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TURKEY COUNTRY REPORT

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Country Information & Policy Unit

**IMMIGRATION AND NATIONALITY DIRECTORATE
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1. SCOPE OF THE DOCUMENT

1.1 This Country Report has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, for use by Home Office 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. It is not a detailed or comprehensive survey.

1.2 The Report is compiled from a wide range of recognised sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to original source material, which has been made available to those working in the asylum / human rights determination process. The Report aims to provide only a brief summary of the source material quoted. For a more detailed account, the relevant source documents should be examined directly.

1.3 The information contained in this Country Report is, by its nature, limited to information that we have been able to identify from various well-recognised sources. The contents of this Report are not exhaustive and the absence of information under any particular heading does not imply that any analysis or judgement has been exercised to exclude that information, but simply that relevant information on the subject has not been identified from the sources that have been consulted. Equally, the information included in the Reports should not be taken to imply anything beyond what is actually stated.

1.4 The great majority of the source material is readily available in the public domain. Copies of other source documents, such as those provided by government offices, may be provided upon request.

1.5 All sources have been checked for currency, and as far as can be ascertained, contain information, which remained relevant at the time, this Report was issued. Some source documents have been included because they contain relevant information not available in more recent documents.

1.6 This Country Report and the accompanying source material are publicly disclosable. Where sources identified in this Report are available in electronic form the relevant link has been included. The date that the relevant link was accessed in preparing the report is also included. Paper copies of the source documents have been distributed to nominated officers within IND.

1.7 It is intended to revise this Report on a six-monthly basis while the country remains within the top 35 asylum producing countries in the United Kingdom. Information contained in Country Reports is inevitably overtaken by events that occur between the 6 monthly publications. Caseworkers are informed of such changes in country conditions by means of Country Information Bulletins.

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2. GEOGRAPHY

2.1 The Republic of Turkey (to use Turkey's official title) covers an area of 780,000 square kilometres (301,000 square miles). [1e] It has a population, as recorded in the year 2000 census, of 67.8 million. [30e] Turkey is a passage of land between Europe and Asia, boasting land frontiers with Greece, Bulgaria, Armenia, Georgia, the Nakhichevan autonomous enclave of Azerbaijan, Iran, Iraq and Syria. Three percent of Turkey's area is in Europe and ninety-seven percent is in Asia. The capital city is Ankara while other principal cities include Istanbul, Izmir and Adana. [1e] Turkey has 81 provinces. [2a] (A hard copy map of the provinces is contained in **source [68]**)

2.2 The only official language is Turkish. However, a number of non-Turkish languages are also spoken including Kurdish (the Kurmanji and Zaza dialects) [33] which is widely spoken in the south east along the Syrian and Iraqi frontiers. Smaller language groups include Caucasian, Greek and Armenian. [1e]

2.3 More than 99% of the Turkish people are Muslims, although Turkey is a secular state (which in practice has a state-controlled Islam). [1e][2a]

(For further information on geography refer, refer to Europa Publications "The Europa World Yearbook 2003 and The Middle East and North Africa 2004" **sources [1d] and [1e]**).

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3. ECONOMY

3.1 Turkey has suffered from unstable economic conditions for much of the last twenty years. Since the early 1980s the previously centrally planned economy has been gradually liberalised. There have been periods of rapid growth interspersed with sudden, mostly short-lived crises, against a background of high inflation (usually in the range of 50-100% annually). [82]

3.2 In the light of these economic problems the government at the time began a three year US\$4 billion Standby Agreement programme with IMF financing in January 2000. The primary objective was to reduce inflation to single-digit levels. Considerable progress was made as inflation fell from 63% to 33%

during 2000. But delays in the implementation of structural reforms, endemic problems in the banking sector, and the widening foreign trade deficit all contributed to a financial crisis at the end of November 2000. The IMF moved quickly to bale Turkey out with a US \$7500 million Supplementary Reserve Facility in December 2000. A further crisis was triggered by a political disagreement between President Sezer and Prime Minister Ecevit on 19 February 2001. This led to the Turkish Lira being allowed to float on 22 February and to the end of the Standby Agreement in its original form. [82]

3.3. On 15 May 2001 the IMF Board approved a new economic programme, and agreed additional financial assistance for Turkey of US \$8000 million [82] and in February 2002 the IMF approved an extra US \$12,000 million to Turkey, raising Turkey's debt to the organisation to \$31,000 million; Turkey's foreign debt increased to 78% of GDP by the end of 2001. [1a]

3.4 According to the BBC the exchange rate, as of 20 April 2004 was 2,459,507 Turkish liras (TL) to £1 sterling. [66] The BBC also reported in its March 2004 country profile on Turkey that the average annual income is \$2,530. [64z]

3.5 Transparency International ranked Turkey as 77 out of 133 countries in its Corruption Perception Index for 2003. [55b] The Index relates to perceptions of the degree of corruption as seen by business people, academics and risk analysts, and ranges between 10 (highly clean) and 0 (highly corrupt). Turkey obtained a score of 3.1 in 2003 a slight decrease from the 3.2 it received in 2002. [55a] Turkey is understood to have a very large black economy that underpins the real economy. The comment has been made that only a small proportion of Turkish businesses (e.g. those linked to international companies) appear to operate fully above board and to pay all taxes. [82]

3.6 The European Commission Regular Report on Turkey's progress towards accession (November 2003) reported that "Some progress had been achieved in adopting anti-corruption measures. However, surveys continue to indicate that corruption remains a very serious problem in Turkey. The sectors more prone to corruption are reported to be the media, government, construction, and health." [76b] (p22)

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4. HISTORY

4.1 On 12 September 1980 in response to increased political violence between left and right factions the armed forces, led by General Kenan Evren, Chief of the General Staff, seized power in a bloodless coup. The coup leaders formed a five-man National Security Council. Martial law was declared throughout the country and the new government succeeded in reducing the level of political violence and in restoring law and order, but at the expense of compromising or suspending many democratic freedoms. A new Constitution was adopted in 1982. The 1983 General Election was won by the Motherland Party (ANAP) and its leader Turgut Özal was accordingly appointed Prime Minister. [1a]

4.2 Four years after the 1980 coup, which crushed the activities of urban insurgents and fundamentalists, Turkey faced a different threat from a similar source - rural insurgency, initially concentrated in the south-east region along the borders with Iran, Iraq and Syria. Almost all the rural insurgent groups had their origins in the student groups based in the cities, one particular case in point being Abdullah Öcalan's PKK (Kurdistan Workers' Party). The separatist activities soon spread to the cities. [1a]

4.3 In 1984, the PKK launched a violent guerrilla campaign against the Turkish authorities in the southeastern provinces. The government responded by arresting suspected Kurdish leaders, sending in more security forces, establishing local militia groups and imposing martial law later changed to states of emergency in the troubled provinces. The conflict continued until 1999 when the PKK's leader Abdullah Öcalan was captured by Turkish Special Forces and a cease-fire was established. [1a] On the 1 September 2003 the PKK ended its four-year cease-fire accusing the authorities of failing to grant Kurds greater political and cultural rights. [66]

4.4 The state of emergency in the provinces of Diyarbakır and Şırnak ended on 30 November 2002. These were the last two provinces in Turkey to be under emergency rule. [63a] (See **Annex D** for a breakdown of the dates that each province was under martial law and the state of emergency)

4.5 In politics November 1987 saw the re-appearance in Parliament of the moderate left-wing Social Democratic Party (SHP) and the conservative True Path Party (DYP), led by the former Prime Minister, Süleyman Demirel. Özal became President on 31 October 1989 and appointed Yıldırım Akbulut, his successor, as Prime Minister. [1a]

4.6 ANAP's popularity declined during 1990 and 1991 and there were a number of ministerial resignations. The general election of 20 October 1991 was won by the veteran politician and Prime Minister, Süleyman Demirel, and the DYP. Having failed to win an absolute majority he was obliged to seek a coalition with the SHP, which had itself, emerged from the election in third place behind ANAP. [1a]

4.7 Controversial and outspoken Özal modernised the Turkish economy and raised Turkey's international status. After Özal died from a heart attack in April 1993, Demirel was elected as President. Mrs Tansu Çiller, previously Economics Minister, was elected Chairman of the DYP in place of Demirel in early June, and became Turkey's first woman Prime Minister. [1a]

4.8 In September 1995 Deniz Baykal was elected leader of the Republican People's Party (CHP) at its first convention following unification with the SHP. Within two weeks the coalition collapsed after Mrs Çiller resigned in the aftermath of severe economic difficulties. [1a][4a]

4.9 The general election was held on 24 December 1995. It left three parties - Refah (pro-Islamic Welfare Party), DYP and ANAP - with vote shares on or around 20%. Over two months of discussions followed as the leaders of these

three parties in turn tried to reach agreement on the terms for a coalition government. On 6 March 1996, ANAP and DYP announced formation of a minority coalition. But the traditional tensions between the two centre-right coalition parties, made worse by the intense antagonism between their respective leaders, effectively resulted in a paralysed government by late April. The coalition ended on 6 June 1996. [1a][4a]

4.10 President Demirel invited Necmettin Erbakan, as leader of the largest party (Refah), to try to form a government. Talks with the DYP resulted in the formation of a Refah/DYP majority coalition in July 1996. Professor Erbakan was Turkey's first Islamist Prime Minister; Mrs Çiller was Deputy Prime Minister and Foreign Minister, and was due to take over the Premiership in mid-1998. Refah and DYP shared the ministerial portfolios. [1a][4a]

4.11 In the context of persistent rumours of an imminent military coup, the National Security Council (MGK) produced on 28 February 1997 a list of action points, which were reluctantly agreed by Erbakan, under intense pressure. The measures were designed to maintain Turkey's secularist state and western orientation. On 26 April 1997 the NSC reinforced their message. The focus of fiercest argument was the NSC's decision that compulsory education be extended by three years, and that scores of "Imam Hatip" religious training schools should as a result be closed. Meanwhile, the coalition was also damaged by a series of scandals following a car crash in Susurluk in November 1996 which revealed links between the DYP, hit squads and organised crime. [1a][4a] (See paras 5.13-5.18 for more information on the role of the MGK in Turkish politics)

4.12 Eventually, following a series of defections from Mrs Çiller's DYP, and another grilling by the NSC, Erbakan announced his resignation. On 20 June 1997 the President invited Mesut Yilmaz, leader of the main opposition ANAP (Motherland Party), to form a government. [4a]

4.13 The Yilmaz coalition with the DSP (Democratic Left Party) was never on secure ground. Yilmaz's government was forced to resign after losing a vote of confidence in Parliament on 25 November 1998 over allegations of corruption. [4a]

4.14 According to the Europa publication - The Middle East and North Africa 2004, protracted political manoeuvring resulted in the formation, in January 1999, of an interim administration headed by Ecevit, comprising members of the DSP and independents. [1e] (p1135)

4.15 The Refah (Welfare Party), an Islamist party and a partner in the previous coalition government, was closed by a Constitutional Court ruling on 16 January 1998. The case against Refah was that it had become the focal point of anti-secular activity. Most former members of Refah, including some 100 former Refah Assembly deputies, joined a new Islamist grouping, Fazilet (Virtue Party), which was formed in December 1997 by Ismail Alptekin and which became the largest party in parliament. [1a]

4.16 Following heightened military tension between Syria and Turkey, there was a meeting of Turkish and Syrian officials in late October 1998, and an agreement was signed under which Syria would not allow the PKK to operate on its territory. The PKK's leader, Abdullah Öcalan, was forced to leave Syria. Following his expulsion he unsuccessfully attempted to claim asylum in several European countries before being captured at the Greek Embassy in Kenya and returned to Turkey. Widespread Kurdish protests were held throughout Europe. [1e]

4.17 The capture of Öcalan led to protests in Turkey, many of which became violent. The unrest initially led to another round of arrests of HADEP members and a series of bombings by the PKK across Turkey. A celebration of the Kurdish New Year in the Gazi district of Istanbul ended in violence after a large group opened banners and began shouting slogans. Four police officers and one demonstrator were shot when the police tried to intervene. 725 people were detained. [30a][40a]

4.18 According to the Europa publication -The Middle East and North Africa 2004, Öcalan was charged with treason on 23 February 1999, and held personally responsible for the deaths of some 30,000 people during the 15 year Kurdish struggle for autonomy. PKK violence in protest at the trial continued and in response the Turkish security forces launched a further military operation against the PKK and its bases in northern Iraq. Some foreign journalists were permitted to observe Öcalan's trial, but Öcalan's lawyers claimed that they had been prevented from providing a proper defence. During the proceedings Öcalan depicted himself as a moderate, called for a PKK cease-fire and declared his willingness to negotiate a peace agreement for the Kurdish region if his life was spared. On the 29 June 2003, however, he was found guilty and sentenced to death. [1e] (p1135)

4.19 In September 1999 in response to Öcalan's call for peace the PKK confirmed that PKK combatants would cease operations against Turkey. [32b]

4.20 Amnesty International reported that the armed conflict between government forces and the PKK effectively came to an end in 1999, but there were still some clashes. [12d] (p2) The US State department reported that in 2001 there were, according to the military, only about 45 armed clashes between the PKK and government forces. [5a] However, on the 1 September 2003 the PKK ended its four-year cease-fire accusing the authorities of failing to grant Kurds greater political and cultural rights. [66]

4.21 In August 2002 Turkey abolished the death penalty except in times of war and imminent war, and on 3 October 2002 Öcalan's sentence was changed to a life sentence without conditional release; he will remain in jail until he dies. [30k] (See para 5.78 for more details on the death penalty in Turkey)

4.22 Following the hunger strikes in support of Öcalan and the issuing of a press release protesting against the request for his extradition, on 28 January 1999 the Ankara State Security Court Chief Prosecutor's Office filed a suit

against 47 HADEP officials, including Bozlak. The indictment requested prison terms between four and half years to seven and a half years. [63a] On 29 January 1999 the Chief Prosecutor of High Court of Appeals filed a suit against HADEP in the Constitutional Court calling for its closure and alleging an "organic relationship" between HADEP and the PKK. Despite two legal challenges HADEP was permitted to take part in the April 1999 elections. [41a][46] In mid-July 1999 Murat Bozlak and 16 other HADEP officials were released. [64]

General Election 1999

4.23 According to the Europa publication -The Middle East and North Africa 2004, on the 18 April 1999 early elections took place to the 550 seat Grand National Assembly. On the 3 May 1999 President Demirel invited Bulent Ecevit to form a new administration, and on the 28 May a three party coalition Government composed of the DSP, the MHP and ANAP, was announced. The new Government commanded 351 seats in the Grand National Assembly, and was thus the first since 1995 to command an overall parliamentary majority. [1a] (p1135)

4.24 HADEP failed to gain enough votes in the April 1999 elections (10% national threshold) to return any representatives to parliament, but won control of several municipalities in the south-east, including Diyarbakir. [32a][49a]

4.25 Turkey was hit by two severe earthquakes in August and November 1999, causing at least 18,577 deaths. Widespread public anger focused on the slow response of state institutions, particularly the armed forces, to the disasters, and on the endemic corruption which had allowed many sub-standard apartment blocks to be built in a region known to be vulnerable to earthquakes. [1a] International assistance on the wake of the earthquakes included considerable help from Greece, and there was a marked improvement in Turkish-Greek relations. [1a]

4.26 In May 2000 Parliament elected as the new President of Turkey Ahmet Necdet Sezer, the respected chief of Turkey's Constitutional Court. He is the first President in Turkey's history who is neither an active politician nor a senior military official. Many Turks saw as a breath of fresh air his reputation for personal integrity; his distance from the country's much despised political parties, and his deeply ingrained respect for the rule of law. In 1999 Mr Sezer had criticised Turkey's Constitution for restricting democratic freedoms. He had also argued that legal decisions in the southeastern provinces still under emergency rule should be open to appeal. [1a][41b]

4.27 In June 2001 the Constitutional Court reached a decision in a case launched in May 1999, and banned the Virtue Party (Fazilet) for undermining Turkey's secular order. The decision fell short of the expected mass expulsions of party members from Parliament. The judges voted to expel only two Virtue deputies, and most of the 100 remaining deputies joined two new successor parties – the Felicity Party (Saadet Partisi) and the Justice and Development Party (Adalet ve Kalkinma Partisi). The banning of Virtue was opposed by most legislators, including Prime Minister Ecevit, who contended

that dissolution of Virtue would contribute to greater political instability at a time of financial crisis. [32g] Recai Kutan said that the Fazilet Partisi (FP) Party would seek to protect religious rights, but would not challenge the secular basis of the Turkish State. [3]

4.28 Turkey is recognised as a key member of NATO, on account of its strategic position in Europe, of its having the second largest army in NATO, and because it is the only NATO member of the Organisation of the Islamic Conference. [1a]

European Union reforms 2001-2002

4.29 In April 1987 Turkey made a formal application to become a full member of the European Community, and in December 1999 Turkey was given official status as a candidate for European Union membership. [1a]

4.30 In March 2001 the Turkish Government published its "National Programme for the Adoption of the Acquis", which set out the steps which were planned to enable Turkey to meet the criteria for membership of the EU. The Programme entails the Turkish Parliament's enacting 89 new laws, and agreeing changes to 94 existing laws. [82]

4.31 On 3 October 2001 Turkey completed its biggest legislative overhaul in two decades, when Parliament approved a package of 34 amendments to the Constitution designed to pave the way for EU membership. Law No. 4709 came into force on 17 October 2001. The amendments, ranging from easing restrictions on using the Kurdish language, reducing maximum detention periods for suspects before they are charged, and making it harder to ban political parties, to reshaping the powerful National Security Council to give more weight to civilian politicians, are the first major shake-up of Turkey's Constitution since it was drafted after the 1980 military coup. Implementation in many cases required changes, which were already in the pipeline, to the Penal Code, or other pieces of enabling legislation whose imminence varies. [12c][41c] [44b]

4.32 The constitutional amendments of October 2001 led to the adoption of three sets of implementing legislation in 2002. The three "reform packages", adopted in February, March and August 2002 in Laws No. 4744, 4748 and 4771, modified various provisions in Turkey's major legislation and addressed a wide range of human rights issues, including the death penalty, the exercise of fundamental rights and freedoms, pre-trial detention and legal redress. [76a]

4.33 On 6 February 2002 the Turkish Parliament adopted Law No. 4744 (the so-called "Mini-Democracy Package") to adjust some Turkish laws to these constitutional amendments. While welcoming some elements of the law. [10a] Amnesty International expressed concern that the Turkish Government had not introduced sufficient safeguards for freedom of expression, and effective measures against the persistence of torture in custody. [12c]

4.34 The health of 77 year-old Prime Minister Ecevit deteriorated seriously in late spring and summer 2002. He refused to step down, and on 31 July

Parliament voted overwhelmingly for an early election on 3 November 2002. [44c]

4.35 On 3 August 2002 the Turkish Parliament formally approved a package of key democratic reforms, designed to improve Turkey's chances of EU membership. [76a] The European Commission welcomed the package as an important signal of the determination of the majority of Turkey's political leaders to align Turkey further with the values and standards of the European Union. The EC's statement said that these reforms were significant steps towards better protection of human rights and the rights of minorities in Turkey. It added that much would depend on the package's practical implementation, which would be closely monitored in the months to come. [30f]

4.36 Amnesty International reported in May 2003 that some of these legal changes were ambiguous and insufficient to tackle human rights abuses they were supposed to address. Furthermore, the changes were often not implemented in practice. [12e]

4.37 The European Commission's Regular Report on Turkey's progress towards accession (October 2002) welcomed the fundamental reforms which Turkey has introduced since the decision in 1999 on candidate status for European Union membership. The report concluded that, overall, Turkey had made noticeable progress towards meeting the political criteria for EU membership since 1998, and in particular in the course of the year ending October 2002. The August 2002 reforms were particularly far-reaching. Taken together, the reforms provide much of the groundwork for strengthening democracy and the protection of human rights in Turkey. They open the way for further changes, which should enable Turks progressively to enjoy rights and freedoms commensurate with those prevailing in the EU. [76a]

4.38 Nonetheless, the Commission concluded in its 2002 report that Turkey does not fully meet the political criteria for EU membership. [76a] The same conclusion was reached by the European Commission in its November 2003 report. [76b] (p42-44)

4.39 In the light of the noticeable progress made in recent years and of the remaining areas requiring further attention, the Commission encouraged Turkey to pursue the reform process to strengthen democracy and the protection of human rights, in law and in practice. This will enable Turkey to overcome the remaining obstacles to full compliance with the political criteria. [76a]

General Election 2002

4.40 The general election of 3 November 2002 saw the crushing defeat of the coalition government and the overwhelming victory of the Islamist-orientated AKP, which was only a year old and which was previously untested in, and untainted by, national government.

Party	Provisional percentage of votes cast	Number of parliamentary seats
-------	--------------------------------------	-------------------------------

AKP	34.3	363
CHP	19.4	178
DYP	9.5	-
MHP	8.3	-
GP	7.3	-
DEHAP	6.2	-
ANAP	5.1	-
SP	2.5	-
DSP	1.2	-
YTP	1.2	-
BBP	1.0	-
Independents	8.6	9

The Law on the Election of Deputies, which requires a party to obtain at least 10% of total valid votes cast nationally before it can be assigned any parliamentary seats, has led to only two parties being represented in the new Parliament; with large swathes of the electorate un-represented, this raises questions about the legitimacy of the Parliament. Leaders of defeated parties fell like dominoes after the election, with the resignations of Mr Bahçeli from leadership of the MHP, Mrs Çiller from that of the DYP, and Mr Yılmaz from that of ANAP. Perhaps the most tragic victim of all was ailing Prime Minister Ecevit, whose party slipped from biggest winner in the 1999 general election to (provisionally) 1.2% of the vote in 2002. [414]

4.41 Election observers from the Organisation for Security and Co-operation in Europe (OSCE) found that the election campaign was short but active. Parties campaigned in a calm and peaceful atmosphere. Although there were a substantial number of cases of harassment reported by some political parties and by human rights groups, there was a general consensus that the situation had improved markedly compared to previous elections. [414]

4.42 Mr Erdoğan, the AKP leader, was (on the basis of then current law) unable to become Prime Minister, nor even an MP, because of a previous conviction for inciting hatred on religious grounds. Article 109 of the Constitution states that the Prime Minister shall be selected by the President from members of Parliament, and the unwritten implication is that the President would appoint a member who can win a vote of confidence there. [636] Immediately after the election victory, Mr Erdoğan left little doubt that he was in charge of the team that would form Turkey's first single-party government after a decade of weak coalitions. He planned to travel around European capitals to drum up support for Turkey's attempt to secure a timetable for starting negotiations to join the EU. [414] Mr Erdoğan emphasised that, with regard to the EU adaptation laws, his party's government would eliminate the shortcomings, particularly in areas such as torture, community foundations, mother tongue broadcasts, and mother tongue education, and would implement the necessary measures. He added that his party's government would demonstrate its sincerity in this regard. [616]

4.43 The new Government was appointed in mid-November 2002. The Prime Minister was Mr Abdullah Gül (see Annex I for brief details). The Deputy Prime Ministers were Mehmet Ali Şahî, Ertugrul Yalçınbayır, and Dr. Abdullatif Sener. The Finance Minister was Kemal Unakitan, Foreign Minister Yasar Yakis, and Interior Minister Abdülkadir Aksu. [30]

4.44 The AKP has tried to distance itself from its Islamic roots, and has sought to reassure the West and the European Union. In a post-election flying visit to several European countries, Mr. Erdoğan said that his party would introduce a nine-point reform programme along the lines that the EU has been seeking:

- Enhanced freedom of expression, religion, conscience and association
- Decisions of the ECtHR will be implemented without delay
- "Zero tolerance" for torture
- Gaps in reform laws left by the last Parliament will be filled
- The Constitution will be reviewed to allow reforms
- Adjustments to allow functioning of Turkish associations and foreign associations in Turkey
- Problems for foreign and religious groups in buying property will be addressed
- Priority for ratification of international agreements not yet adopted
- An EU unification committee will be established within Parliament. [66]

4.45 The AKP's policy in relation to the east and Southeast of Turkey is set out in its programme. The party pledges to follow a policy guarding the happiness, welfare, rights and freedoms of the regional population. The party regards the cultural diversity of the region as a richness. On condition that Turkish remains the official and instruction language, the party regards cultural activities, including broadcasting, in languages other than Turkish as an asset which reinforces and supports, rather than weakens, the unity and integrity of Turkey. Terror and oppression feed one another. The way to end terror requires a State approach which is respectful of basic rights and freedoms, and a way of thinking which sees economic development and security as parts of the same whole. [50]

European Union reforms 2002-2003

4.46 The European Union summit in Copenhagen on 12 and 13 December 2002 decided that Turkey would have to wait until December 2004 before a review that could lead to negotiations for Turkey to join the EU. The review would decide whether Turkey met human rights criteria. [44]

4.47 In December 2002 a fourth reform package was announced and was passed by the Turkish Parliament in two parts. The first part, Law 4778 (cited here as the fourth reform package) was passed by Parliament on 2 January and came into force on 10 January 2003. The second part (cited here as the fifth reform package) was passed on 23 January and came into force on 4 February 2003. [106]

4.48 The fourth reform package as well as loosening the restrictions on who can stand for election also stipulates that punishment handed down for convictions of torture and abuse cannot be converted into fines and neither

can they be postponed. Further measures were introduced that make it more difficult for those convicted of inflicting torture to avoid prison sentences and making it more difficult for courts to ban political parties. Journalists are now no longer required to disclose their sources to the authorities. [35a]

4.49 In addition judges are obliged to hear the statements of defendants and detainees before they reach a verdict and all defendants and detainees will be given a medical examination, and a report will be written on the health of each inmate upon entering and leaving prison. [35a]

4.50 On 23 January 2003, parliament adopted the fifth EU reform package, which permits the re-trial of persons in line with the decisions of the European Court of Human Rights (ECHR). Under the law, if an individual, who applied to the ECHR, is found to be in the right, he/she can re-apply for a retrial to the court in his/her country, which found him/her guilty. [35b]

4.51 In line with the above amendment the Ankara State Security Court (DGM) approved the application made by four former deputies of the defunct pro-Kurdish Democracy Party (DEP) for a retrial. The deputies (Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Dogan) had applied to the European Court challenging their 1994 conviction for aiding and abetting members of the PKK terrorist organisation. The European Court decided that the former deputies had not been given a fair trial in the Turkish court. [35b]

