkey has made some significant legislative changes in an effort to combat human smuggling and trafficking. First, it has amended its penal code to reflect the UN’s Convention against Transnational Organised Crime (Palermo Convention) and its two protocols related to human smuggling and trafficking. Migrant smugglers now face penalties of three to eight years’ imprisonment and a judicial fine, a penalty that increases by half if the perpetrators are acting as an organisation. The new penal code also provides an official definition of trafficking and a punishment of eight to ten years’ imprisonment and judicial fine for the offense. The Ministry of Health has ordered the provision of free medical treatment at state-owned hospitals for individuals who have been identified as victims of human trafficking. Additionally, the Ministry of the Interior now allows authorities to issue humanitarian visas and temporary residence permits for up to 6 months to those victims of human trafficking who wish to stay in Turkey for rehabilitation and treatment.” [19] (p6)

TRAINING ACTIVITIES

24.21 The Turkish Ministry of Foreign Affairs further noted that, “Training was given to law enforcement officials. First public awareness campaign with the title ‘Have you seen my mother?’ was launched on 2 February 2006 with the contributions of IOM and coordination of the Turkish Government.” [60b]

24.22 The US Department of State 2006 Trafficking in Persons report – Turkey published 12 June 2007 noted that “During the reporting period, the police continued an internal anti-trafficking training program, reaching 1,150 additional

police officers. While the government arrested some low-level officials for trafficking, no officials were prosecuted or convicted over the reporting period.” [5d]

- 24.23 The USSD 2007 Trafficking in Persons report published 4 June 2008 also noted that “Turkey’s NATO Partnership for Peace (PFP) training center hosted anti-trafficking training for Turkish and other NATO and PFP country personnel. The center also hosts annual anti-trafficking training for Turkish units assigned to peacekeeping operations. Thirty Turkish personnel received this training in 2007. The government did not report any measurable steps to reduce demand for commercial sex acts within Turkey’s legally regulated prostitution sectors during the year.” [5i]

[Return to contents](#)
[Go to list of sources](#)

25 MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

- 25.01 The UN Development Programme's 2005 Country Factsheet on Turkey noted that the country's Human Development Index (HDI) was 0.775, which gave Turkey a rank of 84th out of 177 countries:

HDI value	Life expectancy at birth (years)	Adult literacy rate (% ages 15 and older)	Combined primary, secondary and tertiary gross enrolment ratio (%)	GDP per capita (PPP US\$)
84. Turkey (0.775)	85. Turkey (71.4)	69. Turkey (87.4)	108. Turkey (68.7)	66. Turkey (8,407)

[35a]

- 25.02 The World Health Organisation's (WHO) 'European health for all database (HFA-DB)', last updated in July 2008, recorded the presence of 1,205 hospitals with a bed capacity of 196,667 in 2006. The database also informed that there were 158.98 people per physician; a total of 116,014 physicians in the same year. [37d]

- 25.03 On 21 February 2005 the *Turkish Daily News* reported that a law to transfer ownership of Social Security Authority (SSK) hospitals to the Health Ministry had come into effect over the weekend:

"The law also transfers health facilities owned by Postal and Telecommunications General Directorate (PTT) and Ziraat Bank to the ministry. SSK hospitals will from now on be run like other state-owned medical facilities. SSK members will still have to obtain referrals from their local hospital for treatment at university hospitals... Numerous political parties, nongovernmental organizations and labor groups criticized the government decision to transfer the hospitals to the Health Ministry. Those opposing to the law said the government intended to privatize the health sector, with many people only getting the treatment they could afford. The government decision is a small part of the social security reform process currently under way to ease the burden on taxpayers. Despite being owned by the SSK, hospitals are a drain to the state because of the huge losses they incur." [23m]

- 25.04 A June 2007 Pharmaceutical Pricing and Reimbursement Information report commissioned by the European Commission, Health and Consumer Protection Directorate-General and the Austrian Ministry of Health, Family and Youth recorded:

"... In general, access to health care has improved since 2004 with radical changes in the provision side. In the past, the Social Insurance Organization (SSK) had its own hospitals with restricted access to its members and in many cases low standard facilities. In 2005, as part of the ongoing reforms, the

competence of these facilities were transferred to the Ministry of Health (MoH) and all MoH hospitals were opened to the SSK members increasing the opportunities of access. Second, access to prescriptions was also improved after allowing SSK enrollees to obtain pharmaceuticals from private pharmacies. In the past, the SSK members were only allowed to buy pharmaceuticals from their hospitals' pharmacies. After the transfer of these hospitals to the MoH, the SSK beneficiaries also started to purchase their prescriptions from private pharmacies as well. Last but by no means the least, in the past, the Green Card Scheme for the poor covered only in patient care hence excluded outpatient care and prescriptions. In 2005 the scheme was extended to cover all health care expenditures easing access of the poorest segments of the society." [75] (p6)

25.05 The European Commission 2007 Progress report published 6 November 2007 noted that, "With regard to the coordination of social security systems, efforts to build the administrative capacity of the Social Security Institution, the competent authority under Community legislation, continued in particular through the establishment of an EU department. Preparations with a view to introduction of the European health insurance card have not started." [71c] (p35)

25.06 The EC 2007 Progress report also added that "The large size of the informal economy and the marked rural/urban divide in the labour market are the main challenges. More than half of those in employment are not registered with any social security institution. ... In the field of social protection, little progress has been achieved. The enforcement of the social security reform was postponed to 2008. A Prime Minister's circular has been issued to initiate a 'one-stop service' at simplifying procedures for obtaining several forms of social assistance. The Social Security Institution recruited additional staff and reinforced its technical infrastructure." [71c] (p54)

25.07 The US State Department's Consular Information Sheet on Turkey dated 1 November 2006 and current at 18 July 2008, stated:

"Turkish hospitals vary greatly. The new, private hospitals in Ankara, Antalya, and Istanbul have modern facilities and equipment, numerous U.S.-trained specialists, and international accreditation. However, they still may be unable to treat certain serious conditions. ... Those planning to remain in Turkey for a prolonged period of time should consider bringing or securing a supply of necessary chronic medications (e.g., heart medications, birth control pills) to cover them while they are in the country, as certain medications are difficult to obtain in Turkey. Nursing care and diagnostic testing (including mammograms) meet American standards at specific institutions in the larger cities. Health care standards are lower in small cities in Turkey in comparison to bigger cities such as Ankara, Istanbul, Izmir, and Adana." [5f]

[Return to contents](#)
[Go to list of sources](#)

PHARMACIES

- 25.08 The Middle East Expats Online Community Resources & Forums website last updated on 6 January 2006, recorded:

“Eczanes (Pharmacies) are open from 09:00 -19:00 on weekdays and Saturdays. They are closed on Sundays but there is always one, open 24 hours in each neighbourhood. Every pharmacy will have a display in its window (which is posted each evening, on Sunday, and on statutory and religious holidays) listing the name and location of the pohen pharmacy, or Nöbetçi Eczane.” [50]

- 25.09 The same website also recorded that “Private hospitals are preferred by patients of middle and upper classes. Despite the fact that state hospitals are sometimes better equipped than the some of private hospitals, many patients prefer going to a private hospital because of the personal and friendly care offered.

- Acibademköy – Istanbul. Website: <http://www.acibadem.com.tr/English/>
- Acibadem Hospital, Carousel, Istanbul - Website: <http://www.acibadem.com.tr/English/>
- Acibadem Hospital, Kadıköy - Website: <http://www.acibadem.com.tr/English/>
- Amiral Bristol American Hospital - Güzelbahçe Sokak, 20 Nişantaşı Istanbul.
- German Hospital, Sıraselviler Caddesi, 119 Taksim Istanbul.

State Hospitals – due to limited funding, Turkish state hospitals don’t have the best sanitary conditions. They are always full of patients and have endless queues. The lack of hygiene, lack of staff and lack of care is easily felt. Ironically however, they have some of the most well-known and respected doctors on staff, particularly at the university hospitals.” [50]

[Return to contents](#)
[Go to list of sources](#)

HIV/AIDS – ANTI-RETROVIRAL TREATMENT

- 25.10 The Turkish Ministry of Health (MoH) Country Report of January 2008, accessed via the UNAIDS website recorded that “Turkey is among low prevalence countries in Central Europe for HIV/AIDS. The first case of HIV infection was reported in 1985, and by the end of June 2007, a total of 2,711 cases had been identified. The rate of increase for the reported number of HIV/AIDS cases has been more over the last three years (about 300 reported new cases annually) and the estimated prevalence is 3,700 cases out of a population of over 70 million.” [39a] (p3)
- 25.11 In December 2001 the Foreign and Commonwealth Office contacted Hacetepe University, Ankara, which provides world-standard treatment for HIV and AIDS. The University confirmed that such drugs such as thyroxine, sequinavir, D4T,

3TC, acyclovir, zirtek, diflucon and metoclopramide, or their substitutes, are available in Turkey. [4a]

- 25.12 On the subject of funding for treatment, the Ministry of Health (MoH) Country Report of January 2008 recorded that "In Turkey PLHA [people living with HIV/AIDS] have same rights with other patients. The Government of Turkey provides with ART services including treatment for opportunistic infections. For PLHA not having any medical insurance, green card provides with ART treatment as for any other disease...In 2006, 685 PLHA have been taking ART. In 2007 it is estimated that around 800 PLHA have taken ART in Turkey." [39a] (p11)

CANCER TREATMENT

- 25.13 As recorded in the World Health Organisation's (WHO) the Impact of Cancer for Turkey 2005 states that, "In 2005 cancer killed approximately 52,000 people in Turkey, 37,000 of these people were under the age of 70." [37b]

- 25.14 The International Observatory on End of Life Care website, dated 2006, stated that:

"Turkey is an area where supportive care with hospice/ palliative care is linked to the development of other services, particularly within hospital based oncology units... There are no specialist palliative care services in Turkey. Medical oncology units and departments of algology (pain) at major hospitals in the country provide pain control and symptom relief. Oncologists and pain specialists in seven hospitals report actively working to establish the concepts of palliative care... The majority of cancer patients are treated in university hospitals that support units with pain specialists and medical oncologists... Some specialist cancer state hospitals such as the Dr Ahmet Andicen Oncology Hospital and Demetevler Oncology Hospital will provide pain relief and symptom management. No information, however, is currently available about the development of palliative care services in the state hospital system or the development of training in the 57 medical schools around the country. There are around 30 specialist 'pain centres' and 20 medical faculties with departments of algology in Turkey. There are no reported activities for paediatric palliative care." [33] (Current palliative services)

- 25.15 The same website also noted that:

"Individual physicians (and their colleagues) have reported active involvement in developing the concepts of palliative care within departments and units in three main areas of the country; in Ankara, a pain specialist at Hacettepe University Hospital, three oncologists, one at Başkent University Hospital, one in the Gulhane Military Academy, (GATA) and one at Gazi University Hospital; in Istanbul, a pain specialist at the Istanbul University Medical Faculty and two oncologists at the Marmara University Medical Faculty; there is one pulmonary specialist developing concepts of palliative care at the Pamukkale University Medical School, Denizli. Medical and nursing professionals have also expressed interest in palliative care at Ankara University Faculty of Medicine." [33] (Current palliative services)

- 25.16 The World Health Organisation (WHO) report on 'Strengthening cervical cancer prevention in Europe' of May 2007 noted:

"In Turkey, cancer of the cervix is the eighth leading cause of cancer in women and the age-standardized incidence rate is relatively low (4.5 per 100 000 women). There are several arguments against the introduction of HPV [Human papillomavirus] vaccines in Turkey ... 'Guerrilla marketing' of HPV vaccines gives the impression that their introduction is a high priority. In Turkey, however, introducing organized screening is considered much more important and more feasible at the moment. It is essential that WHO policies are country-based and take the different scenarios into account." [37e] (p22)

KIDNEY DIALYSIS

- 25.17 The Oxford Journal dated 2002 stated that "The majority of dialysis treatments in Turkey are carried out in centres belonging to the Ministry of Health and in private centres. In the last decade, private centres have played an important role in providing sufficient beds for haemodialysis patients." [32] Some of the dialysis centres listed by The Middle East Expats Online Community Resources & Forums website are:

Kidney Health & Dialysis Hospital
Address: Osmaniye Mevkii E-5 Karayolu Üzeri, Bahçelievler, Istanbul

Elmalik Dialysis Center, Elmalik Köyü Elmalik, Ankara, 06490 Turkey

Alanya Hospital And Dialysis Center, Saray Mah.Yunus Emre Cad.No:1, Alanya, 07400 Turkey" [50]

[Return to contents](#)
[Go to list of sources](#)

TUBERCULOSIS (TB)

- 25.18 The World Health Organisation (WHO) states "Tuberculosis (TB) is a contagious disease. Like the common cold, it spreads through the air. Only people who are sick with TB in their lungs are infectious. When infectious people cough, sneeze, talk or spit, they propel TB germs, known as bacilli, into the air. A person needs only to inhale a small number of these to be infected." [37c] The WHO country profile 2006 provides key indicators, notification and treatment outcome data. See link attached. [37c]

http://www.who.int/globalatlas/predefinedreports/tb/PDF_Files/tur.pdf

- 25.19 A January 2008 article on *Todayszamen.com* reported:

"Although Turkey has long been committed to activities to counter tuberculosis and has achieved great success in the last few years in fighting against the disease, experts have said it continues to pose a threat to the society as hundreds of people contract tuberculosis each year. There has been a

significant increase in the number of services to fight tuberculosis in the past two to three years, yet we cannot say that it will be eradicated in the short term, said Ali Rıza Erdoğan, the secretary-general of the Ankara-based Federation of National Associations of the Fight against Tuberculosis (TUVSDF) in a phone interview with Today's Zaman." [24]

25.20 The same 2008 *Todayszamen* article continued:

"TUVSDF Chairman Dr. Ferit Koçoğlu, in an interview with the Anatolia news agency, noted there are some 20,000 people with tuberculosis in Turkey, around 13,000 of whom are male patients. ...Almost 88 out of every 100 cases of tuberculosis can be treated in Turkey because we have waged a successful fight against this disease. There are many volunteer doctors and nongovernmental organizations that battle tuberculosis. They continue their struggle against this ailment under unfavorable conditions,' he noted... The [Directly Observed Treatment Short Course (DOTS)] project has made health officials accessible to 89 percent of all tuberculosis patients, with 85 percent of these patients being treated." [24]

DEAF AND HEARING IMPAIRED

25.21 In a letter to the Country of Origin Information Service from the British Embassy in Ankara dated 27 March 2007 about services for children who are deaf or whose hearing is impaired, in the province of Izmir it was noted that:

"We are aware of at least one state-funded school for deaf children in the city of Izmir. This provides education from pre-school level up to 8th grade:

"Tülay Aktaş İşitme Engelliler İlköğretim Okulu
Mevlana Mahallesi, 373/2 Sokak
No:6/1, Bornova - IZMİR
Tel: 90 232 3397826
Fax: 90 232 3392537
Email: taktasio@ttnet.net.tr

"There is no secondary school for the deaf and hearing impaired in the province. At present children have the choice between being assisted to attend a normal secondary school or attending a specialist school in one of the neighbouring provinces in the Aegean region? Pre-school education is also available. We are aware of two state-funded specialist toddler groups in Izmir itself, in the Carsi and Konak districts. Provision is likely to be much more limited outside of the main towns, as in the UK.

To access these services a child's parents must first submit documentation to the local Directorate of Education confirming that his or her hearing is impaired. A state hospital will usually be able to provide a suitable report." [4n]

25.22 The International Deaf Children's Society (IDCS) published an article in March 2004 by Mary C Essex who specifically looked at the Turkish special education system for the deaf people and it noted that:

“The Ministry of Education estimates having 58,351 students with disabilities in elementary, middle school and high school. This is well below the WHO estimate of people with disabilities.

Percentages of Disabilities in Turkey

Disability	Total	Percentage
Deaf	8,666	15%
Vision	1,555	3%
Physical	656	1%
Mental	44,970	77%
Autistic	419	.007%
Other	2,085	3%
Total	58,351	0.8%

There are four Deaf education teacher training programs in Turkey and these are located in the cities of:

- Bolu, Abant İzzet Baysal University
- Eskişehir, Anadolu University
- Samsun, Ondokuz Mayıs Üniversitesi
- Trabzon Karadeniz Teknik Üniversitesi

There are 47 elementary schools and 14 high schools for the Deaf throughout Turkey... The Ministry of Special Education has more information about the Deaf education curriculum and other information about their services available in Turkish.” [28]

MENTAL HEALTH

- 25.23 As recorded in the World Health Organisation’s (WHO) Department of Mental Health and Substance Dependence Mental Health Atlas 2005 the country has disability benefits for persons with mental disorders. “After being approved by a mental health board as a chronic mental health patient, the patient can benefit from the social security services... Mental health is part of the primary health care system. Actual treatment of severe mental health is available at the primary level... Mental health in primary care is available in only some provinces... Regular training of primary care professional [sic] in the field of mental health is present and the approximate number of personnel trained over the last two years totalled 3,000.” [37a] (Section on Mental Health Financing)
- 25.24 The WHO Mental Health Atlas 2005 further states that there are 1.3 psychiatric beds per 10,000 population, one neurosurgeon, one neurologist, one psychologist and one social worker per 100,000 population. [37a] (Section on Mental Health Financing)
- 25.25 The Foreign and Commonwealth Office contacted Hacettepe University Hospital Psychiatric Department in April 2002 and confirmed that antipsychotic and antidepressant medication are available in Turkey. [4b]
- 25.26 The WHO Mental Health Atlas 2005 recorded that “The following therapeutic drugs are generally available at the primary health care level:
Carbamazepine,
Ethosuximide,

Phenobarbital,
 Phenytoin
 Sodium valproate,
 Amitriptyline,
 Chlorpromazine,
 Diazepam,
 Fluphenazine,
 Haloperidol,
 Lithium,
 Biperiden,
 Carbidopa, and
 Levodopa.” [37a] (Section on Therapeutic Drugs)

25.27 The WHO Mental Health Atlas 2005 continued:

“The mental health department was established within the Ministry of Health in 1983 with the primary tasks of improving mental health services, development and dissemination of preventive mental health services, integration of mental health with primary care, community education and protection of the community from harmful behaviours. The means of achieving these aims were through determination of standards, training programmes, data collection, research, creation of counselling and guiding units, creation of psychiatric clinics in state hospitals, assigning proper tasks to personnel, developing rehabilitation facilities, carrying out public education through the help of media, educating the public on harmful behaviour, and taking care of those who succumb to those behaviours.” [37a] (Section on Other Information)

25.28 The US Department of State Country Reports on Human Rights Practices 2007 published 11 March 2008 noted that “The Ministry of Health operated eight mental health hospitals in seven different provinces. There were two private mental health hospitals in Istanbul. The government reported that it operated 45 boarding care centers and 22 daycare centers that provided services to physically and mentally challenged individuals.” [5g] (Section 5 – Persons with Disabilities)

25.29 A Mental Health Economics European Network (MHEEN) report of January 2008 recorded that there was virtually no social care or community care provisions for the mentally ill in Turkey. [22] (p9) It further added that: “although psychiatric care is almost entirely provided in nine psychiatric hospitals and there are virtually no social care homes or community-based services, there has also been a slight decrease from 4140 beds in 1990 to 3777 in 2004. ... there are now some beds available in psychiatric wards in general hospitals but figures are difficult to obtain and the only data available are for 2003 when there were 1876 beds, and for 2004 when there were 2467 beds.” [22] (p8)

25.30 As noted in a report by the Mental Disability Rights International (MDRI) entitled ‘Behind Closed Doors: Human Rights Abuses in the Psychiatric Facilities, Orphanages and Rehabilitation Centers of Turkey’ (released on 28 September 2005):