4.52 On the 21 April 2004 the BBC reported that the outcome of the retrial was that the four deputies had to remain in prison. [35b] An Amnesty International Press Release (21 April 2004) reported that "Amnesty International is shocked by the decision to prolong the imprisonment of Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Dogan. As prisoners of conscience, they should be released immediately and without condition." [12] (p1)

4.53 In addition to the reform packages outlined above the Turkish Parliament also voted in December 2002 in favour of a package of amendments to the Constitution that would allow Mr. Erdoğan to stand in a forthcoming by-election. The by-election took place in March 2003 and Mr. Erdoğan was elected. [32h]

4.54 Speaking in Parliament on 18 March 2003, Mr. Erdoğan said that his government's programme was based on the political identity of his "conservative democratic party". The programme stipulated that Turkey's "basic strategic and political reality is the relationship with USA. The programme also stipulated that "EU full membership is one of the most important targets". [30m]

4.55 On the 19 July 2003 the sixth European Union reform package came into effect. The 22-article package foresees amendments to several laws, including the abolishment of Article 8 of the Anti-Terrorism Law entitled, "propaganda against the indivisibility of the state." [35c]

4.56 It also made provision for state-owned and private radio and television channels to broadcast in languages and dialects used traditionally in the daily life of Turkish citizens such as Kurdish. It also eased restrictions on broadcasting and political campaigning during election times, which have been decreased from seven days to 24 hours. [36c]

4.57 The sixth reform package also expanded upon the issue of retrials. If the European Court of Human Rights (ECHR) determines that a verdict was given in violation of the "Convention for the Protection of Human Rights and Basic Freedoms" or additional protocols, there will be a retrial. [36c]

4.58 The seventh reform package, was approved by the Parliament on 29 July and by President Ahmet Necdet Sezer on 6 August 2003. The package aimed to reduce the political role of the armed forces. The National Security Council's (Milli Güvenlik Kurulu, often abbreviated in Turkish to MGK) Secretary General no longer needs to be a military man and the council's role will be reduced to that of an advisory body. Another amendment regulates that the NSC will convene once every two months instead of monthly. It also restricted the jurisdiction of Military Courts over civilians in times of peace and gives Parliament scrutiny over military accounts. [36d][65h]

4.59 There were also a number of laws easing restrictions on freedom of association and assembly and on the teaching of non-Turkish languages in schools. The package also stated that investigations into crimes of torture and maltreatment will be considered urgent cases and it will not be possible to adjourn the trials of these crimes for more than thirty days. These hearings will continue to be held even during the judicial recess. [36d]

End of PKK/KADEK cease-fire

4.60 On the 1 September 2003 the PKK/KADEK announced an end to their four-year cease-fire with the Turkish Government. They accused the Government of failing to fully address demands for Kurdish cultural rights, constitutional change and freedom of expression, despite the passing by parliament of a number laws removing restrictions on Kurds. (See sections on European Union reforms above). A spokeswoman for the PKK stated that she did not expect a return to all-out conflict but instead some sort of low intensity warfare. [66i] According to the US State Department report 2003 (February 2004) in November 2003, KADEK changed its name to the Kurdistan Peoples Congress (KHK). [5d] (p2) (The KHK are also referred to as **Kongra-Gel**)

Iraq

4.61 There were lengthy talks in the early months of 2003 between Turkey and USA on deployment of US forces on Turkish territory in preparation for the possible opening of a northern front in the expected US-led war to eliminate the suspected weapons of mass destruction in Iraq. However, Turkish public opinion was overwhelmingly opposed to war with Iraq. The Turkish Parliament refused to give the go-ahead to a deal, which would have allowed the deployment in exchange for a major US aid package, although it did subsequently allow US planes to use Turkish air space in the war against Iraq. [66o]

4.62 In October 2003 the BBC reported that the Turkish Government had decided to send up to 10,000 Turkish troops to Iraq, in response to a request by the United States. [66n] The proposal was endorsed in the Grand National Assembly by 358 votes to 183. However opinion polls within Turkey suggest the majority of Turks were against the decision. Members of Iraq's Governing Council were also against the deployment. [66o] Finally in November 2003 after increasingly fierce opposition from the US appointed Iraqi Governing Council and public opinion in Turkey the Government decided against sending any peacekeepers to Iraq. [66p]

European Commission Report 2003

4.63 The European Commission published its Regular Report on Turkey's progress towards accession to the European Union on the 5 November 2003. The report stated that "Four major packages of political reform have been adopted over the last year, introducing changes to different areas of legislation. Some of the reforms carry great political significance as they impinge upon sensitive issues in the Turkish context, such as freedom of expression, freedom of demonstration, cultural rights and civilian control of the military... The new Parliament elected on 3 November 2002 [see paras 4.40-4.45 above] adopted these 'reform packages' with overwhelming majorities. Throughout this process, the Turkish population at large manifested its full support to changes aimed at bringing Turkey closer to the values and standards of the European Union." [75b] (p15)

4.64 The European Commission also reported that "The [Turkish] Government had also taken steps to ensure effective implementation of the reforms such as the setting up a Reform Monitoring Group. Furthermore, the government declared a zero tolerance towards torture." [75b] (p15)

4.65 "However," the European Commission reported that "in spite of some positive developments on the ground, the reforms have produced limited practical effects. So far implementation has been slow and uneven." [75b] (p15)

4.66 The European Commission further stated that "In some cases, the measures drawn up by executive bodies responsible for the implementation of specific aspects of the political reforms adopted by Parliament have considerably narrowed the scope of these reforms by establishing very strict conditions." [75b] (p18)

4.67 The Commission continued to report that there have been reforms to the National Security Council, and the Judicial System and an attempt to reduce the level of corruption. However the European Commission believes that despite these positive developments more is required before Turkey fulfils the Copenhagen Criteria. [75b] (p18-23)

Suicide bombings 2003-2004

4.68 On the 15 November 2003 two suicide bomb attacks were carried out against two synagogues in Istanbul killing at least 24 people and wounding more than 300. [68q] 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. The BBC reported that at least 27 people had been killed in these two blasts including the British Consul-General Roger Short. [66r] [66s] According to the BBC on 25 February 2004 Turkish prosecutors issued charges against 69 people suspected of involvement in the four suicide bombings. [66t]

4.69 On the 10 March 2004 a suicide attack was carried out on a Masonic lodge which killed one person and the suicide bomber. The BBC reported that the Turkish police have detained 18 people in connection with this attack, which they believe is linked to outside terrorist groups. [66v]

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5. STATE STRUCTURES

THE CONSTITUTION

5.1 The framers of the 1982 Constitution approached their task with the assumption that the political crisis of the 1970s was due to the erosion of state authority and, more specifically, to the weakness of the executive branch. This, in turn, was attributed to what was perceived as the excessive permissiveness of the 1961 Constitution and its equally excessive limitations on the exercise of the executive authority. The underlying objective of the framers of the 1982 Constitution was a "strong state and strong executive." [78]

5.2 The principal characteristics of the state are described in Articles 1 to 3 of the Constitution. Article 1 lays down that "the State of Turkey is a Republic." Article 2 describes the characteristics of the Republic as "a democratic, secular, and social state governed by the rule of law, in accordance with the concept of social peace, national solidarity, and justice; respectful of human rights, committed to Atatürk nationalism, and based on the fundamental principles set forth in the Preamble." Finally, according to Article 3, "the Turkish State is an indivisible whole with its territory and nation. Its language is Turkish. Its flag is composed of a white crescent and star on a red background, in the manner prescribed by law. Its national anthem is the "Independence March". Its capital is Ankara." Article 4 lays down that the provisions in Articles 1 to 3 shall not be amended, nor shall their amendment be proposed. Previously, the only irrevocable constitutional norm was that of the republican form of the state. The scope of such norms has been substantially enlarged by the 1982 Constitution. [78]

5.3 Article 3's reference to the indivisibility of the state with its territory and nation is a clear ban on separatist movements. Nationalism is given a lengthy definition in the Preamble, which states that "all Turkish citizens are united in national honour and pride, national joy and grief, their rights and duties towards the national entity, blessings, and burdens, and in every manifestation of national life." This is a clear confirmation of the subjective view of the nation, a view which presupposes that a nation is based, not

necessarily on such "objective" shared characteristics as race, ethnicity, religion, and language, but on the shared sentiments and commitments of their members, and particularly on their will to live together under a common government. [78]

5.4 The 1982 Constitution retains Atatürk's (or the Kemalist) conception of secularism. In Western countries, secularism has meant complete separation of religion and the state. Atatürk's conception, however, has allowed for some measure of state control over religion. Article 136 keeps the Directorate of Religious Affairs as part of the administrative apparatus. Article 174 accords special protection to the eight principal reform laws (establishing secular education and civil marriage, adopting the Turkish alphabet and international numerals, introducing the hat (in place of the fez), closing dervish convents, abolishing certain titles, and prohibiting the wearing of certain garments) which were passed during the Atatürk era and which embody the principles of Kemalist secularism. Under Article 174, no provision of the Constitution shall be construed (by the Constitutional Court) in such a way as to render unconstitutional the reform laws, which safeguard the secular character of the Republic. Another constitutional provision protecting the secular character of the state is the ban on the use of religion for political purposes. Article 24 of the Constitution prohibits the exploitation of religion or religious feelings for the purpose of political or personal benefit, and forbids even partial establishment of the fundamental social, economic, political, and legal order of the state upon religious principles. [79]

5.5 The Constitution provides citizens with the right to change their government peacefully, and this is observed in practice. Legislative power is vested in the unicameral Grand National Assembly (Parliament), which is elected by universal adult suffrage for a five-year term. Executive power is vested in the President, who is elected by the Grand National Assembly for a seven year term and is empowered to appoint a Prime Minister and senior members of the judiciary, the Central Bank and broadcasting organisations, to dissolve the National Assembly, and to declare a state of emergency entailing rule by decree. Strict controls on the powers of trade unions, the press and political parties were also included. In 1987 the number of deputies in the National Assembly was increased from 400 to 450, and in July 1995 was further increased to 550. [10]

Citizenship and nationality

5.6 Nationality by birth. 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. [263] [78]

5.7 Acquisition of nationality other than by birth. A foreign woman acquires Turkish nationality at the time of marriage to a Turkish man, if she makes a declaration of intention to this effect to the marriage officer. Any foreigner may acquire Turkish nationality by means of naturalisation. 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. [26a][26b][7a]

5.8 Articles 25 et seq. of Turkish Nationality Law No. 403 deal with loss of nationality. The acquisition of another nationality is not listed in Article 26 as a reason for denaturalisation; Turkey therefore accepts dual nationality. [26a][26b] Para 5.103 of the military service section of the present chapter deals with deprivation of nationality for evasion of military service.

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POLITICAL SYSTEM

5.9 Turkey is a constitutional republic with a multi-party Parliament (the Grand National Assembly), which elects the President. In May 2000 Parliament elected Ahmet Necdet Sezer as President for a seven-year term. One of Parliament's main tasks is to enact legislation by debating, amending and passing bills. Once adopted, a law has to be signed by the President within a fortnight. The President is entitled to refer back to Parliament a law submitted to him. If Parliament again approves the law in unchanged form, the President must sign it. [2a]

5.10 The Council of Ministers (consisting of the Prime Minister, departmental ministers and some 15-state ministers) has had some of Parliament's legislative powers delegated to it. The peculiarity of those powers in Turkey is that in this way the Government can amend or repeal existing laws by means of a "decree having force of law" (Kanun Hükmünde Karamame, often abbreviated to KHK). Those decrees do ultimately have to be signed by the President. On some occasions in 2000 (for example, with a provision for large-scale dismissal of pro-Islamic civil servants), President Sezer referred such a KHK back to the Government, without signing it, stating that the matter in question should be dealt with by Parliament in a proper law. [2a]

5.11 The military exercises substantial, but indirect, influence over government policy and actions and politics in the belief (shared, according to the opinion polls, by much of the population) that it is the constitutional protector of the State. The Government neither coerces nor forbids membership in any political organisation, although the Constitutional Court may close down political parties for unconstitutional activities. [5a]

5.12 The Europa publication - The Middle East and North Africa 2004 reported that since the return to civilian rule in 1983 numerous Kurdish, Islamic and left wing political parties have been banned. In January 1998 the Islamist Refah Party was banned, (see para 4.15 above) in June 2001 its successor, Fazilet (the Virtue Party) was banned, (see para 4.27 above) and most recently in

March 2003 the pro-Kurdish party HADEP was banned. (See para's 6.152-6.163 below) [1e] (p1128-1138)

National Security Council (MGK)

5.13 On three occasions - 1960, 1971 and 1980 - Turkish military leaders have intervened to uphold the principles on which the Constitution is based, and to preserve internal law and order. On each occasion the armed forces emphasised their commitment to democratic principles and Turkey soon returned to civilian rule. But, in accordance with the Constitution, all important foreign policy and national security questions are still discussed by the National Security Council, (MGK) a very powerful body which was until October 2001 made up equally of military (the five most senior military officers) and civilians (the President, the Prime Minister, and three other Ministers). The former very broad wording of Article 118 of the Constitution empowered the MGK to extend its advisory role to almost all affairs of state. In practice, the MGK made very extensive use of its legal scope, and thus had a say in almost all issues, which arose. From the wording arose the practice that, when the Council of Ministers first met after a MGK meeting, Government members considered the subjects discussed at that meeting. It has also been normal practice for the MGK's opinions to be endorsed in full by the Government. Where a vote in Parliament is required on an issue, the MGK's opinion has almost always resulted in the passing of an appropriate motion. [1a][2a]

5.14 In October 2001 constitutional amendments increased the number of civilian members in the MGK to nine, while the number of military representatives remained at five. In addition, the new text of Article 118 of the Constitution puts emphasis on the advisory nature of the MGK, stressing that its role is limited to recommendations. [44b][76]

5.15 On the 6 August 2003 President Sezer approved a further set of reforms that limited the power of the military within the MGK. The reform's further stress that the MGK is an advisory body, they limit the number of meetings from monthly to bimonthly, allow a civilian to be appointed as the general secretary of the council and allow greater scrutiny of military expenses. While EU leaders have warmly welcomed the reforms some in the military are not happy to see a reduction in their power and influence. While supporting the governments EU membership the military has warned against doing anything that could harm national security. [23b][36a][38a]

5.16 According to the Turkish Daily News on 10 December 2003 the Turkish "Parliament's General Assembly approved a proposal that lifts the secrecy requirements in National Security Council (MGK) regulations, appointments and personnel. The proposal rescinds Article 16 of the MGK Law, which says that MGK appointments cannot be published in the official gazette, as well as certain words in article 17." [23a]

5.17 Para 4.11 records the MGK's action in 1997.

5.18 In addition to political power, the military authorities also wield considerable economic power. In the 1960s it created the Armed Forces Mutual Assistance Fund (OYAK), one of the largest investments companies in Turkey. OYAK is active in the automobile, petroleum, insurance, food processing, construction and import - export sectors. [1a]

Local Government

5.19 Turkey is divided into 81 provinces (il), each headed by a provincial governor (vali). Hard copy **source [68]** is a map of the provinces. Provinces are subdivided into districts (ilçe), administered by a district governor (kaymakam). Districts may be further broken down into sub-districts (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]

5.20 In addition to centrally administered bodies, there are also decentralised authorities directly elected by the population, the main ones being the mayor and municipal council for a municipality (belediye) and the village or neighbourhood head (muhtar). [2a]

5.21 The BBC reported that the local elections held on the 28 March 2004 were won overwhelmingly by the ruling AKP. According to the article the AKP won 43% of the vote and secured 55 of the 81 mayoral posts including Istanbul and Ankara. The main opposition, centre-left Peoples Republican Party, took around 15% of the vote, with the right-wing Nationalist Action and True Path parties winning around 10%. Turkey's main pro-Kurdish movement the Democratic Peoples Party (DEHAP) and its left wing allies retained control of five major cities in the predominantly Kurdish Southeast. They included the regions biggest city, Diyarbakir. [66aa]

5.22 Every locality (including areas within large cities) with over 2,000 inhabitants is entitled to elect a mayor and municipal council. The mayor enjoys limited powers in areas including infrastructure (public transport, water and gas supplies, etc) and public works (parks and gardens, pavements, refuse collection, etc). In some cases, mayors and provincial or district governors find themselves at odds with one another, with the former being more representative of local interests and the latter of central government interests. [2a]

5.23 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. [2a] Many muhtars now have computer systems, which store addresses. The computers of individual muhtars are not linked up. [2b] 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]

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THE JUDICIARY

See also Annex F "Administration of justice" and Annex G For a detailed breakdown of the court system in Turkey

5.24 In 1926 radical changes were made to the Turkish legal system. The Swiss Civil Code and the Code of Obligation, the Italian Penal Code and the Neuchâtel Code of Civil Procedure were adopted and modified to fit Turkish customs and traditions. According to Turkish law, the power of the judiciary is exercised by judicial (criminal), military and administrative courts. These courts render their verdicts in the first instance, while superior courts examine the verdict for subsequent rulings. The Constitution provides for an independent judiciary, and in practice the general law courts generally act independently of the executive and legislative branches. [1a][5b]

5.25 Problems with the legal system relating to the investigation of torture allegations are covered in chapter 6a ("Human Rights: Overview"). The legal system is reported not to discriminate against minorities. However, as legal proceedings are conducted solely in Turkish with some interpreting available, some defendants whose native language is not Turkish may be seriously disadvantaged. [5b]

5.26 The judicial system is faced with a large backlog. There were in October 2002 1,153,000 criminal cases and 548,000 civil cases pending. The average duration of judicial proceedings remains long: 406 days in general criminal courts and 241 days in general civil courts. The Ministry of Justice reports the average duration of proceedings to be longer at juvenile courts than in other courts (2000: 755 days). Furthermore, in certain cases, the duration is much longer than the average. [76a]

Criminal Courts

5.27 Criminal courts of original jurisdiction are Justice of the Peace Courts (Sulh Ceza Mahkemeleri), Courts of General Criminal Jurisdiction (or Courts of First Instance) (Asliye Ceza Mahkemeleri), and Aggravated Felony Courts (Ağır Ceza Mahkemeleri). Justice of the Peace Courts and Courts of General Criminal Jurisdiction have one judge, and generally speaking they are located in the capitals of sub-provinces (ilçe). Aggravated Felony Courts are composed of three judges, one of whom is the head, and are located in the provincial capitals (il). [7a]

Military Courts

5.28 These have responsibility over military personnel but additionally have jurisdiction over civilians in exceptional cases prescribed by special laws (Article 145 of the Constitution). Until August 2003 Turkish law still allowed civilians to be tried in military courts under military law for offences against military institutions. In 2001 for example 176 cases involving 358 civilians

were dealt with by military courts, mostly in relation to charges of fraud in avoiding military service or obstructing, intimidating and insulting soldiers on duty. [76] [1a][78] However, under the seventh reform law individuals who are not members of the army will be tried in civil courts if they commit crimes which "incite soldiers against the law" and "incite people against soldiers" during peacetime. [36d]

Supreme Court of Appeals or Court of Cessation (Yargitay)

5.29 This is the court of last instance for reviewing the decisions and verdicts rendered by lower courts. It has original and final jurisdiction in specific cases defined by law (trials of some high-ranking civil servants such as governors or ambassador's etc.). Members are elected by the Supreme Council of Judges and Prosecutors. [1a][78]

State Security Courts

5.30 Article 143 of the Constitution provides for the establishment of State Security Courts (Devlet Güvenlik Mahkemesi, or DGM), to deal with "offences against the indivisible integrity of the State with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offences directly involving the internal and external security of the state." [9a] They also deal with prosecutions under Articles 125-139, 146-157, 161, 168, 169, 171, 172, and 174 of the Penal Code. [9a] Annex G is a summary of political criminal law.

5.31 State Security Courts began to operate in May 1984, under Law No.2845 of 1983. They had previously been established in 1973 after the 1971 military coup, but in 1976 they were declared unconstitutional by the Constitutional Court. There are eighteen security court panels in eight different cities. Each panel, which presides over the hearings of a State Security Court, consists of three civilian judges and two prosecutors; until June 1999 there were two civilian judges and one military judge rather than three civilian judges. [1a][9a]

5.32 A heavy caseload means that State Security Court trials can last years. Hearings may be closed and testimony gathered during police interrogation in the absence of legal counsel may be admitted. [5a][9a] Until June 2003 no immediate access to a lawyer was provided under the law for persons whose cases fall under the jurisdiction of the State Security Courts. However in June 2003 this provision was abolished in what Human Rights Watch described as an important step towards curbing torture. [9e]

5.33 The European Court of Human Rights ruled, in a twelve votes to eight verdict in October 1998 in the case of Incal v Turkey (41/1997/825/1031), that the presence of a military justice on the SSCs was inconsistent with relevant European conventions. [71]

5.34 European Court of Human Rights See paragraphs 6.269-274.

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LEGAL RIGHTS / DETENTION

See also Annex E "Administration of justice"

Turkish Penal (or Criminal) Code

5.35 The bulk of the criminal law may be found in the Turkish Penal (or Criminal) Code. Annex F of this report lists the most common crimes to which reference is made in documentation in asylum applications. Day to day practice shows differences in the interpretation of the law in practical cases. As a result, there is a lack of clarity, transparency and legal certainty. There is evidence that in some cases the judge, invoking the same law provisions, decided to grant an acquittal while in other cases the opposite decision was taken. Although there have been some acquittals in cases connected to Article 312 (Kutlular, Koru and Freedom of Thought cases), in other cases the application of the same Article has led to convictions (five journalists of "Yeni Asya" were convicted on 10 March by the Istanbul State Security Court). The same trend has been observed in the application of Article 159 of the Penal Code where several acquittals (Başlangıç, Bayramoğlu, Özkoray cases) were in contrast with a number of convictions and postponement of sentences (Bekdil and Cevik cases, for example). This in turn raises the question of the predictability of interpretation of the law. [76a]

Anti-Terror Law (or Anti-Terrorism Act) of 11 April 1991

5.36 The 1991 Anti-Terror Law (Law No. 3713) replaced several articles of the Turkish Penal Code (141, 142 and 163) that dealt with communism, Kurdish nationalism and Islamic fundamentalism. [9a] Annex F lists common political crimes under Articles 6, 7 and 8 of the Law.

5.37 Article 1 of the Anti-Terror Law defines terrorism as "any kind of action conducted by one or several persons belonging to an organisation with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation...by any one method of pressure, force, and violence, terrorisation, intimidation, oppression, or threat." [9a][27]

5.38 Article 3 of the Law states that offences defined in Articles 125, 131, 146, 147, 148, 149, 156, 168, 171 and 172 of the Turkish Penal Code are terrorist offences. Article 4 of the Law states that, in applying the Law, Articles 145, 150, 151, 152, 153, 154, 155, 169 and the second paragraph of Article 499 of the Turkish Penal Code, and offences defined in Article 9(b), (c) and (e) of Law No. 2845 on the Foundation and Criminal Procedure at State Security Courts, are terrorist offences if they are committed for terrorist purposes as described in Article 1 of the Law. [27]

5.39 Article 8 (abolished in July 2003) dealt with propaganda against the indivisibility of the State and was used to prosecute and imprison people for peacefully expressing their opinions. The Article has most frequently been used to prosecute writers, journalists, pro-Kurdish politicians and intellectuals. [18c] In October 1995, a number of amendments reduced the length of prison sentences under Article 8 to one to three years (from two to five years) and

introduced the possibility of converting prison terms into fines and suspending future prison terms. [9a] In February 2002 the so-called "Mini-Democracy Package" (Law No. 4744) broadened Article 8's scope and increased penalties. In addition to "written and oral propaganda with the aim of violating the indivisible integrity of the state with its territory and nation", visual propaganda would now also be punishable by one to three years' imprisonment if "the act does not require a heavier penalty" (the last quote is new under Law No. 4744). A further addition to the legislation is "If this act is committed in a form that encourages the use of terrorist methods the sentence will be increased by a third." [12c] In July 2003 as part of the sixth reform package Article 8 of the Anti-Terror Law was abolished. From now on propaganda crimes against the integrity of the State will be punished under Article 311 of the Turkish Penal code. Under this article offenders can still be given stiff sentences. [36d]

Detention for questioning prior to formal arrest

5.40 It is important to realise that there is a distinction in Turkey between "detain" (gozaltini almak) and "arrest" (tutuklamak). There is a similar distinction in jurisdictions in other countries. [4b] The Turkish Ministry of the Interior stated in September 2003 that, "In our country [Turkey] detention is carried out by the security forces whereas arrest is a court decision. Nonetheless the police can detain a person on their initiative but have to inform [the] Public Prosecutor's Office within 24 hours". [17]

5.41 In its report for 1998, the Turkish human rights organisation Mazlim-Der reported that out of 35,914 people whom it knew who had been taken into detention the number of people actually arrested was only 1,279, approximately 3.5% of those detained. Statistics, which are not comprehensive and which merely record cases which have come to the notice of various human rights organisations, indicate that over 95% of people detained by the police in 1998 and 1999 were **released without charge**. It is only once a defendant has been formally charged/arrested that he is able to get access to documents relating to his case. Anyone who has been detained and released without charge will be unable to prove it with any form of documentary evidence. [16b]

5.42 In his paper *Asylum Seekers from Turkey II* published in November 2002 David McDowell states that "No one knows how many persons are arbitrarily detained in Turkey because a large proportion of detentions at police stations appear to go unrecorded in a formal sense, while many detentions do not take place in police stations at all but in other locations away from public gaze." He further states that "The first consideration is that very large numbers of people are detained but never charged or gaoled." [16b] (p13)

5.43 The Turkish Code of Criminal Procedure (CMUK), as amended in March 1997 and in 2002 sets out the maximum periods for which a suspect may be detained in police custody for questioning prior to formal arrest. The Code maintains two legal standards, giving different rights to criminal (i.e. non-security) and to security detainees. (Security detainees are suspected of

crimes under the jurisdiction of State Security Courts (see paragraphs 5.30-5.33).

5.44 Criminal (i.e. non-security) detainees

Individual crimes (i.e. those committed by one person or two people) – 24 hours

"Collective crimes" (those committed by three or more people) – 4 days, which can be extended to 7 with the request of a public prosecutor and approval of a judge.

A criminal detainee has the right for a lawyer to be present during interrogation periods.

5.45 Security detainees

Individual crimes – 48 hours

"Collective crimes" – 4 days upon the consent of a public prosecutor. In areas under a state of emergency the 4-day period can be extended to 7 at the request of a public prosecutor and upon the order of a judge.