“There is no enforceable law or due process in Turkey that protects against the arbitrary detention or forced treatment of institutionalized people with mental disabilities. There are virtually no community supports or services, and thus, no alternatives to institutions for people in need of support. As a result, thousands of people are detained illegally, many for a lifetime, with no hope of ever living in the community. Once inside the walls of an institution, people are at serious risk of abuse from dangerous treatment practices. In order to receive any form of assistance, people must often consent to whatever treatment an institution may have to offer. For people detained in the institution, there is no right to refuse treatment. The prison-like incarceration of Turkey’s most vulnerable citizens is dangerous and life-threatening.” [90]

- 25.31 The European Commission 2007 Progress report published 6 November 2007 acknowledged that, “Some progress can be reported in the area of mental health. Community-based services are not sufficiently developed as an alternative to institutionalisation, and resources (budget, staff, capacity, etc.) for mental health improvement are limited in relation to the needs. Preparations in this field are at an early stage. [71c] (p71) In the area of mental health, a government directive was issued to regulate the use of electro-convulsive therapy in hospitals in line with human and patients’ rights. Relevant guidelines for implementation of the directive have also been prepared.” [71c] (p20)
- 25.32 The US State Department Report USSD 2007 report published 11 March 2008 mentioned that “In February [2007] a public prosecutor opened an investigation into reports of abuse at the Ekrem Tok Mental Hospital in Adana. The Ministry of Health and Adana Provincial Health Directorate also began investigations. The investigations were opened after Star TV aired a program that showed patients at the hospital complaining about electro-shock treatment, beatings, and abuse. According to the program, patients were subject to beatings and violence for performing religious prayers, for not eating, or for not cleaning their plates after a meal. Hurriyet reported that a patient died of a drug overdose in the facility in August 2006. Police arrested two staff members, Huseyin Hatipogul and Nusret Er, for mistreating patients.” [5g] (Section 5 – Persons with Disabilities)

See also Section 21.01 Disability

HOME HEALTH CARE

- 25.33 The International Observatory on End of Life Care website dated 2006 stated that:
- “Home health care is a low-cost alternative to traditional inpatient care and an appealing alternative for developing countries such as Turkey, where financial resources for health care are particularly scarce. Availability is generally limited to the bigger cities such as Istanbul and Ankara. These benefits include keeping families together, keeping the elderly independent, preventing institutionalisation, promoting healing, allowing a maximum amount of freedom for the individual, involving the individual and family in the care that is delivered, reducing stress, improving the quality of life, and extending life.” [33]

General Overview of the Public Health Sector in Turkey in 2006
[http://www.europarl.europa.eu/comparl/envi/pdf/expert_panels/public_health_p
anel/public_health_in_turkey_by_reig_and_valverde.pdf](http://www.europarl.europa.eu/comparl/envi/pdf/expert_panels/public_health_panel/public_health_in_turkey_by_reig_and_valverde.pdf)

[Return to contents](#)
[Go to list of sources](#)

26 FREEDOM OF MOVEMENT

- 26.01 The US State Department Report (USSD) 2007 published 11 March 2008 noted that with regard to freedom of movement within the country, foreign travel, emigration and repatriation,:

“The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, at times the government limited these rights in practice. The law provides that a citizen’s freedom to leave the country could be restricted only in the case of a national emergency, civic obligations (e.g., military service), or criminal investigation or prosecution. The government maintained a heavy security presence in the southeast, including numerous roadway checkpoints.” [5g] (Section 2d)

- 26.02 The European Commission 2007 Progress report published 6 November 2007 on Turkey noted that “amendments to the Law on Police Duties and Authority in June 2007 authorise the law enforcement bodies to take fingerprints and pictures of persons applying for a drivers’ licence, passport or a gun licence. These data can be stored for up to 80 years. Turkey needs to align its legislation with the Data Protection Directive and, in that context, to set up a fully independent data-protection supervisory authority.” [71c] (p60)

- 26.03 A senior official in the Passport Office, Ministry of Interior, explained to the Immigration and Nationality Directorate’s (IND) fact-finding mission to Turkey in 2001 the passport issuing procedures in Turkey:

“All Turkish citizens are entitled to a passport. An applicant must apply in person; an application cannot be made through an agent. The application must be made in the local area where the applicant resides. The regional passport office makes checks to verify his or her identity. These checks include establishing whether the applicant has criminal convictions and/or is wanted by the authorities. The applicant is always asked why the passport is wanted.” [48] (p10)

- 26.04 An interlocutor advised the IND fact-finding mission that the issue of a passport would not be withheld if the applicant had not completed his military service; this is because there are provisions in law to defer military service. [48] (p11)

- 26.05 However, the Netherlands Ministry of Foreign Affairs’ ‘Turkey/military service’ report published in July 2001 records that “Persons of call-up age are not usually issued with passports, and cannot have passports renewed. In a small number of cases, and with the consent of the military authorities, a passport with a short period of validity is issued. The entry ‘yapmıştır’ (done) or ‘yapmamıştır’ (not done) in the passport indicates whether the holder has completed military service or not.” [2b] (p15)

- 26.06 The IND fact-finding mission was also told that there are four different types of passport:

Red (diplomatic) passports.

Grey (service) passports, issued to lower rank government officials who are being sent abroad for a short time on official duty.

Green (officials') passports, issued to government officials, who have reached a certain level, the qualification for these passports is based on hierarchy and length of service in government, and

Blue passport, issued to ordinary citizens. [48] (p10)

26.07 The Immigration and Refugee Board of Canada reported in April 2005 that:

"The regulations concerning entry into and exit from Turkey of Turkish and non-Turkish nationals fall under the Turkish Passport Law Number 5682, which stipulates that all travellers, whether Turkish or not, require a valid passport or travel document whenever they leave or enter Turkey... Turkish citizens who do not have a valid passport or travel document are still entitled to enter Turkey if they show their Turkish identity card (Nüfus Cüzdanı), or another valid identity card, to border authorities..." [7d]

26.08 The Immigration and Refugee Board of Canada reported, in October 2004, in 'Turkey: Whether a Turkish citizen who is the subject of an arrest warrant can obtain a passport legitimately or through bribery or any other fraudulent means' that:

"If a Turkish citizen is the subject of an arrest warrant, he or she must resolve any outstanding legal cases with the justice system before he or she will be given a passport. If the applicant for a Turkish passport submits his or her application at a Turkish consulate outside Turkey, the consular authorities will need to see the applicant's old passport, or they will require a letter from the local police to account for the passport if it is missing... Regarding the acquisition of a Turkish passport through bribery or any other fraudulent means by an individual who has an arrest warrant against him or her, during the period February 2001 through August 2004, there were various reports of persons who were in possession of fraudulent Turkish passports when they were arrested by Turkish authorities." [7i]

[Return to contents](#)
[Go to list of sources](#)

NÜFÜS CARD/IDENTITY CARD

26.09 The EC 2007 Progress report on Turkey noted that "administrative documents such as ID cards include an entry on religion that may be filled in or left blank. This might lead to discriminatory practices. In addition, there are still concerns regarding religions which are not recognised." [71c] (p16)

26.10 The Netherlands Ministry of Foreign Affairs 2002 reported that:

"The population registry has responsibility for issue of identity cards (in Turkish: nüfus cüzdanı) often referred to in other languages too as nüfus cards. The nüfus card is the only valid domestic identity document, and everyone is required to carry it at all times. Births have to be registered to the population

registry for the place of birth without delay, so that a nüfus card can be issued straight away.” [2a] (p19)

26.11 The USSD 2006 report stated that:

“Religious affiliation is listed on national identity cards. A few religious groups, such as the Baha’i, are unable to state their religion on their cards because it is not included among the options; they have made their concerns known to the government. In April parliament adopted legislation allowing persons to leave the religion section of their identity cards blank or change the religious designation by written application. However, the government reportedly continued to restrict applicants’ choice of religion; members of the Baha’i community said government officials had told them that, despite the new law, they would still not be able to list their religion on the cards.” [5h] (Section 2c)

26.12 As confirmed by the British Embassy in Ankara on 22 July 2005:

“Under Turkish law citizens are obliged to produce an official ID card if requested by police or jandarma. If you cannot produce identification when required, or refuse to do so, you can be held in detention until your identity is proved. The maximum standard detention period in Turkey is 24 hours, extendable for a further 12 hours to allow time for transfer between custody and the nearest court. (Suspects can be held up to 48 hours for organised crime offences, illegal drug production/sale, and certain crimes against the State). Under the Law on Misdemeanours those who refuse to give ID information, or who give false information, to civil servants conducting their duty are liable to a small administrative fine.” [4e]

26.13 As noted in a letter from the British Embassy in Ankara to the Country of Origin Information Service, dated 8 January 2007:

“I am writing in response to a number of queries you have sent about the ID card in Turkey. The format and application form currently available on the website of the Directorate General for Population and Citizenship Affairs (www.nvi.gov.tr).

Collection of ID Cards:

ID cards must be collected in person. They cannot be collected by relatives or friends on the behalf of the applicant. The only exception to this rule is when a person has been given power of attorney, in which case they can collect the ID card belonging to the person they represent.

Place of Issue:

The back of the ID card contains a section for details of the holder’s original registration. This includes the place of registration (kayitli oldugu il/ilce/mahalle). A separate section lists details relating to the replacement card (nufus cuzdaninin verildigi yer/verilis nedeni etc). This includes where the current card was issued and the reason it was replaced. The front of the card lists place of birth (dogum yeri), which in most cases is the same as place of registration (the ID card does not have to be carried by law until the age of 15, but an ID card without a photograph is provided following registration of a birth).

Religion:

The Population Services Law, which was ratified on 29 April 2006, came into force on 23 November 2006. The law permits individuals to choose what is written on the 'religion' section of the identity card. By making a written application, individuals can choose to leave the space blank, or to change the religion listed on the card." [40]

[Return to contents](#)
[Go to list of sources](#)

27 INTERNALLY DISPLACED PEOPLE (IDPs)

- 27.01 The International Helsinki Federation (IHF) report 'Human Rights in the OSCE Region' (Events of 2006), published on 27 March 2007, noted that a considerable part of the estimated 400,000 persons or more, who were forced to flee during the armed conflict with the PKK and other armed groups in the 1980s-1990s, remained displaced in the eastern and southeastern parts of the country. [10c]
- 27.02 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that "Various NGOs estimated that there were from one to three million IDPs in the country remaining from PKK conflict, which began in 1984, continued at a high level through the 1990s, and continued during the year. The government reported that 368,360 citizens from 62,448 households migrated from the southeast during the conflict, with many others departing before the fighting." [5g] (Section 3)
- 27.03 The USSD 2007 report further noted that "In December 2006 Hacettepe University released the results of a study that was commissioned by the government, which concluded that an estimated 953,680 to 1,301,200 persons were displaced by conflict in the southeast between 1986 and 2005. The study found that the main reason for the large discrepancy between government and NGO figures was that the government only included persons evacuated by the security forces from settlements, and not those who were forced to flee because of general violence or for a combination of security and economic reasons." [5g] (Section 3)
- 27.04 The Internal Displacement Monitoring Centre (IDMC) noted on the 26 July 2007 that:
- "Turkey's internally displaced people (IDPs) face uncertain prospects as a recent upsurge in violence in the south-eastern provinces threatens to undermine the positive impact of major human rights reforms which have been adopted since Turkey became a candidate for EU membership in 1999...The government declared 'security zones' in pockets of the south-east in June 2007 and the Turkish armed forces have talked of the need for an incursion into northern Iraq to tackle Kurdish rebels amid mounting tensions on the Turkey-Iraq border. However, in the last three years, the government has made strides to address the internal displacement situation. It has undertaken a national survey on the number and conditions of IDPs; drafted a national IDP strategy; adopted a law on compensation for property damages; and put together a comprehensive pilot plan of action for IDPs at the provincial level." [3]
- 27.05 As noted in the Human Rights Watch (HRW) World Report 2007, published in January 2007:
- "The Turkish government has failed to facilitate the return of the estimated 378,335 internally displaced persons (IDPs) from the southeast who were forced by the army to flee their villages during the armed conflict with the PKK in the 1980s and 1990s. The government has failed to rehabilitate the basic

infrastructure of most villages destroyed by the army during the conflict; many villages have no electricity, telephone access, or schools. What is more, the security situation in some regions remains poor; the 58,000 village guards—Kurds armed and paid by the government to fight the PKK—often occupy or use vacated lands, and have killed 18 people, including would-be returnees, in the past four years. IDPs who do return to their villages cannot afford to rebuild their homes or re-establish agriculture.” [9e]

- 27.06 The European Commission 2007 report recorded that, “In December 2006 Hacettepe University’s Institute of Population Studies released the quantitative results of a government-sponsored survey on migration and the internally displaced population in Turkey. The survey showed that the number of IDPs in Turkey is substantially higher than previous estimates, and stands between 950,000 and 1,200,000. The survey is intended to be a basis for planning policy solutions to the problems of IDPs.” [71c] (p24)
- 27.07 The EC 2007 report further added that, “IDPs in urban areas live in poverty with little or no access to social, educational and health services. The factors hindering the return of IDPs, i.e. the absence of basic infrastructure, lack of capital, limited employment opportunities and the security situation persist in the east and south-east. The presence of landmines and village guards also remain obstacles to the safe return of IDPs. No progress has been made towards abolishing the system of village guards.” [71c] (p24)

[Return to contents](#)
[Go to list of sources](#)

COMPENSATION

- 27.08 The EC 2007 Progress report noted that “progress continued on the process of compensation. By 24 May 2007, 269,759 persons had applied to the Damage Assessment Commissions for compensation under the Law on the Compensation of Losses due to Terrorism and the Fight against Terrorism 57,071 applications have been examined, of which 37,309 have obtained a favourable response.” [71c] (p23)
- 27.09 The 2007 EC report further noted that “To allow more potential beneficiaries to apply for compensation, the deadline for applications was extended until 30 May 2008. In order to tackle the backlog of open cases, in December 2006 Parliament extended to January 2008 the deadline for finalising the assessment of applications. In addition, the Council of Ministers was given the authority to further extend this deadline if necessary. Furthermore, the number of Damage Assessment commissions was increased to 106. The Ministry of the Interior issued guidelines which aim to harmonise implementation of the law nationally.” [71c] (23-24)
- 27.10 The EC 2007 also noted that “the government lacks an overall national strategy to address the IDP issue. The office in charge of IDPs lacks resources. Institutional capacity-building is needed in all departments responsible for IDPs. Reports of inequitable implementation of the Compensation Law between

provinces have continued. The practical effects of the measures taken by the government in this respect remain to be assessed.” [71c] (23-24)

- 27.11 The USSD 2007 report also noted that “The Ministry of Interior reported that the review commissions had received a total of 278,165 applications for compensation under the law through December. The commissions have processed 97,579, approving 66,563 and rejecting 31,016. The government paid total compensation in the amount of \$294 million (351 million lira), an average of \$13,400 (16,000 lira) per person.” [5g] (Section 3)

[Return to contents](#)
[Go to list of sources](#)

28 FOREIGN REFUGEES

TREATMENT OF FOREIGNERS SEEKING ASYLUM IN TURKEY

- 28.01 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:

“The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees (recognized as such with certain geographical limitations), returning refugees, asylum seekers awaiting resettlement to third countries, stateless persons, and other persons of concern.” [5g] (Section 3)

- 28.02 The USSD 2007 report continued:

“An administrative regulation provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. However, Turkey ratified the 1967 protocol subject to a geographic limitation, and therefore accepts its obligations only with respect to refugees from Europe. The government has not established a formal system or legislation for providing protection to refugees. The UNHCR conducted refugee status determination for applicants from non-European countries and facilitated the resettlement of those recognized as refugees.” [5g] (Section 3)

- 28.03 The USSD 2007 report further stated that, “The government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol, including individuals of non-European origin. According to the Ministry of Interior, during the year the government provided temporary protection to 12,249 foreigners referred by UNHCR for resettlement to a third country. Refugees were not authorized to work in the country and needed permission from Ministry of Interior authorities to travel to Istanbul or Ankara, including for meetings with UNHCR or resettlement agencies.” [5g] (Section 3)

- 28.04 As reported on the website of the Kaos GL News in 2006 in ‘Experiences of LGBT Refugees in Turkey’: “Amir, 22 years old, Iranian I am a homosexual and because of my life I had a lot of dangers in my own country. This made me leave my native country and live in exile. Right now I am in the second country because Turkey is not a country which accepts refugees. I need to be replaced to another country. Being a foreigner in Turkey is hard. I don’t know Turkish language. I was called a fag in my own country and also here in Turkey.” [96c]

- 28.05 The KAOS GL news website again noted that “Alaa, 27 years old – Hamood 47 years old, Palestine every one is curious about our relations and I couldn’t say to them that Hamood is my partner. We don’t have any government to defend us and cares about its people...We have just entered to Turkey. Here people are not so different from Arabic countries. They do not accept LGBTs.” [96c]

- 28.06 As noted in the US Committee for Refugees and Immigrants (USCRI) 'World Refugee Survey 2008 - Turkey' released on 16 July 2008:
- "Turkey forcibly repatriated as many as 75 and deported to third countries at least 123 asylum seekers... In February, authorities deported three Sri Lankans from Istanbul's Ataturk airport and two Iranians in March, without allowing them to apply for asylum... In July, Ayvalik police refused to accept the asylum applications of 51 Afghans and likely deported them; their whereabouts remained unknown. Also in July, authorities deported three Baha'i Iranian refugees although they had requested asylum and UNHCR had instructed police to accept their applications. In August, Turkey expelled five UNHCR-recognized Iranian refugees to northern Iraq, without notifying the agency." [92]
- 28.07 The USCRI 2008 survey further noted that "Turkey did not separate and screen asylum seekers from the migrants it interdicted, and ignored UNHCR's recognition of others. Turkey refused to accept Iraqi refugees entering from Syria and insisted that UNHCR advise them to return. The Government told UNHCR that some 100 asylum seekers (mostly Iranians and Iraqis) and nearly 40 refugees (22 Iraqis and 15 Iranians) withdrew their applications and spontaneously returned to their countries." [92]
- 28.08 The USCRI 2008 survey also noted that "Around 65 asylum seekers and refugees who had registered with UNHCR reported suffering sexual and gender- based violence while in Turkey, but only 20 complained to authorities. At UNHCR's request, the Ministry of Interior (MOI) moved seven of them to the country's only voluntary guesthouse specifically for refugees, in Yozgat Province...Of the nearly 4,000 asylum claims it received, Turkey granted temporary asylum to fewer than 50 individuals, all of them Iranian, and rejected the 23 applicants whom UNHCR had recognized as refugees." [92]
- 28.09 A country profile by Migration Research.com dated April 2006 stated on the topic of National Immigration Policy that:
- "Turkey's national immigration policy and the question of who is allowed to enter and/or stay in the country are closely tied to the Republic's notion of national identity and citizenship. Although the constitutional concept of citizenship emphasises territoriality (*ius soli*) rather than descent (*ius sanguinis*), the concept of national identity clearly relies on the perception of one common culture. In other words, Turkey's immigration policy – including regulations on refugees and asylum is still strongly guided by the concept of national identity and its underlying principle of cultural unity." [19]
- 28.10 The same 2006 Country Profile also noted that "Until Turkey adopted the Geneva Convention on Refugees on 30 March 1962, Law 2510 (see above) provided the only legal basis for regulating the issue of asylum... Turkey accepted the international obligations concerning asylum procedures, recognition and protection of refugees, but inserted a geographical limitation which restricted admission to refugees from Europe. Although Turkey still maintains this geographical limitation, it put into place a system for dealing with

non-European asylum applicants in response to refugee movements from the Middle East and some parts of Africa.” [19]