Until July 2003 a security detainee had the right of access to a lawyer only after 48 hours. In July 2003 this provision was abolished. [9a][9c][12c]

5.46 The February 2002 amendments to the Code of Criminal Procedure require that relatives of the detainee be informed of the arrest or custody extension "without delay" and "by decision of the prosecutor". [76a]

5.47 Private lawyers and human rights monitors continue to report uneven implementation of the regulations, particularly right of access to a lawyer. [9a] The Council of Europe Committee for the Prevention of Torture found on its visit to Turkey in March 2002 that the issue of access to lawyers for people detained by the police has been, and apparently remains, a significant problem in Diyarbakır. The Turkish authorities highlighted measures taken to address the point. [13] The majority of investigations by police and prosecutors are still geared towards obtaining a confession from the suspect, often without the presence of a lawyer, and confessions are still accepted in courts without further supporting evidence. [76a]

The General Information Gathering System (GBTS)

5.48 The Swiss NGO Schweizerische Flüchtlingshilfe (Swiss Organisation for Refugees) states 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]"

5.49 According to information provided by the Turkish Ministry of Interior in September 2003 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]

5.50 Records of persons who have committed the above-mentioned crimes are retained even if they have already served their sentences. [17]

5.51 According to the Turkish Ministry of the Interior, 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]

5.52 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. [17]

5.53 According to the Turkish Ministry of the Interior (September 2003) "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]

5.54 The Swiss Organisation for Refugees in its report published June 2003 states 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)

5.55 However, the Swiss Organisation for Refugees also states 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)

5.56 The report continues "It should be mentioned that in addition to the GTBS 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)

5.57 It further states 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)

The Repentance Law

5.58 At the end of August 1999 the Turkish Parliament passed a repentance law with the following provisions. Only rebels who were not involved in the fighting would get an amnesty, while others could benefit from sentence reduction. Those seeking to benefit under the law had to provide information about the rebel movement. Founders and high level executives of the PKK could not benefit from the law. The law was initially valid for six months, but its validity was extended by a further six months from 29 February 2000. PKK members who benefited from the law and who were sentenced to death would have their punishment reduced to not less than nine years imprisonment, while those sentenced to life would have their punishment reduced to imprisonment for not less than six years. [30b][30c]

Amnesty Law December 2000

5.59 On 8 December 2000 the Turkish Parliament adopted an Amnesty Law which after an initial rejection was finally approved by the President on 21 December 2000. [82]

5.60 The Amnesty Law provides that the perpetrators of certain offences committed before 23 April 1999 will have their sentences reduced by ten years and that those who have less than ten years left to serve will be released immediately. It also provides for the release of those in pre-trial detention for certain offences within one month and the conditional suspension of the charges against them, and for the conditional suspension of prosecution of those against whom charges have not yet been brought for those specific offences. Article 2 of the Law extends the scope of an earlier partial amnesty law to illegal public statements. [2a]

5.61 The scope of the law also includes Article 169 of the Turkish Penal/Criminal Code, affording assistance and support to an illegal organisation. This led to the release of 1,660 people convicted on the basis of that Article for support to the PKK prior to 23 April 1999 or to the dropping of

charges on that basis. Infringements of the Anti-Terror Law are not covered by the Amnesty Law because the constitution lays down that no amnesty is possible for such offences. [2a]

5.62 Under Article 2 of the law, a large number of people imprisoned for illegal utterances have been released or had charges dropped. Those convicted of torture, rape or corruption were not covered by the amnesty. [2a]

5.63 The Amnesty Law stipulates that fugitives from justice against whom proceedings are pending must report within one month of the entry into force of the Law. The deadline expired on 22 January 2001. According to the Ministry of Justice a total of 3,761 individuals had availed themselves of this opportunity as at 13 March 2001. [2a]

5.64 Senior official at the Ministry of Justice informed the IND fact-finding mission that approximately 30,000 people had been released from the penal system under the existing amnesty. (The US State Dept. report for 2001 states that 23,600 prisoners were released). [5a][182]

5.65 On 18 July 2001 the Constitutional Court expanded the scope of the Law, giving Parliament six months (in practice, until 27 April 2002) to amend the legislation in line with its ruling. The scope was expanded to include those convicted of the following crimes: trying to get information by threat; forcing someone to make public his belief, political and social opinion; misuse of duty by civil servants; avoiding, or assisting in avoiding, capture by the authorities; and negligent fire, explosion, sea accident or cause of destruction. [182]

5.66 The law was resubmitted, unchanged to Parliament, and entered into force in May 2002. By September 2002 43,576 prisoners had benefited from this law. [76a]

The 'Win Back for Society Law' August 2003

5.67 The so-called "win-back for society law" came into force on 6 August 2003 following approval from President Ahmet Necdet Sezer, and its publication in the Official Gazette. The law remained in effect for 6 months from the date of promulgation (ie until the 6 February 2004). The Government hoped that it will pave the way for the surrender and return home of half of the PKK/KADEK armed militants based in northern Iraq. In addition to those that are still in northern Iraq, the amnesty was designed to reduce the prison terms of those militants who have already been convicted for involvement in the groups terrorist attacks in the past, in return for providing information to the security authorities. [231][36a]

5.68 The new law granted a partial and conditional amnesty to the militants of the banned PKK/KADEK. Most of the members and sympathisers of the separatist movement will escape punishment, providing they have not taken part in violent acts. However, the partial amnesty does not apply to the leaders of the movement. [66f]

5.69 Although the law is aimed primarily at Kurdish separatist groups it also applies to left wing and militant Islamic terrorist organisations including members of Hezbollah. [231] [384]

5.70 The Turkish interior minister Abdulkadir Aksu stated that "Except for a very limited group, everyone will benefit. This is a new opportunity. Our goal is to bring social peace." Those "who have not committed any crime except for involvement in a terrorist organisation and who surrender will go home at once" [29]

5.71 The provisions of the amnesty are as follows:

5.72 Members of terrorist groups that have not been involved in any terrorist activity will unconditionally be released and will not face trial, provided that they state that they are willing to benefit from the amnesty. [231]

5.73 Those that have been involved in terrorist activity and are either already in prison or who surrender to the security forces and co-operate with them before the law goes into effect (before 6 August 2003) will benefit from the following sentence reductions provided they give information about the terrorist organisation they belong to. Those whose sentence were previously commuted to a life sentence from capital punishment will receive nine years imprisonment, while those who were given straight life sentences will be subject to six years imprisonment according to the level of their crime. Other sentences will be reduced by one seventh. [231]

5.74 Those who are captured or surrender after the law goes into effect and provide information prior to receiving their sentences will receive 15 years imprisonment instead of a life sentence. Other sentences will be reduced by one fourth. [231]

5.75 Those who provide information after their sentence becomes definite will receive 20 or 15 years imprisonment instead of a life sentence. Other sentences will be reduced by one third. [231]

5.76 Kurdish groups claim that this is not a true amnesty, but another way of creating more informants for the state and have pledged not to disarm unless a general amnesty is issued. The Parliamentary opposition (CHP Party) claims that the law was the idea of the Americans, who are keen to see Turkish troops, pull out of northern Iraq. [66g] [23g] [231]

5.77 The European Commission (November 2003) reported that "According to official figures of September 2003, of 2067 applications [made under this amnesty], 524 prisoners have been released. According to the same sources, about two hundred militants from illegal organisations have surrendered." [76b] (p39)

Death Penalty

5.78 On 3 August 2002 the Turkish Parliament, approved an end to the death penalty in peacetime and its replacement with life imprisonment without the

possibility of parole. [66a] The process of converting death sentences into life imprisonment began in September 2002. [76a] The sentences of 87 prisoners (including Abdullah Öcalan) on death row were commuted to life imprisonment. [96] In January 2004 the BBC reported that Turkey had agreed a total ban on capital punishment when it signed Protocol 13 of the European Convention on Human Rights which prohibits the death penalty in all circumstances, including in times of war and at times of danger of war. [68m]

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INTERNAL SECURITY,

Police

5.79 Civilian police come in a variety of subdivisions. The blue-clad officers, both men and women, are part of a national force designated by the words "Polis" (Police) or "Emniyet" (Security). Polis are the everyday security force in cities and towns with populations over 2000. [34] They come under the Ministry of the Interior. For all cases involving political offences, with or without violence, each local police force has a special anti-terrorist section (Terörle Mücadele Şubesi). There are also mobile units, known in Turkish as Çevik Kuvvet (flying squad), to deal with demonstrations and disturbances of public order. [2a]

5.80 Training at the Police Higher Vocational Education Schools has been extended from nine months to two years, and courses on human rights have been included in the curriculum. [76a]

Jandarma/ Gendarmerie

5.81 In most rural areas where villages do not exceed 2000 in population (i.e. 93.5% of the area of Turkey), law enforcement is in the hands of the Jandarma or gendarmerie, a division of the regular army charged with law enforcement duties. There are 150,000 Jandarma, and conscripts make up over 90% of their strength. They wear red armbands bearing the word "Jandarma", and are often kited out not in fatigues but in well-tailored gear, modelled on the French pattern, to make them appear less threatening. Jandarma take their orders from more than one source. They fall under the General Staff for training and special or military duties, the land forces for arms and equipment, and the Ministry of the Interior for security and public order. The Jandarma have their own intelligence service, the JITEM.

[1a][2a][2b][34]

Military police

5.82 Another branch of the army much in evidence is the military police or Askeri İnzibat. They wear white helmets bearing the letters "As İz", white holsters, and lanyards. Their task is to keep order among the large numbers of conscripts on the streets of many Turkish towns. [34]

Military /Special Forces

5.83 For the purposes of combating the PKK, the armed forces have some 200,000 troops stationed in the Southeast, including highly trained commandos. There are also special teams (Özel Tim, plural: Özel Timler),

coming under the army, police or jandarma, involved in combating the PKK. Some 15,000 to 20,000 members of such teams, all of whom have volunteered upon completion of their national service, are heavily armed and specially trained in anti-guerrilla warfare. According to the Turkish military authorities and international observers, the Özel Timler have been completely withdrawn from the south-east since 2000, a claim contradicted by the Human Rights Association. Attempts are currently being made to reintegrate those teams into society, partly by assigning them posts in the police. This is said to be a very laborious process. [2a]

Intelligence agency, MIT

5.84 The Turkish intelligence agency, MIT (Milli İstihbarat Teşkilatı, National Intelligence Organisation), allegedly keeps close tabs on political activities against Turkey. Given manpower constraints, routine surveillance by the MIT seems to concentrate on leading figures. Information on people of lower rank is apparently obtained "by chance". [2a]

Village guards.

5.85 When the state of emergency was declared in the mid-1980s a system of village guards was also established in the south-east whereby villages, though not forcibly, supplied adult men to guard the villages and provide general assistance and information. Village guards were thus supposed to work together with the army and Jandarma in their fight against the PKK. The willingness of the local population to take part in the village guard system has always largely depended on tribal loyalties. Some Kurdish tribes voluntarily supplied village guards while other tribes have constantly refused to participate because of their PKK sympathies. This has led to entire villages refusing requests to supply village guards while others voluntarily co-operate. [2a]

5.86 The village guard system has always been highly controversial. Not infrequently villages which had shown reluctance to become involved in the conflict have suffered reprisals, including the burning of villages. The village guard system also makes for abuses of power. Many village guards have been involved in crimes ranging from murder, supporting the PKK, and drug smuggling, to bride abduction. Thousands of proceedings are pending against village guards, with almost 24,000 having been dismissed since the system was introduced in 1985. [2a] The European Commission's October 2002 report on Turkey notes that the village guard system acts as a disincentive to displaced persons' returning to their villages, and that the village guards' conduct is widely reported to be undisciplined and abusive. [76a] Village guards shot and killed three returning villagers in Nurettin village in July 2002, and two returning villagers and one child in Ugrak, Diyarbakir in September 2002. [77]

5.87 According to representatives of the Turkish human rights organisations the Human Rights Foundation (HRF) and the Human Rights Association (HRA), as well as international observers, no more new village guards are being recruited to the existing ranks. However, according to an HRA spokesman, existing village guards who wish to end their activities sometimes meet with opposition from the (local) authorities. Those concerned are

allegedly pressurised to continue their activities. [2a] By the end of 2002 the number of village guards had decreased to 60,000. [77]

5.88 The abolition of the village guard system has been contemplated at government level for some time now. A few small-scale retraining projects for village guards have recently been announced. However, the village guard system generates a steady income, which people are not always willing to give up. Furthermore, disarmament will give rise to problems since village guards come from different tribes, which not infrequently have difficult or poor relations with each other. It is assumed that none of the tribes will want to be the first or only ones to surrender their weapons. [2a]

5.89 In the past individuals recruited as village guards have sometimes been caught in the crossfire. On the one hand their refusal to serve as village guards could be interpreted as implicit support for the PKK, while on the other hand their acceptance of the office could make them PKK targets. Since the withdrawal of PKK fighters from Turkey at the end of 1999 there has been practically no further pressure to speak of from the PKK. Now that the recruitment of village guards has ceased, this issue is no longer of any great importance. In the past refusal to serve as village guard never used to lead to sanctions from the national authority. Pressure from local authorities following refusal to serve as a village guard can be avoided by settling elsewhere, for instance in one of the major cities outside south-east Turkey. This also applies to persons who are under pressure from the local community because they agreed in the past to serve as a village guard. [2a]

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PRISONS

5.90 According to the Minister for Justice, as at 23 May 2001 Turkey had 554 prisons: 513 closed institutions, 36 open prisons, one closed institution for women and children, one closed institution for young offenders and three "educational institutions" for juveniles. [2a] In July 2003 there were 63,560 convicted people in prison, the highest number for three years. [23k] Six cellular F-type prisons have been brought into operation: Sincan (Ankara), Edirne, Kocaeli, Tekirdağ (all established on 19 December 2000), and Bolu and Izmir (established 3 July 2001). [50b] In September 2001 the Turkish Minister for Justice announced that another fifty prisons would be converted into cellular ones, as well as new F-type prisons being built. [2a]

5.91 The US State Department report 2003 (February 2004), reported that "Prison conditions remained poor. Underfunding and poor administration of penal facilities remained problems. HRF [Human Rights Foundation of Turkey] maintained that the Government provided insufficient funding for prison food, resulting in poor-quality meals. According to HRF, food sold at prison shops was too expensive for most inmates, and there was a lack of potable water." [5d] (p5)

5.92 The report stated that "The Government maintained that prisons were staffed with doctors, dentists, psychologists, and teachers, although there

were shortages in some areas. According to the Medical Association, there were insufficient doctors, and psychologists were only available at the largest prisons. Some inmates claimed they were denied appropriate medical treatment for serious illness." [5d] (p5-6)

5.93 The report also stated that "As of November 30, [2003] there were 63,000 persons held in prisons, including 31,756 detainees and 31,244 convicts. Detainees could be held for up to 6 months during the preliminary investigation period. If a case was opened, the pre-trial detention period could be extended for up to 2 years. If the detainee was charged with a crime carrying a maximum punishment of more than 7 years, a court could further extend the detention period." [5d] (p8)

5.94 Until late 2000, prisons were run on the ward system and most prisoners lived in 30-100 person wards. Prisoners accused of terrorism and those who shared similar ideological views were incarcerated together. In some cases, the ward inmates indoctrinated and punished fellow prisoners, resulting in gang and terrorist group domination of entire wards. Between December 2000 and January 2001, the Ministry of Justice moved hundreds of prisoners to small-cell "F-type" prisons. The F-type design more closely resembled prisons found in most developed countries; according to the Government, the F-type prisons were consistent with the Council of Europe's Committee to Prevent Torture's recommendations. However human rights groups and prisoners' groups claimed that prison authorities isolate F-type inmates from each other and controlled prisoners' access to water, food, electricity, and toilets. Most F-type prisoners are held in 30 square yards each; some have individual 2 square yard cells. Inmates have access to 62 square yard open areas. [5b]

5.95 In November and December 2000, hundreds of prisoners, mostly affiliated with far-left terrorist groups, went on hunger strikes to protest against F-type prisons, and claimed that they intended to starve themselves to death. The Government entered the prisons in December 2000, after the fast had reached its 60th day and negotiations to end it had not been successful. During and after the government intervention, at least 31 inmates and two Jandarma were killed. Weapons and other illegal materials were found in the cells during the operation. The cause of many of the deaths, including deaths of those who allegedly set themselves on fire on the order of their organisation, was unclear. Many hunger-striking prisoners were released from jail for temporary medical reasons. Groups linked to terrorist organisations also strongly protested this change in the prison system. Prisoners continue hunger strikes, and, according to the Government, 17 prisoners were on hunger strike as of mid October 2002. Sources vary as to the total death toll amongst hunger strikers; the European Commission's report of October 2002 states that 57 hunger strikers had died, while the US State Dept. report covering the year 2002 (which may be sourced to the Human Rights Association on this point) gives the number as 75. The International Helsinki Federation for Human Rights report 2003 puts the number who have died at 104. The Government alleged that terrorist groups forced weaker members to conduct the hunger strikes and threatened family members of those who want to quit. [5a][5b][10b][76a]

5.96 In October 2001 an Istanbul prosecutor opened a case against 1,615 persons on duty at Bayrampaşa prison during the hunger strike, charging them with mistreatment and dereliction of duty. Both this, and a trial against 167 prisoners for fomenting violence at Bayrampaşa, were ongoing at the end of end of 2002. The Bayrampaşa defendants allegedly were beaten by Jandarma when they tried to read a statement at their October 2001 hearing. [5a][5b]

5.97 According to the US State Department report 2003 (February 2004) "The trial against 1,615 persons on duty at Bayrampasi prison during the December 2001 hunger strike was ongoing at year's end. The related trial of 167 prisoners was also ongoing at year's end." [5d] (p6)

5.98 The report continued "Inmates in high-security F-type prisons were permitted to socialize in groups of 10 for up to 5 hours per week. In addition, they were able to participate in communal activities. According to HRF, as of October, one prisoner continued a hunger strike to protest F-type prisons. The Government reported that the President pardoned 172 hunger strikers during the year. Two prisoners on hunger strike died during the year, bringing total deaths to 107 since the start of the strikes in 2000, according to HRF. The Government alleged that terrorist groups forced weaker members to conduct the hunger strikes and threatened family members of those who wanted to quit." [5d] (p6)

5.99 In addition "Human rights observers estimated that, at any given time, at least one-quarter of those in prison were awaiting trial or the outcome of their trial. Men and women were held separately. Despite the existence of separate juvenile facilities, at times juveniles and adults were held in adjacent wards with mutual access. According to the Government, detainees and convicts were held either in separate facilities or in separate sections of the same facility." [5d] (p6)

5.100 The European Commission (November 2003) reported that "With regard to the reform of the prison system, the general situation has improved considerably... Two new offences were introduced in February 2003 with the aim of increasing security in prisons and preventing hunger strikes... Although there are still reports of isolated cases of 'death fasts', the number has declined considerably." [76b] (p28)

5.101 The report continued "A new curriculum for the in-service training of prison and detention house personnel was adopted by the Ministry of Justice in January 2003 with a focus on human rights and combating ill-treatment in particular.... Access to telephones (ten-minute phone calls every week) and the right to open visits in F-type prisons have improved considerably." However, "There are reports that lawyers and visitors have encountered difficulties meeting prisoners and that prisoners are not receiving appropriate medical treatment." [76b] (p28)

5.102 The European Commission stated that "The 129 Prison Monitoring Boards, established in 2001, continue to carry out inspections on living

conditions, transfers and disciplinary measures in penal institutions.... It is reported that the work of the Boards has led to some improvements in prisoners' conditions in these areas." Although it should be noted that "More sensitive issues, such as those relating to ill-treatment and isolation, are not dealt with by the Prison Monitoring Boards." [76b] (p29)

5.103 The US State Department report 2003 (February 2004) reported that "The Ministry of Justice, the General Directorate of Prisons, and the parliamentary Human Rights Committee regularly inspected prisons and issued reports. Prison Monitoring Boards—five-person visiting committees composed of nongovernmental experts such as doctors and lawyers—also conducted inspections. The 130 boards conducted 522 visits, prepared 1,638 reports, and made 3,664 recommendations for improvements to the Ministry of Justice. The Government reported that it took action on some of these recommendations, but lacked the funding to respond to others, including those related to crowding and lack of resources for activities. During the year, the 140 special prison judges received 11,923 petitions relating to prison conditions and sentences; they admitted 3,659 petitions, partially admitted 319, and rejected 7,945." [5d] (p6)

5.104 The report continued "Human rights groups criticized the Government's selection of Monitoring Board representatives. Medical Association officials said the Government did not consult them on Board membership and selected only government-employed doctors for the bodies. The Society of Forensic Medicine Specialists reported that only two forensic specialists served on the Boards. Some bar associations also said that their preferred candidates were not selected." [5d] (p6)

5.105 It also reported that "The Government permitted prison visits by representatives of some international organizations, such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT); the CPT visited in February and September, and conducted ongoing consultations with the Government. Requests by the CPT to visit prisons were routinely granted; however, domestic nongovernmental organizations (NGOs) did not have access to prisons." [5d] (p6)

5.106 The CPT visit to Turkey in March and September 2002 focussed its attention on the province of Diyarbakir and along with other investigations prisoners were interviewed in the Diyarbakir I (F-type) and II Prisons. The CPT found that F-type prisons possess numerous facilities including workshops, a gymnasium, an outdoor playing field and a library. However, it also found that practically all prisoners held under the Law to Fight Terrorism were refusing to take up the offer of communal activities. [13c]

5.107 During its visit the CPT was pleased to note that its delegation heard no allegations of recent ill-treatment of prisoners in Sincan F-type Prison and, in particular no allegations of ill-treatment during the headcount procedure. The CPT also noted that the Turkish authorities had issued circulars stating that unless medical staff request otherwise, no officials are to be allowed to be

present in the examination room and steps are to be taken so that they remain out of earshot when prisoners are receiving medical treatment. [13c]

5.108 It also noted that for some prisoners no findings had been recorded after their medical examination on arrival, despite the fact that they undoubtedly bore injuries or displayed other medical conditions consistent with ill-treatment. [13c]

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MILITARY SERVICE

5.109 The armed forces, which regard themselves as the guardians of the principles of Atatürk, play an important role within Turkish society, and are held in high regard by a large section of the population. The army's popularity stems partly from the fact that public opinion is convinced that it is more or less immune from the corruption, which is widespread in Turkey. The performance of military service is regarded by a large part of the population as a rite of passage "to become a man". There are parents who will not allow their daughters to marry someone who has not yet performed his military service, and companies often prefer to employ someone who has discharged his military obligations. [2b]

5.110 As at 1 August 2002 the armed forces totalled 514,850 people (including 391,000 conscripts). The size of the army was 402,000 men, the navy 52,750 men, and the air force 60,100 men. There was a Jandarma numbering 150,000 and a coast guard of 2,200. Reserve forces totalled 378,700 in the armed forces and 50,000 in the Jandarma. [1d]

5.111 Mehmet Ali Birand, a Turkish writer, produced a unique study entitled "Shirts of Steel. An Anatomy of the Turkish Armed Forces" (published in Turkish in 1986 and in English in 1991). It is full of revealing detail on the working of the armed forces. Birand was struck by the adjectives used in all the speeches, official statements, declarations, and even newspaper reports that referred to the Turkish army: heroic, glorious, peerless, great, outstanding and so forth. He found that western European countries also praised their armies, but they chose more modest adjectives like powerful, well organised, capable; what is at least as important, they used them less frequently. [57]

5.112 From Ottoman times onwards the Turkish army has functioned either as the ruling power or as an inseparable part of it. The Turkish officer of today draws certain lessons from Turkish history: that the Turkish army must not become actively involved in politics, but must guard and protect the Republic which was founded at the cost of so much bloodshed, and must intervene if the principles of Atatürkism (i.e. republican, nationalist, populist, etatist, secularist and revolutionary) are endangered. Once developments have been settled it must return to barracks. [57]

5.113 Every male Turk is obliged under the Military Act No.1111 to carry out military service. The obligation commences on 1 January of the year in which he becomes 19 years old, and ends on 1 January of the year in which he

reaches the age of 40. (The Turkish way of counting age differs from that in Western Europe, and this accounts for the fact that the Military Act refers to the 20th and 41st years). [25][48] In July 2003 Parliament approved a military request to reduce the length of military service by 3 months. On the 17 July 2003 as part of reforms to increase the professionalism of the armed forces the standard length of military service was reduced from 18 months to 15 months. Some university graduates serving as officers are now conscripted for 12 months instead of the previous 16, while some privates will serve for six months instead of eight. This change has led to a 17 percent reduction in the number of conscripts in the Turkish armed forces [234]

5.114 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. [26]

5.115 The Dutch Ministry of Foreign Affairs "Turkey / military service" report (July 2001) [26] has detailed and carefully researched information on military service.

Deferring military service

5.116 A number of provisions allow people liable to military service to defer their service, principally for educational reasons. In accordance with Article 35c of the Military Act No. 1111, 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 post graduate 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. [25]

5.117 In cases where the number of those eligible for military service exceeds the needs of the armed forces, certain university-educated professional groups such as doctors and teachers have the option of completing their service by exercising their profession in the service of a government body. However, they do first have to complete basic training of one month and ten days. [26]

Evasion of military service and punishments

5.118 As regards evasion of military service, Turkish law distinguishes between evasion of registration/examination (saklı/yoklama kaçakçılığı), evasion of enlistment (bakaya) and desertion (fırar). [26]

5.119 The penalties for evasion of military service (draft evasion or desertion from the army in peacetime) are set out in Article 63 of the Turkish Military Penal Code. There is a sliding scale of imprisonment:

- i. A person who reports voluntarily within 7 days is sentenced to one month's imprisonment

- ii. A person who is arrested within 7 days is sentenced to three months' imprisonment
- iii. A person who reports voluntarily within three months is sentenced to three months' to a year's imprisonment
- iv. A person who is arrested within three months is sentenced to four months' to a year and a half's imprisonment
- v. A person who reports voluntarily after three months is sentenced to four months' to two years' imprisonment
- vi. A person arrested after three months is sentenced to six months' to three years' heavy imprisonment. (Heavy imprisonment involves a more restrictive regime, with one-tenth of the sentence being in solitary confinement. Article 13 of the Turkish Penal Code refers).

5.120 The Dutch Ministry of Foreign Affairs reports that military judges in general impose minimum sentences. The sentences for desertion are higher than those for evasion of registration/examination or enlistment. As a general rule, normal prison sentences of less than one year can be commuted into a fine. In an individual case the judge determines in his judgement whether or not the prison sentence will be commuted into a fine. Prison sentences for evasion of registration/examination or enlistment or for desertion are generally commuted into fines, which must be paid after the end of military service. Heavy prison sentences handed down for evasion lasting longer than three months without giving oneself up may not, however, be commuted into fines. Under Article 47 of the Military Law Code, suspended sentences may not be imposed for evasion of registration/examination or enlistment or for desertion. Any sentence, which may be passed, does not imply a dispensation from further military service. It may therefore happen that repeat offenders are sentenced again because of a further attempt to evade military service. In the case of repeat offences it is less likely that a fine will be imposed. Ethnic origin plays no role in determining the sentence for evasion of military service. [2b][48][53a][53b]

5.121 The enforcement of final judgements in cases relating to evasion of military service (including desertion) takes place in military prisons if the sentence is six months or less and in normal prisons if the sentence is more than six months. As a rule, the sentence is first enforced and then the conscript completes (the remainder of) his military service. In the case of desertion enforcement of the judgement may be deferred at the suggestion of the officers of the relevant military division until after military service has been completed. [2b]

5.122 A 1997 report by the German Federal Agency for the Recognition of Foreign Refugees stated "In practice in Turkish military jurisdiction it is apparent that the courts regularly aim at the minimum penalties and impose fines (commuted low custodial sentences). The military courts, despite the situation in the south-east of Turkey, obviously see no reason for punishing non-entry to military service more severely than before." [48]

Conscientious objectors

5.123 The right to conscientious objection or to perform alternative service does not exist in Turkey, despite Turkish membership of various international fora, which expressly recognise this right. Persons refusing to perform military service on grounds of conscience are therefore viewed as routine cases of evasion of military service and punished accordingly. From the legal viewpoint, a conscientious objector may fall into any of the categories of evasion. A conscientious objector who attracts media attention or publishes articles calling on people to refuse to serve faces additional punishment on the grounds of "alienating the people from the armed forces" (Article 155 of the Penal Code). While there have so far been a few convictions involving both members of the public and servicemen, there have also been acquittals and cases which were not prosecuted. For example, on 15 May 1999 at the Istanbul office of the Human Rights Association three people read out and signed a press statement calling on people to refuse to perform military service, but on 5 December 2000 the military criminal court acquitted them because their actions did not constitute the offence referred to in Article 155. Three people who on 15 May 2000 stated before the press that they were refusing to perform military service were not prosecuted. A spokesman for Izmir Anti-War Association (ISKD) stated that this might have been due to the fact that the authorities wanted as far as possible to avoid attracting public attention to the issue of refusal to perform military service on grounds of conscientious objection. [25]

5.124 Since 1995 organised associations of military service objectors have been in existence. The two most important are Izmir Anti-War Association (Izmir Savaş Karşıtları Derneği) (ISKD) and Istanbul Antimilitarist Initiative (Istanbul Antimilitarist İnisiyatifi) (IAMI). The associations have a few dozen members. The secretary of ISKD is Turkey's best-known military service objector, Osman Murat Ülke. [26]

5.125 According to Article 25ç of Turkish Nationality Law No. 403, passed in February 1964, those liable for military service can have their Turkish nationality withdrawn, if they reside abroad and do not comply with a due demand - published in the Turkish Official Gazette (Resmi Gazete) - to return to Turkey for the purpose of performing their military service without valid grounds for exemption within three months. This occurs by means of a cabinet decision, on the recommendation of the Ministry of Defence. An appeal may be lodged within 60 days with the Council of State/ Administrative Appeals Court (Danıştay). [2c][26a][26b][48][50a]

5.126 The names of individuals who have forfeited their Turkish citizenship are published in the official Government Gazette, the "Resmi Gazete". Judging by the details published in the Government Gazette in the past, it is clear that thousands of Turks have forfeited their citizenship over the course of the years. In the event of forfeiture of citizenship, criminal proceedings for avoidance of military service are terminated. Because the individual concerned is no longer a Turkish citizen, he is considered a foreigner, and military service no longer applies to him. [2c]

5.127 According to sources within military jurisprudence and the Turkish Ministry of the Interior and the Ministry of Foreign Affairs, it was 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. [2c]

5.128 Under Article 8 of Turkish Nationality Law No. 403, Turkish citizenship may be restored even if the individual concerned is not residing in Turkey at that point in time. [26a] An application for the restoration of Turkish citizenship can be granted if the applicant states that he is still going to perform military service. Turkish citizenship can still be recovered after the age of 40. The age of 40 only signals the end of military service age for individuals who have already performed military service. On 23 July 1999 a temporary article was added to the Act on Military Service Law No. 4418, specifying that individuals who had recovered their Turkish citizenship, had not yet performed military service and were legally resident abroad could still buy themselves out of military service. This opportunity lasted for a period of two years i.e. until 23 July 2001. [2c]

5.129 The "Resmi Gazete" records that in 2000 22 people who had been deprived of citizenship for draft evasion regained citizenship. The number in 2001 was 44 in 2001, and in 2002 (up to and including November 2002) 59. [2d] Certain Turkish lawyers feel that the number of cases involved is small because it is unlikely that someone who initially refused to perform military service would change their mind at a later stage and report for military service of their own free will. A source from the Administrative Court of Appeal (Danıştay) stated no appeal cases had ever been brought at that court against refusal of recovery of citizenship. [2c]

5.130 Para 6.239 of this report deals with the treatment on arrival in Turkey of returning draft evaders.

Posting after completion of basic training

5.131 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 on the basic training undergone, the place of registration and possible criminal record. As a rule, conscripts are posted to units that have the specialisation for which they were trained. It has been a long-standing rule for conscripts to be posted preferably to units outside the region (sometimes only outside the province) where they are registered, although this practice has gradually lost significance in recent years on account of, inter alia, internal migration. In the period leading up to the cease-fire at the end of 1999, during which time the conflict between the PKK and the Turkish armed forces was waged with full

intensity, extra care was taken, in addition to applying the above rule, to ensure that conscripts from provinces in south-eastern Turkey were not posted to units in that region on account of the fairly general uncertainty felt in the Turkish armed forces regarding their loyalty. The cessation of the armed struggle at the end of 1999 meant that this practice, which was aimed at preventing persons from the south-east from being posted to units in that region, has been gradually abandoned. [2b]

5.132 A criminal record plays a role in the place of subsequent posting to the extent that a person with such a record is not usually deployed in sensitive posts e.g. a person convicted of theft is very unlikely to be placed in a unit responsible for managing an arms depot. Spokesmen for the Human Rights Association 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. [2b]

5.133 As armed confrontations in south-eastern Turkey have virtually ceased since the end of 1999, the possibility of a conscript being deployed in combat there is extremely slight, especially since the sporadic military operations that still take place are carried out mainly by regular troops. [2b]

Discrimination in the military

5.134 Thousands of military officers are of Kurdish origin and thousands of other Kurds complete their military service routinely. [44a][44b] In addition, the overall share of Kurds in all army ranks should reflect that of the population, which is approximately one-fifth. [48]

5.135 The armed forces operate a harsh regime. Disciplinary measures used occasionally include physical violence and insults, which in many cases are tolerated. Discrimination against conscripts occurs from time to time, and depends entirely on the individual unit commander. The army high command cannot be said to discriminate systematically against any single group. According to Turkish human rights organisations and former soldiers, in many cases the problems stem from conflicts between conscripts themselves. [2b]

5.136 Systematic discrimination against Kurdish conscripts and left-wing activists can be ruled out. At the level of the unit in which conscripts serve, the situation is very often dependent on the individual commander. In the armed forces the focus is not so much on the question of whether or not a particular person is a Kurd, but much more on whether a person has any separatist sympathies. [2b]

5.137 With people from the provinces of south-east Turkey, separatist sympathies are in practice more likely to be assumed. A person's place of birth is stated on his identity card, and his origin is often betrayed by his appearance or accent. The suspicion with which conscripts from south-east Turkey are regarded by their commanders or fellow conscripts seems to have lessened recently as a result of the cessation of hostilities in this region at the end of 1999. However, if an individual commander feels any antipathy towards Kurds, discriminatory behaviour cannot be ruled out. [2b]

5.138 Homosexual conscripts who state that they engage in passive sexual acts are declared unfit for military service. Homosexuals who engage only in active sexual acts are not rejected for service. [26]

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MEDICAL SERVICES

5.139 In the World Health Organisation's "World Health Report 2000" Turkey's health system ranked 70th (out of 191 countries) in the world. (UK ranked 18th). The WHO assessed five indicators: overall level of health, health inequalities, patient satisfaction, how the system responds to need, and how well served people of different economic status feel. [38a] Based on the best information available to the WHO, the United Nations Development Programme reports that 99% of the population of Turkey had in 1999 access to essential drugs (a minimum of 20 of the most essential drugs continuously and affordably available at public or private health facilities or drug outlets within one hour's travel of home). (The figure for UK was also 99%). [35]

5.140 In 2000 there were 1226 hospitals, and a bed capacity of 172,449. Source 83 lists the different types of hospital. 744 of the hospitals (bed capacity 86,117) were run by the Ministry of Health, 234 were private, 118 were social insurance institutions, and the remainder were run by other organisations, including other Ministries and universities. There were in 1999 81,988 physicians, of whom 36,854 were specialists, and 45,134 non-specialists. [83] There were 121 physicians per 100,000 population. (The number for UK in 1993 (the most recent year available) is 164 per 100,000 population). [84a] Of total expenditure by central government in 1997, about 4.1% was for health services. [1a]

Cost of Treatment

5.141 If the patient has contributed to a social security scheme (SSK, BAG KUR, EMEKLI SANDIGI), his or her cost of treatment will be met. A person who has not made social security contributions and who does not have his/her own financial means and can show that he/she is penniless, is provided with free treatment by the State [4c]

Mental Health

5.142 Treatment for psychiatric problems, including depression, is available in Turkey. There are 1.3 psychiatric beds per 10,000 population, and one psychiatrist, one neurosurgeon, one neurologist, one psychologist and one social worker per 100,000 population. [84b] Of the 26 million in-patient days spent in hospitals in Turkey in 1999, 1,067,099 were to treat psychoses, and 266,965 were to treat neuroses, personality disorders and other non-psychotic mental disorders. There were 24,788 discharges of patients who had suffered from psychoses, and 19,575 discharges of patients who had suffered from neuroses etc. [83] Hacettepe University Hospital Psychiatric Dept. confirms that antipsychotic and antidepressant medication is available in Turkey. [4d]

5.143 The following therapeutic drugs are generally available at the primary health care level:

carbamazepine,
ethosuximide,
phenobarbital,
phenytoin
sodium,
sodium valproate,
amitriptyline,
chlorpromazine,
diazepam,
fluphenazine,
haloperidol,
lithium,
biperiden,
carbidopa,
and levodopa. [84b]

5.144 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. [84b]

HIV/AIDS

5.145 The United Nations Programme on HIV/AIDS reported in December 2003 that "At the end of 2002, Turkey had a cumulative total of 1,515 reported HIV/AIDS cases. 1.98% are among children under 15 and 33% are among women...To ensure blood safety, commercial blood donation has been fully abolished. The government ensures that all HIV infected patients receive antiretroviral treatment." [39]

5.146 The Foreign and Commonwealth Office contacted Hacettepe University, Ankara, which provides world-standard treatment for HIV and AIDS, in December 2001. The University confirmed that such drugs such as thyroxine, zidovudine, D4T, 3TC, acyclovir, zidovudine, didanosine, zalcitabine, zalcitabine, or their substitutes, are available in Turkey. [4c]

People with disabilities

5.147 The Turkish Daily News reported in December 2003 that according to a survey carried out by the Turkish Institute of Statistics and the State Planning Organisation disabled people in Turkey number nearly 8.5 million which, equates to 12.29% of the population. [23n] Turkey has a large physically handicapped population estimated to be around 500,000. Ten to 15 people

are injured every day in traffic accidents alone. Turkey has 14 physical rehabilitation centres with a total bed capacity of 1,931, an increase on the 1,295 beds available in 2002. [239]

5.148 The article further reported that "The Ministry of Health is constructing two further hospitals each with an extra 100-bed capacity. However, the Chairman of the Physically Handicapped in Turkey Association stated that the current rehabilitation centres were not providing qualified services and only some centres in Istanbul, Ankara and Kastamonu were providing satisfactory services for the physically handicapped." [239]

5.149 According to both the Human Rights Association and the Federation of Associations for Disabled People, there is no direct, specific discrimination against people with disabilities, although they did suffer from a lack of economic opportunity. People with disabilities have some special privileges, such as the right to purchase products of the State Economic Enterprises at a discounted rate, or acquire them at no cost. The Government briefly revoked this privilege during 2002, but the Federation lobbied successfully to have it restored. The law does not make compulsory accessibility to buildings and public transportation for people with disabilities. [56]

5.150 Although there were many government institutions for persons with disabilities, most attention to persons with disabilities remains at the individual and family level. The Government established an "Administration of Disabilities" office under the Prime Ministry in 1997, with the mandate to develop co-operation and co-ordination among national and international institutions and to conduct research into issues such as delivery of services. Companies with more than 50 employees are required to hire persons with disabilities as 2% of their employee pool, although there is no penalty for failure to comply. [56]

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EDUCATION

5.151 In 2000 according to UNESCO, the rate of adult illiteracy was 85.1% (males 93.5%, females 76.5%). [14] Legislation that took effect in September 1997 increased the duration of compulsory primary education from five to eight years, for children between six and 14 years of age. All state education up to university or higher institute levels is co-educational and provided free of charge. The number of primary schools reached 45,112 in 1998, and about 9.6 million children were enrolled at primary schools. In 1996 enrolment at primary schools included 99% of children in the relevant age group. Secondary education, which lasts for at least three years, may be undertaken in general high schools/lycées, in open high schools or in vocational and technical high schools. In 1996 enrolment at secondary schools included 51% of children in the relevant age group (males 59%, females 43%). A state examination must be passed by high school students wishing to proceed to a university or to an institute of higher education. In 1998 there were 1222 institutes of higher education (including universities, teacher-training colleges and other technical and vocational institutions), attended by 1.5 million

students. In 2001 estimated government expenditure on education was about 9.4% of total spending. [1a]

5.152 Schoolchildren are taught to respect above all the ideal of the "indivisible unity" of the Turkish nation. According to the Basic Law of National Education (1973, amended 1989) "The overall objective of the Turkish national education system is to train all members of the Turkish nation: As citizens who believe in Atatürk's reform and principles and Atatürk's concept of nationalism as expressed in the Constitution; who endorse, protect, and develop the national, moral, humanitarian, spiritual and cultural values of the Turkish nation, who care for and tirelessly promote their families, country and nation." [16b]

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6. HUMAN RIGHTS

6a. HUMAN RIGHTS ISSUES

General

6.1 There have been numerous reports by human rights organisations of systematic use of torture by security forces, deaths in police custody, disappearances and extrajudicial executions. Details of commonly reported types of torture can be found in the US Department of State reports, [5] the International Helsinki Federation for Human Rights annual report, [10] Amnesty International reports, [12] and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reports. [13]

6.2 The European Commission (November 2003) reported that "Turkey has made progress with regard to international conventions on human rights. In June 2003 Parliament ratified the UN International Covenant on Civil and Political Rights and the UN International Covenant on Economic, Social and Cultural Rights. However, Turkey made reservations to these Covenants in relation to the right to education and minorities rights." [76b] (p23)

6.3 However, the report continued "Turkey has not signed the Optional Protocol to the UN International Covenant on Civil and Political Rights, the Council of Europe Framework Convention for the Protection of National Minorities, the Revised European Social Charter or the Statute of the International Criminal Court." [76b] (p23)

6.4 The Amnesty International report 'From Paper to Practice: making change real' (February 2004) reported that "The past two and a half years, and particularly 2003, has witnessed an unprecedented period of legislative reform in Turkey. Constitutional amendments followed by legislative reform packages (known as the 'Harmonization Laws') have been passed in order to bring Turkish law into line with international standards, with the aim of satisfying the terms of the Copenhagen Political Criteria which provide the benchmark for countries aiming at accession to the European Union (EU)." [12b] (p1)

6.5 In the report Amnesty International stated that "The reforms to date have been encouraging, but genuine change will only come with their full and sustained implementation." [12h] (p1)

6.6 The US State Department report 2003 (February 2004) reported that "In January and July [2003], Parliament passed extensive human rights-related reforms intended to meet the Government's democratization goals and requirements for European Union (EU) membership... However, many of the reforms were not implemented by year's end, and some reforms adopted in 2002 were still not implemented." [5d] (p2)

6.7 According to the same US State Department report "The [Turkish] Government generally respected the human rights of its citizens; although there were improvements in a number of areas, several serious problems remained. Security forces reportedly killed 43 persons during the year; torture, beatings, and other abuses by the security forces remained widespread." It also reported that "Security forces continued to use arbitrary arrest and detention, although the number of such incidents declined." [5d] (p1)

6.8 The International Helsinki Federation for Human Rights in its 2003 report stated that "In 2002 many positive human rights developments took place in Turkey; the death penalty was abolished, several restrictions on minority language education and broadcasting were removed, and some necessary but not yet sufficient formal steps were taken to prevent the use of torture." [10b] (p1)

6.9 "However" according to the Amnesty International report 2003 "some of these legal changes were ambiguous and insufficient to tackle the human rights abuses they were supposed to address. Furthermore, the changes were often not implemented in practice." The report continued "Torture in police custody remained widespread and was practised systematically in the Anti-Terror branches of police stations in the southeast." [12e] (p1)

6.10 Human Rights Watch (January 2004) reported that "The past year has brought substantial legislative reform, but established patterns of violations are proving hard to eradicate. Police still routinely ill-treat detainees, and reports of outright torture in police custody persist." [9d] (p1)

6.11 The US State Department report 2003 (February 2004) stated that "The Government as well as the PKK/KADEK/KHK continue to commit human rights abuses against non-combatants in the south-east. According to the military, 12 civilians, 19 members of the security forces, and 71 terrorists died during the year [2003] as a result of armed clashes." [5d] (p2)

6.12 The report continued "There were no known political killings [in 2003]; however, there were credible reports that security forces committed a number of unlawful killings... The Human Rights Foundation (HRF) estimated that there were 43 killings by security forces during the year [2003], including shootings by Village Guards and border patrols... HRF estimated there were 33 killings by security forces in 2002." [5d] (p2)

6.13 Turkey is assessed as "partly free" in the 2003 evaluation by 'Freedom House' of political rights and civil liberties. On a scale of 1 (the most free) to 7 (the least free), Freedom House assesses Turkey's political rights (i.e. the rights which enable people to participate freely in the political process) as 3 and civil liberties (i.e. the freedoms to develop views, institutions and personal autonomy apart from the state) as 4. [62b] This compares with 2002 when the evaluation was 4 and 5 respectively Turkey received an upward trend arrow for passing a package of constitutional reforms. [62a]

Torture

6.14 The European Commission (November 2003) reported that "With regard to the prevention of torture and ill-treatment the Government has committed itself to a policy of 'zero tolerance' with respect to torture. Legislation in this area has been considerably strengthened. While implementation has led to some concrete results, the situation is uneven and torture cases persist." [76b] (p25-26)

6.15 Some of the changes include:

- Sentences for torture and ill-treatment can now no longer be suspended or converted into fines.
- Access to a lawyer and health checks are now guaranteed when detainees are taken out of prisons for interrogation.
- Defendants under the competence of the State Security Courts – like all other defendants – now have access to a lawyer from the outset of deprivation of liberty.
- Lawyers can be present during statement taking when they are defending those being tried under the competence of State Security Courts.
- Changes in the rules of procedure with regard to State Security Courts have eliminated *incommunicado* detention.
- Priority is to be given to torture and ill-treatment cases, which will be considered to be urgent cases by the courts. In order to reduce the risk of impunity, hearings can be conducted during judicial recess and cannot be adjourned for more than 30 days, unless there are compelling reasons to do so. [76b] (p26)

6.16 Article 17 of the Turkish Constitution prohibits the use of torture, stating that "no-one shall be subjected to torture or ill-treatment; no-one shall be subjected to penalty or treatment incompatible with human dignity". [15]

6.17 The US State Department report 2003 (February 2004) reports that "The constitution prohibits such practices [as torture]; however, some members of the security forces continued to torture, beat and otherwise abuse persons regularly. Leftist and Kurdish rights activists were more likely than others to suffer torture. Despite the Government's co-operation with unscheduled foreign inspection teams, public pledges by successive governments to end the practise, and initiatives to address the problem, widespread reports of torture continued, particularly in the southeast." [54] (p3)

6.18 According to Amnesty International's report 'From Paper to Practice: making change real' (February 2004) "Torture and ill-treatment by police of persons who have been detained remain a matter of grave concern. Although it was significant that there were far fewer reports to Amnesty International during 2003 of methods such as electric shocks, falaka, and hanging by the arms, there were regular reports of detainees being beaten, stripped naked, sexually harassed, subjected to repeated verbal intimidation, including death threats, sometimes accompanied by mock executions, and being subjected to restriction of sleep, food, drink and use of the toilet." [12h] (p3)

6.19 "Amnesty International considers that one reason for the persistence of torture and ill-treatment in police and gendarmerie stations is linked to the failure of law enforcement officials to follow the legally prescribed detention procedures, and in the correct sequence. These include the duty to immediately inform detainees of their rights, including the right to remain silent, right to immediate access to legal counsel and right to have next of kin or other person of their choice informed of their detention." [12h] (p3-4)

6.20 The Human Rights Association of Turkey reported in 2003, that 818 individuals reported experiencing torture or inhuman and degrading treatment in police custody and 241 individuals reported experiencing ill treatment outside of official detention facilities. [73] (p2)

6.21 The CPT visits to Turkey in March and September 2002 found that none of the persons interviewed who were held in custody at the Ankara Police Headquarters Anti-Terror Department made any allegations of physical ill-treatment. However, the CPT did find that "Approximately one half of the persons interviewed [in the province of Diyarbakir] alleged that they had been subjected to ill-treatment of one form or another while in police/gendarmerie custody." [13] (p13)

6.22 Human Rights Watch (January 2004) reported that "Since 1997, successive governments have improved legal safeguards against torture, culminating in the complete abolition of incommunicado detention in [June] 2003." However, the report continued that "In practice, police and gendarmes (soldiers who carry out police duties in rural areas) frequently circumvent these protections, and in particular, obstruct lawyers' access to their clients. As a consequence, there are almost daily reports of beating during interrogation." [9d] (p1)

6.23 The US State Department report 2002 (March 2003) states that "Government officials admit that torture occurs, but deny that it is systematic." [5b] (p7) However, in his paper Asylum Seekers from Turkey II (November 2002) David McDowell states that the senior echelons of the Turkish Government do sanction torture and "The use of torture in obtaining a confession is openly accepted in court." [16b] (p31)

6.24 The European Commission (November 2003) reported that "There have been a number of important judicial decisions with respect to torture and ill-treatment... More generally the Supreme Court – in the context of a

judgement on a torture case in late 2002 - has described torture and ill-treatment as a crime against humanity." [76b] (p26)

Medical examinations in detention

6.25 "With respect to medical examinations of persons in police custody", the Committee for the Prevention of Torture found in its visits to Turkey in March and September 2002 "that the system does not necessarily act as a safeguard against torture or ill-treatment, and that the stipulation enabling the detained person to request the presence of security forces during examination leaves the system open to abuse, as pressure may be placed upon the detainee." [76b] (p27)

6.26 The European Commission (November 2003) reported that "Some sources suggest that pressure is applied to doctors so that torture cases are not supported with medical certificates and that certificates are sometimes destroyed or confiscated by police officers who are not satisfied with a doctor's assessment." [76b] (p27)

6.27 The US State Department report 2003 (February 2004) reported that "State -employed doctors administered all medical exams for detainees. Medical examinations occurred once during detention and a second time before either arraignment or release; however the examinations generally were brief and informal. According to the Society of Forensic Medicine Specialists, only approximately 250 of the 80,000 doctors in the country were forensic specialists, and most detainees were examined by general practitioners and specialists not qualified to detect signs of torture." [5d] (p4)

6.28 In its visits to Turkey in September and March 2002 the CPT found that "In Diyarbakir, it is far from guaranteed that medical injuries or other conditions resulting from ill-treatment will be duly observed and recorded." [13] (p14)

6.29 On the 29 March 2003 Amnesty International reported that "Dr Ilker Mese, a doctor in charge of a hospital emergency service in Tekirdag, a coastal city to the west of Istanbul, is being investigated for refusing to examine a prisoner in the presence of security officials. Within days of the incident, Dr Mese was relocated to another clinic as a disciplinary measure and an investigation was instigated against him for non-compliance with a new protocol, which Dr Mese had no knowledge of, and for 'insulting' the attending security forces." [12k] (p1)

6.30 The Amnesty International report continued "According to the authorities the new protocol was signed by the Ministry of Justice, the Ministry of the Interior and the Ministry of Health in October 2003. It allows for the presence of security officials during examinations where the examination room is not secure or if the prisoner is being investigated for or has been convicted of 'terrorist' acts. The protocol stipulates that when a security official is present, they should 'take protective measures at a distance where they cannot hear conversations between the doctor and the patient.'" [12k] (p1)

6.31 The report further states that "According to reports, the new protocol was not circulated to health institutions in Tekirdag until 15 January 2004. The protocol apparently conflicts with new regulations introduced in February 2003 and welcomed by AI which stipulate that security officials should not be present during the medical examination of individuals held in police detention unless the physician requests." [12k] (p1-2)

Prosecution of state officials accused of ill-treatment

6.32 According to the US State Department report 2003 (February 2004) "The investigation, prosecution and punishment of members of the security forces for torture or other mistreatments was rare, and accused officers usually remained on duty pending a decision which could take years." [5d] (p4) The report continued "The rarity of convictions and the light sentences imposed on police and other security officials for killings and torture continued to foster a climate of impunity." [5d] (p7)

6.33 The International Federation for Human Rights Report (May 2003) states that "Turkey fails to carry out adequate and effective investigations into the alleged violations of the right to live and the right to be free of torture." [78a] (p3)