- 28.11 The US Committee for Refugees and Immigrants (USCRI) 2008 survey also noted that “Although Turkey did not confine refugees and asylum seekers to camps, the Law on Residence and Travel of Aliens in Turkey required them to reside in areas assigned by the MOI. MOI sent all refugees and asylum seekers to 30 satellite cities. Turkey did not allow UNHCR-registered refugees to live for long periods in major cities, forcing most of them to move to the provinces. Many refugees chose to stay illegally in Istanbul without registering with the Government or UNHCR.” [92]
- 28.12 The USCRI 2008 survey also recorded that “Turkey’s 2003 Law on Work Permits for Foreigners permitted refugees and asylum seekers with valid residence permits to work legally...Asylum seekers were eligible only for six-month permits, they could work for six months only...Refugees with valid residence permits were eligible for government services. Limited government health services left many refugees without medical attention...The Turkish Constitution and the 2006 implementation of the 1994 Asylum Regulation offered free education to children aged 6 to 14, but only those with legal residence permits could enroll in public schools.” [92]
- 28.13 The European Commission Turkey 2007 Progress Report published 6 November 2007, noted that:
- “The number of new asylum seekers rose in the reporting period. While 2,909 persons applied for asylum in 2005, 3520 asylum applications were registered in 2006. In the first eight months of 2007, 3210 people sought asylum. As of September 2007, a total of 12,150 asylum seekers reside in Turkey. The children of applicants for asylum have the right to attend Turkish schools. Primary schools can be attended free of charge. 312 out of 1045 children of asylum seekers at school age are enrolled in education. Awareness among asylum seekers on education opportunities needs to be improved.” [71c] (p64)
- 28.14 The EC 2007 report further noted that, “To ensure that all asylum seekers undergo a fair and standardized asylum procedure (including access to legal aid) and to ensure uniform implementation, new legislation is required, in particular, on procedures at international airports. Steps are necessary to ensure the review of the merits of the asylum cases at the judicial appeal stage. A new law on asylum, lifting the geographical limitation to the 1951 Geneva Convention and the creation of an asylum authority, with specialised staff employed exclusively for asylum issues and capable to screen asylum applications independently remain key issues for alignment in this field. The same applies to screening mechanisms to identify asylum seekers among apprehended illegal migrants and UNHCR access to such applicants.” [71c] (p64)

[Return to contents](#)
[Go to list of sources](#)

29 CITIZENSHIP AND NATIONALITY

29.01 As regards nationality by birth, Introduction to Turkish Law states that:

“Turkish nationality is mainly acquired through the relation to the father or mother. Thus a legitimate or illegitimate, but legally recognised, child of a Turkish father or mother is Turkish. Legitimate children born to a Turkish mother, and not acquiring the nationality of the father by birth, as well as all illegitimate children born to Turkish mothers, are Turkish. Children born of non-Turkish parents do not acquire Turkish nationality by reason of birth on Turkish soil. An exception is the case of children born in Turkey and not acquiring at the time of birth the nationality of either their father or mother; they are Turkish at birth.” [64] (p89)

29.02 Regarding acquisition of nationality other than by birth. Introduction to Turkish Law states that, “Any foreigner may acquire Turkish nationality by means of naturalisation (telsik). Persons who have lived in Turkey more than five years and have all the qualifications required by the law may apply to the Ministry of Interior, and, upon the recommendation of this Ministry, the Council of Ministers may grant Turkish nationality.” [64] (p89)

29.03 A country profile by Migration Research.com dated April 2006 stated on the topic of National Immigration Policy that “Turkey’s national immigration policy and the question of who is allowed to enter and/or stay in the country are closely tied to the Republic’s notion of national identity and citizenship. Although the constitutional concept of citizenship emphasises territoriality (*ius soli*) rather than descent (*ius sanguinis*), the concept of national identity clearly relies on the perception of one common culture.” [19]

29.04 The same 2006 Country Profile further added that “The 1934 Law on Settlement (Law 2510) laid the foundations of Turkish immigration policy. It entitles persons of ‘Turkish descent and culture’ to enter the country for the purpose of permanent settlement and to opt for Turkish citizenship. Actually, it is not mandatory to be of ‘Turkish culture and descent’ in order to acquire Turkish citizenship, although being of Turkish descent facilitates the acquisition procedure.” [19]

29.05 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that “The law provides a single nationality designation for all citizens and does not recognize ethnic groups as national, racial, or ethnic minorities. Citizens of Kurdish origin constituted a large ethnic and linguistic group. Millions of the country’s citizens identified themselves as Kurds and spoke Kurdish. Kurds who publicly or politically asserted their Kurdish identity or publicly espoused using Kurdish in the public domain risked censure, harassment, or prosecution.” [5g] (Section 5)

29.06 The EC 2006 report however also noted that, “Nationality requirements for professions such as lawyers, medical doctors, dentists and midwives, as well as for air traffic controllers and private security services are not in line with the acquis...” [71a] (p34)

- 29.07 The EC 2007 Progress report also noted that “Limited developments can be reported concerning the right of establishment. The gender requirement for nurses has been abolished by an amendment to the Law on Nurses adopted in May 2007. A number of other requirements under Turkish law are not in line with Community law, such as nationality, and residence requirements. Also incompatible are disproportionate language requirements, or rules limiting the number of offices professionals may operate (e.g. the ‘one-office’ rule for pharmacists).” [71c] (p35)

See also Section 9.01 on [Military service](#), for information on the deprivation of nationality for evasion of military service

- 29.08 The EC 2007 Progress report also stated that “Turkey’s legislation still does not distinguish between recognition of professional and academic qualifications. It contains nationality requirements restricting access to a considerable number of professions to Turkish nationals. Administrative structures for recognition of foreign qualifications are limited to academic recognition, as opposed to professional qualifications.” [71c] (p36)

[Return to contents](#)
[Go to list of sources](#)

30 EXIT/ENTRY PROCEDURES

- 30.01 The Consulate General for the Republic of Turkey in London, gives information; visa applications, consular matters, useful addresses and general information about Turkey. [31]
<http://www.turkishconsulate.org.uk/en/index.htm>
- 30.02 The EC 2007 Progress report also recorded that Turkey has not started negotiations on a visa facilitation agreement. [71c] (p5)
- 30.03 The EC 2007 Progress report also stated that “Some progress was made on visa policy. Further alignment with the *acquis* has been achieved by the introduction of new visa instructions used by both consular and border officials. Italy was included in the EU positive list. For alignment with EU visa lists, eight countries remain to be included in the positive list. Pursuing the efforts in aligning with the negative list remains a key issue. Lifting visa obligations for Azerbaijan, Mongolia, Uzbekistan, Tajikistan and Turkmenistan is not in line with the *acquis*.” [71c] (p64)
- 30.04 The EC 2007 report further noted that “Steps are needed to introduce airport transit visas and to abolish the practice of issuing visas at borders. Turkey continues to require nationals of 35 countries to apply for visas at the borders, including citizens of 17 Member States. The capacity of Turkish consulates needs to be further enhanced to check for forged and falsified documents. Turkey needs to pursue its efforts to align with EU security features and standards for visas and travel documents.” [71c] (p64)
- 30.05 Radio Free Europe stated in an article published 31 July 2007 ‘Turkey Lifts Visa Requirement for Post-Soviet States’ that “Ankara has unilaterally abolished short-term visas for citizens of the four former Soviet republics as well as Mongolia starting on August 1. According to the decree, holders of passports from Azerbaijan, Mongolia, Uzbekistan, Tajikistan, and Turkmenistan do not need a visa for tourist visits of up to 30 days... Turkey has had a visa-free regime with Saudi Arabia and Kuwait. Kazakhstan and Kyrgyzstan along with Georgia have also enjoyed visa-free relations with Turkey.” [41]

TREATMENT OF RETURNED FAILED ASYLUM SEEKERS

- 30.06 The Netherlands Ministry of Foreign Affairs 2002 report states that “There are no indications that Turkish nationals are persecuted in Turkey purely because they applied for asylum abroad. The Turkish authorities are aware that many citizens leave the country for economic reasons and apply for asylum elsewhere. However, people who have engaged in activities abroad which the Turkish authorities regard as separatist are at risk of persecution if the Turkish authorities find out.” [2a] (p144)
- 30.07 According to the Netherlands Ministry of Foreign Affairs Official General report on Turkey published in January 2003, “In the removal of refused Turkish-Kurdish asylum seekers to Turkey it is true that they are checked on return in the same way as other Turkish subjects. It is checked whether there are

criminal judgements or that there is a criminal investigation by the Jandarma against the person concerned. Those refusing to do military service and deserters are [also] recorded at the border posts.” [2c] (p102)

30.08 The Netherlands 2003 Official General report continued “The Turkish border authorities shall mostly question the person concerned if one of these facts is established, in the case of incorrect border crossing documents, an earlier illegal exit from Turkey or removal from abroad. The questioning takes place at the police station of the airport and mostly involves:

- establishment or checking personal details,
- reasons and period of exit from Turkey,
- reason for the asylum application,
- reasons for any refusal of the asylum application,
- any criminal record and past record at home and abroad including drug offences,
- possible contact with illegal organisations abroad.

However, if there are no suspicions, as a rule after an average of six to nine hours they are released.” [2c] (p102)

30.09 The Netherlands report 2003 further stated:

“If it appears that the person concerned is a suspect for punishable acts, they are transferred to the [appropriate authority] concerned. In Istanbul this is in most cases the Police Headquarters in the Bakırköy district located not far from the airport. Persons who are suspected of membership of the PKK/KADEK, left-wing radical organisations such as the DHKP/C or TKP/ML, militant Islamic organisations, or persons suspected of providing support or shelter to one of those organisations are transferred to the Anti-Terrorist unit of the police, which is housed in the same headquarters.” [2c] (p102-103)

30.10 Turkish citizens who are without passports are returned on one-way emergency travel documents, which are issued by the Turkish Consul General in London. In a letter to the Home Office dated 11 January 2006 the Turkish Consulate General in London noted:

“A Turkish national who wishes to obtain an Emergency Travel Document from the Turkish Consulate General in London should meet the following requirements: 1. He/she must be a Turkish national; 2. He/she must apply in person to the Consulate General so that the applicant can be interviewed; 3. He/she should submit the following documents:

- Any identity document issued by official Turkish authorities (Nufus card, driving licence etc).
- A flight ticket (or reservation);
- Two photos;

If the applicant does not possess any official document of identity, he/she is required to provide his/her identity details during the interview at the Consulate. The purpose of the interview is to ascertain that people who apply for Emergency Travel Documents are indeed Turkish citizens. The Turkish Consulate would not refuse to issue an Emergency Travel Document to a

Turkish National under any circumstances. [An] Emergency Travel Document is issued without delay if the Consulate is satisfied that the applicant is a Turkish national. The application is referred to the relevant authority in Turkey for approval – i.e. the Ministry of Interior of the Republic of Turkey if the Consulate is not satisfied that the applicant holds Turkish nationality. Passports checking at borders, ports and airports are carried out by security officers. People returning to Turkey on an Emergency Travel Document go through the same procedure as anyone returning there on a standard passport. There is only one type of Emergency Travel Document in use. However, Turkish nationals travelling with Emergency Travel Documents will be interviewed by security officials on their arrivals to Turkey.” [31a]

THE PROBLEM OF FALSIFIED DOCUMENTS

- 30.11 The Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ noted that:

“The Norwegian Directorate of Immigration has repeatedly been presented so-called documents ‘proving’ that an asylum-seeker was wanted by the Turkish authorities. Some of these documents were – according to the applicant – issued either by the Gendarmerie/Police or by the Ministry of Justice. All lawyers I asked about this invalidated the possible authenticity of such documents. Neither law enforcement authorities nor any other Turkish official were entitled to issue such a confirmation. Neither detention-orders, nor warrants were handed out to the suspect or any other third person before the suspect was detained. Both Mr. Islambay and Mr. Demirtaş claimed, however, that it was widely known that such (and other) ‘documents’ could be attained through bribery. Tanrikulu and Demirtaş mentioned that two court ushers from the former State Security Court in Diyarbakir had been arrested in the summer of 2004 and had been charged with corruption for selling fake documents. Such cases could be found all over the country and the two officials from Diyarbakır where only the tip of the iceberg. Demirtaş and Islambay further mentioned that the problem of corruption was widespread and that this also applied to lawyers. One person working at a lawyers’ office told me that they repeatedly had declined requests to produce fake documentary evidence, ‘sufficient’ for asylum applications. One lawyer stated that he had repeatedly rejected offers from Turkish citizens already staying in Western Europe, who offered him between 5,000 and 10,000 Euro for a complete ‘asylum-file’. The same lawyer told me that it was considered ‘easy’ to get fake documents in Turkey and assumed that ‘most of the documents presented to European Migration authorities are fake’.” [16] (p24-25)

- 30.12 The Norwegian report continued:

“One lawyer stressed that it might prove difficult and unreliable to judge documents only by the looks of it since different types of forms (or only letters) may be used at different prosecutors offices (e.g. Fezlekes). Only a lawyer could conduct a reliable verification, since he/she could compare the document’s contents (such as case-numbers) with the respective registries. Another lawyer told me that he had verified several documents for European Immigration authorities and that most of these documents had proved to be

falsified. He had further noticed that most of these documents (some of them being ‘warrants’) referred to article 169 in the (old) Turkish Criminal Code. According to him, this article does not play an important role any more and it rarely leads to punishment: ‘You can send the persons with article 169 back to Turkey, nothing will happen to them’. However, persons who are wanted for activities sanctioned by articles 125 and 168 in the Penal Code might still face severe problems after return, according to Demirtaş. He stressed that some of these persons really might be in need of protection and he suggested that documentation on such cases should be carefully verified.” [16] (p25)

[Return to contents](#)
[Go to list of sources](#)

THE GENERAL INFORMATION GATHERING SYSTEM (GBTS)

- 30.13 The Swiss NGO Schweizerische Flüchtlingshilfe (Swiss Organisation for Refugees) stated in its report on Turkey published in June 2003 that:

“There are a number of different information systems in Turkey. The central information system is known as the GBTS (Genel Bilgi Toplama Sistemi – General Information Gathering System). This system lists extensive personal data such as information on arrest warrants, previous arrests, foreign travel restrictions, avoidance of military service, desertion, refusal to pay military tax and delays paying tax. Served sentences are as a rule removed from this information system and entered onto the database of criminal records (Adli Sicil).” [8] (p41)

- 30.14 As outlined in the September 2003 Report on GBTS system by the Turkish Ministry of Interior, the GBTS is operated by the Anti-Smuggling Intelligence and Data Collection Department of the Turkish National Police. The Ministry of the Interior further state that “In the GBT system records of the following are kept as a general rule:

- (i) Persons who have committed a crime but have not been caught;
- (ii) Persons who have committed serious crimes such as organised crime, smuggling, drugs related crimes, terrorism, unlawful seizure, murder, fraud;
- (iii) Persons who have search warrants issued including those who have an arrest warrant issued “in absentia”;
- (iv) Persons who are barred from public service;
- (v) Missing persons;
- (vi) Persons of responsibility within political parties who have been convicted of crimes defined in the Political Parties Law No.2908, article 4/4;
- (vii) Stolen, lost, appropriated motor vehicles, firearms, identification documents.” [17]

- 30.15 The Kurdish Human Rights Project (KHRP) in their 2004 legal review publication on legal developments stated in Hasyer that:

“Torture is still endemic in Turkey. The only recent improvement was an indication that methods of torture were less likely to leave visible marks. The GBTS system stores various personal data. This includes information on

criminal convictions, criminal records, outstanding arrest warrants, previous arrests, official judicial preliminary inquiries or investigations by the police or gendarmerie etc. On return to Turkey and at the point of entry all Turkish nationals, including returning failed asylum seekers, are checked against the GBTSS computer records. Returnees with no documents or temporary travel documents will be perceived as a failed asylum seeker. If a returnee is thought to be a failed asylum seeker or if the GBTSS computer records reveal information which is regarded as suspicious he or she is likely to be detained for interrogation at the point of entry. Interrogation is intended to establish or check personal particulars, reasons for and time of departure from Turkey, grounds for seeking asylum, reasons why the application was rejected, any criminal records at home and abroad, and possible contacts with illegal organisations abroad. These were only examples and the questioning was likely to concentrate on the factor(s) which excited suspicion in the first place. Interrogation at the airport was unlikely to amount to persecution, although there is a risk of ill-treatment if an individual upon transfer to the Police HQ in Bakirkoy or the Political (or Anti-terror) Department headquarters on Vatan Caddesi. If as a result of interrogation and further inquiries there is no continuing suspicion the person is likely to be released after an average of 6 to 9 hours. When individuals are held for interrogation, police at the point of entry are likely to seek further information from police or gendarmerie stations in the birthplace and other places of residence in Turkey. If they hold any information about the individual it will be more detailed than that shown on the central computer records. If it is discovered during the initial computer check, interrogation, or inquiries in the home that area an individual is suspected of membership of 'separatist' organisations they are likely to be handed over to the Anti Terror Branch. Once transferred to the Anti Terror Branch there is a real risk of torture." [6a]

- 30.16 As stated by the Turkish Ministry of the Interior in September 2003, records are erased from the system under the following circumstances:
- (i) Upon the death of a person convicted of a crime by a court;
 - (ii) As soon as a court decision of non-pursuit, acquittal or expiry of time limitation reaches the Turkish National Police (TNP) regarding a person who was previously registered in the GBTS;
 - (iii) In case of a crime other than those listed above, when the person is caught;
 - (iv) In case of stolen/lost/appropriated property, when the property in question is found. [17]
- 30.17 Only the latest warrant of arrest is held on file. The others are cancelled. Information about convicted persons is stored at the Judicial Registry Office (Adli Sicil Mudurlukleri), rather than on the GBTS. (Turkish Ministry of the Interior, September 2003) [17]
- 30.18 The Turkish Ministry of the Interior stated in September 2003 that "Only records of people who are under judicial proceedings or judicial examination are kept on the GBTS. No records of people are kept on the system who are detained and [subsequently] released by the security forces." [17]

- 30.19 The Swiss Organisation for Refugees in its report published June 2003 stated that "Experience has shown, however, that despite its name, this [GBTS] system does not by any means contain all the information relating to a given individual. Concrete examples have demonstrated that individuals are generally only entered onto the system following prosecution or issue of an arrest warrant by the public prosecutor or a court." [8] (p41)
- 30.20 However, the Swiss Organisation for Refugees also stated that "In several cases we have discovered that individuals who have been denounced as PKK activists or sympathisers show up as not being sought and therefore do not appear on the register even though authentic police statements prove that they have been denounced by name." [8] (p41)
- 30.21 The report continued "It should be mentioned that in addition to the GBTS central information system, the various security forces each have their own information systems... They include the registers of the police, the anti-terrorist department, the gendarmerie, JITEM, the military secret service etc. It is therefore perfectly possible for someone not to be listed on the central system but to be sought by the anti-terrorist unit." [8] (p41)
- 30.22 The Swiss Organisation for Refugees further stated that:
- "Neither can the absence of a data entry or current investigation or the lack of a passport ban be taken as evidence that an individual is not in danger. Despite the absence of entries in the central information system, the individual concerned might be listed on one of the other information systems. This must certainly be assumed in the case of individuals who have already been taken into custody by the police, gendarmerie or some other branch of the security forces in the past." [8] (p41)
- 30.23 In a fax sent to the British Embassy in Ankara on 7 October 2005, the Assistant Director of the Trafficking and Organised Crime Directorate of the Turkish Ministry of Interiors confirmed that:
- "In our country the GBT system is governed by the Trafficking Intelligence and Information Gathering Directorate attached to the Ministry of Internal Affairs. Law enforcement units such as the police and the gendarme can use the GBT system. While the customs officers stationed at international ports and borders cannot use the GBT system police units stationed at all land, air and sea borders are able to use the said system. Foreign establishments cannot use this system in any way whatsoever. The offence of leaving the country through illegal means can only be detected when the offenders are captured abroad. It is impossible to know who left the country through illegal means and therefore no records are being kept in relation to such matters. Draft evaders are also being registered in the GBT system. Records relating to individuals who are being prosecuted or are subject to investigation are being kept in the GBT system. Records relating to individuals who have been taken into custody and subsequently released are not registered in the GBT system." [4f]

[Return to contents](#)
[Go to list of sources](#)

31 EMPLOYMENT RIGHTS

LABOUR ACT OF TURKEY

Law No. 4857, Date of enactment: 22.05.2003. Published in the official gazette on 10 June 2003.