6.34 According to information obtained from the Turkish authorities (August 2003) the fourth reform package stipulates that punishment handed down for convictions of torture and abuse cannot be converted into fines and neither can they be postponed. Measures were introduced that make it more difficult for those convicted of inflicting torture to avoid prison sentences. [36a] (p2) Further legislation passed in August 2003 made it clear that investigations into crimes of torture and maltreatment will be considered urgent cases. [36d] (p3) (See paras 4.23 - 4.28 and 4.46 - 4.58 for more details on the European Union reform packages)

6.35 The US State Department report 2003 (February 2004) stated that "By the end of October [2003], authorities had initiated judicial proceedings in 8 cases involving torture allegations and 107 involving maltreatment allegations against the police. Of these, courts ruled for conviction in one case and for acquittal in two cases. Authorities dropped 64 cases and continued to try 48 cases. During the year [2003] 93 police officers received administrative punishments such as short suspensions for torture or mistreatment." [5d] (p4-5)

6.36 In its report 'From Paper to Practice: making change real' (February 2004) "Amnesty International notes one recent decision to expel a senior police official from the police force on the grounds that he had wilfully ignored the crimes of torture and ill-treatment committed by officers in units under his command. The dismissal from the police force in September 2003 of Adil Serdar Saçan, former Head of the Organized Crime Branch of Istanbul Police Headquarters, represents one of the few instances of a senior official being disciplined in this way in connection with the crimes of torture and ill-treatment." [12h] (p5)

6.37 However Amnesty International continued that "At the present time, however, the ratio of reports of torture and ill-treatment to investigation and

prosecution of alleged perpetrators remains extremely low. While this state of affairs continues, it is unlikely that law enforcement officials will really internalize the sense that brutality against detainees is unacceptable." [12h] (p5)

6.38 The European Commission (November 2003) expressed concerns with respect to the punishment of perpetrators of torture and ill treatment. "Cases continue to be dropped after trials are discontinued due to an elapse of time. The UN CAT [United Nations Committee Against Torture] has stated that, in spite of the large number of complaints, the prosecution and sanctioning of members of the security forces for torture and ill-treatment are rare; proceedings are often long; too much importance is given to confessions in criminal proceedings and sentences are not commensurate with the gravity of the crime. This was described as a form of impunity for security officers with regard to cases of torture and ill-treatment." [76b] (p27)

6.39 The European commission also reported that "The CAT also expressed its concern regarding the numerous and consistent allegations of torture and ill-treatment; inadequate registration; insufficient medical assistance and a lack of prompt notification of family members with respect to detainees held in police custody. In addition, the CAT recommended that measures be taken to guarantee prompt, impartial and full investigations into allegations of torture and ill treatment and that the statute of limitations for crimes involving torture be repealed." [76b] (p27)

Enforcement of Human Rights

6.40 The European Commission (November 2003) reported that "With regard to enforcement of human rights, the complex structure of government human rights boards and committees established over the past two years has been strengthened. At the local level, the number of sub-provincial (district) Human Rights Boards was increased from 831 in 2002 to 859 in 2003." [76b] (p25)

6.41 The report continues "The Reform Monitoring Group, which includes a representative of the government's human rights agency is entrusted with the task of ensuring that all allegations of human rights violations are investigated." In addition "A Human Rights Violations Investigation and Assessment Centre was established within the Gendarmerie Command in April 2003." [76b] (p25)

6.42 "The Parliamentary Human Rights Investigation Committee investigated alleged violations of human rights and produced reports, which were forwarded to the relevant institutions." The report stated that "The committee has, for example, carried out inspections in the south east with regard to normalisation of life in the former emergency rule provinces and has made numerous unannounced visits to police stations across the country." [76b] (p25)

6.43 The Council of Europe's Commissioner for Human Rights reported (December 2003) that "Accordingly, since 25 April 2001 the period of basic training in police colleges has been increased from nine months to two years, a very positive change since violations are usually committed by people who have not been properly trained." [21] (p31)

6.44 The Commissioner also reported on his visit to Turkey (June 2003) that in April 2002 the Police Academy had started to distribute a collection of European Court of Human rights judgements against Turkey translated into Turkish and accompanied by comments by two police officers. The Commissioners report states that "This is an extremely important advance that will help to end police officers' ignorance of the subject." [21] (p31)

6.45 The European Commission (November 2003) reported that "With regard to training on human rights, a number of *ad hoc* projects have taken place in addition to the joint European Commission – Council of Europe initiative... In this context a training programme on ECtHR case law for the judiciary began in May 2003." However, "Turkey has no comprehensive strategy or legislative and administrative provisions against discrimination." [76b] (p25)

6.46 The European Commission continued "With respect to the implementation of recent legal reforms concerning custody by law enforcement agencies, the CPT [Council of Europe's Committee for the Prevention of Torture] concluded that, although there are isolated examples where the time of apprehension is not properly recorded, the new shorter custody periods are being respected." [76b] (p27)

6.47 "However, the CPT delegation found evidence of people in police custody being denied, discouraged, or not being informed about the possibility of having access to a lawyer, as well as of lawyers being prevented from meeting detainees in private and providing them with adequate legal counsel... It also should be noted that in some towns, no legal counsel is available." [76b] (p27)

6.48 Amnesty International (February 2004) stated that "One positive step towards reactivating an official state body charged with investigating claims of human rights violations comes with the recent decision to restructure the 930 Provincial Human Rights Boards under the Human Rights Presidency of the Prime Ministry, by removing the local heads of the police and gendarmerie from the boards. The incorporation of independent non-state officials may contribute towards reactivating these boards and making them more effective and transparent in their functioning." [12h] (p2)

6.49 The Amnesty report continued "Another achievement has been the work of the present Parliamentary Human Rights Commission which, within its limited means, is committed to investigating complaints of human rights violations." [12h] (p2)

Disappearances

6.50 The US State Department report 2003 (February 2004) reported that "There were no reports of politically motivated disappearances [in 2003]." However "There were no developments in the 2002 disappearances of Coskun Dogan or the 2001 disappearance of HADEP officials Serdar Tanis and Ebubekir Deniz." [5d] (p3)

6.51 The International Federation for Human Rights reported in July 2003 that "Many cases of disappearances in Turkey are not resolved. The majority of these cases reportedly occurred in south-east Turkey, in areas where the State of Emergency was in force." [70b] (p9) The IFHR also reported that on the 17 May 2002, the 'Saturday Mothers' (a group campaign for those that have disappeared) gathered in Istanbul for the first time in two years, in the presence of the press and international observers. [70b] (p10)

6.52 The US State Department report 2001 (March 2002) reported that "In February 2001 the U.N. Special Rapporteur for Missing and Disappeared Persons, Asma Jihangir, visited Turkey and met with government officials and non-governmental contacts. She expressed her view that the security forces appeared to be responsible for the disappearances of two HADEP officials (see para's. 6.155 - 6.156), but she did not have sufficient information to comment on other alleged cases. She stated publicly that conditions regarding disappearances had improved greatly, but that security force impunity continued." [5a] (p4)

6.53 According to the United Nations background paper of September 2001 the "PKK's practice of kidnapping young men or threatening their families as part of its recruiting effort, and of abductions by PKK terrorists of local villagers and state officials, has virtually ended, due to reduced PKK capabilities in the south-east and calls by its captured leader Öcalan for the PKK to withdraw from its former operating areas in the country." [18c] (p42)

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FREEDOM OF SPEECH AND THE MEDIA

6.54 The Europa World Year Book 2004 [1a] and Middle East Regional Survey 2003 [1a] have an informative list of daily and weekly newspapers and of periodicals. Among the most serious and influential papers are the dailies 'Milliyet' [Nationality] and 'Cumhuriyet' [Republic]. The weekly 'Girgin' is noted for its political satire. The most popular dailies are the Istanbul 'Sabah' (Morning), 'Hürriyet' (Freedom) 'Milliyet' and 'Zaman'; 'Yeni Asir', published in Izmir, is the best-selling quality daily of the Aegean region. [1a] (p1149)

6.55 The Europa World Yearbook 2004 stated that "There are numerous provincial newspapers with limited circulation in Turkey." [1a] (p1162) The Netherlands Ministry of Foreign Affairs report on Turkey (January 2002) reported that "It is known that local newspapers sometimes print articles which have been 'ordered' in return for payment. These are sometimes submitted in connection with asylum applications." [2a] (p76)

6.56 Articles 26, 27 and 28 (as amended on 17 October 2001) of the 1982 Constitution provides for freedom of expression and freedom of the press. However, within these articles there are a number of limitations, which can be used to restrict these freedoms. [15] (p7-9)

6.57 "As regards freedom of the press," the European Commission (November 2003) reported that the "situation continues to give rise to concern

in spite of some legislative changes... With respect to the effect of reforms in practice, the implementation of amended Articles 159 and 312 of the Turkish Penal Code, and of Article 7 of the Anti-Terror Law is not uniform. Heavy penalties, including imprisonment are reportedly inflicted at times upon journalists, authors and publishers who criticise state institutions and policies, or publish the statements of certain political groups." [76b] (p30)

6.58 The Commission continued "Official data indicate[s] that prosecution under the Press Law has diminished. However, reports indicate the continued confiscation of publications and printing equipment, the suspension of publishing houses and the imposition of heavy fines on publishers and printers. There is also strict censorship of Internet content." [76b] (p30)

6.59 Amnesty International's report 'From Paper to Practice: making change real' (February 2004) stated that "Amnesty International is disturbed by the continuing practice in Turkey of investigating, prosecuting and convicting people who express non-violent dissenting opinions and make statements which ought to be regarded as contributions to lively and critical public debate befitting a democratic society." [12h] (p7)

6.60 The report continued "Amnesty International notes that there have been certain reforms to laws pertaining to freedom of expression. For example, the organization welcomes the repeal of Article 8 of the Anti-Terror Law concerning 'separatist propaganda', but considers that, despite their recent amendment under the Harmonization Law reforms, other articles of the Turkish Penal Code continue to conflict with the right to freedom of expression and are in practice still being used too harshly." [12h] (p7)

6.61 According to the Netherlands Ministry of Foreign Affairs report on Turkey (January 2002) "There are restrictions on freedom of expression in the two areas regarded by the political and military establishment as the greatest threat to the State, namely Kurdish separatism and Islamic fundamentalism." [2a] (p76)

6.62 The Reporters Without Borders (RSF) annual report on Turkey (May 2003) stated that "Turkey extensively reformed its laws in 2002 as part of an effort to gain entry to the European Union. But in reality, press freedom was still greatly restricted." [11a] (p1)

6.63 Reporters With borders also reported (March 2004) that on the 28 March 2004 police and security forces beat nine journalists who were covering the crushing of a demonstration against fraud in local elections in south-eastern Diyarbakir. Three journalists needed hospital treatment. The report stated that "The journalists, who were beaten with clubs and chains, were only doing their job, said the international press freedom organisation, condemning such practices. It called on interior minister, Abdulkadir Aksu, to do everything possible to identify and punish those who carried out the abuses." [11b]

6.64 The BBC reported in August 2002 that the reform package of 3 August 2002 allowed TV and radio broadcasts to be made in languages other than Turkish, thereby allowing broadcasts in Kurdish. [66a]

6.65 However, the European Commission (November 2003) reported that "In the field of broadcasting, reforms permitting radio and TV broadcasts in languages other than Turkish have not yet led to any concrete result... Thus, there have not yet been any broadcasts in languages traditionally used by Turkish citizens in their daily lives other than Turkish." [76b] (p31) (See also para 6.146 – 6.151 for more details on the Kurdish Language)

6.66 According to information obtained from the Turkish authorities (August 2003) the sixth reform package passed in July 2003 expanded upon the August provisions for state-owned and private radio and television channels to broadcast in languages and dialects used traditionally in the daily life of Turkish citizens such as Kurdish. It also eased restrictions on broadcasting and political campaigning during election times, which have been decreased from seven days to 24 hours. Penalties to be given to private radio and television stations, which violate the resolutions of the Supreme Board of Elections, have been defined. Stiff penalties such as closing down television channels or blacking out broadcasts will not be implemented unless a particular station repeats the same offence [36c] (p1-3)

6.67 In November 2003 the BBC reported that "Turkey has allowed Kurdish writers to hold a conference in their own language for the first time in years. Kurdish is being used in a literary conference, which opened [4 November 2003] in the southeastern city of Diyarbakir. This week long event is being attended by Kurdish writers and intellectuals from Turkey itself and abroad." [66u]

6.68 In December 2003 the BBC reported that "The head of Turkey's Human Rights Association Husnu Ondul, thinks the current government deserves praise for the recent improvements to the original Kurdish-language reforms passed by its predecessor. He says that it is bureaucrats who are to blame for the fact that they only exist on paper." [66y] (p2)

6.69 The European Commission (November 2003) reported that "With regard to freedom of expression, a number of existing restrictions have been lifted. This has led to both acquittals and the release of a number of prisoners sentenced for the non-violent expression of opinion. However, despite legislative changes, some problems remain." [76b] (p29)

6.70 The Commission continued "The scope for suspending or banning works in these fields [of Cinema, videos and music] has been narrowed to cover only offences considered to undermine the fundamental characteristics of the Republic and the indivisible integrity of the state." [76b] (p30)

6.71 However, the Commission noted that "There is still a tendency for prosecutors to use alternative provisions of the Penal Code (Articles 312 and 169) and of the Anti Terror Law (Article 7) to limit freedom of expression...

Even when convictions are overturned in accordance with the amended legislation, full legal redress is not automatically ensured." [76b] (p30)

6.72 The BBC reported that the August 2002 reform package also included an end to penalties for written vocal or pictorial criticism of state institutions, including the armed forces. [65a] According to information obtained from the Turkish authorities (August 2003) the August 2003 reforms amended Article 159 of the Turkish Penal Code reducing the minimum sentence for those who "openly insult and deride Turkishness, the Republic, the Grand National Assembly, the moral personality of the Government, the ministers, the military or security forces of the state or the moral personality of the judiciary" from one year to six months. [36f] (p1)

6.73 The US State Department report 2003 (February 2004) reported that "Broadcast media reached almost every adult, and their influence, particularly that of television is great. The Government owned and operated the Turkish Radio and Television Corporation (TRT)." According to the High Board of Radio and Television (RTÜK) there were 226 local, 15 regional and 16 national officially registered TV stations, and 959 local, 104 regional and 36 national radio stations. Other TV and radio stations broadcast without an official licence. The wide availability of satellite dishes and cable TV allows access to foreign broadcasts, including several Turkish-language private channels." [5d] (p11-12)

6.74 The Europa World Year Book 2004 listed the functions of the Supreme Broadcasting Board or Radio and Television Supreme Council (RTÜK) as responsible for assignment of channels, frequencies and bands, controls transmitting facilities of radio stations and TV networks, draws up regulations on related matters, monitors broadcasting and issues warnings in case of violation of the Broadcasting law. [1e] (p1165)

6.75 The European Commission (November 2003) reported that the "RTÜK continued to impose heavy penalties (including the suspension or cancellation of the broadcasting licence) upon private radio and television stations accused of violating certain principles of the state relating, for instance, to separatist propaganda and incitement to hatred." [76b] (p31)

6.76 The US State Department report 2003 (February 2004) reported that "The Government did not restrict access to the Internet. However, the law authorizes the RTÜK to monitor Internet speech and to require Internet service providers to submit advance copies of pages to be posted online. The law also allows the police to search and confiscate materials from Internet cafes in order to protect 'national security, public order, health, and decency' or to prevent a crime. Police must obtain authorisation from a judge or, in emergencies, the highest administrative authority before taking such action." [5d] (p13)

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FREEDOM OF RELIGION

6.77 The US State Department report on International Religious Freedom (December 2003) stated that "The [Turkish] Constitution provides for freedom of religion, and the government generally respected this right in practice; however, the Government imposes some restrictions on religious groups and on religious expression in government offices and state-run institutions, including universities." [5c] (p1)

6.78 According to the same report "Approximately ninety-nine percent of the [Turkish] population are Muslim; the majority of whom are Sunni. The level of religious observance varies throughout the country, in part due to the strong secularist approach of the State. In addition to the country's Sunni Muslim majority, there are an estimated 5 to 12 million Alevis, followers of a belief system that incorporates aspects of both Shi'a and Sunni Islam and draws on traditions of other religions found in Antolia." There are also several other religious groups mostly concentrated in Istanbul and other large cities. [1b] (p1)

6.79 The Council of Europe's Commissioner for Human Rights (December 2003) quotes a United Nations Special Rapporteur report from August 2000 stating that there are at present 93,500 Armenians, 26,114 Jews, 3,270 Greek Orthodox, 17,200 Syriacs and 5,628 others (Catholics, Protestants and Arab and Bulgarian orthodox) in Turkey. [21] (p21)

6.80 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "There is no persecution solely on religious grounds in Turkey. In general it can be said that the legal guarantees for freedom of religion are respected in practice. However, religious minorities can encounter practical restrictions such as administrative difficulties in managing church buildings or other real estate. It has also been known for a difference in religious background to induce a discriminatory attitude on the part of the local population or (lower) government officials. In such cases the authorities can usually be contacted." [2a] (p89)

6.81 The European Commission (November 2003) reported that "With respect to the freedom of religion, measures have been adopted in the area of property rights and construction of places of worship. However, their impact has been limited. Non-Moslem religious minorities continue to face serious obstacles with respect to legal personality, property rights, internal management, and a ban on the training of clergy." [76b] (p33)

6.82 The Commission further reported that "The January Regulation [on property rights] still only refers to non-Moslem foundations. This excludes all religious communities which are not able to establish foundations, including the Catholic and Protestant communities. In addition, foundations not included in a list of 160 minority foundations annexed to the Regulation are not able to register properties." [76b] (p34)

6.83 The report continued "The question of confiscated properties, which is a major concern of non-Moslem religious communities, has still not been addressed. Given these communities' lack of legal status, their properties are permanently at risk of being confiscated and attempts to recover property by

judicial means encounter numerous obstacles. The Greek Orthodox community in particular has recently resorted to the ECtHR in order to regain possession of some of its seized property." [76b] (p34)

6.84 "With regard to the registration of property," the European Commission (November 2003) found that "foundations have encountered significant difficulties... The Turkish authorities have not implemented the settlement reached in December 2000 at the ECtHR Case of Refah Partisi (The Welfare Party) and others v. Turkey granting the Institut de Prêtres français the right to use of a plot of land and the buildings thereon, and the right to rent the land for profit making purposes." [76b] (p34)

6.85 The same European Commission report found that "Religious foundations continue to be subject to the interference of the Directorate General of Foundations, which considerably limits their autonomy. This includes the possibility of dismissing their trustees, and of intervening in the management of their assets and accountancy." [76b] (p34)

6.86 The Netherlands Ministry of Foreign Affairs January 2002 reported "The authorities are very much on the alert with regard to anyone who advocates a role for Islam in the state. So as to short-circuit people who entertain such notions, the Turkish State provides for a sort of state-controlled Islam. Secularism in Turkey does not mean a strict division of "church" and State, but rather state control of the official form of Islam. The State body set up for that purpose is the Directorate for Religious Affairs (Diyanet İşleri Müdürlüğü, often abbreviated to Diyanet), which answers directly to the Office of the Prime Minister." [2a] (p88)

6.87 The Netherlands report continues "Anyone arguing in favour of a greater role for Islam in the Turkish State structure can expect a reaction from the authorities. Criminal charges are often brought in such cases, even if no forced was involved." [2a] (p88)

6.88 The European Commission (November 2003) reported that "The ban remains on the training of clergy for religious minorities. Given the decreasing number of priests within their churches some religious minority communities feel threatened by this ban." The report continued "Moreover, non-Turkish clergy continue to experience difficulties with respect to the granting and renewal of visa and residence permits. This is a particular concern for the Roman Catholic community." [76b] (p35)

6.89 The Commission also reported that "There is a ban on the publication and import of non-approved religious textbooks, and there have been cases of books being confiscated by customs officials... The fact that clergymen and graduates from theological colleges are banned from teaching in schools has created difficulties related to the teaching of minority religions." [76b] (p35)

Headscarves

6.90 According to the Netherlands Ministry of Foreign Affairs (January 2002) "Secularists view head coverings as a symbol of political Islam and a threat to

the secular nature of the Turkish Constitution." [2a] (p90) The BBC reporting in October 2003 on a row over the wearing of headscarves reported that headscarves are seen by secular Turkish establishments as symbols of radical Islam and are banned in official ceremonies and in public buildings such as schools, universities, courtrooms and public offices. [66k][66l]

6.91 The Daily Telegraph reported in November 2002 that some of the millions who voted for AKP, the winning party in the 2002 general election, did so in the hope that the AKP would end the ban on the headscarf worn by, among others, Emine, the wife of party leader Mr Erdoğan. [40b]

6.92 The Turkish Daily News reported in September 2003 that a Headscarf fashion show was performed in Ankara. Parliamentary Speaker Bulent Arinc's wife, AKP women deputies and many other guests participated in the fashion show. [23l]

6.93 According to the BBC the October 2003 celebrations to mark the 80th Anniversary of the foundation of the Turkish Republic were marred by a row over the wearing of headscarves. President Sezer refused to invite any headscarf-wearing wives of senior officials including the Prime Minister Recep Tayyip Erdogan to the presidential reception to mark the event. Mr. Erdogan and his cabinet did attend the reception, but the overwhelming majority of the AKPs 367 Parliamentarians stayed away. [66k][66l]

Alevis including Alevi Kurds

6.94 The Netherlands Ministry of Foreign Affairs report (January 2002) states that "The Alevis or Alawis form a heterodox current within Islam, in which Ali, son-in-law of the prophet Mohammed, plays a central role." [2a] (p91)

6.95 The World Dictionary of Minorities (1997) states that "Alevis differ outwardly from Sunni Muslims in the following ways. They do not fast in Ramadan, but do during the Ten Days of Muharram (the Shi'i commemoration of Imam Husayn's martyrdom). They do not prostrate themselves during prayer. They do not have mosques. They do not have obligatory formal almsgiving, although they have a strong principle of mutual assistance." [79] (p380)

6.96 The US State Department report on religious freedom (December 2003) estimates that there are between 5 to 12 million Alevis in Turkey. [5c] (p1)

6.97 The World Dictionary of Minorities (1997) states that "Alevis have always been reviled as non-Muslims of dubious loyalty, victims of scurrilous libels. To avoid persecution they practised dissimulation, taqiyya. Until the present century, Alevis survived by living in remote areas... With conscription and the drift to towns in search of work, Alevis, especially Kurds, have been increasingly exposed to Sunni prejudice and animosity." [79] (p380)

6.98 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "The Turkish State does not regard the Alevi faith as a separate religion, and the Alevis are not an officially recognised religious minority. Alevis' identity

cards have "Islam" indicated as religion... Many Alevis accuse the Turkish Directorate for Religious Affairs of being geared solely towards the Sunni faith. Nor does the Turkish education system allow any room for the Alevi interpretation of Islam." [2a] (p91-92)

6.99 The European Commission (November 2003) reported that "As far as the situation of non-Sunni Moslem communities is concerned, there has been a change as regards the Alevis. The previously banned Union of Alevi and Bektashi Associations was granted legal status in April 2003, which allowed it to pursue its activities. However, concerns persist with regard to representation in the Directorate for Religious Affairs (Diyanet) and related to compulsory religious instruction in schools, which fail to acknowledge the Alevi identity." [75b] (p35)

6.100 David McDowells' report Asylum seekers from Turkey II (November 2002) stresses that "A large proportion of the Alevi community, particularly Kurdish Alevis, became sympathetic to the political left in Turkey during the 1970s, a period during which left-right politics in Turkey became increasingly bitter and polarised, leading to the military coup of 1980." He further states that "The expectation on the part of the security forces that Alevi Kurds were likely to be leftists, and therefore liable for mistreatment, was voiced by a number of informants." He quotes one informant as stating that "Police hate Alevis because they are left wing. This is the crucial issue. There is very generalised hostility to leftist people." [16b] (p59-60)

Christians

6.101 The United Nations Background Paper on Refugees and Asylum Seekers from Turkey (September 2001) states that "Christians on the whole can practice their religion without hindrance." However, the report continues "In Mardin province, Syria[n] Orthodox Christians have been leaving Turkey on account of hostility towards them in the villages." [18c] (p57)

6.102 The European Commission (November 2003) reported that "The **Protestant** community in particular has experienced difficulties in finding places in which to worship. The Protestant church in Diyarbakır still has no legal status, although in practice it has been open for worship since April 2003." [76b] (p34-35)

6.103 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "Turkey has 17,000 to 21,000 **Syriac Orthodox Christians** of whom approximately 15,000 to 16,000 live in Istanbul and at the most 2,000 in tur Abdin. A few live in Ankara, Izmir, Iskenderun and Antakya." [2a] (p160)

Jews

6.104 The European Commission against Racism and Intolerance (ECRI) report (December 2000) states that "As concerns the Jewish community, manifestations of anti-Semitism are reportedly not prevalent within the mainstream media and society. However, the ECRI is concerned at the widespread presence of anti-Semitic speech and material in the press and

radio stations connected with Islamic fundamentalists or extreme-nationalist groups." [6] (p11)

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FREEDOM OF ASSEMBLY AND ASSOCIATION

6.105 The US State Department report 2003 (February 2004) reported that "The Constitution provided for freedom of **assembly**; however the Government sometimes restricted this right in practice. Significant prior notification to authorities was required for a gathering, and authorities could restrict meetings to designated sites." [5d] (p14)

6.106 The US State Department report 2002 (March 2003) reported that "During the year [2002], Parliament passed reform legislation implementing an October 2001 constitutional amendment expanding the rights of free assembly and association and placing emphasis on citizens' rights and reducing the number of restrictions on their activities." [5b] (p16)

6.107 According to information obtained from the Turkish authorities (August 2003) further reforms were passed in July 2003. Demonstrations and protest marches can be postponed only for 10 days instead of 30, and only when it's necessary to do so. A demonstration staged to protest the principles of the republic, the indivisible integrity of the country and nation, general ethics and health can only be postponed for one month and only when 'there is a clear and present danger that a criminal offence will be committed.' [36f] (p2-3)

6.108 The European Commission (November 2003) reported that "With respect to peaceful assembly, existing restrictions have been eased" including:

- (i) A reduction in the minimum amount of time required to request permission to hold a demonstration from 72 to 48 hours.
- (ii) The age limit for organising a demonstration has been reduced from 21 to 18.
- (iii) Limits on the ability of Governors to postpone meetings.
- (iv) Meetings can be banned only in cases where there is a "clear and imminent threat of a criminal offence being committed".

Official figures indicate that, in 2002, 95 demonstrations were prohibited or postponed, as compared to 141 in 2001. [76b] (p32-33)

6.109 The European Commission further reported that "There have been cases of local authorities using excessive force against protestors. One example concerns police firing shots into the air and injuring people by driving a police car into a crowd, which gathered to demonstrate following the Bingöl earthquake of May 2003." [76b] (p33)

6.110 The US State Department report 2003 (February 2004) reported that "The Constitution provides for freedom of **association**; however, there were some restrictions on this right in practice. Associations and foundations were

required to submit their charters for lengthy and cumbersome government approval. The Government closed the HADEP Party on charges of separatism and supporting terrorism." (See paras 6.155 – 6.156 for more details) [5d] (p14)

6.111 The European Commission (November 2003) reported that "As regards freedom of association, restrictions were eased following amendments under the fourth and seventh reform packages. However, significant limitations remain, including in relation to the establishment of associations on the basis of race, ethnicity, religion, sect, region, or any other minority group. Changes did not lead to the adoption of a clear framework addressing the main problems faced by associations." [76b] (p31)

6.112 The report continued "The Law on Associations has been amended under the fourth reform package, enabling associations to use any language in their non-official correspondence and allowing legal entities (in addition to individuals) to become members of associations. Restrictions on making announcements or distributing publications have been eased. The obligation to forward copies of these documents to the relevant authorities prior to distribution, including to the public prosecutor, has been removed." [76b] (p31)

6.113 The Commission also reported that "A positive development has been the Ankara State Security Court judgement of March 2003 acquitting defendants in connection with the court cases launched against German foundations and NGO representatives for allegations of 'involvement in activities against the national unity and secular nature of the country.'" [76b] (p32)

6.114 "However", the European Commission also reported that "associations face problems with respect to closure of offices and branches and suspension of activities. In practice, they still experience considerable difficulties in co-operating with foreign associations and international bodies, including the receipt of funds." [76b] (p32)

6.115 In addition the European Commission also reported that "Human rights organisations and defenders have had numerous court cases brought against them. Although the majority of cases have resulted in acquittals or the sentence being commuted to a fine or suspended, human rights defenders feel that the number of cases amounts to harassment by the authorities. It is estimated that there are currently 500 cases pending against human rights defenders." [76b] (p32) (See the section on Human Rights Organisations for more details)

6.116 The Europa World Survey 2003 stated that "Legislation enacted in March 1986 stipulated that a **political party** must have organisations in at least 45 provinces, and in two-thirds of the districts in each of these provinces, in order to take part in an election. Parties can take seats in the National Assembly only if they win at least 10% of the national vote." [1a] (p1146)

6.117 According to the US State Department report 2003 (February 2004) "The Government neither coerced nor prohibited membership in any political organization; however the Court of Appeals Chief Prosecutor could bring

cases seeking the closure of political parties before the constitutional court, which could close them down for unconstitutional activities. In January [2003], Parliament adopted legislation requiring a three-fifths majority of the 11-member Constitutional Court, rather than a simple majority to close a party. The legislation also stipulates that parties could be closed only for reasons stated in the Constitution; previously, closures could also be based on the more broadly worded reasons cited in the political parties laws. The law allows the Constitutional Court to deprive a party of state funds as an alternative to ordering closure" [5d] (p20)

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EMPLOYMENT RIGHTS

6.118 According to the US State Department report 2003 (February 2004)

"The Constitution provides workers, including civil servants with the exception of police and military personnel, the right to associate freely and form representative unions, and they do so in practice. However, there were some limits to the right of association... About 16% of wage and salary earners were unionized." [5d] (p27)

6.119 The European Commission (November 2003) reported that "With respect to trade unions, no progress has been made with regard to the acceptance of Article 5 (right to organise) and Article 6 (right to bargain collectively including the right to strike) of the European Social Charter." [76b] (p37)

Major Trade Union Confederations

6.120 TÜRK-İŞ (Confederation of Turkish Labour Unions) President: Bayram Meral.

DISK (Confederation of Progressive Labour Unions) President: Süleyman Çelebi. [1e] (p1160)

Employers' Confederations

6.121 TÜSIAD (Turkish Industrialists' and Businessmen's Association) Pres.: Erkut Yücaoğlu. Sec.-Gen.: Dr Haluk R. Tükel.

TISK (Turkish confederation of employers' Associations) President Refik Baydur. [1e] (p1168)

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PEOPLE TRAFFICKING

6.122 The European Commission (November 2003) reported that "Even though Turkey continues to be an important transit route and destination country for illegal migration flows, the trend for illegal migration via Turkey has shown a decrease. The authorities reported that 82,825 illegal immigrants were apprehended in 2002, as compared to 92,362 in 2001. In the first six months of 2003, 23,208 illegal migrants were apprehended." [76b] (p111)

6.123 The report continued "The Turkish authorities arrested 1,157 members of organised trafficking gangs in 2002. In the first three months of 2003, this

figure reached 169. Of those arrested, legal procedures were opened against 676 organisers for violation of Article 201a of the Penal Code (offence related to smuggling) and against 34 organisers for violation of Article 201b (offence related to trafficking in human beings), both amended in August 2002." [76b] (p112-113)

6.124 The European Commission further reported that "The Ministries of Justice and the Interior conducted training on the new anti-trafficking legislation. Consequently, 75 officials of the Ministry of the Interior and 600 judges and prosecutors were trained on combating human trafficking in the course of 2003. Further training activities are envisaged for 2003 and 2004. Furthermore, an inter-ministerial Task Force for the fight against trafficking in persons was established in October 2002 under the coordination of the Ministry of Foreign Affairs." [76b] (p113)

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FREEDOM OF MOVEMENT

6.125 As regards freedom of movement within the country, foreign travel, emigration and repatriation. The US State Department report 2003 (February 2004) reported that "The law provides for these rights; however, at times the Government limited some of these rights. The Constitution provides that a citizen's freedom to leave the country could be restricted only in the case of a national emergency, civic obligations (military service, for example), or criminal investigation or prosecution." [5d] (p18)

6.126 A senior official in the Passport Office, Ministry of Interior, explained to the Immigration and Nationality Directorate's 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. [82] (p10)

6.127 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. [82] (p11)

6.128 However, the Netherlands Ministry of Foreign Affairs' 'Turkey/military service' report (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)

6.129 The IND fact-finding mission was also told that there are four different types of passport:

- i. Red (diplomatic) passports
- ii. Grey (service) passports. Issued to lower rank government officials who are being sent abroad for a short time on official duty.
- iii. 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.
- iv. Blue. Issued to ordinary citizens. [82] (p10)

6.130 The Immigration and Refugee Board of Canada reported in July 2003 that "Turkish citizens wishing to enter or exit Turkey are also required to have valid and appropriate travel documents. In the absence of such documents, airport and land border authorities will request that the individual present other documentation to assist in proving their Turkish citizenship, for example a drivers license, school records, birth registration card etc. However, since Turkish citizens are required to report their lost or stolen passports to the nearest Turkish embassy while abroad, Turkish border authorities must ask why the citizen does not have the appropriate travel documents. In addition to the inquiry, any information and all documents provided to the authorities by the individual are verified with the Turkish Ministry of Internal Affairs." [70] (p1-2)

6.131 The UNHCR advised in a letter issued in March 1999 that, "In general, Kurds fleeing south-east Turkey have a possibility to relocate within Turkey. According to [UNHCR's] information, the large number of internally displaced persons in Turkey do not normally face serious security problems." [18a]

6.132 However, the UNHCR letter continued "...Obviously, the group most likely to be exposed to harassment/ prosecution/ persecution are Kurds suspected of being connected to or being sympathisers with the PKK... In view of the above, it is essential to find out if Turkish asylum seekers, if returned, would be at risk of being suspected of connection to or sympathy with the PKK, or have otherwise a political profile. If this was the case, they should not be considered as having been able to avail themselves of the option to relocate in a region outside the south-east of the country." [18a]

Nüfus card/ identity card

6.133 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "Each district has a population registry, also known as the population office, ultimately coming under the Ministry of the Interior, where all the district's inhabitants are supposed to be registered. In practice, many people are entered in the population register for their place of birth or even their parents' place of birth. Since 28 October 2000 each citizen has had his/her own single, nationally registered, unalterable eleven-digit identity number. Population registers do not include details of addresses. Limited records of addresses are kept by neighbourhood heads." [2a] (p19)

6.134 The Netherlands report continued "The population registry also 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)

6.135 David McDowell in his report; Asylum Seekers from Turkey II (November 2002) states that "It is an offence not to carry one's ID card, rendering one liable to three days' detention." [16b] (p49)

6.136 The IND fact-finding mission to Turkey of March 2001 saw at first hand fake identity cards being sold openly on the streets of Istanbul within sight of the police. [82] (p16)

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TREATMENT OF FOREIGNERS SEEKING ASYLUM IN TURKEY

6.137 The US Committee for Refugees (June 2003) reported that "Turkey is a party to the UN Refugee Convention but applies it only to asylum seekers and refugees from Europe by maintaining a geographical reservation. Non-European asylum seekers and refugees, particularly Iranians and Iraqis, are only given temporary protection." [77] (p2)

6.138 The US State Department of State report 2003 (February 2004) stated that "Regulations require asylum seekers to apply within 10 days of arrival and submit proof of identity in order to register as asylum seekers... The 10 day time limit presented an obstacle to many asylum seekers attempting to legalize their status in the country." [5d] (p19)

6.139 According to the US Committee for Refugees (June 2003) "Asylum seekers who do not register with the Turkish authorities within 10 days of arrival or do not present an identification document are not allowed to seek asylum in Turkey". [77] (p2)

6.140 The US Committee for Refugees also reported that "The Turkish Government affords basic necessities and protection to registered non-European asylum seekers. However, there are many constraints in gaining access to the procedure. There is no process for applying at border posts where guards may arrest, detain and forcibly return undocumented asylum seekers." [77] (p2)

6.141 The European Commission (November 2003) reported that as part of Turkey's strategy to meet the requirements for EU membership there are strategies being put in place to establish a specialised, civilian unit for migration and asylum issues under the Ministry of the Interior, which will be responsible for receiving and deciding on requests for residence permits of foreigners and asylum applications. [76b] (p111-112)

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6b. HUMAN RIGHTS: SPECIFIC GROUPS

ETHNIC GROUPS

6.142 According to the Netherlands Ministry of Foreign Affairs (January 2002) "Turkey has a multiethnic, multi-religious society. Ethnically and linguistically, in addition to Turks and Kurds, Turkey also includes small groups of Armenians, Greeks, Turkmen's, Circassians, Laz, Bulgarians, Georgians and Arabs." [2a] (p7)

6.143 The World Dictionary of Minorities (1997) reported that despite efforts to include all minorities in the 1923 Treaty of Lausanne, Turkey refused any distinct status for non-Muslims. Therefore only Greeks, Armenian Christians and Jews were formally acknowledged as minorities. [78] (p379)

6.144 The US State Department report 2003 (February 2004) reported that "The constitution provides a single nationality designation for all Turks and thus does not recognise ethnic groups as national, racial, or ethnic minorities." [5d] (p26)

Kurds

6.145 According to the US State Department report 2003 (February 2004) "Citizens of Kurdish origin constitute 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 ethnic identity or publicly espoused using Kurdish in the public domain risked public censure, harassment, or prosecution. However, Kurds who were long-term residents in industrialized cities in the west were in many cases assimilated into the political, economic, and social life of the nation, and much intermarriage has occurred over many generations." [5d] (p26)

6.146 The Netherlands Ministry of Foreign Affairs (January 2002) estimates that there are 13 million Kurds in Turkey. [2a] (p7) It also states that "The great majority of the Kurdish population speaks Kurmanji, while Zaza, which is unintelligible to Kurmanji speakers, is spoken in the provinces of Tunceli, Elazığ, Diyarbakır, Bingöl and Şanlıurfa. Most of the Kurdish population is Sunni Muslim. The remainder, namely speakers of Zaza, are Alevis." [2a] (p124)

6.147 The Netherlands Ministry of Foreign Affairs (January 2002) also reported that "The Government in Turkey does not persecute Kurds solely because they are Kurds. This would be incompatible with the concept of the state, according to which a person's ethnic origins do not matter as long as they comply with the principles of the Turkish Republic. All Turkish citizens (including the Kurds) therefore have equal access to public institutions such as health care and authorities responsible for issuing official documents." [2a] (p126)

6.148 In his paper Asylum Seekers from Turkey II (November 2002) David McDowell states that "A Kurd who is able to pass for a Turk may well not experience any discrimination and if he choose to make no issue of his Kurdish ethnicity can, indeed, rise to the highest levels of the state." [16b] (p44)

6.149 However, David McDowell also states "Anyone asserting their Kurdish identity or ethnic rights makes him or herself liable to discrimination, harassment, torture and ultimately even extra-judicial killing." [16b] (p43)

6.150 The UNHCR background paper (September 2001) reported that "Outside south-east Turkey, Kurds do not usually suffer persecution, or even bureaucratic discrimination, provided that they do not publicly or politically assert their Kurdish ethnic identity." [18c] (p53)

Kurdish Language (see also section on Freedom of Speech and the Media)

6.151 The European Commission (October 2002) reported that "The third reform package [August 2002] introduced the possibility of broadcasting in different languages and dialects used traditionally by Turkish citizens in their daily lives. It also reported that "The third reform package also amended the Law on Foreign Language Education and Teaching. It provided for the possibility of learning different languages and dialects traditionally used by Turkish citizens in their daily lives and of opening private courses for that purpose on the condition that this does not contradict the 'indivisible integrity of the State.'" [76a] (p41)

6.152 The US State Department report 2003 (February 2004) reports that "Implementing regulations for [the] 2002 reform laws allowing broadcasts and private courses in Kurdish and other non-Turkish languages 'used by Turkish citizens in their daily lives' created some bureaucratic obstacles." [5d] (p26)

6.153 It continued "In July [2003], Parliament adopted reforms designed to remove these obstacles. However, no non-Turkish broadcasts or courses were established under these reforms by year's end. Local authorities in Sanliurfa, Batman, and Van provinces withheld permission to open Kurdish language courses on a number of technical issues, including a requirement that the applicants change the names of the institutions." [5d] (p26)

6.154 The European Commission (November 2003) reported that "In the field of broadcasting, reforms permitting radio and TV broadcasts in languages other than Turkish have not yet led to any concrete result... Thus, there have not yet been any broadcasts in languages traditionally used by Turkish citizens in their daily lives other than Turkish." [76b] (p31)

6.155 In November 2003 the BBC reported that "Turkey has allowed Kurdish writers to hold a conference in their own language for the first time in years. Kurdish is being used in a literary conference, which opened (4 November 2003) in the south-eastern city of Diyarbakir. This week long event is being attended by Kurdish writers and intellectuals from Turkey itself and abroad." [66u]

6.156 In December 2003 the BBC reported that "The head of Turkey's Human Rights Association Husnu Ondul, thinks the current government deserves praise for the recent improvements to the original Kurdish-language reforms passed by its predecessor. He says that it is bureaucrats who are to blame for the fact that they only exist on paper." [86y] (p2)

Pro-Kurdish political parties

(See also "Freedom of assembly and association" section, and Annex B)

6.157 The Netherlands Ministry of Foreign Affairs (January 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." [2a] (p131)

6.158 According to information obtained from HADEP in September 2001 and April 2002, it did not label itself as a Kurdish party, and emphasised that it aimed at democratic socialism and a democratic society in Turkey as a whole. It aimed to organise and increase members in every part of Turkey and to find solutions to all problems experienced by the Turkish people. [49b][49c]

6.159 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "A number of raids are known to have been made on HADEP offices by the security forces. On the 11 and 12 January 2001 the HADEP Offices in Erzurum province and Osmaniye district (Adana province) were raided by the security forces. During these raids an amount of material was seized and some arrests made." [2a] (p133)

6.160 The report also mentioned that according to the IHD, there were two disappearances in the first nine months of 2001. The two people in question were Serder Tanis and Ebubekir Deniz local HADEP officials in Silopi on the Iraqi frontier. On 25 January 2001 the two officials were summoned to the local Jandarma on that day and have not been seen since. Following initial denials by the authorities that both of them had actually reported to the Jandarma station, it was later announced that they had been there but had left after just half an hour. [2a] (p118)

6.161 The US State Department report 2003 (February 2004) reported that "There were no developments in the 2002 disappearances of Coskun Dogan or the 2001 disappearance of HADEP officials Serdar Tanis and Ebubekir Deniz." [5d] (p3)

6.162 The US State Department report on 2002 (March 2003) reported that "In April [2002] the Ankara State Security Court sentenced former HADEP leader Ahmet Turan Demir, Turkish Communist Party leader Aydemir Guler and Turkish Socialist Party leader to 10 months' imprisonment each for 'challenging Turkey's unitary structure' during speeches at a 2000 HADEP convention. In September 2002 police raided HADEP offices in Erciş district, Van province, confiscating books and detaining HADEP district chairman Kemal Dogruel and four other party members. The detainees were released later that day. In August 2002 Jandarma searched homes in the town of Geçitli, Hakkâri province, and detained seven people after HADEP members distributed election forms in the area. Jandarma reportedly warned the detainees not to support HADEP, and released them the next day. In

November Istanbul attorney Erdal Tuncel claimed police raided his home, beat him, threatened to kill him, and told him to cut his ties to HADEP." [5b] (p24)

6.163 The Anadolu News Agency reported in early September 2002 that HADEP, EMEP (Labourers Party) and SDP (Socialist Democracy Party) had decided to unite under the roof of **DEHAP** (Democratic People's Party) for the 3 November 2002 general election. [31] The Financial Times reported in November 2002 that in the election DEHAP won (provisionally) 6.2% of votes cast at the election, and did not surmount the 10% threshold required for parliamentary representation. [41d]

6.164 The US State Department report 2003 (February 2004) reported that "In March [2003], the Constitutional Court announced its decision to close HADEP on charges of supporting the PKK/KADEK and committing separatist acts. The Court also prohibited 46 HADEP leaders from participating in political activity for 5 years. On the same day, the Supreme Court of Appeals Chief Prosecutor filed a case seeking the closure of the Democratic People's Party (DEHAP), a HADEP sister party, on similar charges. The Government also closed two of HADEP's predecessor parties in previous years. The case against DEHAP continued at year's end." [5d] (p20)

6.165 The pro-Kurdish newspaper the Kurdistan Observer reported that "The closing down of the Peoples Democracy Party (HADEP) by the Constitutional Court last week resulted only in a change of signboard. The banned party's successor, the Democratic People's Party (DEHAP) will move into HADEP's headquarters building, whose signs were taken down a while ago. Some party members have taken seriously a lawsuit filed by the High Court of Appeals Chief Prosecutor Sabih Kanadoglu to close down DEHAP have already started working to form another party to take its place. Thirty-five mayors who belong to HADEP, six of them on the provincial level, transferred their party membership to DEHAP during a ceremony held in Ankara yesterday [26 March 2003]." [61]

6.166 The US State Department report 2003 (February 2004) reported that "In September, the Supreme Court of Appeals upheld the conviction of five DEHAP leaders on charges of providing false documents while registering for the 2002 national elections. The court sentenced the defendants to 2-year prison terms." [5d] (p20) The Turkish Daily News reported in October 2003 that the former Chairman Mehmet Abbasoglu and General Secretary Nurettin Sonmez of DEHAP were sent to prison for 11 months and 11 days for forging electoral documents that enabled DEHAP to participate in the November 2002 elections. [23q] [23r]

6.167 The US State Department Report 2003 (February 2004) stated that "During the year [2003], police raided dozens of DEHAP offices, particularly in the Southeast, and detained hundreds of DEHAP officials and members. DEHAP members were regularly harassed by Jandarma and security officials, including verbal threats, arbitrary arrests at rallies, and detention at checkpoints. Security forces also regularly harassed villagers they believed were sympathetic to DEHAP. Although most detainees were released within a

short period, many faced trials, usually for 'supporting an illegal organization,' 'inciting separatism,' or for violations of the Law on Meetings and Demonstrations." [5d] (p21)

6.168 The report continued "In March, police in Tarsus arrested local DEHAP chairman Alaattin Bilgic on charges relating to a speech he had made. He was charged with a crime, and the case against him continued at year's end. In August, police raided DEHAP offices in Bingol on allegations of 'keeping illegal publications.' Following the raid, prosecutors opened charges against five DEHAP members; a court convicted and fined them in December. According to DEHAP, between September and November, police detained more than 1,000 participants in a DEHAP campaign calling for an amnesty for PKK/KADEK members. Authorities released most of the detainees, but opened charges against more than 100." [5d] (p21)

Relatives of HADEP members

6.169 The Netherlands Ministry of Foreign Affairs (January 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)

Kurdistan Workers' Party (PKK) and the conflict in the south-east

6.170 The US State Department report 2003 (February 2004) reported that "The Government, as well as the PKK/KADEK/KHK, continued to commit human rights abuses against non-combatants in the southeast. According to the military, 12 civilians, 19 members of the security forces, and 71 terrorists died during the year [2003] as a result of armed clashes." [5d] (p2)

6.171 The Turkish commercial Television channel NTV reported that on 16 April 2002 the PKK announced that it had ceased activities and had regrouped as **KADEK**, the Kurdistan Freedom and Democracy Congress (Kurdistan Özgürlük ve Demokrasi Kongresi). [61a] According to the US State Department report 2003 (February 2004) in November 2003, KADEK changed its name to the Kurdistan Peoples Congress (**KHK**). [5d] (p2)

6.172 According to the BBC on the 1 September 2003 the PKK/KADEK ended its four-year cease-fire accusing the Turkish authorities of failing to grant Kurds greater political and cultural rights. Spokeswomen for the PKK stated that she did not expect a return to all-out conflict but instead some sort of low intensity warfare. [66i]

6.173 According to the European Commission (November 2003) "The state of Emergency in the two remaining provinces of Diyarbakir and Sirnak was lifted on the 30 November 2002 putting an end to almost 15 years of emergency rule in the East and Southeast of Turkey. [76b] (p38)

6.174 The report continued "The lifting of the state of emergency had a positive psychological impact in the region in spite of increased tension

caused by events related to the Iraq war with the deployment of military units and concerns about possible resurgence of terrorism. Although the security situation has continued to improve in recent months, there have been several armed clashes resulting in casualties, including deaths. Checkpoints are still present in the area but controls are scarcer than in the past and the military presence less visible." [76b] (p39)

6.175 The European Commission continued "As a result of the improved security, an increasing number of cultural manifestations were authorised and took place with high levels of participation. Of particular significance was the celebration of the Diyarbakir, Hakkari and Tunceli festivals. In a few cases, however, events were banned and incidents with security forces occurred. There are still reports of violation of fundamental freedoms although these are more limited in scope." [76b] (p39)

6.176 The US State Department report 2003 (February 2004) reported that "Due to the conflict with the PKK/KADEK/KHK, the Government continued to organize, arm, and pay a civil defense force of about 60,000, mostly in the southeast region. This force, known as the village guards, was reputed to be the least disciplined of the security forces and continued to be accused repeatedly of drug trafficking, rape, corruption, theft, and human rights abuses. Inadequate oversight and compensation contributed to this problem, and in some cases Jandarma allegedly protected village guards from prosecution. In addition to the village guards, Jandarma and police "special teams" were viewed as those most responsible for abuses. DEHAP officials claimed that security forces in July publicly displayed the bodies of two slain PKK/KADEK militants in the town of Baskale in Van Province. However, the incidence of credible allegations of serious abuses by security forces in operations against the PKK/KADEK/KHK was low." [5d] (p5)

Internal displacement and return to villages programme

6.177 The US State Department Report 2003 (February 2004) reported that "During the height of the PKK conflict from 1984 to 1990, the Government forcibly displaced a large number of residents from villages in the southeast. Many others left the region on their own. The Government reported that 378,000 residents 'migrated' from the southeast during the conflict, with many others departing before the fighting. Various NGOs estimated that there were from 1 to 3 million IDPs." [5d] (p18)

6.178 The report continued that "Citing security concerns, southeastern provincial authorities continued to deny some villagers access to their fields and high pastures for grazing, but have allowed other villagers access to their lands. Voluntary and assisted resettlements were ongoing. In some cases, persons could return to their old homes; in other cases, centralized villages have been constructed. Only a fraction of the total number of evacuees has returned. The Government claimed that 94,000 persons returned to the region from June 2000 to October [2003]. More than 400 villages and hamlets have reportedly been reopened with government assistance. These figures could not be independently verified." [5d] (p18)

6.179 The U.S. Committee for Refugees (June 2003) reports that "Returns of displaced people during the year [2002] were minimal and sporadic. Some 37,000 persons have returned to 460 villages or pastures since 2000 as part of the governments Back to Villages and Rehabilitation Project. However, the Turkish government imposed political loyalty tests, compelling some returnees to sign forms stating they were displaced due to terrorism and forcing others to join the Village Guards, the group responsible for causing many to flee their homes in the first place. Many Kurds still fear to return to their villages until the village guards are abolished... Village guards shot and killed three returning villagers in Nurettin village in July 2002, and two returning villagers and one child in Ugrak, Diyarbakir, in September [2002]" [77] (p1)

6.180 The European Commission (November 2003) reported that "Implementation of the Return to Village and Rehabilitation Project has continued, though at a very slow pace and inconsistently, some regions progressing quicker than others. According to official sources 820,000 people were authorised to return to their villages in the period between January 2000 and January 2003." [76b] (p39)

6.181 In January 2004 The Guardian newspaper reported that "Ankara's moderate Islamic government has proposed plans to compensate those who suffered at the hands of the security forces during the campaign to defeat the separatist Kurdish Workers Party, PKK...The law provides compensation for people who have suffered 'both from acts of terrorist organisations and from measures taken by the state in the struggle against terror'." [38e] (p1)

6.182 On the 6 January 2004 15 Turkish refugees returned to Turkey from camps in Northern Iraq. According to the UNHCR "This latest movement brings the total number of Turkish refugees return from Iraq with UNHCR help to 2,241 people since 1998." [28a]