Article 1. The purpose of this Act is to regulate the working conditions and work-related rights and obligations of employers and employees working under an employment contract.

With the exception of those cited in Article 4, this Act shall apply to all the establishments and to their employers, employer's representatives and employees, irrespective of the subject matter of their activities. [27]

- 31.01 The Employment Act (EA) No. 4857 of 2003, the Trade Unions Act of 1983 and the Obligations Act of 1926 are the sources of employment legislation in relation to termination of employment for employees falling within their scope...

Civil servants and employees with an administrative employment contract are subject to different regulations and are not covered in this Digest. In Turkey, civil servants enjoy considerable job security. [27]

- 31.02 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that, "The national minimum wage of approximately \$495 (585 lira) per month did not provide a decent standard of living for a worker and family. All workers covered by the labor law are also covered by the law establishing a national minimum wage. This law was effectively enforced by the Ministry of Labor Inspection Board." [5g] (Section 6)

- 31.03 The USSD 2007 report further added that "The law establishes a 45-hour workweek with a weekly rest day, and limits overtime to three hours per day for up to 270 hours a year. Premium pay for overtime is mandated but the law allows for employers and employees to agree to a flextime schedule. The Labor Inspectorate of the Ministry of Labor effectively enforced wage and hour provisions in the unionized industrial, service, and government sectors, which covered approximately 12 percent of workers. Workers in other sectors had difficulty receiving overtime pay, although by law they were entitled to it." [5g] (Section 6)

- 31.04 The USSD 2007 report also noted that "The law mandates occupational health and safety regulations; however, in practice the Ministry of Labor Inspection Board did not carry out effective inspection and enforcement programs. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, although reports of them doing so were rare. Authorities effectively enforced this right." [5g] (Section 6)

- 31.05 The Turkish Statistical Institute (TURKSTAT) released on 28 September 2007 the Wages and Earnings in the Manufacturing Industry second quarter 2007 noted that:

“When average monthly gross earnings were examined by statistical regional classification at level 12 (twelve regions) (NUTS1), the highest per capita average monthly gross earnings was found in Western Black Sea Region (1 970 TRY.) In the second quarter of 2007 and Northeastern Anatolia Region (1 868 TRY.). Istanbul Region has 1 604 TRY per capita average monthly gross earnings in the second quarter of 2007.” [89b]

31.06 The European Commission 2007 report recorded that:

“There is little progress to report with regard to employment policy. In 2006, the unemployment rate fell to 9.9 %, while the overall employment rate – at 43.2% –was slightly down compared to 2005. The labour market is characterised by low labour force participation and low employment rates, in particular for women, and high levels of youth unemployment. The large size of the informal economy and the marked rural/urban divide in the labour market are the main challenges. More than half of those in employment are not registered with any social security institution. The Prime Minister’s circular on combating undeclared work identifies various targets and activities. However, more concrete policies and measures, including greater inspection capacities, are needed in order to tackle the problem together with the social partners. No further progress was made in finalising the Joint Assessment Paper on Employment Policy Priorities (JAP). The Turkish Employment Agency (ISKUR) continued its efforts to improve its institutional capacity.” [71c] (p53-54)

31.07 The European Commission 2007 report also stated that, “As regards social dialogue, there is limited progress. The requirement to have worked for at least ten years in order to be elected to the management bodies of trade unions has been lifted. However, the draft legislation aimed at bringing the currently applicable Trade Union and Collective Bargaining, Strike and Lockout Laws into line with ILO and EU standards is still pending. Full trade union rights have to be established in Turkey... The number of workers covered by collective agreements is still low and further decreasing.” [71c] (p53)

31.08 The EC 2007 report further noted that “There is no progress to report in the area of labour law. Shortcomings in the transposition of a number of directives remain; these include the limited scope of application of the Labour Law. On administrative capacity, recruitment of additional qualified personnel by the Ministry of Labour and Social Security and its affiliated institutions continued.” [71c] (p53)

31.09 The EC 2007 report also noted that “As regards health and safety at work, Turkey has attained a good degree of alignment with the acquis. However, shortcomings remain. In particular, new legislation to transpose the Framework Directive has not been adopted. Furthermore, existing legislation does not cover all workers in the private sector and excludes workers in the public sector. In addition, further efforts to implement the legislation are needed, including through awareness-raising, training and strengthening the capacity of the inspection bodies.” [71c] (p53)

31.10 The European Commission 2007 report stated that, “With regard to access to the labour market, new legislation on work permits for foreign nationals makes

the procedure for obtaining such permits easier and exempts certain professionals, including those working for national and international projects, from the requirement to obtain work permits.” [71c] (p34)

- 31.11 The EC 2007 further added that, “Efforts to increase the capacity of the Public Employment Service have continued. Additional staff has been recruited and training has been provided. Work has been initiated to provide jobseekers with public employment services through the internet. Further efforts are needed to prepare for participation in the EURES (European Employment Services) network.” [71c] (p35)

MAJOR TRADE UNION CONFEDERATIONS

- 31.12 As recorded in Europa Regional Survey of the World: The Middle East and North Africa 2005, the major trade union confederations were TÜRK-İŞ (Confederation of Turkish Labour Unions <http://www.turkis.org.tr/?wapp=homepage>) and DISK (Confederation of Progressive Labour Unions <http://www.disk.org.tr/default.asp?Page=Content&ContentId=269>). [1a] (p1204)
- 31.13 In addition to TURK and DISK there is also The Confederation of Turkish Real Trade Unions (HAK-İŞ) which was set up on 22 October 1976 in Ankara. Today, the HAK-İŞ has 9-affiliate trade unions. The aim is to respect human rights, universal principles and values, the Constitution and the natural law. It believes in the unity of the country and “It accepts it as its principle to defend and improve effectively the rights and interests of working people with an understanding of pluralist and truly democracy. It considers the humans and labour as high values. In order to reach this aim, it accepts the innovative, principled, responsible and resolute struggle as its own main duty and responsibility.” [49]
- 31.14 There is also the existence of the Public Sector Workers Union Confederation (KESK). The Confederation of Public Employees Trade Unions represents the struggle for unionisation of public employees in Turkey since its establishment in 1995... the number of KESK affiliated unions is 11 and our confederation has 231.987 members in total. The percentage of women membership is 41, 02 %... [47]
- 31.15 The EC 2007 progress report recorded that:
- “On labour rights and trade unions, the requirement to have worked at least ten years in order to be elected to the management bodies of trade unions has been lifted by new legislation. Furthermore, some employers’ and employees’ unions have concluded joint declarations and protocols on bipartite social dialogue. However, restrictions remain on the exercise of full trade union rights. Turkey fails to fully implement the International Labour Organisation (ILO) Conventions in particular as regards the right to organise, the right to strike and the right to bargain collectively. Turkey still maintains its reservations on Article 5 (right to organise) and Article 6 (right to bargain collectively) of the revised European Social Charter.” [71c] (p20)

- 31.16 The US State Department Report (USSD) 2007, published on 11 March 2008, noted that:
- “The law provides most but not all workers with the right to associate and form unions subject to diverse restrictions; most workers exercised this right in practice. The government maintained a few restrictions on the right of association. Unions may be established by a minimum of seven persons without prior permission. There are no restrictions on membership or participation of individuals or unions in regional, national, or international labor organizations, but such participation must be reported to the government.” [5g] (Section 6)
- 31.17 The USSD 2007 report also noted that “Labor law prohibits union leaders from becoming officers of or otherwise performing duties for political parties, from working for or being involved in the operation of any profit-making enterprise, and from displaying any political party logos or symbols on any union or confederation publications. Unions are required to notify government officials prior to holding meetings or rallies (which must be held in officially designated areas) and to allow government representatives to attend their conventions and record the proceedings; these requirements were usually enforced.” [5g] (Section 6)
- 31.18 The USSD 2007 report further noted that, “The law provides for the right to strike; however, the law requires a union to take a series of steps, including negotiations and nonbinding mediation, before calling a strike. The law prohibits unions from engaging in secondary (solidarity), political, or general (involving multiple unions over a large geographical area) strikes or in work slowdowns. In sectors in which strikes are prohibited, labor disputes were resolved through binding arbitration.” [5g] (Section 6)
- 31.19 The USSD 2007 report further noted that “The law prohibits strikes by civil servants, public workers engaged in the safeguarding of life and property, workers in the coal mining and petroleum industries, sanitation services, national defense, banking, and education; however, many workers in these sectors conducted strikes in violation of these restrictions with general impunity. The majority of strikes during the year were illegal according to law; while some illegal strikers were dismissed, in most cases employers did not retaliate.” [5g] (Section 6)
- 31.20 The USSD 2007 report also stated that “The law and diverse government restrictions and interference limited the ability of unions to conduct their activities, including collective bargaining. Industrial workers and some public sector employees, excluding white-collar civil servants and state security personnel, have the right to bargain collectively, and approximately 1.3 million workers, or 5.4 percent of the workforce, were under collective bargaining agreements. The law requires that, in order to become a bargaining agent, a union must represent 50 percent plus one of the employees at a given work site and 10 percent of all the workers in that particular industry. This requirement favored established unions.” [5g] (Section 6)

MAIN EMPLOYERS' ASSOCIATIONS

31.21 As recorded in Europa the main employers' associations are TÜSIAD (Turkish Industrialists' and Businessmen's Association) TISK (Turkish confederation of employers' Associations). [1a] (p1202)

31.22 The Turkish Industrialists' and Businessmen's Association (TUSIAD) undated website noted that:

"This is the highest advisory board. All members of the Association are members. The General Assembly shall elect six members from among the members of the High Advisory Council to form the Presidency Board for two years. This Board consists of a chairman, three deputy chairmen and two secretaries. The Council meets at least twice a year as determined by the Chairman of the Council, to debate and decide on issues. Principal duties of the council are:

- a) to review the course and problems of Turkish industry and business and to consider long-term policy measures in relation thereto;
- b) to evaluate strategies for the realization of the purpose of the Association and offer advice on such matters." [26]

31.23 The Turkish Industrialists' and Businessmen's Association (TUSIAD) US branch website stated that:

"Founded in 1971 and is an independent, non-governmental organization dedicated to promoting public welfare through private enterprise. TUSIAD supports independent research and policy discussions on important social and economic issues in Turkey and abroad. Much like the US Business Roundtable, TUSIAD is comprised of the CEOs and Executives of the major industrial and service companies in Turkey, including those that are among global Fortune 500 companies." [25]

31.24 The same website also stated that:

"TUSIAD has expanded its scope to include US-Turkish relations and launched its office in Washington, DC, in November 1998. Within the general framework of the mission of its parent organization, TUSIAD-US strives to:

Be a conduit for exchange of information between Turkey and the United States...

Establish its own line of communication with the US administration and agencies, congressional committees, think tanks, business organizations, media, and international organizations;

Develop suggestions and formulate policy recommendations on ways to strengthen Turkish-US political, economic, and business ties..." [25]

31.25 MUSIAD is a "BUSINESSMEN'S ASSOCIATION" founded on May 5, 1990, in Istanbul, Turkey...MUSIAD is an active and strong "NON-GOVERNMENTAL ORGANIZATION" that has grown to 26 branches and 2000 members since

1990; that, remaining committed to its mission, has shown concern and courage in acting in accordance with its original purposes. [67]

- 31.26 MUSIAD has also opened a branch in London in Whitechapel and will soon be launching its English webpage. [67]

[Return to contents](#)
[Go to list of sources](#)

Annex A: Chronology of major events

(As reported in the BBC's 'Timeline – Turkey, A chronology of key events' unless otherwise sourced) [66a]

- 2001** **January:** Diplomatic row with France after French National Assembly recognises the killings of Armenians under the Ottoman Empire as genocide.
May: European Court of Human Rights finds Turkey guilty of violating the rights of Greek Cypriots during its occupation of northern Cyprus.
June: Constitutional Court bans opposition pro-Islamic Virtue Party, saying it had become focus of anti-secular activities. New pro-Islamist party Saadet is set up by former Virtue Party members in July.
October: The Turkish Parliament approved several amendments to the Constitution, notably to articles concerning the use of the Kurdish language. The amendments were intended to facilitate Turkey's accession to the EU. [44a]
November: British construction firm Balfour Beatty and Impregilo of Italy pull out of the controversial Ilisu dam project. Swiss bank UBS follows suit in February 2002.
- 2002** **January:** Turkish men are no longer regarded in law as head of the family. The move gives women full legal equality with men, 66 years after women's rights were put on the statute books.
February: Law No. 4744 adjusting some Turkish laws to the October 2001 constitutional amendments, was adopted by the Turkish Parliament. [71a] (p25)
March: Law No. 4748: further reform package. [71a] (p25)
July: Pressure for early elections as eight ministers including Foreign Minister Cem resign over ailing PM Ecevit's refusal to step down amid growing economic, political turmoil. Cem launches new party committed to social democracy, EU membership.
August: Parliament approves reforms aimed at securing EU membership. Death sentence to be abolished except in times of war, bans on Kurdish education, broadcasting to be lifted.
November: General election the AKP won two-thirds of the seats. President Sezer subsequently appointed AKP Deputy Leader Abdullah Gül as Prime Minister. [1a] (p1171)
December: Constitutional changes allow head of ruling AK, Recep Tayyip Erdogan, to run for parliament, and so to become prime minister. He had been barred from public office because of previous criminal conviction.
- 2003** **January:** The Turkish Government passes the fifth reform package allowing Turkish citizens who are found to have been denied a fair trial by the ECtHR to be retried in Turkey. [1a] (p1171)
March: AK leader Recep Tayyip Erdogan wins seat in parliament. Within days Abdullah Gul resigns as prime minister and Erdogan takes over.
May: More than 160 people, many of them schoolchildren trapped in a dormitory, die in an earthquake in the Bingol area.
June: Eyeing future EU membership, parliament passes laws easing restrictions on freedom of speech, Kurdish language rights, and on reducing political role of military.

- July:** The Turkish Parliament passes the sixth reform package aimed at improving human rights. [36c] (p1-3)
- September:** The PKK/KADEK announced an end to their four year cease-fire with the Turkish Government. [1a] (p1171)
- November:** On the 20 November two further suicide bombings were carried out one against the British Consulate and the other against the headquarters of the British based HSBC bank in Istanbul. [66i]
- 2004**
- January:** Turkey signs protocol banning death penalty in all circumstances, a move welcomed in EU circles.
- March:** Local elections were held and were won overwhelmingly by the ruling AKP. [36g]
- May:** Passage of constitutional reform package. [1b] (Turkey: The Constitution)
- June:** PKK ends its five-year unilateral ceasefire begun in 1999. [66f]
Four Kurdish deputies (Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Dogan) released from prison. [44b] First official broadcasts in Kurdish language take place. [4h] (p106)
- September:** Parliament approves penal reforms introducing tougher measures to prevent torture and violence against women. Controversial proposal on criminalising adultery dropped.
- October:** European Commission report gives the go ahead for talks to begin on Turkey's accession to the European Union. [66ak]
- December:** EU leaders agree to open talks in 2005 on Turkey's EU accession. The decision, made at a summit in Brussels, follows a deal over an EU demand that Turkey recognise Cyprus as an EU member.
- 2005**
- January:** New lira currency introduced as six zeroes are stripped from old lira, ending an era in which banknotes were denominated in millions.
- April:** The introduction of the new Turkish Penal Code (due to come into force on that date) is postponed. [66ba]
- May:** Parliament approves amendments to new penal code after complaints that the previous version restricted media freedom. The EU welcomes the move but says the code still fails to meet all its concerns on human rights.
- 1 June:** A revised version of the new Turkish Penal Code comes into force. [23g]
- October:** Turkey officially begins membership talks with the European Union. [66bi]
- November:** DEHAP dissolves. [23h] Democratic Society Movement (DHT) becomes the Democratic Society Party (DTP). [93b]
- 2006**
- March:** 14 suspected Kurdish rebels killed by security forces.
- April:** At least a dozen people are killed in clashes between Kurdish protesters and security forces in the south-east. Several people are killed in related unrest in Istanbul.
- May:** Islamist gunman opens fire in Turkey's highest court, killing a prominent judge and wounding four others.
- July:** Baku-Tbilisi-Ceyhan oil pipeline opened at ceremony in Turkey.
- August-September:** Bombers target resorts and Istanbul. Shadowy separatist group Kurdistan Freedom Falcons (TAC) claims responsibility for some attacks and warns it will turn 'Turkey into hell'.

30 September: Kurdish separatist group, the PKK, declares a unilateral ceasefire in operations against the military.

2006 December: EU partially freezes Turkey's membership talks because of Ankara's failure to open its ports and airports to Cypriot traffic.

- 2007 January:** Journalist and Armenian community leader Hrant Dink is assassinated. The murder provokes outrage in Turkey and Armenia. Prime Minister Erdogan says a bullet has been fired at democracy and freedom of expression.
- April:** Tens of thousands of supporters of secularism rally in Ankara, aiming to pressure Prime Minister Erdogan not to run in presidential elections because of his Islamist background.
- Ruling AK party puts forward Foreign Minister Abdullah Gul as its candidate after Mr Erdogan decides not to stand. He narrowly fails to win in the first round.
- May:** Parliament brings forward national elections to 22 July to try end the standoff between secularists and Islamists over the choice of the next president.
- Parliament gives initial approval to a constitutional change allowing the president to be elected by a popular vote, but the amendment is vetoed by President Sezer.
- May:** Tension mounts on Turkey-Iraq border amid speculation that Turkey may launch an incursion to tackle Kurdish rebels.
- Bomb blast in Ankara kills six and injures 100. PKK denies responsibility.
- July:** AK Party wins parliamentary elections.
- August:** Abdullah Gul is elected president.
- October:** Diplomatic row with United States after a US congressional committee recognises the killings of Armenians under the Ottoman Empire as genocide.
- October:** Parliament gives go ahead for military operations in Iraq in pursuit of Kurdish rebels.
- October:** Voters in a referendum back plans to have future presidents elected by the people instead of by parliament.
- December:** Turkey launches a series of air strikes on fighters from the Kurdish PKK movement inside Iraq.

- 2008 February:** Thousands protest plans to allow women to wear the Islamic headscarf to university.
- Parliament approves constitutional amendments which will pave the way for women to be allowed to wear the Islamic headscarf in universities.
- July:** A move in Turkey's Constitutional Court to get the governing AK Party banned fails by a narrow margin. The case was brought by the country's chief prosecutor who accused the party of undermining Turkey's secular constitution by becoming a focus of pro-Islamist activity.
- In a separate development, an indictment is filed against 86 people suspected of plotting to overthrow the government. Those named in the indictment are alleged to have links with a shadowy ultra-nationalist group known as Ergenekon.

[Return to contents](#)
[Go to list of sources](#)

Annex B: Political Organisations

MAIN PARTIES

Information on Political Parties in Turkey as of 3 August 2004 can be found on;

<http://www.byegm.gov.tr/REFERENCES/Structure.htm> and

<http://www.politicalresources.net/>

Democratic Left Party: (DSP Demokratik Sol Parti)

Founded on : November 14, 1985

Chairman : Zeki Sezer

Address : Mareşal Fevzi Çakmak Cad. No: 17 ANKARA

Phone : (0312) 212 49 50 (5 lines)

Web site: <http://www.dsp.org.tr/MEP/>

Nationalist Movement Party: (MHP Milliyetçi Hareket Partisi)

Founded on : February 9, 1969

Chairman : Devlet Bahçeli

Address :Karanfil Sok. No: 69 Bakanlıklar/ANKARA

Phone : (0312) 417 50 60 (5 lines)

Web site: <http://www.mhp.org.tr/>

Motherland Party: (ANAP Anavatan Partisi)

Founded on : May 20, 1983

Chairman : Erkan Mumcu

Address : 13. Cad. No: 3 Balgat/ANKARA

Phone : (0312) 286 50 00 (20 lines)

Web site: <http://www.anavatan.org.tr/>

Democrat Party: (DP Demokrat Parti)

Founded on : July 23, 1983

Chairman : Mehmet Ağar

Address : Selanik Cad. No: 40 Kızılay/ANKARA

Phone : (0312) 419 04 70 (2 lines)-417 22 40 (3 lines)

Web site:<http://www.dyp.org.tr/>

Felicity Party: (SP Saadet Partisi)

Founded on : July 27, 2001

Acting Chairman : Recai Kutan

Address : Ziyabey Cad. 2. Sok. No: 15 Balgat/ANKARA

Phone : (0312) 284 88 00)

Web site: <http://www.sp.org.tr/>

Justice and Development Party: (AKP Adalet ve Kalkınma Partisi)

Founded on : August 14, 2001

Chairman : Recep Tayyip Erdoğan

Address : Ceyhun Atuf Kansu Cad. No: 202 Balgat / ANKARA

Phone : (0312) 2868989-2863084

Web site: <http://eng.akparti.org.tr/english/index.html>

Republican People's Party: (CHP Cumhuriyet Halk Partisi)

Founded on : September 9, 1923
 Chairman : Deniz Baykal
 Address : Çevre Sok. No: 38 Çankaya/ANKARA
 Phone : (0312) 468 59 69 (20 lines)

Website:

<http://www.chp.org.tr/index.php?module=news&sid=74003ad117721af2c2f87c132cb29d21>

Grand Union Party: (BBP Büyük Birlik Partisi)

Founded on : January 29, 1993
 Chairman : Muhsin Yazıcıoğlu
 Address : Tuna Cad. No: 28 Yenışehir/ANKARA
 Phone : (0312) 434 09 20-27

Web site: <http://www.bbp.org.tr/>

Freedom and Solidarity Party: (ÖDP Özgürlük ve Dayanışma Partisi)

Founded on : January 21, 1996
 Chairman : Hayri Kozanoğlu
 Address : Necatibey Cad. No: 23/10 Sıhhiye/ANKARA
 Phone : (0312) 229 97 06- 231 72 32

Web site: <http://www.odp.org.tr/>

Democratic Turkey Party: (DTP Demokrat Türkiye Partisi)

Founded on : January 7, 1997
 Chairman : Yaşar Okuyan
 Address : Mesnevi Sok. 27 ANKARA
 Phone : (312) 442 01 51 442 12 49 442 16 19

Liberal Democratic Party: (LDP Liberal Demokrat Parti)

Founded on : July 26, 1994
 Chairman : Emin Şirin
 Address : G.M.K. Bulvarı No: 47/14 Maltepe/ANKARA
 Phone : (312) 2291503 (2 lines)

Web site: <http://www.ldp.org.tr/>

My Turkey Party: (Türkiyem Partisi)

Founded on : May 11, 1998
 Chairman : Durmuş Ali Eke

Free Society Party: (Özgür Toplum Partisi)

Founded on : June 6, 2003
 Chairman : Ahmet Turan Demir

Our Party: (Bizim Partimiz)

Founded on : August 2, 2004
 Chairman : Ahmet Yılmaz

Nation Party: (MP Millet Partisi)

Founded on : November 22, 1992
 Chairman : Aykut Edibali

Address : Atatürk Bulvarı No: 73/37-38 Kızılay/ANKARA
Phone : (312) 4194060
Web site: <http://www.milletpartisi.org/>

Worker's Party: (İP İşçi Partisi)

Founded on : March 2, 1992
Chairman : Doğu Perinçek
Address : Mithatpaşa Cad. No: 10/8 Sıhhiye/ANKARA
Phone : (312) 435 29 99
Web site: <http://www.ip.org.tr/>

Labour Party: (EMEP Emeğin Partisi)

Founded on : November 26, 1996
Chairman : Abdullah Levent Tüzel
Address : Necatibey Cad. Sezenler Sk. Lozan Apt. ANKARA
Phone : (312) 232 41 98
Web site: <http://www.emep.org/index.php>

Changing Turkey Party: (DEPAR Değişen Türkiye Partisi)

Founded on : February 24, 1998
Chairman : Gökhan Çapoğlu
Address : 6. Cad. 78 Sok. 15/2 Öveçler/ANKARA

Democracy and Peace Party: (DBP Demokrasi ve Barış Partisi)

Founded on : March 11, 1996
Chairman : Yılmaz Çamlıbel
Address : Menekşe Sok. 10A/7 Kızılay/ANKARA

Liberation Tranquility Party: (Kurtuluş Huzur Partisi)

Founded on : February 1, 1999
Chairman : Hacer Söğütülen

Communist Party: (Komünist Parti)

Founded on : July 20, 2000
Chairman : Yalçın Cerit

National Unity Party: (UBP Ulusal Birlik Partisi)

Founded on : October 23, 1998
Chairman : Fehmi Kural
Address : Necatibey Cad. Lale Sok. 3/14 Sıhhiye/ANKARA
Phone : (312) 230 16 32

Enlightened Turkey Party: (ATP Aydınlık Türkiye Partisi)

Founded on : November 27, 1998
Chairman : Ahmet Bican Ercilasun
Address : Çetin Emeç Bulvarı Öveçler 4. Cad. 52. Sk. Dikmen - ANKARA
Phone : (312) 284 29 32
Web site: <http://www.atp.org.tr/>

The Main road Party: (AYP Anayol Partisi)

Founded on : May 5, 1994

Chairman : Gürcan Başer
 Address : İzmir Cad. Sümer Sok. Sümer Han Kat: 4 4/2021 Kızılay/ANKARA
 Phone : (312) 232 23 23

Great Justice Party : (BAP Büyük Adalet Partisi)

Founded on : April 12, 1995
 Chairman : Sabit Batumlu
 Address : Güvenlik Cad. 25/25 A.Ayrancı/ANKARA

Communist Party of Turkey: (Türkiye Komünist Partisi)

Founded on : November 11, 2001
 Chairman : Aydemir GÜLER
 Address : Selanik Cad. 41/7 Kızılay/ANKARA
 Phone : (0312) 4188743-4172931
 Web site: <http://www.tkp.org.tr/>

Democratic People Party: (DHP Demokrat Halk Partisi)

Founded on : December 15, 1999
 Chairman : Mahmut İhsan Özgen
 Address : Rüzgarlı Mah. Soydaşlar Sok. 4/6 Ulus/ANKARA
 Phone : (312) 310 50 50

Socialist Worker's Party of Turkey: (TSİP Türkiye Sosyalist İşçi Partisi)

Founded on : January 3, 1993
 Chairman : Turgut Koçak
 Address : Lale Sok. 4/8 Sıhhiye/ANKARA
 Phone : (312) 431 23 86229 99 93
 Web site: <http://www.tsip1974.com/>

Revolutionary Socialist Worker's Party : (DSİP Devrimci Sosyalist İşçi Partisi)

Founded on : April 25, 1997
 Chairman : Şevket Doğan Tarkan
 Address : Menekşe 1. Sok. 8A/16 Kızılay/ANKARA
 Web site: <http://www.dsip.org.tr/>

Socialist Worker's Party: (SİP Sosyalist İşçi Partisi)

Founded on : September 9, 1996
 Chairman : Mehmet Önder Ergönül

Socialist Unity Movement Party: (SBHP Sosyalist Birlik Hareketi Partisi)

Founded on : August 5, 1999
 Chairman : Nihat Çağlı
 Address : Bankacı Sok. 15/3 Kocatepe/ANKARA

Justice Party of Turkey: (TAP Türkiye Adalet Partisi)

Founded on : April 12, 1995
 Chairman : Mehmet Yorgancıoğlu
 Address : Cinnah Cad. Ahenk Sok. 10/8 ANKARA

Equality Party: (EP Eşitlik Partisi)

Founded on : May 25, 2001

Chairman : Bektaş Çelebi
Address : Selanik Cad. No:6/21 K.3 KIZILAY ANKARA

Union of Hearts Greens Party: (Gönül Birliği Yeşiller Partisi)

Founded on : November 03, 2000
Chairman : Eşref Yazıcıoğlu
Address : Strasbourg Cad. No:26/15 Sıhhiye/ ANKARA

Our Legacy Party: (Varlığımız Partisi)

Founded on : May 11, 2001
Chairman : Köksal Satır
Address : Demetevler İvedik Cad. No: B 99/P.9 ANKARA

Radical Change Project Party: (RADEP- Radikal Değişim Projesi Partisi)

Founded on : May 16, 2001
Chairman : Alişan Ağca
Address : Güniz Sok. No:12/3 KAVAKLIDERE ANKARA

National Autonomy Party: (Ulusal Muhtariyet Partisi)

Founded on : August 13, 2001
Chairman : Fehmi Öztürk
Address : İzmir Cad. Sümer 1 Sok. No : 12/6 Kızılay / ANKARA
Phone : (312) 229 97 06 231 72 30

Leader Turkey Party: (Lider Türkiye Partisi)

Founded on : September 03, 2001
Chairman : Mustafa ÖZMAN
Address : Harf Devrimi Cad. Özügüzel Kent Sitesi No:4/8 Eryaman / ANKARA

Independent Turkey Party: (Bağımsız Türkiye Partisi BTP)

Founded : September 25, 2001
Chairman : Prof. Dr. Haydar BAŞ
Address : K.Esat Cad. No: 123 Çankaya/ANKARA
Phone : (0312) 4482424 (5 lines)
Web site: <http://www.btp.org.tr/>

Socialist Democratic Party: (TDP - Toplumcu Demokrat Parti)

Founded on : 29 January 2002
Chairman : Sema PİŞKİNSÜT
Address : Yıldız 4. Cad. 19. Sok. No:10 Çankaya/ANKARA
Web site: <http://www.toplumcudemokrasipartisi.com/>

Solution Party: (ÇP - Çözüm Partisi)

Founded on : December 25, 2001
Chairman : Nazım KOCAMAN
Address : Saklambaç sk. No : 66/16 Keçiören / ANKARA
Web site: <http://www.cozumpartisi.org/>

Social Democratic People's Party: (SHP - Sosyal Demokrat Halkçı Parti)

Founded on : May 24, 2002

Chairman : Murat KARAYALÇIN
Web site: <http://www.shp.org.tr/>

Social Democrat Party: (SDP – Sosyal Demokrat Parti)

Founded on : November 29, 2001
Chairman : Nihat DEMİR
Address : Kuleli Sk. No : 33 / 4 GOP / ANKARA

Republican Democracy Party: (Cumhuriyetçi Demokrasi Partisi)

Founded on : July 19, 2002
Chairman : Erdoğan Bakkalbaşı
Address : Ergün Sok. No : 2 Maltepe / ANKARA
Phone : (0312) 232 63 00
Web site: <http://www.ctp.org.tr/>

Rights and Freedoms Party: (Hak ve Özgürlükler Partisi)

Founded on : February 11, 2002
Chairman : Abdülmelik FIRAT
Address : Menekşe 2. Sk. 33 / 7 Kızılay - ANKARA
Phone : (0312) 418 16 38
<http://www.hakpar.org.tr/>

Homeland Party; (Yurt Partisi)

Founded on : March 14, 2002
Chairman : Sadettin TANTAN
Address : Öveçler Mah. 8. Cad. No: 25 Dikmen - ANKARA
Phone : (0312) 4785700
Web site: <http://www.yurtpartisi.org.tr/>

Eurasia Party: (Avrasya Partisi)

Founded on : May 9, 2002
Chairman : H.Hüsnü DOĞAN
Address : Çetin Emeç Bulvarı No : 57 Öveçler - ANKARA

Independent Republic Party; (Bağımsız Cumhuriyet Partisi)

Founded on : July 24, 2002
Chairman : Prof. Mümtaz SOYSAL
Web site: <http://www.bcp.org.tr/>

Republican Democrat Turkey Party: (Cumhuriyetçi Demokrat Türkiye Partisi)

Founded on : September 3, 2003
Chairman : Serap Gülhan

New Faces Party; (Yeni Yüzler Partisi)

Founded on : August 2, 2002
Chairman : Münci İnci
Web site: <http://www.yeniyuzler.org/>

Turkey Party; (Türkiye Partisi)

Founded on : February 23, 2004
Chairman : Tekin Enerem,

Katılımcı Demokrasi Partisi: (Participatory Democracy Party KADEP)

Founded on : December 20, 2006

Chairman : Şerafettin ELÇİ

Web site: <http://www.kadep.org.tr/>

NOW BANNED**Fazilet Partisi** (FP) (Virtue Party)

Founded 1997, banned June 2001. Fazilet replaced Refah Partisi (Welfare Party), which was dissolved by the Constitutional Court. Islamic fundamentalist. Interest in free market economy. Leader Recai Kutan. [1c]

Halkın Demokrasi Partisi (HADEP) (People's Democracy Party)

Founded 1994. Pro-Kurdish nationalist party. Chairman Murat Bozlak. [1a] On 20 September 2002 Mr Bozlak was barred from running in the November 2002 general election because of his conviction in the past for sedition. [66b] In March 2003 HADEP was banned by the Constitutional Court on the grounds that it aided and abetted the PKK. [63c]

Refah Partisi (RP) (Welfare Party)

Founded 1983, closed by a Constitutional Court ruling in January 1998 that it had become the focal point of anti-secular activity. Islamic fundamentalist. Chair Prof. Necmettin Erbakan. [1b]

MAIN LEFTIST AND/OR ILLEGAL POLITICAL ORGANISATIONS

IMPORTANT. This section consists of the names of both legal and illegal organisations. Those organisations which are known to be illegal have this fact recorded in their entry below. It is not possible to have a fully comprehensive list of illegal parties, because of their constantly changing and clandestine nature.

Information on the current situation regarding leftist Parties in Turkey can be found on www.broadleft.org/tr.htm [52a] and <http://www.electionguide.org/country.php?ID=218> [108]

For general information on terrorist organisations in Turkey:

<http://www.tkb.org/GroupRegionModule.jsp?countryid=TU&pagemode=group®ionid=1> [63a]

List of proscribed terrorist groups outlawed in the UK. [101]

<http://www.homeoffice.gov.uk/security/terrorism-and-the-law/terrorism-act/proscribed-groups>

The Turkish State sees three main threats: militant Kurdish nationalism/separatism; militant Marxist-Leninist groups; and armed radical Islamic movements. [2a]

Brief glossary

cephe = front

devrimci = revolutionary

emek = labour

halk = people
hareket = movement
işçi = worker
köylü = peasant, villager
kurtuluş= liberation
örgüt = organisation, association
özgür = free
özgürlük = freedom, liberty

Aczi-Mendi Group. Radical Islamic group.

Founded by Müslüm Gündüz in Elaziğ in 1985. The meaning of Aczi-Mendi is the “Sect of the Helpless Servants of Allah”. All group’s members dress in the same style, with black robes, turbans, and baggy trousers, and they carry sceptres. They hold their meetings in Elaziğ and in dervish lodges, which they have established in different cities. Dervish convents in Elaziğ, Gaziantep and Izmir have been closed by court order. [65]

Akabe. A radical Islamic group.

Author Mustafa Islamoğlu leads it. The legal branch of the group is AKEV (Akabe Education and Culture Association). [65]

ARGK. See **PKK**.

BCH (Independent Republic Movement) (Bağımsız Cumhuriyet Hareketi). [52b]

BDGP (United Revolutionary Forces Platform)
(Birleşik Devrimci Güçler Platformu) (Turkish)
(Platforma Hezen Soresgeren Yekgirti) (Kurdish)
Founded 1998. Radical left. [52b]

BP/KK-T (Bolshevik Party/North Kurdistan - Turkey) (Bolşevik Partisi/Küzey Kürdistan - Türkiye)

Illegal. Formed 1981 as TKP/ML (Bolsevik). Ex-Maoist, Stalinist. Publications - “Bolsevik Partizan”, “Roja Bolsevik”. [52b]

Ceyshullah (Army of Allah).

Founded in Istanbul in 1995. Its aim is to bring about a theocratic regime in Turkey by “holy war”. Between 1994 and 1999 the Turkish police conducted six operations against Ceyshullah, and apprehended 33 members, as well as guns, pistols, bombs and other munitions. The members stated that they had been trained in Saudi Arabia and Afghanistan. [65]

Dev Sol See **DHKP-C**

Dev Yol (Revolutionary Path) (Devrimci Yol). See **THKP/C**

Founded 1975. Radical left. Part of ÖDP (see Annex B). Publications – “Bir Adım” (One Step), “Hareket” (Movement), “Devrimci Hareket” (Revolutionary Movement). [48] [18c]

Devrim Partisi-Kawa. See **PS-Kawa**

Devrimci Gençlik See **DHKP-C**

Devrimci Halk Hareketi (Revolutionary People's Movement).

Split of TKIP in 1999. Radical left. Publication - "Devrimci Halk" (Revolutionary People). [52a]

Devrimci Hareket (Revolutionary Movement). [52b]

Devrimci İşçi Partisi - Insa Örgütü (Revolutionary Workers Party - Build up Organisation).

Trotskyist. Publication - "Enternasyonal Bülten". [52a]

Devrimci Mücadele (Revolutionary Struggle).

Founded 1977 as Devrimci Derleş. Radical left. Publication - "Devrimci Mücadele". [52a]

Devrimci Sosyalist Yön (Revolutionary Socialist Direction) [52b]

DHKP-C / DHKP/C now known as the DHKC (Revolutionary People's Liberation Party - Front) (Devrimci Halk Kurtulus Partisi - Cephesi)

<http://www.dhkc.net> [54]

Illegal. Radical left. It was formed in 1993 as a splinter faction of **Dev Sol** (Devrimci-Sol, Revolutionary Left), which was founded in 1978 and which went out of existence following the split. The other splinter faction, known as THKP/C Devrimci Sol, is on hostile terms with DHKP/C, but constitutes a far smaller group in scale and significance. Although DHKP/C has long had a difficult relationship with the PKK, it has repeatedly expressed its solidarity with the Kurdish armed struggle.

DHKP/C seeks to overthrow the existing Turkish system of government by armed revolution and to replace it with a Marxist-Leninist state. Its terrorist operations are aimed in particular at the Turkish security forces and public figures, as well as at bodies seen by the group as "symbols of imperialism". An attack on a bank in Istanbul in September 1999 left 23 people injured. The authorities struck a major blow at DHKP/C in 1999, arresting 160 members and seizing a large quantity of arms and explosives. In August 2000 the police caught seven DHKP/C members trying to plant a bomb at an airforce base. DHKP/C was in action again in 2001 with various operations, including an attack on a police car on 10 April, in which a passer-by was killed and two police officers injured. The US State Dept. report for 2001 records that DHKP-C suicide bombers attacked police stations in Istanbul in January and September 2001, killing several police officers and civilians.