6.183 On the 23 January 2004 the UNHCR announced that Iraqi, Turkish and UNHCR officials agreed the modalities of the voluntary return to Turkey from Iraq of up to 13,000 Turkish citizens (ethnic Kurds) who have lived in exile in Iraq since the early 1990s. "Under the agreement reached at the Turkish capital, Ankara, the Iraqi authorities will ensure that the return is voluntary and that the refugees are not subjected to pressure. The accord stipulates that the UNHCR will have full and unhindered access to the refugees both on Iraq territory and once they have gone back to Turkey. The Turkish authorities are to ensure that the refugees who volunteer to go back to Turkey are free to return [to] their former places of residence or any other place of their choice within Turkey." [28b]

Kurdish National Congress

6.184 According to Migration Newsheet (June 1999) "On the 24 May 1999 the Kurdish National Congress was formed in Amsterdam. The Congress represents Kurds from Turkey, Iran, Syria, Armenia and Western countries but important Iraqi Kurdish parties are not represented. The organisation claims broader representation, pointing out that the Kurdish Parliament in exile founded in 1995 in the Netherlands only represents the interests of Turkish

Kurds. However, the congress and the Parliament share the same address in Brussels and both organisations are dominated by the PKK." [42] (p24)

Newroz / Nevruz celebrations

6.185 According to the Netherlands Ministry of Foreign Affairs report (January 2002) Newroz (or in Turkish Nevruz) is the New Year celebrated by Kurds, Persians and in Central Asia on the 21 March. [2a] (p87) According to the Anatolia News Agency on 21 March 2002 a total of 66 Newroz demonstrations, including 26 illegal demonstrations, were held in 44 provinces. 200,364 people joined the demonstrations, and 1201 people were taken into custody during illegal demonstrations. Two people died in the incidents while six others were injured. A Turkish Government spokesman added that two policemen died, and 46 others were injured in the demonstrations. [36e]

6.186 The US State Department report 2003 (February 2004) reported that "During the March 21 [2003] Kurdish Nevruz (New Year) celebrations, there were significantly fewer clashes than in past years, according to the HRF [Human Rights Foundation]. However, local authorities prohibited celebrations in a number of towns, and police arrested scores of persons participating in the celebrations. Authorities in some municipalities prohibited the use of the traditional Kurdish spelling 'Newroz'." [5d] (p14)

Arabs

6.187 According to World Dictionary 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." [79] (p382)

6.188 The World Dictionary continues "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." [79] (p382)

6.189 In addition "There are still about 10,000 Orthodox and Melkite (uniate with Rome) Christians (or, as they call themselves, Nasrani) in the Hatay... They feel under pressure, like other Arabs, to 'Turkicize'." [79] (p382)

Caucasians

6.190 The World Dictionary of Minorities (1997) estimate that there are probably about one million people of Circassians or Abkha descent in Sakariya, Bolu, Bursa, Eskisehir, 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. [79] (p382-383)

Armenians

6.191 The World Dictionary of Minorities (1997) reports that "There are about 30,000 Armenians [in Turkey], primarily in Istanbul... Although the State respects their minority status, they are regarded as foreigners by most Turks even though they have inhabited the land of modern Turkey for well over 2,000 years, substantially longer than the Turks. Armenians still find it hard to register their children as Armenian. However, the community successfully operates its own schools, old peoples' homes and its own press." [79] (p380)

Greeks

6.192 The US State Department Report on International Religious Freedom (December 2003) estimates that there are between 3,000-5,000 Greek Orthodox Christians in Turkey. [50] (p1) The World Dictionary of Minorities (1997) state that "There are probably 3,000 ageing Greek Christians, mainly in Istanbul, the residue of 80,00 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." [79] (p381)

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WOMEN

6.193 The European Commission (November 2003) reported that "Violence against women is still widespread in Turkey. According to different reports, more than half the female population are subject to physical abuse and psychological forms of violence within the family environment." [76b] (p30)

6.194 The US State Department Report 2003 (February 2004) stated that "Violence against women remained a problem, and spousal abuse was serious and widespread. The law prohibits spousal abuse; however, complaints of beatings, threats, economic pressure and sexual violence continued... Spousal abuse was considered an extremely private matter, involving societal notions of family honor and few women went to the police. Police are reported to be reluctant to intervene in domestic disputes and frequently advise women to return to their husbands." [5d] (p23)

6.195 Amnesty International's report 'From Paper to Practice; making change real' (February 2004) reports that "The extent of violence perpetrated by men against family members is a serious concern. Estimates range from an approximate 30 to 58 per cent of women who experience physical violence, to 70-97 per cent of women experiencing a wider range of abuse. This epidemic of violence which affects all women and children who live with violent men - resulting in some cases in permanent disability and even death - appears to be condoned by the authorities and society in many situations. Family violence often occurs in public. The perpetrators are rarely brought to justice." [12h] (p8)

6.196 The US State Department Report 2003 (February 2004) stated that "The law allows women to apply for restraining orders against their husbands and therefore to avoid having to leave their own homes. Observers and

government officials noted that this provision has been very successful in some of the cities and rural areas of the country but less so in the more traditional southeast. The law is limited to spouses and does not address some other sources of violence, such as in-laws." [5d] (p23)

Honour killings

6.197 According to the US State Department report 2003 (February 2004) "Honor killings - the killing by immediate family members of young unmarried girls who are suspected of being unchaste – continued in rural areas and among new immigrants to cities. According to media reports, there could be dozens of such killings every year. They were most common in conservative, Kurdish families in the southeast or among migrants from the southeast living in large cities. In July [2003], Parliament revoked a law under which perpetrators of honor killings received reduced sentences. However, Parliament left intact another law allowing for reduced sentences for crimes committed 'in the heat of anger' or under 'unjust provocation.' Women's rights advocates said perpetrators of honor killings continued to benefit from sentence reductions under this law. Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform the killing." [5d] (p24)

6.198 The European Commission (November 2003) reported that "Article 462 of the [Turkish] Penal Code, allowing for reduced sentences for so called 'honour killings' has been repealed. However, the more general provisions relating to Article 51, related to crimes committed under 'extreme provocation' remain, applicable for offences traditionally viewed as being against 'virtue'. Article 453 of the Penal Code was amended to increase the sanctions for the 'honour killings' of out of wedlock children." [76b] (p36)

6.199 In July 2003 the Government passed as part of the sixth reform package new penalties for those who commit honour crimes. Sentences handed down to those who commit such crimes have been increased from eight years to 12 years imprisonment. [36c] (p1)

6.200 In February 2004 the BBC reported that "A Turkish women had been murdered in an Istanbul hospital where she was already being treated for injuries sustained in a so-called honour attack. Guldunya Toren 24, was being treated after being shot and left for dead, when the second attack happened." Early on the morning of the 26 February 2004 a man claiming to be a relative told staff he wanted to visit her, before shooting her dead." The Turkish police are now looking for Ms. Toren's two brothers, aged 20 and 24. [66w] The BBC reported in March 2004 that in response to the killing Muslim clerics across Turkey were told by the government to deliver sermons upholding women's rights and condemning so called honour killings. [66x]

Virginity testing

6.201 The US State Department report on 2002 (March 2003) reported that "According to HRF [Human Rights Foundation of Turkey], there were fewer reports of 'virginity testing' than in past years, and no reports of the practice among family members; regulations banning the practice unless requested by

the women were generally enforced. In February [2002] the government abolished a regulation allowing the practice to be used on nursing school students. However, the Women's Commission of Diyarbakir Bar Association released a study indicating that 99 percent of female detainees in five southeastern provinces were subjected to the practice." [5b] (p27)

6.202 The US State Department report 2003 (February 2004) reported that "Unlike in previous years, HRF recorded no reports of forced 'virginity testing'." [5d] (p24)

6.203 The Council of Europe Commissioner for Human Rights (December 2003) reported that "In January 1999 the Minister of Justice published a decree prohibiting subjecting women in custody to virginity tests without their express consent. The decree stipulates that such tests may only be used to confirm suspicions of sexual assault, sexual acts committed on minors and prostitution. Only a judge can order such an examination without the women's consent and then only if it is the sole means of gathering evidence that an offence has been committed." [21] (p29)

6.204 However, the commissioner also reported that the situation of women in police custody is a subject of serious concern and one of the problems frequently reported include the virginity testing of female detainees. [21] (p29)

Employment

6.205 The US State Department report 2003 (February 2004) considered that "Particularly in urban areas women are well represented at all levels in the professions, business, and the civil service, and constituted more than one-third of university students. However, they continue to face discrimination in employment to varying degrees. Women were generally under represented in managerial-level positions as well as in Government. Women generally received equal pay for equal work in the professions, business and civil service jobs although a large percentage of women (as well as men) employed in agriculture and in the trade, restaurant and hotel sectors work as unpaid family labor." [5d] (p24)

6.206 The report continued "Independent women's groups and women's rights associations exist, but have not significantly increased their numbers or activities, mainly because of funding problems. There were many women's committees affiliated with local bar associations. Other organizations include the Association to Support Women Candidates (Ka-Der), 'The Flying Broom', the Turkish Women's Union, and the Foundation for the valuation of Women's Labour." [5d] (p24-25)

6.207 According to the Turkish Daily News (December 2003) Ka-Der has called on political parties to include more women candidates on their lists for upcoming elections. At present the ratio of female deputies in Parliament is 4.4 percent while only a few women have any say in local administrations. [23m] According to Europa -Middle East and North Africa (2003) Tansu Ciller was elected as the Chairman of the DYP political party in April 1993 and

became first female Prime Minister of Turkey in June 1993. [1a] (p1120) (See also para 4.7)

6.208 The issue of the wearing of headscarves is dealt with in the "Freedom of religion" section (See paras 6.90 – 6.93 above).

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CHILDREN

6.209 The European Commission reported (November 2003) that "In ratifying the European Convention on the Exercise of Children's Rights in June 2002, Turkey demonstrated its commitment towards the protection of children. However, it has still not accepted Article 7 (the right of children and young persons to protection) and Article 17 (the right of mothers and children to social and economic protection) of the European Social Charter." [76b] (p37)

6.210 The US State Department report 2003 (February 2004) reported that "The Government was committed to furthering children's welfare, and it works to expand opportunities in education and health, including a further reduction in the infant mortality rate. The Minister for Women's and Family Issues oversaw implementation of the Government's programmes for children. The Children's Rights Monitoring and Assessment High Council focuses on children's rights issues." [5d] (p25)

6.211 The report continued "Government-provided education up to the age of 14 or the eighth grade is compulsory. Traditional family values in rural areas place a greater emphasis on advanced education for sons than for daughters; the relatively new 8-year compulsory education requirement (implemented in 1998) has increased enrolment among girls. According to the Ministry of Education, 92 percent of girls and 100 percent of boys in the country attended primary school. However, in rural areas, the literacy rate for girls remained low, and many do not complete primary school. The literacy rate for boys, most of whom complete primary school, was higher. Some children in rural areas continue on to high school, for which they generally must travel or live away from home." [5d] (p25)

6.212 The US State Department 2003 (February 2004) continued "The government aimed to provide social security and health insurance for all its citizens, but gaps remained, leaving approximately 20% of families and their children without coverage." [5d] (p25)

6.213 The European Commission (November 2003) reported that "Under the seventh reform package an amendment has been made to Article 6 of the law on the Establishment, Duties and Trial Procedures of Juvenile Courts, raising from 15 to 18 the age below which young people must be tried in Juvenile Courts." [76b] (p36)

6.214 The US State Department report 2003 (February 2004) reports that "The Constitution and law prohibit the full-time employment of children younger than 15, with the exception that those 13 and 14 years of age may

engage in light, part-time work if enrolled in school or vocational training." However, "Child labor was widespread, but appeared to be decreasing." [5d] (p29)

Child Care Arrangements

6.215 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "Children whose parents for whatever reason are unable to exercise custody are usually looked after by the family." However, if the relatives are unable to do this, the Netherlands report stated that "Turkish law (Law No. 2828 of 24 May 1983, on the Social Services and Child Protection Agency) provides for state care for unsupported minors. Only if care is not possible elsewhere may the case be referred to the Social Services and Child Protection Agency (Sosyal Hizmetler ve Çocuk Esirgeme Kurumu) coming under the Ministry of General Affairs. The Agency refers the minor's case to the court, which takes the ultimate decision on care." [2a] (p152-153)

6.216 The report continued "Under Turkish law, depending on the length of their education unsupported minors can be taken into care at least up to the age of 18 and at most up to the age of 25. Children up to the age of 18 may register or be registered with the Social Services Directorate (Sosyal Hizmetler Müdürlüğü), to be found in every province. There are children's homes (Çocuk Yuvaları) for children up to the age of 12 and training institutions (Yetiştirme Yurtları) for children aged 12-18. There are currently an estimated 70 children's homes in Turkey with a total of roughly 7,000 children, and 91 training institutions with 5,000 young adults. In some cases young adults who do not have their own home on reaching the age of 18 may be allowed to stay longer." [2a] (p153)

6.217 In addition it was also reported that "The quality of care in homes varies from province to province. In some parts of the country there are fewer facilities for the placement of minors than in others. There are examples of provinces in which personal intervention by the governor has led to an acceptable or even good care system (in Kayseri, for instance), while in other provinces care can only be described as minimal. It is difficult to judge how far care in general is adequate by Turkish standards since levels of care vary so much. Turkish authorities responsible for care and assistance to unsupported minors often have to cope with a lack of funding." [2a] (p153)

6.218 The report continued "According to law, care and assistance to unsupported minors are provided by the state, but various charitable organisations also provide care for minors. The Social Services Directorates are responsible for authorising the establishment of and monitoring such institutions. The Directorates regularly consult such organisations in order to streamline care. UNICEF and other international organisations are also active to some extent in the field of care for unsupported minors." [2a] (p154)

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HOMOSEXUALS

6.219 According to the International Lesbian and Gay Association (website accessed February 2004) homosexuality for both Gays and Lesbians is legal in Turkey and the age of consent is 18. The 'Lambda Istanbul' which is a 'liberation' group for gay, lesbian, bisexual and transgender people in Turkey states that "There are no articles on homosexuality in the law but vague references to public morals and public order. The police has the legal right to take anyone who looks suspicious to the police station for interrogation." [75] (p1-2)

6.220 According to the Netherlands Ministry of Foreign Affairs (January 2002) "There is a certain ambivalence towards homosexuality in Turkey. 'Active' sexual partners are not usually considered homosexual. In the eyes of many Turks, only 'passive' sexual partners are homosexual." [2a] (p141)

6.221 The Netherlands report further states that "In general homosexuals need not fear official persecution by the Turkish authorities. There is no policy actively directed against homosexuals in Turkey. Nor is there any policy on the basis of which homosexuals have less access to public institutions, or fewer rights to practise a profession, than other Turks. In practice, however, people may lose their jobs if it becomes clear that they are homosexual." [2a] (p141)

6.222 The report continues "Rural areas as well as relatively conservative areas such as Konya are not very tolerant of homosexuals. Individuals experiencing problems in such areas because of their sexuality appear to escape them to some extent by moving to places like Istanbul, Izmir or Ankara, where there is now a fairly well-developed homosexual scene." [2a] (p141)

6.223 The report continues "There are some homosexual rights organisations. The most important are Lambda, founded in 1993, in Istanbul, and Kaos GL in Ankara. They organise weekly activities, and national demonstrations take place several times a year. Since 1994 Kaos GL has published an eponymous bi-monthly magazine which is available in alternative bookshops in many cities. Interest groups are tolerated but claim that local authorities have been obstructive in the past." [2a] (p142)

6.224 Para 5.138 of this report relates to homosexuals and military service.

Transvestites

6.225 The Netherlands Ministry of Foreign affairs (January 2002) reported that "Turkish law does not prohibit transvestism. Nor does government policy discriminate against transvestites in any way."

6.226 It continues "As in the case of homosexuals, attitudes to transvestites in Turkey are also ambivalent. Some nationally known transvestites from the world of show business are highly regarded in Turkey... The transvestite singer Zeki Müren, who died in 1996, was given a state funeral for his services as a singer. Less famous transvestites face more difficulties. Often those who are open about their transvestism cannot find work. A large

proportion of transvestites in Turkey support themselves through prostitution. From time to time, transvestite prostitutes are attacked by customers, passers-by, or local police officers. There are at least two known cases of transvestites who have reported police misconduct and where the police officers have actually appeared in court. One of them is the Police Chief with the nickname 'Hose Süleyman', who is alleged to have beaten transvestites with a length of hose." [2a] (p142)

Transsexuals

6.227 According to the Netherlands Ministry of Foreign Affairs (January 2002) "Transsexual operations are legally permitted and may be performed in Turkey subject to a number of conditions. The new Civil Code, which entered into force on 1 January 2002, imposes stricter conditions than in the past. Candidates must submit a medical certificate stating that the sex change is necessary for the mental health of the person concerned. Persons who have undergone a sex change can record this fact in the civil register and are allowed to marry afterwards. The ambivalent social attitude towards transvestites also applies to transsexuals. The famous singer, Bülent Ersoy, who had a sex change in 1980 and married as a woman in 1999, is idolised, but less well-known transsexuals face the same difficulties as transvestites. Their position in Turkish society is also generally comparable to that of transvestites." [2a] (143)

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6c. HUMAN RIGHTS: OTHER ISSUES

MEMBERS OF PKK/ KADEK, LEFT-WING OR ISLAMIST MILITARY GROUPS

6.228 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "There has been no change in the Turkish authorities' attitude towards the PKK [KADEK] since it withdrew its fighters outside Turkey's borders. Like members of militant left-wing or Islamist organisations, PKK members still face criminal prosecution by the authorities." [2a] (p129)

6.229 The Netherlands report continues stating that "Whoever can be shown to be a member of the PKK, a radical left-wing group such as DHKP/C or TKP/ML or a militant Islamist group such as Hezbollah will be prosecuted under Article 168 of the Criminal Code in conjunction with Article 5 of the Anti-Terror Law. Under Article 168 the penalty is imprisonment for a minimum of ten years and, in the event of aggravating circumstances, a maximum of fifteen years. The penalty is increased by half under Article 5 of the Anti-Terror Law. The above Articles impose heavier penalties on leaders of such organisations. They will also be prosecuted under Articles 125 or 146 for attempted armed subversion of the established constitutional order, which is punishable the death penalty." [2a] (p130) (However, this is no longer the case as the death penalty has been abolished. See para 5.78).

6.230 The Netherlands report further states that "Individuals who have criminal proceedings pending against them and are wanted by the authorities

are recorded in the central Judicial Records System, so that the authorities are informed nation-wide when a person is wanted." [2a] (p130)

6.231 The BBC reported that on the 6 August 2003 the 'Win Back for Society Law' (also known as the law on the Reintegration into society) came into effect, which offered a partial and conditional amnesty to members of terrorist groups. [66g] (See also para's 5.67 – 5.77)

6.232 Article 2 of the Law on the Reintegration into Society No. 4959 states that the law applies to those:

- a) members of terrorist groups who surrender by themselves without armed resistance or through intermediaries or those who are found to have left the organisation of their own will or those apprehended who
 - i) have not participated,
 - ii) have participated in crimes committed by terrorist organisations
- b) who, aware of their situation and identity, have abetted members of terrorist organisations by providing shelter, food weapons or ammunition, or who have assisted them by other means. [36e] (p1)

6.233 Article 4 of the law states that those members of terrorist organisations who have not been involved in crimes committed by the terrorist organisation shall not be handed a punishment. Those that have committed crimes will face reduced prison sentences. [36e] (p1-2)

Activists engaging in marginal activities for illegal organisations

6.234 The Netherlands Ministry of Foreign Affairs (January 2002) states that "Persons who are being prosecuted under the criminal law on account of marginal activities for illegal groups may be sentenced under article 169 of the Turkish Penal Code (aiding and sheltering members of illegal organisation) to a maximum of three years and nine months imprisonment." [2a] (p130)

6.235 The report states that "Case law in such proceedings gives a varying picture. Some State Security Courts are relatively quick to assume involvement with an organisation while there are also cases in which the courts have acquitted suspects when there was sufficient proof for a conviction. One such case involved a Turkish national who was found in possession of PKK pamphlets but was nevertheless acquitted." [2a] (p130)

6.236 Article 4 of Law No.4959 states that "Those who are not members of terrorist organisations themselves, but have provided members of the terrorist organisations with weapons and ammunition will face reduced prison sentences. Those who have provided only shelter or food, or aided in other ways the members of the terrorist organisation shall not be punished." [36e] (p2)

Relatives of members of the PKK/KADEK, or left-wing or Islamist groups

6.237 According to the Netherlands Ministry of Foreign Affairs report (January 2002) "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 for instance about the whereabouts of their fugitive relatives, but also because they could as often as not be potential suspects themselves. In many cases the Turkish authorities assume that some relatives of PKK supporters harbour sympathies for the party." [2a] (p135)

6.238 "However", according to the Netherlands report "if the authorities are convinced that relatives of (suspected) PKK members do not have any links to the PKK they are not persecuted." The report further states that "Countless people in Turkey have one or more relatives in the PKK without having any significant problems with the authorities as a result." [2a] (p135)

6.239 The Netherlands report states that "The above applies also to relatives of members of left-wing or Islamic militant groups." [2a] (p135)

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TREATMENT OF RETURNED ASYLUM SEEKERS

6.240 The Netherlands Ministry of Foreign Affairs reported in January 2002 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)

6.241 According to the Netherlands Ministry of Foreign Affairs report (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." [2a] (p102)

6.242 The January 2003 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;

- (i) establishment or checking personal details,
- (ii) reasons and period of exit from Turkey
- (iii) reason for the asylum application
- (iv) reasons for any refusal of the asylum application

- (v) any criminal record and past record at home and abroad including drug offences
- (vi) 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." [2e] (p102)

6.243 The report continues "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. At the anti-terrorist unit of the police, the suspect being subject to torture or mistreatment cannot be excluded." [2e] (p102-103)

6.244 A senior official at the Visa Department, Ministry of Foreign Affairs, told the IND fact-finding mission to Turkey in March 2001 that "For the past five to ten years Turkey had not denied passports to undocumented would-be returnees, [although] it had denied them in the 1980s. He said that the Turkish Government now recognised that the overwhelming majority of Turkish nationals who had applied for asylum overseas had done so purely for economic reasons. They were of no interest to the Turkish Government, and would not be imprisoned on return. The airport police might question them about for example, the loss and destruction of their passports, but this would be a low-level investigation. The subjects would quickly be released, almost certainly without charge, and allowed to go about their daily life without hindrance." [82] (p51)

6.245 The Netherlands report on Military Service (July 2001) states that "If [draft evaders and deserters are] arrested, the arresting body transfers them within a maximum of 48 hours to their military unit. If the persons concerned are not being prosecuted for (political) offences other than evasion of registration/examination or enlistment or for desertion, the danger of abuse, intimidation, mistreatment or torture during the interrogation or the 48-hour maximum detention is very slight. Persons who have evaded registration/examination or failed to report are set free by the arresting body after interrogation and summoned to appear within a few days at their military registration office." [2b] (p36)

6.246 David McDowell in his study *Asylum Seekers from Turkey II* (November 2002) states that "In March 1999 both the TIHV [Human Rights Foundation] and IHD [Turkey Human Rights Association of Turkey] issued explicit warnings to European countries receiving asylum applicants from Turkey that they should on no account return those to whom they refused asylum. They did this because (a) they were alarmed at the cases of mistreatment on return about which they had heard and (b) their belief, based on experience, that

they only learn of a very small fraction of the total amount of mistreatment."
[16b] (p90)

6.247 He further states that "In October 2000 we [David McDowell] made a specific point of asking the Ankara head quarters of both the IHD and the TIHV whether they would now modify their warnings in any way. Both confirmed that they still stood by what they had said in March 1999 verbatim".
[16b] (p91)

6.248 In a letter dated 9 August 1999 the UNHCR stated that "The views expressed in our fax transmission of 20 May 1999 to the Dutch Permanent Mission are correct and accurate; UNHCR does not have any objection to returns of Turkish asylum seekers who after a fair and efficient asylum procedure have been found not to be refugees nor to be in need of international protection on other grounds." [18b]

6.249 Turkish citizens who are without passports are returned on one-way emergency travel documents, which are issued by the Turkish Consul General in London. Annex H provides details of the number of returns of Turkish nationals between 1989-2001 from Western Europe, the USA, Canada and Australia.