Many of those involved in the hunger strikes in Turkish prisons in late 2000 and early 2001 came from among DHKP/C's ranks. The group drummed up large-scale support throughout Europe for protests in connection with those events. In Turkey itself the protests included a bomb attack on a police station in Istanbul on 3 January 2001, following which the organisation announced that this was in retaliation for the deaths of 30 prisoners in a prison clearance operation. Turkey's Anatolia news agency reported that, according to a circular distributed to police stations in Istanbul, the organisation had planned further attacks. [2a] Ankara State Security Court prosecutor Talat Salk alleged in a 1999 court case that DHKP/C conducts its activities under the names of HÖP (Haklar ve Özgürlükler Platformu) (Rights and Freedoms Platform), the outlawed Devrimci Gençlik (Revolutionary Youth), and TODEF (Türkiye Öğrenci Dernekleri Federasyonu) (Federation of Turkish Students and Youth Associations). [23a] Publications -

“Yaşadığımız Vatan”, “Devrimci Sol”, “Kurtuluş” (Liberation). [52a] In UK the DHKP-C is part of the List of Proscribed international groups under the Terrorism Act 2000 (Proscribed Organisations). [101]

DHP (Revolutionary People’s Party) (Devrimci Halk Partisi)
Founded 1994. Close to the PKK. Publication - “Alternatif” (Alternative). [52a]

Direnış Hareketi (Resistance Movement)
Founded 1978 as THKP/C - Üçüncü Yol. Radical left. Publication - “Odak”. [52a]

Dördüncü Sol - Insa Örgütü (Fourth Left - Construction Organisation)
Trotskyist. Publication - “Son Kavga” (Last Fight). [52a]

DPG (Revolutionary Party Forces) (Devrimci Parti Güçleri)
Radical left. Illegal. [52a]

DSİH (Revolutionary Socialist Workers Movement) (Devrimci Sosyalist İşçi Hareketi)
Illegal. Radical left. Publication - “Kaldıraç” (Lever); İşçi Gazetesi [52a] [52a]

DSİP (Revolutionary Socialist Workers Party) (Devrimci Sosyalist İşçi Partisi).
Founded 1997. Legal. Trotskyist. Publication - “Sosyalist İşçi” (Socialist Worker); Enternasyonal Sosyalizm. [52a]

ERNK. See **PKK**

ESP (Socialist Platform of the Oppressed) (Ezilenlerin Sosyalist Platformu). Founded in 2002. [52a] In December 2004, the group’s publication Atilim reported that 46 of its members were arrested as members of the illegal MLKP and that a court claimed that ESP which is a legitimate organisation was in fact the legal branch of the MLKP.

Gerçek (Truth)
Publication – Gerçek. [52b] [52a]

Hareket (Movement) [52b]

HDÖ (People’s Revolutionary Leaders) (Halkın Devrimci Öncüleri)
Illegal. [48] [18c]

Hevgirtin Welatparez (Patriotic Union) [52a]

Hizb-I Kuran. See **Med-Zehra**

Hizbullah/İlim Grubu and Hizbullah/Menzil Grubu.

Both are illegal. Hizbullah/Hezbollah is a very shadowy Islamist group which originated in the 1980s in southeast Turkey. It advocates the establishment of an Islamic state by violent means. When a major Hizbullah leader was killed by PKK fighters in 1991, a difference of opinion emerged within the organisation as to whether the time was yet right to wreak revenge on the PKK, and also to take up arms in pursuit of its own objective. One faction, centring on the Menzil publishing house (and known as the Menzil group), took the view that the organisation was not yet sufficiently well-developed to pitch into armed struggle. The other, centred on the İlim publishing house and known

as the Ilim group, thought the time was ripe for armed revenge on the PKK. Its idea was as far as possible to let the Turkish State do the dirty work for it in combating the PKK. The Ilim group bore particular responsibility for the atrocities committed by Hizbullah. The group had an ideological aversion to Iran, which adhered to Shia Islam; the Ilim group was striving for a Sunni Islam state. When the Ilim group managed to kill some of the Menzil group's main leaders in 1996, the Menzil group disintegrated and faded away. Some former Menzil members then joined the Ilim group, and, from 1996, Hizbullah became synonymous with the violent Ilim faction. Rumours were rife that Hizbullah was at least tolerated by the security forces because it was fighting against a common enemy, and it has been held responsible for a large number of disappearances and killings. Its victims included a former DEP member of parliament, Mehmet Sincar, and an Islamic feminist writer, Konca Kuris. President Demirel denied allegations that there were links between Hizbullah and Turkish officialdom, while the general staff of the armed forces issued an angry statement condemning such allegations as slander.

From 1997 onwards the Turkish authorities began to take tougher action against Hizbullah, with a reported 130 supporters arrested in 1998, 250 in 1999 and 3300 in 2000. In a raid on a home in the Üsküdar area of Istanbul on 17 January 2000 Hüseyin Velioglu, Hizbullah's founder and leader, was killed, and two other people arrested. On the basis of evidence found in the home, many other premises were searched, revealing the bodies of thirteen missing businessmen. With many more corpses being uncovered in the following months, the public prosecutor was able to press charges against 21 people on 156 counts of murder in the major Hizbullah trial which opened on 10 July 2000. During an interrogation, a Hizbullah suspect reportedly confessed to killing moderate Islamic scholar Konca Kuris in the early 1990s. In November 2002 an appeals court acquitted five defendants and sentenced the others to prison terms ranging from life to 45 months. The security forces' many operations against Hizbullah have inflicted heavy setbacks on it, and the number of bombings carried out by the group has fallen from 302 in the first eight months of 1999 to 94 in the corresponding period of 2000. However, the provincial governor of Diyarbakır stated in October 2000 that, in spite of those serious setbacks, Hizbullah could certainly not yet be considered to have been eliminated. There are said to be many teachers and religious officials involved in the organisation. As of February 2000, Hizbullah was said to have had in Turkey some 20,000 members, who were organised in tight cells and knew a few of their fellow members because they were sworn to strict secrecy. They were said to operate in teams of two or three people, who "would stalk their victim before one member of the group carried out the execution by shooting the target in the neck with a single bullet, while the other kept a watch. A third militant may have assumed the duty of protecting the executioner." Up to the time of the security forces' major action in January 2000, there were no known instances of Hizbullah's having targeted the authorities in its operations. Since then, however, armed incidents have taken place. On 11 October 2000 in Diyarbakır a policeman was killed in a gunfight with Hizbullah, which has also been linked with the shooting dead of the province's chief of police, Gaffar Okkan, and five of his officers in January 2001. In April 2001 a Hizbullah member was arrested on suspicion of involvement in that attack. The USSD 2004 reported that the Government continued to detain persons, particularly in the southeastern province of Batman, on suspicion of links to Hizballahan that 1,500 political prisoners were alleged members of Hizballah or other radical Islamist political organizations. On 5 February 2005 Turkish Daily News reported that, acting upon intelligence that the group was trying to regroup the security forces had arrested 22 suspected Hizbullah militants in 18 provinces.

[2a] [5a] [5c] [7a] [23r] [32b] [48] [65]

Hizbullah Vahdet

Radical Islamic group, which centred on the Vahdet publisher in the 1980s. The group's leader is Abdulvahap Ekinçi. The group's legal foundations are Davet Education and Culture Association and Abdulkadir Geylani Trust. The group publishes a periodical called "Vahdet". [65]

HÖP See DHKP-C

IBDA-C (Islamic Great East Raiders - Front) (İslami Büyük Doğu Akıncılar Cephesi) Illegal Iranian-backed fundamentalist group which seeks the establishment of an Islamic republic based on strict Shariah or religious law. It attacks the PKK as well as the Turkish establishment.

IBDA-C is reportedly organised in small, isolated cells. Members organise independently without any hierarchical authority. Usually each cell does not have information about another cell's actions. There are two different types of cell. One type carries out propagandist actions, publishing books and periodicals, and organising meetings, conferences or exhibitions. The other type includes such cells as "Ultra Force", "Altınordu", "Lazistan", and "Union of Revolutionist Sufis". IBDA-C is active in publication, and has many bookstores, websites and print-houses. Meetings are held in bookstores. Some of its periodicals are "Ak-Doguş", "Ak-Zuhur", "Akin Yolu", "Tarafl", and "Tahkim". IBDA-C has been linked with a number of terrorist attacks, especially in the early 1990s. It frequently makes use of explosives and Molotov cocktails in its attacks, and has often targeted banks, casinos, Christian churches and Atatürk monuments. IBDA/C has been linked with the fatal bomb attack in October 1999 on a secular professor, Ahmet Taner Kışlalı, who was best known as a journalist for the Cumhuriyet newspaper. In December 1999 and February 2000 IBDA/C members sparked off bloody clashes in Metris prison when they attempted, by armed force, to prevent guards from entering their cell. In the December riot, 54 soldiers were injured and 100 hostages taken by IBDA/C, which also laid claim to the fatal attack on two police officers in Istanbul on 1 April 2001. Proceedings were brought against IBDA/C's leader, Salih İzzet Erdiş, known by the nom de guerre Salih Mirzabeyoğlu, before Istanbul State Security Court in February 2000, seeking to have the death penalty imposed on him for leadership of an illegal organisation working for the establishment of an Islamic state. On 3 April 2001 he was sentenced to death by that court. [2a] [48] [34] [65]

İHÖ (Islamic Movement Organisation) (İslami Hareket Örgütü) Illegal. [48]

İlerici Gençlik (Progressive Youth) [52b]

İMO (Islamic Movement Organisation)

Its goal was to found an Islamic State in Turkey. Members were trained in Iran. Usually high level militants were sent abroad for training in guerrilla tactics, using weapons, and producing bombs. İrfan Çağrı, the director of the operations team, was caught by police in Istanbul in 1996. After the command and control of İMO had been weakened, İMO collapsed, and today most of its members are in prison. [65]

İşçi Demokrasisi (Workers Democracy)

Founded 1998; split of DSİP. Trotskyist. Publication - "İşçi Demokrasisi". [52a]

Jerusalem Fighters See **Kudüs Savaşçıları**

KADEK See **PKK**

Kaplancılar /Sözde Hilafet Devleti.

Illegal. [48]

KDB (Communist Revolutionary Union) (Komünist Devrimci Birlik)

Illegal. [48]

KDH (Communist Revolutionary Movement) (Komünist Devrim Hareketi) Publications - "Maya" (Ferment), "Parti Yolunda" Illegal. [48] [52a]

KDH/L (Communist Revolutionary Movement/Leninist) (Komünist Devrim Hareketi/Leninist)

Illegal. Publication – "Köz". [52b] [52a] [48]

KHK See **PKK**

Kongra-Gel See **PKK**

KKP (Kurdistan Communist Party) (Kürdistan Komünist Partisi)

Illegal. [48]

Kongreya Azadî û Demokrasiya (Kurdistan Freedom and democracy Congress) [52b]

KP(IÖ) (Communist Party (Build Up Organisation)) (Komünist Partisi (İnşa Örgütü))

Illegal. Ex-Maoist, Stalinist. Split of MLKP in 1995. Publication - "Halkın Birliği". [52a] [48]

KSB (Communist Fighters Union) (Komünist Savaşçılar Birliği)

Publication – "İşçi Davası". [52a]

Kudüs Savaşçıları (Jerusalem Fighters)

Islamic splinter group, said to have links with Iran. Police operations in May 2000 brought the arrest of some members and the discovery of various arms caches. [2a]

KUK (Kurdistan National Liberationists) (Kurdistan Ulusal Kurtuluscuları)

Marxist-Leninist. Established 1978. Its initial aim is to establish an independent Kurdistan in east and southeast Turkey, and then to unite this republic with territories in which Kurds live in Iran, Iraq and Syria. KUK-MK leaders are Dasraf Bilek (General Secretary), Sait Özsoy, Vasfi Özdemir, Mahfuz Yetmen, Şevket Kaçmaz, Lütfi Baksı. KUK-SE leaders are K. Başibüyük, Yalçın Büyük (Gen. Sec.), Abdurrahman Bayram, Abdurrahman Esmer, Yasemin Çubuk, Zeynel Abidin Özalp, and Yusuf Ahmet Bartan. [65]

M-18 See **MLKP**

Malatyalılar (From Malatya/Malatyaaites)

This radical splinter group, also known as Şafak-Değişim, advocates establishment of an Islamic state. The group first attracted attention at demonstrations against the ban on

wearing the veil, in 1997 and 1998, and related disturbances in Malatya. Apart from Malatya, the organisation is reported also to be active in Istanbul, Gaziantep, Erzurum and Kayseri. In October 2000 the security forces carried out a large-scale operation against the group, arresting some 250 people in 28 provinces. Although there have (as of May 2001) been no known Malatyalılar acts of violence, a large number of arms were found in that swoop by the security forces. [2a] The group's leader is Zekeriya Şengöz. The group's leading members come from the city of Malatya in southeast Turkey. The group publishes "Değişim" (Metamorphosis) periodical. In addition, it has founded a legal trust named "Islamic Solidarity Trust", which is active in Istanbul. The group calls itself "Şafak" (Down Group), and in university circles they use the signature of "Muslim Youth". [65]

Marksist Tutum (Marxist Attitude). [52b]

Mezhepsizler Grubu. Illegal. [48]

Med-Zehra, also called **Hizb-i Kuran** (The Party of Q'uran)

A radical Islamist group, named after the university, Medresetu'z-Zehra, which Said Nursi (who was the originator of the Nurcu movement (probably the most important religious movement in Turkish Kurdistan), and who died in 1969) wished to establish in Kurdistan. Med-Zehra is an important representative of Kurdish Islamic movements. It opposes the Turkish Government, and refuses to employ constitutional methods. [7c]

MIB (Marxist Workers League). (Marksist İşçi Birliği)
Trotskyist. [52a]

MLKP (Marxist Leninist Communist Party) (Marksist Leninist Komünist Partisi)
Illegal. Founded in September 1994; merger of TKP/ML - Hareketi, TKİH, TKP/ML(YİÖ). Stalinist. It seeks the armed overthrow of Turkey's present political system. It also sees itself as representing the Kurdish community, and wants to throw off the "fascist colonial yoke" by means of armed struggle, having its own armed wing, known as M-18. In May 1998 MLKP abducted Tacettin Asci, treasurer of the Bursa branch of the Turkish Human Rights Association, and Ahmet Aydin, and on 7 June 1998 it issued a statement saying that the two had been "executed" as police informers. Amnesty International said that it was appalled to learn of the killings, and added that the fact that the bodies had not been recovered suggested that the victims may have been interrogated under torture by their captors. Amnesty urged that the bodies be surrendered, and also that those responsible for the murders be brought to justice. Publications - "Partinin Sesi", "Atılım" (Progress); Teori'de; Dogrultu. [2a] [52a] [85] See also **ESP**

MLSPB (Marxist-Leninist Armed Propaganda Unit) (Marksist Leninist Silahlı Propaganda Birliği)

Illegal. Founded 1975 as split from THKP/C; political military. Radical left. Publication - "Barikat" (Barricade). [48]

Müslüman Gençlik Grubu (Muslim Youth Group)
Illegal. [48]

PADEK (Freedom and Democracy Party of Kurdistan)
(Partiya Azadî û Demokrasî ya Kurdistanê) (Kurdish)
(Kürdistan Özgürlük ve Demokrasi Partisi) (Turkish)

Founded 2000 by faction of PYSK (Kurdistan Sosyalist Birlik Partisi). Left, Kurdish nationalist. Illegal. [52b] [52a]

PDK (Kürdistan Demokrat Partisi)
Illegal. [48]

PDK/Bakur (Democratic Party of Kurdistan/North)
(Partî Demokratî Kurdistan/Bakur) (Kurdish)
(Kürdistan Demokrat Partisi/Küzey) (Turkish)
Illegal. Founded 1992 as PDK/Hevgirtin. Left, Kurdish nationalist. It aims to unite Kurds living in Iran, Iraq, Syria and Turkey under the flag of an independent Socialist Kurdistan Republic. Publication - "Dênge Bakur". [52a] [48] [65]

PDK(T) (Democratic Party of Kurdistan (Turkey)
(Kürdistan Demokrat Partisi (Türkiye) (Turkish)
(Partîya Demokrat a Kurdistan (Türkiyê) (Kurdish)
Left, Kurdish nationalist. Illegal, founded 1965. Publication - "Xebat". [52a]

PIK (Islamic Kurdistan Party) (Partiya Islamiya Kurdistan)
Founded 1979. PIK's main aim is to establish an Islamic state, and its members see this as a holy mission. Its strategy is allegedly to create chaos in Turkey, to destabilise government institutions, to start a nationwide revolt, and to establish an Islamic Kurdistan. It is active in eastern and southeastern Turkey, especially in Malatya. It has branches in Ankara and Istanbul. Leaders of the party include Prof. Dr. Muhammad Salih Mustafa (Party President and General Emir/Governor), Osman Caner (Emir of Students and Youth) and Sukuti Evcim (Director of Youth. [65]

PKK also known as **KADEK** and more recently **KHK or Kongra-Gel** (Kurdistan Workers' Party)
<http://www.kongra-gel.org/index.php?newlang=english>
(Partîya Karkerên Kurdistan) (Kurdish)
(Kürdistan İşçi Partisi) (Turkish)
www.pkk.org and www.kurdstruggle.org/pkk
Illegal. Founded on 27 November 1978. It advocates armed struggle both at home and abroad, to achieve an independent Kurdish state slicing through Turkey, Syria, Iraq and Iran, and launched the struggle in 1984. 57-member directorate. Its components include ERNK (the National Liberation Front of Kurdistan), the PKK's "popular front and propaganda division", and ARGK (the Kurdistan National Liberation Army), the PKK's "popular army". Leadership: Abdullah "Apo" Öcalan. The PKK's armed operations in south-eastern Turkey, starting in 1984 and peaking from 1990 to 1994, involved attacks on civilians (in many cases Kurdish) and military targets, causing very many deaths. The PKK was guilty of human rights violations, including murders, especially in rural parts of the south-east, but also in other areas. The victims were mainly Jandarma officers, mayors, teachers, imams, village guards and their families, reluctant recruits, young villagers, refusing to fight for the PKK, and (former) PKK members acting as informants for the Turkish authorities. From the outset, the Turkish army took tough action against the PKK. The PKK attempted to make the south-east ungovernable, by systematically destroying economic and social infrastructure etc., and by deliberately polarising the local population. Many village schools were closed down, not least as a result of the PKK's policy, up until 1996, of killing schoolteachers. According to information from the Turkish authorities, a total of just over 23,000 PKK fighters and around 5000 members of

the armed forces and security forces have been killed since 1987 in the conflict with the PKK. Just over 4400 civilians are reported to have been killed. The Injured number just over 11,000 armed forces and security forces members, and around 5400 civilians. No figures are given for injured PKK fighters. On 3 August 1999 Abdullah Öcalan called on PKK fighters to end their armed struggle and withdraw by 1 September to beyond Turkey's borders. On 1 September his brother Osman, a member of PKK's command council, announced that the PKK would do this with immediate effect. The extent to which Öcalan's call has been followed by PKK fighters can be seen from figures from the Turkish army high command in May 2000, showing only 500 out of 5500 PKK fighters still to be in Turkey. In the first five months of 2000, the number of clashes between the army and guerrillas had fallen to 18, as against 3300 at its peak in 1994 and 48 in 1999. There were few armed clashes in 2001, and a near absence of PKK violence in 2002. In April 2002 the PKK announced that it had ceased activities and had regrouped as KADEK, the Kurdistan Freedom and Democracy Congress (Kürdistan Özgürlük ve Demokrasi Kongresi). The change of name did not affect the policy of the Turkish State towards members of the PKK/KADEK. Publication - "Serxwebûn" (written in Turkish). [1a] [2a] [5a] [18c] [63a] [67] [52a] [48] In the UK PKK is part of the List of Proscribed international groups under the Terrorism Act 2000 (Proscribed Organisations). [101]

On the 29 May 2004 the BBC reported that Kongra-Gel declared that its five-year unilateral cease-fire would end in three days time (on the 1 June 2004) and that it would start to target Turkish security forces. [66w] In January 2005 the Turkish Daily News reported that, according to a report released by the Diyarbakir Human Rights Associations, the number of armed conflict between security forces and the Kurdistan's Workers Party (PKK/Kongra-Gel) increased. While 104 people died and 31 were wounded in armed clashes in 2003, 219 people died and 126 were wounded in 2004. [23l] On 8 October 2005, the Turkish Daily News reported that the PKK had said it ended a unilateral ceasefire against Turkey. [23ac]

PKK-DCS (PKK – Devrimci Çizgi Savaşçıları) (PKK-Serwanên Xeta Soresgerî) (PKK – Revolutionary Line Fighters). Radical leftist, Kurdish-nationalist, illegal, split from PKK 1999. Publication: Devrimci Çizgi. [52b] [52a]

PKK/KKP (Communist Party of Kurdistan)
(Partiya Komunistê Kurdistan) (Kurdish)
(Kürdistan Komünist Partisi) (Turkish)
Founded 1990 by Kurdish section of TKEP. Communist. Publication – "Dengê Kurdistan". [52a]

PKK Vejin (Resurgence)

As noted in the website Terror Organisation in Turkey:

"After the Fourth [KADEK] Congress, three opposing members Sari Baran, Mehmet Sener and Faik (K) have formed another organisation called Vejin (Resurgence). This organisation was in the same direction with KADEK but it was giving its members more social rights, [such] as marriage and the right to resign from the organisation in [sic] every time the member wished. The leaders of Vejin have stated that their objective is to establish a Federal Kurdistan in the Turkish territories. Mehmet Sener was killed in Syria with A. Öcalan's command. After Mehmet Sener's death, Vejin and KADEK began to fight against each other." [65]

PNBK (National Platform of North Kurdistan)

(Platforma Neteweyî ya Bakûrê Kurdistanê) (Kurdish)
 (Kuzey Kurdistan Ulusal Platformu) (Turkish)
 Founded 1999. Left, Kurdish nationalist. Illegal. [52a]

PRK/Rizgari (Liberation Party of Kurdistan)
 Partîya Rizgariya Kurdistan (Kurdish)
 Kürdistan Kurtulus Partisi (Turkish)
 Illegal. Founded 1976. Radical left, Kurdish nationalist. The party's aim is to establish an independent Kurdistan, and extend this to an independent United Socialist Kurdistan with territory which is at present part of Iran, Iraq, Syria and Turkey. Publications - "Rizgari", "Stêrka Rizgari". [52a] [48] [65]

PRNK (National Liberation Party of Kurdistan) (Kürdistan Ulusal Özgürlük Partisi)
 Illegal. Probably disbanded. [48]

PS-Kawa (Revolutionary Party) (Partîya Sores)
 Illegal. Founded 1998 as split of PYSK (Kurdistan Sosyalist Birlik Partisi). [48] [52a]

PSK (Socialist Party of Kurdistan)
 (Partîya Sosyalist a Kurdistan) (Kurdish)
 Kürdistan Sosyalist Partisi (Turkish)
 Illegal. Founded 1974. Left, Kurdish nationalist. Its legal wing is the DBP (see Annex B). Publications - "Roj a Nû", "psk-bulten". Leader Kemel Burkay. [48]

PSK- (Kurdistan Revolutionary Party)
 (Devrimci Kürdistan Partisi) (Turkish)
 (Partîya Soreşa Kürdistan) (Kurdish)
 Illegal. [48]

Revolutionary Marxist League
 Trotskyist. [52a]

RNK/KUK (Kürdistan Ulusal Kurtuluşçular)
 Illegal. [48]

RSDK (Socialist Democratic Organisation of Kurdistan)
 (Rêxistina Sosyalîst a Demokratîk a Kurdistanê) (Kurdish)
 (Kürdistan Demokratik ve Sosyalist Örgütü) (Turkish)
 Split of PYSK (Kurdistan Sosyalist Birlik Partisi). [52a]

Şafak-Değişim See **Malatyalılar**

SED (Social Ecological Transformation) (Sosial Ekolijist Dönüşüm)
 Green. Publication – Kara Toprak. [52a]

SEH (Socialist Labour Movement) (Sosyalist Emek Hareketi)
 Publication – "Siyasi Gazete" (Political Gazette). [52b] [52a]

Selam Grubu.
 Illegal. [48]

Selefi (from the Arabic “Salafi”, referring to an Islamic revivalist movement which seeks to emulate the lives of the earliest Muslims).

The organisation, which was established in 1993 by an imam, supports religious law. In raids in 1999, the Turkish authorities seized eight rocket rifles, one Kalashnikov, and 650 rounds of ammunition. The Turkish State considers the organisation to be terrorist. [20] [30d]

SIP See **Sosyalist İktidar Partisi - Komünist Parti**

Sosyalist Alternatif (Socialist Alternative).

Part of ÖDP (see Annex B). Trotskyist. Publication - “Sosyalist Alternatif”. [52a]

Sosyalist İktidar Partisi - Komünist Parti (Party for Socialist Power – Communist Party)

Founded 1993, Communist, legal, gained 0.12% of the national vote in the April 1999 general election. Changed its name in November 2001 to TKP (Türkiye Komünist Partisi) (Turkish Communist Party); it is unclear whether this is different from, or identical to, the TKP which is listed later in this annex. Gained 0.19% of the national vote in the November 2002 general election. Publications – “Sosyalist İktidar” (Socialist Power), “Sol” (Left). [30a] [52a]

Sosyalist Politika (Socialist Politics)

Part of ÖDP (see Annex B). Publication - “Sosyalist Politika”. [52a]

Spartaküs

Illegal. [48]

TAYAD (the Solidarity Association of Prisoners’ Families) (Tutuklu ve Hükümlü Aileleri Yardimlasma Dernegi)

In January 2001 the headquarters and various branches in Istanbul of the TAYAD were closed after it had held weekly demonstrations over a period of months against the introduction of the new cell system in prisons. Various executive members were arrested. The authorities regard TAYAD as a cover for the revolutionary DHKP/C. The organisation was consequently proscribed for a few years in the early 1990s. [2a]

TAK (Kurdish Liberation Hawks/Falcons) a radical Kurdish group said to have carried out various actions including the bombing in Cesme and Kusadasi in July 2005, two bomb explosions in Istanbul in February 2006, an explosion at the Mezitli offices of AKP in the same month, a bomb attack targeting a police building in Izmir in March 2006. The Tak is considered an offshoot of the Kurdistan Workers’ Party (PKK) and a cover group for PKK although the PKK denies any links. [23g] [23f] [66az] [66bj] [66bk]

TDKP (Revolutionary Communist Party of Turkey) (Türkiye Devrimci Komünist Partisi).

Illegal. Founded 1980. Ex-Maoist, Stalinist. Its legal wing is Emep (Labourers Party) (see Annex B). Publication - “Devrimin Sesi”. [47] [52a]

TDP (Revolution Party of Turkey) (Türkiye Devrim Partisi)

Illegal. Founded 1978, formerly TKP (Birlik). Radical left. Publication - “Hedef” (Target). [52a] [48] [52a]

Tehvid-Selam

Islamic splinter group said to have links with Iran. The group adopts Hizballahi ideas, and is closely related to the Hizballah and Menzil groups. It began to publish “Şehadet” (Testimony) and “Tehvid” (Unification) periodicals, and nowadays publishes “Selam” (Greeting, Salute), a weekly newspaper. Police operations in May 2000 brought the arrest of some members and the discovery of various arms caches. [2a] [65]

THKP/C Acilciler (Turkish Peoples’ Liberation Party and Front – The Urgent Ones) (Türkiye Halk Kurtuluş Partisi/Cephesi Acilciler)
Illegal. Probably disbanded. [52a] [48]

THKP/C- Dev Sol (People’s Liberation Party/Front of Turkey - Revolutionary Left) (Türkiye Halk Kurtuluş Partisi/Cephesi - Devrimci Sol)
Illegal. Founded 1993 as split of Dev Sol. Political military. Radical left. Publication - “Devrimci Çözüm” (Revolutionary Solution). [52a] [48] [52b]

THKP/C- Dev Yol.
Illegal. [48]

THKP-C/HDÖ (People’s Liberation Party/Front of Turkey - People’s Revolutionary Vanguards) (Türkiye Halk Kurtuluş Partisi ve Cephesi - Halkın Devrimci Öncüleri)
Founded 1977. Political military. Radical left. Publications - “Cephe” (Front, Façade), “Kurtuluş” (Liberation), “Kurtuluş Cephesi” (Liberation Front). [52a] [52b]

THKP/C-MLSPB (People’s Liberation Party/Front of Turkey – Marxist Leninist Armed Propaganda Unit) (Türkiye Halk Kurtuluş Partisi ve Cephesi – Marksist Leninist Silahlı Propaganda Birliği)
Publication – “Barikat” (Barricade). [52b] [52a]

TIKB (Revolutionary Communists Union of Turkey) (Türkiye İhtilalci Komünistler Birliği)
Illegal. Founded 1977. Political military. Ex-Maoist, Stalinist. Publications - “İhtilalci Komünist”, “Orak-Çekiç”, “Devrimci Proletarya”, “Alinterimiz”. [48] [52a]

TIKB - B (Revolutionary Communists Union of Turkey - Bolshevik) (Türkiye İhtilalci Komünistler Birliği - Bolşevik)
Illegal. Split of TIKB. Radical left. Publication - “Devrimci Duruş” (Revolutionary Attitude). [48] [52a]

TIKKO (Turkish Workers’ and Peasants’ Liberation Army) (Türkiye İşçi Köylü Kurtuluş Ordusu or Türk İşçiler Köylüler Kurtuluş Ordusu).
Illegal armed resistance movement, which was set up in 1972 by TKP/ML. It advocates the violent overthrow of the Turkish government and abolition of the entire Turkish political system. Members (a maximum of several thousand people) are scattered in small cells throughout Turkey. The armed guerrilla units are used by both TKP/ML and TKP(ML) in common for their terrorist operations. Amnesty International notes that in the early 1990s TIKKO and other organisations would frequently announce, that this journalist, or that Kurdish villager, had been “punished”. Since then, the numbers of such killings have fallen notably. In September 2000 a police operation against TIKKO in Istanbul brought the arrest of the head of its local section. On 6 October 2000 a suicide squad attacked the military training college in the Harbiye district of Istanbul. TKP/ML also claimed responsibility for an attack on a police car on 11 December 2000, in which

two policemen were killed. February 2001 saw two armed clashes between TIKKO and the security forces. The attack on a Jandarma general in Çorum on 22 March 2001 was said by the authorities to have been carried out by TIKKO, which reportedly itself on 28 March 2001 laid claim to the attack. [2a] In June 2002 TIKKO reportedly abducted and killed Muharrem Hız from Sırçalı village, Tokat province. [9a] There used to be a division of labour between PKK and TIKKO guerrillas, with the PKK carrying on the combat in south-eastern Turkey and TIKKO in the Black Sea region. In October 1999 TKP/ML announced its complete disagreement with Öcalan's call to end the armed struggle. [2a]

TIP (Workers Party of Turkey) (Türkiye İsci Partisi) [52a]

TKEP (Communist Labour Party of Turkey) (Türkiye Komünist Emek Partisi)
Illegal. Founded 1980, part of ÖDP (Özgürlük ve Dayanısme Partisi - see Annex B).
Communist. [48] [52a]

TKEP- Leninist (Communist Labour Party of Turkey - Leninist) (Türkiye Komünist Emek Partisi - Leninist)
Illegal. Split of TKEP in 1990. Political military. Communist. Publications - "Devrimci Emek" (Revolutionary Labour), "Devrim İscin Mücadele Birliđi. [48] [52b] [52a]

TKİP (Communist Workers Party of Turkey) (Türkiye Komünist İşçi Partisi)
Illegal. Founded 1998. Ex-Maoist, radical left. Publications - "Ekim" (Sowing, Planting), "Kızıl Bayrak" (Red Flag) [52a] [48] [72]

TKKKÖ (Turkey and North Kurdistan Liberation Organisation) (Türkiye ve Kuzey Kürdistan Kurtuluş Örgütü)
Illegal. [48]

TKP (Communist Party of Turkey) (Türkiye Komünist Partisi)
Founded 1980 as TKP - İscinin Sesi. Communist. Publication - "İscinin Sesi" (Workers' Voice). [52a]

TKP/İS (Communist Party of Turkey/Workers Voice) (Türkiye Komünist Partisi/İşçinin Sesi).
Illegal. [48] [52a]

TKP- Kivilcim (Communist Party of Turkey - Spark) (Türkiye Komünist Partisi - Kivilcim). Illegal. Founded 1989 by Socialist Homeland Party (SVP). Communist. Publications - "Kivilcim" (Spark), "Zafere Kadar Direnis", "Yol" (The Way), "Widerstand". [48] [52b]

TKP/ML (Communist Party of Turkey/ Marxist Leninist) (Türkiye Komünist Partisi/ Marksist-Leninist).
Founded 1972. Political military. Based on Maoist ideology. The party has suffered several divisions, with each faction claiming to be "the real party". In 1994 it split into two wings: a partisan wing, retaining the old name TKP/ML, and an Eastern Anatolian regional committee, assuming the almost identical name TKP(ML). Talks have been under way since late 1999 concerning reunification of the two wings. In 1972 TKP/ML set up armed guerrilla units, known as TIKKO (Türk İşçiler Köylüler Kurtuluş Ordusu - Turkish Workers' and Peasants' Liberation Army), which are used by both TKP/ML and TKP(ML) in common for their terrorist operations. In October 1999 TKP/ML announced

its complete disagreement with the call by Abdullah Öcalan, PKK leader, to end the armed struggle. TKP/ML claimed responsibility for an attack on a police car on 11 December 2000; two policemen were killed in the attack. Publications - "Partizan", "İsçi-Köylü Kurtuluşu", "Özgür Gelecek" (Free Future). [2a] [67] [52a] [52b] [69]

TKP(ML) (Communist Party of Turkey (Marxist-Leninist) (Türkiye Komünist Partisi (Marksist-Leninist)).

Split of TKP/ML in 1994. Political military. Maoist. Publications - "İsçi Köylü Kurtuluşu", "Devrimci Demokrasi" (Revolutionary Democracy), "Öncü Partizan" (Pioneer Partisan). [52a]

TKP/(M-L) DABK (Communist Party of Turkey (Marxist-Leninist) East Anadolu Area Committee) (Türkiye Komünist Partisi (Marksist-Leninist) Doğu Anadolu Bölge Komitesi) Illegal. [48]

TKP/M-L Kons. Kes (Communist Party of Turkey/ Marxist-Leninist Conferencing Body) (Türkiye Komünist Partisi/Marksist-Leninist Koferansçı Kesim). Illegal. [48]

TKP/ML (Maoist Parti Merkezi) (Communist Party of Turkey/ Marxist-Leninist (Maoist Party Centre)) (Türkiye Komünist Partisi/ Marksist Leninist (Maoist Parti Merkezi)) Illegal. Split of TKP/ML in 1987. Political military. Maoist. Publication - "İktidara". [48] [52b]

TODEF See **DHKP-C**

Toplumsal Özgürlük Platformu (Social Freedom Platform). Part of ÖDP (see Annex B). [52a]

TSİP (Socialist Workers Party of Turkey) (Türkiye Sosyalist İşçi Partisi). Founded 1993. Legal. Communist. Publication - "Kitle" (Mass, Crowd). [52a]

Türkiye'de Marksist-Leninist Parti (Marxist Leninist Party in Turkey). Founded in 1980 as TKP/ML Spartakus. Stalinist. Publications - "Spartakus", "Bilimsel Komünizmin Sancıları Altında". [52b]

UİC (Union of Islamic Communities)

Founded 1983. Its initial goal is to unite Muslims living in Europe under one roof. Its main goal is to establish a Federal Islamic State in Anatolia. Its founder Cemalettin Kaplan declared himself the "caliph" of all Muslims in 1994, and from then on UIC called itself the "Caliphate State". After he died in 1995, his son Metin Kaplan replaced him as "caliph". Some members of UIC have rejected Metin Kaplan's caliphate, and UIC has divided into three groups. UIC has 200-300 members in Turkey, largely in Istanbul, Konya, Adana, Sivas, Aydın, and Maraş, and 1300 members in Germany. In Germany in 1999 Metin Kaplan declared a holy war against Turkey. The German authorities arrested Metin Kaplan in March 1999. He was extradited from Germany in 2004 after Turkey banned the death penalty. The Turkish police have conducted operations against UIC militants in Sivas, Sakarya, Erzurum, Bursa and Çanakkale. As reported by BBC News on 20 June 2005, Metin Kaplan was sentenced to life in prison for plotting to overthrow Turkey's secular system. However, on 30 November 2005, BBC News reported that the appeals court had ruled that there had been inadequate investigation

and procedural deficiencies in the case and Kaplan's conviction was overturned. [65]
[66bf] [66bm]

Vasat Grubu/Ehl-i Sünnet vel Cemaat.

Illegal. It claimed responsibility for throwing a grenade at a book fair in Gaziantep on 14 September 1997, killing one person and injuring 24. [56] Today Vasat is inactive. With series of police operations in the June of 1999, in Malatya and in Ankara all the action plans, structure, strategies, educational activities and financial resources of the organisation had been deciphered. [65]

Yeni Yol (New Way)

Part of ÖDP (see Annex B). Trotskyist. Publication - "Yeni Yol" (New Way). [52a]

[Return to contents](#)
[Go to list of sources](#)

Annex C: Prominent people: past and present

GOVERNMENT AFFILIATED

Head of state: Abdullah Gul was nominated for the presidency following the AKP's election victory and eventually elected to the position on 28 August 2007. [81b]

Prime Minister: Recep Tayyip Erdogan served as the Prime Minister of Turkey since March 14, 2003. He is the leader of the Adalet ve Kalkınma Partisi (AKP, or Justice and Development Party). [81b]

KEY MINISTERS AND POSTS.

Prime Minister:	Recep Tayyip Erdogan
Deputy Prime Minister and Minister of State:	Cemil Cicek
Deputy Prime Minister and Minister of State:	Nazim Ekren
Deputy Prime Minister and Minister of State:	Mehmet Simsek
Deputy Prime Minister and Minister of State:	Hayati Yazici
Minister of State:	Murat Basesgioglu
Minister of State:	Nimet Cubukcu
Minister of State:	Mehmet Aydin
Minister of State:	Kursad Tuzmen
Minister of State:	Mustafa Said Yazicioglu
Minister of Agriculture and Rural Affairs:	Mehmet Mehdi Eker
Minister of Culture and Tourism:	Ertugrul Gunay
Minister of Energy and Natural Resources:	Hilmi Güler
Minister of Environment and Forestry:	Veysel Eroglu
Minister of Finance:	Kemal Unakitan
Minister of Foreign Affairs:	Ali Babacan
Minister of Health:	Recep Akdag
Minister of Industry and Trade:	Mehmet Zafer Caglayan
Minister of Interior:	Dr Besir Atalay
Minister of Justice:	Mehmet Ali Sahin
Minister of Labour and Social Security:	Faruk Celik
Minister of National Defence:	Vecdi Gönül
Minister of National Education:	Hüseyin Çelik
Minister of Public Works and Housing:	Faruk Nafiz Ozak
Minister of Transportation:	Binali Yildirim

[81b]

OTHERS

Atatürk, Kemal (born 1880/1881, died 1938) His original name was Mustafa Kemal, he was surnamed Atatürk ("Father of the Turks") in 1934. Atatürk was the founder of modern Turkey. He became Turkey's first President in 1923.

Bahçeli, Devlet: Leader of MHP (Nationalist Action Party), and Deputy Prime Minister 1999-2002.

Bakirhan, Tuncer: Chairman of DEHAP. [69]

Baykal, Deniz: Leader of CHP (Republican People's Party).

Bozlak, Murat: Chairman of HADEP (People's Democracy Party) until it was banned in March 2003. He is banned from being a founder, member or administrator of another party for five years from March 2003.

Çiller, Tansu: Turkey's first woman Prime Minister 1993-96. Was Chairman of DYP (True Path Party).

Derviş Kemal: Formerly a Turkish Vice President of the World Bank. Appointed after the February 2001 crisis as the State Minister responsible for the economy; resigned August 2002.

Ecevit, Bülent: Former leader of DSP (Democratic Left Party), and Prime Minister 1999-2002. Was Prime Minister in 1974 (when Turkey invaded Cyprus, in order, in its perception, to protect the Turkish Cypriot minority), in 1977, and in 1978-79.

Öcalan, Abdullah (nickname "Apo")

Leader of the PKK. Born in 1949 in Urfa. He initiated, with six colleagues, a specifically Kurdish national liberation movement based on Marxism-Leninism. From 1978 the Apocular, or followers of Apo, called themselves the PKK. He was captured, forcibly returned to Turkey in February 1999, put on trial, convicted of treason and sentenced to death. With the abolition in 2002 of the death penalty for offences in peacetime, his sentence was commuted to life imprisonment without conditional release. [30b] [58]

Özkök, General Hilmi: Born 1940, Chief of the General Staff for a four year term from August 2002.

Sezer, Ahmet Necdet: President of Turkey since May 2000. He is the first President in Turkey's history who is neither an active politician nor a senior military official. He was formerly Turkey's most senior judge, the Chairman of the Constitutional Court.

Yılmaz, Mesut: Prime Minister in 1991, 1996, and 1997-1999, and Deputy Prime Minister 1999-2002. Was Chairman of ANAP (Motherland Party)

Zana, Leyla: Kurdish activist and former MP. She was one of the founders of the Democratic Society Movement (DHT) [5c] [30a] [36b] [42] [44b] [66e] [77] [93a] [93b]

[Return to contents](#)
[Go to list of sources](#)

Annex D: Administration of Justice

The European Commission Turkey 2005 Progress Report released on 9 November 2005 recorded that “The principle of legality of criminal offences is set out in Article 38 of the Constitution and in Article 2 of the [new] Penal Code. The non-retroactivity of penalties is established in Article 38 of the Constitution and in Article 7 of the Penal Code. Proportionality between the criminal offence and the penalty is guaranteed by Article 3 of the Penal Code.

The principle of ne bis in idem [the right of a person not to be prosecuted twice for the same offence] is established in Article 223 of the Code of Criminal Procedure.”
[71b] (p106)

Judges

1. The position of the judge (hakim, yargıç) is important, especially as there is no jury trial in Turkey. His role is substantially larger than that of a judge in UK or USA. He is actively responsible for the administration of justice. He takes the initiative in finding the law applicable to the facts submitted by the parties. The lawyers have the duty to assist the judge in establishing the facts and determining applicable legal provisions. The independence of judges is safeguarded by Articles 138 and following of the Constitution: “Judges shall be independent in the discharge of their duties. They shall pass judgements in accordance with the Constitution, law, justice and their personal convictions. No organ, office, agency or individual may give orders or instructions to courts or judges in connection with the discharge of their judicial duty, send them circulars, or make recommendations or suggestions. No questions may be raised, debates held, or statements issued in legislative bodies in connection with the discharge of judicial power concerning a case on trial.” [64]

As recorded in Turkey’s Statistical Yearbook 2006, published by the Turkish Statistical Institute, in 2005 there were 6,211 judges. [89a] (p131 Section on Justice)

Public Prosecutors

2. Offences are, in the great majority of cases, prosecuted in the name of the people by public prosecutors (savcılar), who are virtually representatives of the executive branch of the government within the judiciary. The duty of initiating public prosecution rests with the public prosecutor. As soon as he is informed of the occurrence of an offence, the public prosecutor should make the investigation necessary to decide whether public prosecution should be initiated. He investigates evidence both against the accused and in his favour, and helps to preserve proof which otherwise might be lost. If, at the end of his investigation, the public prosecutor decides not to prosecute, he will inform the accused if the accused has testified, or if a warrant of arrest has been issued against the accused. No one may be convicted under an indictment in which he is not named, nor may he be convicted of a crime not specified in the indictment. [64]

As noted in the European Commission 2005 report “The Code establishes the concept of plea bargaining. In order to reduce the number of unmeritorious

prosecutions, the Code increases the discretion of prosecutors, who are now able to assess the strength of the evidence before preparing an indictment. Moreover, judges are given the power to return incomplete indictments.

[71b] (p15) As regards legal guarantees including access to justice, so far as the prohibition of arbitrary arrest is concerned, Article 90 of the Criminal Procedure Code provides that persons who are arrested by the police must be informed of the reason for their arrest.” [71b] (p15)

3. In the case of some lesser offences specified by law, where the injury is deemed more private than public, the injured party may himself institute criminal proceedings by filing a private complaint (şahsi dava) without participation of the public prosecutor. In these exceptional cases, the private party enjoys all the rights given to the public prosecutor by law. Furthermore, the person injured by an offence may intervene in any public prosecution, and he becomes a party to the action by virtue of his intervention (Müdahale yolu ile dava). [64]

As recorded in Turkey's Statistical Yearbook 2006, published by the Turkish Statistical Institute, in 2005 there were 3, 091 prosecutors. [89a] (p131 Section on Justice)

4. The European Commission 2005 report recorded that “The number of judges and prosecutors has remained largely stable; there are currently 5 952 judges and 3 179 prosecutors in service and a further 1 053 judges and prosecutors in training. A law adopted in December 2004 provided for the recruitment of 4 000 additional judges and prosecutors, 100 judicial inspectors and 6 619 court administrative staff.” [71b] (p105)

The defendant

5. The law is designed to protect innocent citizens. The accused is favoured in criminal proceedings by the presumption of innocence. The burden of proof rests on the public prosecutor or the private complainant, and the defendant is not held guilty until his guilt is established by final judgement. When the court is not satisfied by the evidence of the prosecution, or a reasonable doubt exists, the court must give a judgement of acquittal. [64]

The European Commission 2005 report noted that “The right of defence is enshrined in Article 36 of the Constitution. The Code of Criminal Procedure regulates the use of legal counsel and the rights of defence in criminal investigations and during trials. The new Code substantially improves the rights of the defence. Article 150 of the new Code of Criminal Procedure provides that all accused persons may have access to a lawyer and that representation by legal counsel is mandatory, both during the investigation and the trial, for offences punishable by more than five years' imprisonment ... The new Criminal Code also introduces the principle of cross-examination, which strengthens the rights of the defence. Nevertheless, certain practices undermine equality of arms. The design of the courtroom, in which the prosecutor is seated on a raised platform next to the judges while defence counsel is seated at ground level, places the prosecution in a privileged position vis-à-vis the defence. Defence counsel experience difficulties in communicating with their clients both in the court house immediately before the trial (in part due

to lack of suitable facilities) and in the court room during the course of the trial.” [71b] (p106)

Evidence

The European Commission 2005 report recorded that “Under the new Code, criminal investigations must be carried out by a judicial police force under the authority of the public prosecutor.” [71b] (p15)

7. The use of unlawful interrogation methods (such as maltreatment, torture, forcing drugs, causing fatigue, cheating, deceiving, violence, unlawful promises) which are may distort free will, is prohibited. Accordingly statements and depositions obtained by unlawful means are considered inadmissible, even if they are of free will (for example, if a person were deceived). [64]

The European Commission 2005 report recorded that “All detainees are entitled to access to justice (i.e a lawyer) and for juveniles the presence of a lawyer during interrogation is obligatory. Moreover, the new Regulation on Apprehension, Detention and Statement Taking [entered into force on 1 June 2005] makes the appointment of a defence lawyer obligatory in cases where the alleged crime carries a sentence of more than 5 years’ imprisonment.” [71b] (p23)

COMMENCEMENT AND CONDUCT OF PROCEEDINGS

Preparatory investigation

8. The public prosecutor, upon being informed of the occurrence of an alleged offence, makes a preparatory investigation (hazırlık soruşturması) in order to ascertain the identity of the offender and to decide whether it is necessary to institute a public prosecution. If he concludes that a public action is necessary, he institutes a case by an indictment before the competent court. If a public action is unnecessary he decides not to prosecute. The Minister of Justice may, by order, direct the prosecutor to initiate a public prosecution. [64]
9. The public prosecutor may, for the purpose of his enquiry, demand any information from any public employee. He is authorised to make his investigation either directly or through police officers. The police are obliged to inform the public prosecutor immediately of events, detainees, and measures taken, and to execute orders of the prosecutor concerning legal procedures. [64]
10. In cases where a private complaint is submitted to the public prosecutor, and the prosecutor finds no reason for prosecution or decides not to prosecute after a preparatory investigation, he informs the petitioner of his decision. If the petitioner is, at the same time, the aggrieved party the petitioner may, within 15 days of notice, object to the Chief Justice of the nearest court which hears aggravated felony cases. If the court is convinced that the petition is well founded and rightful, it orders a public prosecution; the prosecutor in charge of the case executes this decision. Otherwise, the court refuses the petition, and after such action a public prosecution may be opened only upon production of newly discovered evidence. [64]
11. A public prosecution shall be dismissed when the perpetrator of an offence which is punishable by a fine or a maximum of three months’ imprisonment

deposits the minimum amount of the fine prescribed for the specific offence (or, in the case of imprisonment, the sum which is the amount prescribed by the Law of Execution of Penalties for one day of imprisonment) in the appropriate office before the court hearing. If this amount is paid by the offender before a public prosecution has been initiated, and within ten days of the date of the offence, the perpetrator shall not be prosecuted at all. [64]

12. The preparatory investigation is, in principle, secret, performed without the presence of the parties and in written form. [64]

Final investigation (trial)

13. The European Commission 2005 report noted that "Article 38 of the Constitution provides for the presumption of innocence to be applied in criminal trials. Article 36 and 141 of the Constitution guarantee the right to a fair and public trial. Article 182 of the Code of Criminal Procedure also provides for trials to be held publicly." [71b] (p106) The final investigation or trial (son soruşturma) begins when the indictment is sent by the public prosecutor to the court which will try the case. The final investigation has two stages: the preparation for trial (duruşma hazırlığı) and the trial itself (duruşma). Its object is to examine all evidence before the court, and to reach a judgement with respect to the guilt of the accused. [64]
14. All phases of final investigation are conducted in the presence of the defendant. At his own request, a defendant may be excused from attending trial, and may send a defence counsel in cases where his presence is not necessary. Trial may also be instituted against an absentee defendant when the offence is punishable by a fine, confiscation, or both. If the suspect has already been heard by the court in an earlier session, or if he has been questioned by a judge on the facts of the case during preliminary enquiries before the trial, the trial may continue in the suspect's absence. [64]
15. In principal trials are open to the public. This includes cases relating to state security. In political cases the audience usually includes some representatives of human rights organisations, and diplomatic staff from various countries. [2a]

The European Commission 2005 report noted that The Code of Criminal Procedure introduces the requirement that certain trials are to be recorded on audio and videotape. [71b] (p15)

(See also 11.01 The Judiciary which includes the findings of the European Commission 2006 Report)

[Return to contents](#)
[Go to list of sources](#)

Annex E: The Court System

THE COURT SYSTEM

“The judicial system is composed of general law courts; specialized heavy penal courts; military courts; the Constitutional Court, the nation’s highest court; and three other high courts. The High Court of Appeals hears appeals for criminal cases, the Council of State hears appeals of administrative cases or cases between government entities, and the Audit Court audits state institutions. Most cases were prosecuted in the general law courts, which include civil, administrative, and criminal courts. In 2004 parliament adopted legislation providing for the establishment of regional appeals courts to relieve the high court’s caseload and allow the judiciary to operate more efficiently. The courts were scheduled to begin operations in 2007.” (USSD 2005) [5b] (Section 1e)

“There is no jury system; a judge or a panel of judges decides all cases. Trials are public. The law requires bar associations to provide free counsel to indigents who request it from the court, and bar associations across the country did so in practice. Defendants have the right to be present at trial and to consult with an attorney in a timely manner. Defendants or their attorneys can question witnesses for the prosecution and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and the right to appeal.” (USSD 2005) [5b] (Section 1e)

According to the Turkish law today, the power of the judiciary is exercised by Judicial (Criminal), and Administrative Military Courts. These Courts render their verdicts in the first instance, and the superior courts examine the verdict for the last and final ruling. The superior courts are: the Constitutional Court, The Court of Appeals, the Council of State, the Military Tribunal of Appeals, the Supreme Military Administrative Court, the Court of Jurisdictional Dispute, the Court of Accounts and the Supreme Council of Judges and Public Prosecutors. [18]

Courts

The courts in Turkey are in fact divided into courts of justice, administrative courts, military courts and Constitutional court. Except the Constitutional Court, they are further divided into lower and higher courts. [18]

A. COURTS OF JUSTICE

An old law dated 1880, which theoretically is still in force but actually has lost its identity because of a various amendments and new laws, was the first law determining the courts’ competence and jurisdiction. The law relating to the organization of the courts determines the competence and jurisdiction of the different categories of courts. [18]

i. Civil Courts of the Peace (Sulh Hukuk Hakimliği)

This is the lowest civil court in Turkey with a single judge. There is at least one in every ilçe. Its jurisdiction covers all kinds of claims where the amount does not exceed 2,000,000 Turkish Liras for the time being; claims of support, requests or minors for permission to marry or to shorten the waiting period of marriage, eviction cases for rentals by lease and all cases assigned to the court

by the Code of Civil Procedure and other laws. There are 846 Civil Courts of the Peace in Turkey. [18]

ii. **Civil Courts of First Instance (Asliye Hukuk Hakimliği)**

This is the essential and basic court in Turkey. Its jurisdiction covers all civil cases other than those assigned to the civil Courts of the Peace. There is one in every il and ilçe, and sometimes divided into several branches according to the need and necessity. There are 958 such Courts in Turkey. [18]

iii. **Commercial Courts (Asliye Ticaret Mahkemesi)**

The Commercial Courts are the specialized branches of all Civil Courts of First Instance, having jurisdiction over all kinds of commercial transactions, acts and affairs relating to any trading firm, factory, or commercially operated establishment. [18]

The Commercial Courts consist of three judges, one presiding judge, and two members. At present, 35 Commercial Courts exist in commercial centers, throughout Turkey. Where there are no Commercial courts, the Civil Courts of First Instance perform the functions of the Commercial Courts. [18]

The competence of the Commercial Courts is clearly described under Article 5 of the Commercial Code. [18]

iv. **Penal Courts of the Peace (Sulh Ceza Hakimliği)**

This is the lowest penal court with a bench of one judge. There is one in every ilçe, but it is sometimes divided into several branches according to the need and population. There are 840 such Courts in Turkey. They have jurisdiction over penal and municipal misdemeanors and all acts assigned by the Criminal Code, the Code of Criminal Procedure, the Code on the Application of the Criminal Code, and by other laws according to the assignment or to the degree of punishment stated by them. [18]

v. **Penal Courts of First Instance (Asliye Ceza Hakimliği)**

Among the penal courts, this Court with a single judge handles the essential local criminal work. Its jurisdiction covers all penal cases excluded from the jurisdiction of the Penal Court of the Peace and the Central Criminal Court. There is one in every il and in every ilçe, sometimes divided into several branches according to the need and population. Therefore, at the moment there are 899 such Courts in Turkey. [18]

vi. **Central Criminal Courts (Ağır Ceza Mahkemesi) (commonly referred to as 'Heavy Penal Courts')**

This court consists of a presiding judge and two members with a public prosecutor. Offenses and crimes involving a penalty of over five years of imprisonment, or capital punishment are under the jurisdiction of this Court of which there is one in every il. But it is sometimes divided into several branches according to the need and population. There are 172 Central criminal courts throughout Turkey. [18]

vii. **State Security Courts (Develet Güvenlik Mahkemesi)/Regional Serious Felony Courts (sometimes referred to as 'Specialised Heavy Penal**

Courts')

As noted in the European Commission Regular Report on Turkey's progress Towards Accession 2004, the State Security Courts have been abolished and replaced by Regional Serious Felony Courts (also referred to as Heavy Penal Courts). According to the previous law, State Security Courts used to handle the criminal offenses described in Article 9 of the said law which were about the security of the state. They consisted of a presiding judge and two members with a public prosecutor. There were 12 such Courts throughout Turkey. [18]

viii. Execution Investigation Authority (İcra Tetkik Hakimliği)

A court with a single judge which has jurisdiction over disputes arising during the execution of all civil sentences and judicial decrees; over all acts obstruction or rendering difficult the execution of all civil sentences and judicial decrees. There is one such Court in every ilçe in Turkey. [18]

ix. Other Lower Courts

In addition to the ordinary courts, there are 72 courts in Turkey which handle labor disputes; 443 courts which handle land registrations and surveys and 6 courts which handle traffic disputes. There are also 5 juvenile courts in Turkey. [18]

x. The Court of Cassation (Yargıtay)

The highest appellate court in Turkey is called the Court of Cassation. It is divided into 30 chambers according to their particular specialized field. There are 20 civil chambers, 10 penal chambers. Each chamber is a five-judge court with a presiding judge and four members. One elected judge by the all judges of the Court of Cassation presides over the entire Court as general President. [18]

All final judgments are appealable, except those less than 400,000 Turkish Liras and, in penal cases, judgments concerning fines up to 2,000,000 Turkish Liras, judgments of acquittal from an offense involving fines not exceeding 10,000,000 Turkish Liras, and judgments which are described in the Criminal Code or other codes as final. [18]

A letter from the British Embassy in Ankara dated 22 April 2005 noted that the Yargıtay only confirms or cancels court verdicts and does not conduct retrials. [4d]

xi. Intermediate Courts of Appeal

As recorded in the European Commission 2005 report: "The Law Establishing the Intermediate Courts of Appeal came into force on 1 June 2005. The establishment of the Courts of Appeal will substantially reduce the case load of the Court of Cassation and enable it to concentrate on its function of providing guidance to lower courts on points of law of general public importance. The Law provides that the Courts are to be established within two years of its entry into force." [71b] (p16)

B. ADMINISTRATIVE COURTS

The administrative courts include the Council of State, subordinate courts at the regions, and the Supreme Military Administrative Court. [18]

- i. **The Council of State (Danıştay)**
The highest court for controversies arising from governmental or public services and action, and for general administrative disputes, having judicial and administrative function, is the Council of State. It is the final court for cases under its own jurisdiction and a court of appeal for the decisions given by subordinate administrative courts. The Council of State has 10 judicial chambers. [18]
- ii. **Subordinate Administrative Courts (Idare ve Vergi Mahkemeleri)**
According to the law, first tier of administrative courts in Turkey are established on regional bases. The courts founded at the regions are, administrative courts (idare Mahkemeleri) and tax courts (vergi mahkemeleri). There are 22 administrative courts and 33 tax courts in Turkey. [18]
- iii. **Supreme Military Administrative Court (Askeri Yüksek Idare Mahkemesi)**
The jurisdiction of the Supreme Military Administrative Court covers cases arising from administrative acts and actions made by military authorities and also cases arising from administrative acts and actions made by civilian authorities but involving military personnel and relation to military services. The Supreme Military Administrative Court is divided into 2 chambers. [18]

C. MILITARY COURTS

- i. **Military Criminal courts (Askeri Ceza Mahkemesi)**
The jurisdiction of these Courts covers all military offenses described in the Military Criminal Code, in the Code Military Criminal Procedure, and in some other laws. There are 37 such Courts in Turkey. [18]
- ii. **The Military Criminal Court of Cassation (Askeri Yargıtay)**
According to the law, this court functions as the court of appeal of all decisions and judgments given by Military courts. It is divided into 5 chambers. [18]

D. THE CONSTITUTIONAL COURT (ANAYASA MAHKEMESİ)

The Constitutional Court is first established by the Constitution of 1961, following the example of certain post-world War II constitutions, a system of judicial control of the constitutionality of laws. This system was maintained with certain modifications by the Constitution of 1982. [18]

The Constitutional Court consists of 11 regular members and 4 substitute members. All judges of the constitutional Court hold office until they retire at the age of 65 like all other judges in Turkey. [18]

As recorded in the document 'Political Structure of Turkey' dated November 2005) available in the References section in the website of the Office of the Prime Minister, Directorate General of Press and Information (website accessed on 19 January 2006) "The decisions of the Constitutional Court are final. These decisions cannot be amended in any manner and their application cannot be delayed." [36g]

[Return to contents](#)
[Go to list of sources](#)

Annex F: List of abbreviations

AI	Amnesty International
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
EU	European Union
EBRD	European Bank for Reconstruction and Development
FCO	Foreign and Commonwealth Office (UK)
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
MSF	Médecins sans Frontières
NGO	Non Governmental Organisation
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organisation of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organisation for Security and Cooperation in Europe
RSF	Reporteurs sans Frontières
STD	Sexually Transmitted Disease
STC	Save the Children
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

[Return to contents](#)
[Go to list of sources](#)

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[Return to contents](#)
[Go to list of sources](#)