Return of Turkish refugees from Iraq

6.250 On the 6 January 2004 15 Turkish refugees returned to Turkey from camps in Northern Iraq. According to the UNHCR "This latest movement brings the total number of Turkish refugees returned from Iraq with UNHCR help to 2,241 people since 1998." [28a]

6.251 On the 23 January 2004 the UNHCR announced that Iraqi, Turkish and UNHCR officials agreed the modalities of the voluntary return to Turkey from Iraq of up to 13,000 Turkish citizens (ethnic Kurds) who have lived in exile in Iraq since the early 1990s. The UNHCR briefing note continued "Under the agreement reached at the Turkish capital, Ankara, the Iraqi authorities will ensure that the return is voluntary and that the refugees are not subjected to pressure. The accord stipulates that the UNHCR will have full and unhindered access to the refugees both on Iraq territory and once they have gone back to Turkey. The Turkish authorities are to ensure that the refugees who volunteer to go back to Turkey are free to return [to] their former places of residence or any other place of their choice within Turkey." [28b]

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GOVERNMENT MONITORING OF HUMAN RIGHTS

6.252 The US State Department report 2003 (February 2004) reported that "Parliament has established numerous bodies to monitor the human rights situation, including:

- (i) The High Human Rights Board, an interministerial committee responsible for making appointments to human rights posts;
- (ii) A Human Rights Consultation Board, designed to serve as a permanent forum for the exchange of ideas between the Government and NGOs;

(iii) A Human Rights Investigative Board, a special body to be convened only in cases where lower-level investigations are deemed insufficient by the Human Rights Presidency. The Human Rights Investigative Board has never been convened." [5d] (p23)

6.253 The report also reported that "The Government's Ten Year Human Rights Education Committee held regional seminars to educate civil servants and others on human rights problems. Regional bar associations and the EU held training seminars with police, judges and prosecutors in several provinces and in Ankara headquarters, focusing on EU human rights standards." [5d] (p7)

6.254 The European Commission (November 2003) reported that "With regard to enforcement of human rights, the complex structure of government human rights boards and committees established over the past two years has been strengthened. At the local level, the number of sub-provincial (district) Human Rights Boards was increased from 831 in 2002 to 859 in 2003." [76b] (p25)

6.255 The report continues "The Reform Monitoring Group, which includes a representative of the government's human rights agency is entrusted with the task of ensuring that all allegations of human rights violations are investigated. A Human Rights Violations Investigation and Assessment Centre was established within the Gendarmerie Command in April 2003." [76b] (p25)

6.256 The US State Department report 2003 (February 2004) reported that "The Government has established Human Rights Councils in all 81 provinces and 849 sub-provinces. The councils were designed to create a forum for human rights consultations among NGOs, professional organizations, and the Government. They investigated complaints and, when deemed appropriate, referred them to the prosecutor's office. They also produced monthly reports and organized conferences, training programs, and public information campaigns." [5d] (p22)

6.257 It further reported that "In November [2003], the Government adopted a new regulation changing the membership criteria of the councils. Under the new regulation, police and Jandarma representatives were eliminated from the councils and the number of lawyers, doctors, journalists, NGO members, and other nongovernmental members was increased. However, some human rights activists argued that, even under the new regulation, the councils were not independent because they remained under the chairmanship of un-elected governors and sub-governors. The new regulation also established application desks in all provinces and subprovinces for submitting complaints and outlined in detail the duties of the councils." [5d] (p22)

Training on human rights

6.258 The European Commission (November 2003) reported that "With regard to training on human rights, a number of *ad hoc* projects have taken place in addition to the joint European Commission – Council of Europe initiative. This initiative covers human rights training for civil servants, in

particular the judiciary; human rights awareness raising within society and support with respect to legal reform. In this context a training programme on ECtHR case law for the judiciary began in May 2003." However the report continued "Turkey still has no comprehensive strategy or legislative and administrative provisions against discrimination." [76b] (p25)

6.259 The US State Department report 2003 (February 2004) reported that "The armed forces emphasized human rights in training for officers and non-commissioned officers throughout the year." [5d] (p7)

6.260 The Council of Europe's Commissioner for Human Rights reported in December 2003 that "Accordingly, since 25 April 2001 the period of basic training in police colleges has been increased from nine months to two years, a very positive change since violations are usually committed by people who have not been properly trained." [21] (p31)

6.261 The Commissioner also reported on his visit to Turkey (June 2003) that in April 2002 the Police Academy had started to distribute a collection of European Court of Human rights judgements against Turkey translated into Turkish and accompanied by comments by two police officers. The Commissioners report states that "This is an extremely important advance that will help to end police officers' ignorance of the subject." [21] (p31)

Parliamentary Human Rights Commission/ Parliamentary Human Rights Investigation Committee

6.262 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "A Parliamentary Human Rights Commission set up by the Turkish Parliament started work in December 1990. [2a] (p64) According to the European Commission (November 2003) "The Parliamentary Human Rights Investigation Committee investigated alleged violations of human rights and produced reports, which were forwarded to the relevant institutions." The report further stated that "The committee has, for example, carried out inspections in the south east with regard to normalisation of life in the former emergency rule provinces and has made numerous unannounced visits to police stations across the country." [76b] (p25)

6.263 The US State Department report 2003 (February 2004) reported that "In September [2003], the Parliamentary Human Rights Committee released the results of an investigation indicating that police in Izmir were undermining the right of detainees to consult an attorney. The Committee reported that police in three Izmir detention centers were not informing detainees of their right to an attorney at no cost, and that police did not even know the phone number for requesting an attorney. The Committee stated that all 126 recorded detainees at the centers had waived their right to an attorney." [5d] (p7-8)

Prison Inspection Committees/Prison Monitoring Boards

6.264 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "Special Prison Inspection Committees were set up pursuant to a law adopted in June 2001. An inspection committee has to be set up for the area of jurisdiction of each criminal court. The committee is to be made up of five

members chosen for four years by a commission of judges from the relevant area. The members must have university education and practise the profession of doctor, lawyer, psychologist or similar." [2a] (p67)

6.265 The report continued "The committee's tasks consist in carrying out bi-monthly inspections of the circumstances in which convicted prisoners or persons remanded in custody are kept. Once every three months a written report of findings must be submitted to the Ministry of Justice, the court and the public prosecutor's office of the area of jurisdiction in which the relevant committee operates and, if necessary, to the Parliamentary Human Rights Commission." [2a] (p68)

6.266 According to the US Department of State report 2003 (February 2004) "The Ministry of Justice, the General Directorate of Prisons, and the Parliamentary Human Rights Committee regularly inspected prisons and issued reports." [5d] (p6)

6.267 The report further reported that "Prison Monitoring Boards also conducted inspections. The 130 boards conducted 522 visits, prepared 1,638 reports, and made 3,664 recommendations for improvements to the Ministry of Justice. The Government reported that it took action on some of these recommendations, but lacked the funding to respond to others, including those related to crowding and lack of resources for activities. During the year, the 140 special prison judges received 11,923 petitions relating to prison conditions and sentences; they admitted 3,659 petitions, partially admitted 319, and rejected 7,945." [5d] (p6)

6.268 However, the US State Department also reported that "Human rights groups criticized the Government's selection of Monitoring Board representatives. Medical Association officials said the Government did not consult them on Board membership and selected only government-employed doctors for the bodies. The Society of Forensic Medicine Specialists reported that only two forensic specialists served on the Boards. Some bar associations also said that their preferred candidates were not selected." [5d] (p6)

6.269 The report continued "The Government permitted prison visits by representatives of some international organizations, such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT); the CPT visited in February and September, and conducted ongoing consultations with the Government. Requests by the CPT to visit prisons were routinely granted; however, domestic nongovernmental organizations (NGOs) did not have access to prisons." [5d] (p6)

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EUROPEAN COURT OF HUMAN RIGHTS

6.270 According to the US State Department report 2003 (February 2004) "The Government recognized the jurisdiction of the ECHR. During the year, the ECHR ruled against the Government in 76 cases. Of these, 56 involved

the right to a fair trial. The Government accepted a friendly settlement in 45 cases, and the ECHR ruled in the Government's favor in 1 case." [5d] (p10)

6.271 The report continues "On March 12, the ECHR ruled that jailed PKK leader Abdullah Ocalan did not receive a fair trial in his 1999 conviction in an Ankara SSC. The ECHR determined that the SSC was not an 'independent and impartial tribunal,' in part because a military judge sat on the three-judge panel at the start of the trial. However, the ECHR determined that Ocalan's prison conditions and the circumstances of his arrest were not unlawful. Both the Government and the defense appealed the ruling." [5d] (p10)

6.272 The European Commission's (November 2003) report on Turkey stated "Turkey still faces problems in relation to the execution of judgements of the ECtHR. Turkey has not yet taken all the necessary measures – prescribed by the court in 1999 – to redress a number of violations of the right to freedom of expression, namely the striking out of the criminal convictions unjustifiably imposed and the restoration of civil rights" [76b] (p24)

6.273 The US State Department report 2003 (February 2004) reports that "The law allows ECHR rulings to be used as grounds for a re-trial in a Turkish court. The General Legal Council of the Court of Appeals must approve re-trial applications. In January [2003], Parliament amended the law to make the right of re-trial retroactive to most cases prior to August 2002, the date of the original law's adoption." [5d] (p10)

6.274 In line with the above amendment the Ankara State Security Court (DGM) approved the application made by four former deputies (Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Dogan) of the defunct pro-Kurdish Democracy Party (DEP) for a retrial. The deputies had applied to the European Court challenging their 1994 conviction for aiding and abetting members of the PKK terrorist organisation. The European Court decided that the former deputies had not been given a fair trial in the Turkish court. [36b] (p1)

6. 275 On the 21 April 2004 the BBC reported that the outcome of the retrial was that the four deputies had to remain in prison. [56bb] An Amnesty International Press Release (21 April 2004) reported that "Amnesty International is shocked by the decision to prolong the imprisonment of Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Dogan. As prisoners of conscience, they should be released immediately and without condition." [12g] (p1)

6.276 The Council of Europe's Commissioner for Human Rights (December 2003) reported that in April 2002 the Police Academy had started to distribute a collection of European Court of Human rights judgements against Turkey translated into Turkish and accompanied by comments by two police officers. The Commissioners report states that "This is an extremely important advance that will help to end police officers ignorance of the subject" [21] (p31)

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HUMAN RIGHTS ORGANISATIONS

6.277 The US State Department report 2003 (February 2004) 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. The Government met with domestic NGOs (which it defined broadly to include labor unions), responded to their inquiries, and sometimes took action in response to their recommendations. The Act on Associations governing the activities of most NGOs (some fall under the Law of Foundations, and others incorporate themselves as businesses) contains restrictive provisions regarding membership, fundraising, and scope of activities." [5d] (p21)

6.278 According to the Netherlands Ministry of Foreign Affairs (January 2002) "Two of the most prominent (NGOs) are the Turkish Human Rights Foundation (HRF or TİHV) and the Human Rights Association (HRA or İHD). In addition to HRA and HRF, many other human rights organisations are active. Mazlum-Der is an organisation with Islamic leanings which has sixteen branches in the whole of Turkey and also regularly reports on abuses. The Turkish Democratic Foundation (Türkiye Demokrasi Vakfı) and the Helsinki Citizens' Assembly (HCA) work from Istanbul and Ankara respectively. Another human rights organisation is the Association of Contemporary Jurists (Çağdaş Hukukçular Derneği). There are also human rights centres associated with Turkish universities." [2a] (p69)

6.279 The US State Department report 2003 (February 2004) reported that "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." [5d] (p21)

6.280 The US State Department also reported that "In March 2002, the Government gave permission to Amnesty International (AI) to form a legal association; AI's previous application was rejected in 2001. AI operated a headquarters in Istanbul and held meetings in Ankara, Izmir, and Diyarbakir. AI postponed plans to open branch offices due to lack of funds. The organization reported good relations with the Government during the year." [5d] (p22)

6.281 The report continued "Representatives of diplomatic missions who wished to monitor human rights were free to speak with private citizens, groups, and government officials; however, security police routinely placed such official visitors in the southeast under visible surveillance. Visiting foreign government officials and legislators were able to meet with human rights monitors. There were no public reports that officials representing foreign governments were denied permission for such visits. However, police reportedly harassed and intimidated some human rights activists in the southeast after the activists met with foreign diplomats." [5d] (p22)

6.282 Amnesty International in its report 'Restrictive laws, arbitrary application – the pressure on human rights defenders' (February 2004) reported that

"Despite recent legal and constitutional reforms in Turkey, human rights defenders in that country continue to be targeted for harassment and intimidation by state officials, and their activities are still restricted through a huge number of laws and regulations. Those used against human rights activists include Anti-Terror laws, public order legislation, laws on associations and foundations and press laws, with the result that the rights to freedom of association, assembly and expression cannot be exercised fully and freely."
[12] (p1)

6.283 The Amnesty report continued "Human rights defenders are placed under surveillance by police officers, and their offices are searched on spurious grounds. Small demonstrations and meetings where press releases are read out are surrounded by large numbers of riot police, who sometimes outnumber the participants, while other police officers record and photograph those attending. The use of excessive force to disperse public events - and on occasion the mass detention of participants - can also be seen as an attempt to intimidate and silence human rights activists. All of these measures discourage others from becoming involved in such activities, and bolster the perception that the authorities are innately suspicious of - if not outright hostile towards - non-governmental organizations (NGOs)." [12] (p1)

6.284 The report also stated that "Human rights defenders are also now facing a pattern of pressure, which appears to have evolved concurrent with the reform process in Turkey, through the huge number of investigations and trials opened against them under various laws and regulations. While such trials usually end in acquittal or a sentence which is suspended or commuted to a fine, the effect is a form of judicial harassment designed to intimidate human rights defenders and hinder their public activities." [12] (p1)

6.285 It continued "As a result of the reform process and the removal of certain laws that had been used to silence and imprison human rights defenders - together with the improved security situation in Turkey - some types of pressure against human rights defenders have apparently decreased. For example, imprisonment of human rights defenders as prisoners of conscience has decreased. Several laws that the European Court of Human Rights has judged to have been used to violate the right to freedom of expression have been amended or abolished completely. However, as use of some old measures has become impossible, new ways have been found to obstruct the activities of human rights defenders." [12] (p7)

Human Rights Association (HRA) / İnsan Hakları Derneği (IHD)

6.286 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "The IHD was set up in 1986 with the general aim of promoting human rights in Turkey. The organisation's main activities are to collect and verify information on human rights violations. It publishes monthly reports and press releases on arrests, torture, disappearances in custody, violations of the right to freedom of expression and so on. The IHD also organises courses for teachers and lawyers which cover, *inter alia*, procedures for the right of individual petition... The HRA there is a strong Kurdish current which maintains close ties to the Turkish-Kurdish opposition." [2a] (p69) According to

the Turkish Daily News (July 2003) the HRA has 34 local branches spread throughout Turkey, and nearly 14,000 members. [23e]

6.287 The report continued "The IHD is frequently harassed and obstructed by the authorities, notably the security forces. In recent years some IHD regional offices have been (temporarily) shut down and criminal proceedings have been brought against various IHD workers for separatist propaganda or support for illegal organisations." [2a] (p70)

6.288 According to the US State Department report 2003 (February 2004) "HRA reported that prosecutors opened approximately 60 cases against the organization during the year. HRA also continued to face charges in numerous cases opened in previous years. In September, HRA reopened its Malatya branch, which the Government closed in 2000." [5d] (p21-22)

6.289 Amnesty International reported in its Urgent Action note 121/03 (May 2003) that on the 6 May 2003 the police raided both the local branch and national headquarters of the HRA in Ankara. They confiscated a number books, cassettes, press releases and confidential files and computers, some of which contained information on human rights violations perpetrated by the security forces. A prosecutor from the Ankara State Security Court was reportedly present during the raids. At first the police would not reveal the reason for the raids-but when pressed, they reportedly gave the reason as "aiding and abetting an illegal organisation" (Article 169 of the Turkish Penal Code). [12f] The US State Department reported that the investigation was still continuing at year's end [2003]. [5d] (p22)

6.290 The US State Department also reported that "In July [2003], Mus police arrested Sevim Yetkiner, chairman of the HRA Mus office, and charged her with 'aiding and abetting an illegal organization' for allegedly shouting pro-PKK slogans at the funeral of a PKK member who died in prison. Her trial continued at year's end. Also in July, HRA reported that people identifying themselves as Jandarma made threatening phone calls to Ridvan Kizgin, chairman of the HRA Bingol office. The callers allegedly criticized Kizgin's statements on human rights issues and told him to come to the Jandarma base, which he refused to do." [5d] (p22)

6.291 The report continued "At years end, the trial of HRA Chairman Husnu Ondul and 46 others continued on charges connected with a January 2001 raid of HRA headquarters. The defendants were charged with possessing 33 publications prohibited by confiscation orders and faced sentences of 3 to 6 months if convicted." [5d] (p22)

6.292 In addition the US State Department reported that "In March, an Ankara court acquitted former HRA Chairman Akin Birdal, who was tried for allegedly stating in 2000 that the Government 'should apologize for the Armenian genocide,' a statement he denied making." [5d] (p22)

Turkish Human Rights Foundation (HRF) / Türkiye İnsan Hakları Vakfı (TIHV)

6.293 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "The TIHV grew out of the IHD in 1990 and its main purpose is to provide medical treatment for torture victims. For that purpose it runs five medical centres in Turkey in the towns of Adana, Ankara, Diyarbakır, Istanbul and İzmir where victims are examined. The foundation uses doctors who document evidence of torture or maltreatment and subsequently treat the victims in existing hospitals. The TIHV also has a documentation centre and publishes daily and monthly reports on the human rights situation in Turkey." [2a] (p71)

6.294 The Netherlands Ministry of Foreign Affairs (January 2002) report continued "Pressure on the TIHV is also continuing unabated. Because it is legally a foundation, it is answerable to the Directorate-General for Foundations of the Ministry of Foreign Affairs. TIHV branches are regularly inspected by officials connected with that Directorate-General. In September 2001 there was talk for a short time of closing all treatment centres except for the one in Diyarbakır as no authorisations for medical treatment had been given. After the TIHV was able to prove that only an initial check took place in the centres and actual treatment was confined to existing hospitals, the threat was warded off." [2a] (p72)

6.295 The Dutch report continued "On 7 October 2001 the security forces together with the tax investigation department raided the TIHV office in Diyarbakır, confiscating 365 files relating to torture victims. On 10 October the police headquarters in Diyarbakır returned the files to the TIHV. In January 2002 a legal action was brought against one of the officials of the HRF branch in Diyarbakır for opening a health centre without authorisation." [2a] (p72)

6.296 "Amnesty International [February 2004] was concerned to hear of the sentencing to prison on 13 February 2004 of 31 people including members of the İzmir branch of the Human Rights Foundation of Turkey (HRFT), the İzmir branch of the Human Rights Association, lawyers, trade unionists and senior members of political parties. The defendants were convicted on the basis of articles of Law 2911 on meetings and Public Demonstrations to sentences ranging from one to three years. Among those convicted of 'resisting dispersal by violent means' (article 32/3) were Dr Alp Ayan (a psychiatrist at the HRFT) and Ms Gunseli Kaya (Member of the General Board of the HRFT). Amnesty International considers that the sentences of Alp Ayan and Gunseli Kaya to 18 months respectively represents a particularly harsh application of Law 2911 on meetings and Public Demonstrations, and that Dr Alp Ayan and Ms Gunseli Kaya were exercising their legitimate right to peaceful assembly and acting in their capacity as human rights defenders." [12] (p1)

Mazlum-Der

6.297 According to Amnesty International (December 2003) "The Turkish human rights group Mazlum Der- whose full name in Turkish translates as 'The Organisation for Human Rights and Solidarity with Oppressed People' – was founded on 24 January 1991 in Ankara. Independent of the state and political parties or groups, it aims to defend and support human rights for all

people both in and outside Turkey...The organisation has found itself targeted for unfounded allegations of links with armed Islamist groups." [12g] (p1)

6.298 The Netherlands Ministry of Foreign Affairs (January 2002) reported that "Mazlum-Der also encounters opposition on the part of the authorities from time to time. For instance, in January and May 1999 the regional offices in Şanlıurfa and Malatya were closed indefinitely. The office in Şanlıurfa re-opened at the end of 2001." [2a] (p72)

6.299 Amnesty International (December 2003) reported that "On 1 May 2003 a court in Turkey confirmed that [Ozkan Hopmanly the former chair of the local branch of Mazlum Der in Malatya] should be imprisoned for fifteen months for attempting to participate in demonstrations in April and May 1999 while he was deputy chair of the branch... Amnesty International consider him a prisoner of conscience imprisoned for his activities as a human rights defender." [12g] (p1-2)

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STATE OF EMERGENCY

6.300 A state of emergency (in Turkish: Olağanüstü Hal, often abbreviated to OHAL) [2a] (p53) applied in some south-eastern Turkish provinces from the mid-1980s until November 2002 (see detailed list with dates in **Annex D**).

6.301 According to the European Commission (November 2003) "The state of Emergency in the two remaining provinces of Diyarbakir and Şirnak was lifted on the 30 November 2002 putting an end to almost 15 years of emergency rule in the East and Southeast of Turkey. After the lifting of the state of emergency, budgets, assets and personnel of Administration were transferred to Governorships. With a government decree in February 2003, a number of new Governors were appointed in the region." [76b] (p38-39)

6.302 The Commission continued "In April [2003] the Constitutional court annulled the Law Decree 285 of the Emergency Rule Administration Law, which prevented judicial recourse against decisions of the emergency governor." [76b] (p39)

6.303 "The lifting of the state of emergency" according to the Commission "had a positive psychological impact in the region in spite of increased tension caused by events related to the Iraq war with the deployment of military units and concern about a possible resurgence of terrorism. Although the security situation has continued to improve in recent months, there have been several armed clashes resulting in casualties, including deaths. Checkpoints are still present in the area but controls are scarcer than in the past and the military presence less visible." [76b] (p39)

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BLOOD FEUDS

6.304 According to research conducted by the Immigration and Refugee Board in Canada (July 2000) " 'Kan davası' or blood feuds are an extinct, or

nearly extinct, practice in Turkey. However, the IRB also reported that the Turkish Ministry of Foreign Affairs asserts that "Murders among the people of the region are often committed for personal reasons, blood feuds or other reasons". [7a]

6.305 The Netherlands Ministry of Foreign Affairs (January 2002) states that "In south-eastern Turkey, the social fabric is such as to entail blood feuds and forms of traditional dispute settlement and rough justice. Kurdish clan customs result in frequent loss of life in vendettas, against which the local Turkish authorities cannot always provide effective protection." [2a] (p41)

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ANNEX A: CHRONOLOGY

1980

The September 1980 coup A combination of the Government's inability to deal with political violence, the ineffectiveness of the police and a resurgence of Islamic fundamentalism led the armed forces, under General Evren, to seize power in a bloodless coup on 12 September.

1982

7 November The new Constitution was approved by a referendum with a 91% majority. The Constitution gave further powers to the President.

1983

24 April New law on political parties published in Official Gazette. Political parties could now be formed under strict rules, but all political parties disbanded in October 1981 remained proscribed, along with the 723 former members of the Grand National Assembly who were banned from political activities for between 5 and 10 years.

6 November Parliamentary rule was restored with the 6 November General Election, although every candidate had to be approved by the military council.

1984

The PKK, led by Abdullah Öcalan, launched a violent guerrilla campaign against the Turkish authorities in the south-eastern provinces, in support of its aim for a Kurdish national homeland in Turkey. The Turkish authorities responded by arresting suspected Kurdish leaders, dispatching more security forces to the region, establishing local militia groups and imposing martial law in the troubled provinces. This was replaced in 1987 by a state of emergency. By 1988 over 1000 people had been killed as a result of the Kurdish unrest.

1987

July All martial law decrees were repealed when martial law was replaced with a state of emergency in the provinces of Diyarbakır, Mardin, Siirt and Hakkâri - resulting in a total of 9 provinces (the above four, plus Bingöl, Elâziğ, İstanbul, Tunceli and Van) under an official state of emergency.

6 September A national referendum narrowly approved the repeal of the 10 year ban on participating in political activities imposed in 1981 on over 200 politicians.

29 November The first free elections since the 1980 military coup were contested by 7 parties. ANAP won 65% of the 450 National Assembly seats

with 36% of the votes, and formed a government with Turgut Özal as Prime Minister.

1988

7 January Turkey signed the Council of Europe Convention on the Prevention of Torture, and later in the month announced that it would shortly sign the United Nations' Convention against torture.

November An 8 year state of emergency in Istanbul was lifted.

1989

9 November Turgut Özal succeeded General Kenan Evren as President by securing a simple majority of the 450 Assembly deputies.

1990

Early 1990 saw a sharp increase in urban terrorism, committed by left and right-wing groups.

April The government introduced harsh measures to combat ethnic unrest. The State of Emergency powers of the Regional Super Governor of south-east Turkey were extended to cover 10 provinces of the region. The 10 provinces under the State of Emergency were Batman, Bingöl, Diyarbakır, Elazığ, Hakkâri, Mardin, Siirt, Şırnak, Tunceli and Van.

1991

January National Assembly gave permission for Allied Forces to use Turkish air bases in the conflict against Iraq.

12 April Anti-Terror Law passed by National Assembly.

1992

March Violent clashes during the Kurdish new year festival, Newroz. Official sources put the number of deaths at around 50 and claimed that many were PKK terrorists, not civilians. Human rights groups put the number of deaths at double the official statistics.

July Legislation introduced in May 1992 became law in July, lifting the ban on political parties closed down after the 1980 military coup.

2 December The Judicial Reform Package (CMUK) became law.

1993

18 March The PKK declared a cease-fire for the period between 20 March and 15 April.

April PKK extended cease-fire indefinitely. President Turgut Özal died of a heart attack.

May Suleyman Demirel elected as President.

PKK cease-fire effectively ended when they attacked a passenger bus, killing security force personnel and civilians.

2 July A hotel fire in Sivas started by Muslim fundamentalists killed 37 people, mostly writers, poets and singers who were in the city to attend a cultural festival.

16 October The PKK threatened to kill any journalists who continued to work in the south-east. Six days later the PKK ordered the closure of all political offices in the south-east, and warned that any politicians who defied the ban would become targets.

30 November The PKK ordered the closure of all educational institutions in the south-east, warning that those who violated the ban would become targets.

1994

15 March The government dismissed a call for a ceasefire made by PKK leader Abdullah Öcalan.

26 December Ankara State Security Court passed sentence on 86 people convicted of involvement in the hotel fire in Sivas in July 1993.

1995

February The European Parliament approved a resolution saying that Turkey's human rights record was too poor to allow a customs union accord with the European Union at present, and added that it would make its approval of the deal contingent on progress on human rights.

12 March Gunmen fired on 4 coffee houses in the mainly Alevi district of Gaziosmanpaşa in Istanbul, killing 2 and wounding 20 others. Residents came out onto the streets to protest and 15 demonstrators were killed and over 200 injured as they clashed with police. Unrest spread to Ankara and during further clashes in Istanbul 4 more demonstrators died.

27 October The Turkish Parliament accepted changes to the Anti-Terror Law, allowing more freedom of intellectuals, lawyers and politicians convicted for publicly demanding greater rights for Kurds. The changes allowed for reduced jail terms or freedom for those already convicted under the law.

24 December Over 34 million Turks went to polling stations to elect an enlarged 550 member parliament. Refah received 21.4% of the vote, ANAP 19.7% and DYP 19.2%.

1996

3 March ANAP and DYP sealed a minority government pact.

21 March Newroz passed off with no major incident recorded around the country.

24 May DYP chairwoman Çiller said that coalition alliance with ANAP was finished.

6 June PM Yılmaz, ANAP's leader, resigned.

28 June The Refah (Welfare) Party leader Necmettin Erbakan became Turkey's first Islamist prime minister in a coalition with the DYP.

3 November Car containing government MP, police chief and crime boss crashed near Susurluk, sparking scandal over state-mafia links.

1997

10 January Refah (Welfare) mayor called for Islamic law at Islamist protest in Ankara's Sincan district.

28 February The military-dominated National Security Council demanded a government crackdown on religious extremism.

21 March Thousands of Kurds demonstrated to celebrate Newroz at a rally in Istanbul. The demonstration ended peacefully.

26 April Army used monthly National Security Council meeting to renew demands for curb on Islamic activism.

May Chief prosecutor opened case to close Refah (Welfare) Party. The government lost its absolute majority in parliament as a former minister resigned from DYP to follow other defectors.

June Erbakan announced resignation and sought President Demirel's approval for revamped coalition. President Demirel bypassed Erbakan's proposal and appointed Mesut Yılmaz, leader of the main opposition ANAP to set up government. Demirel approved the government with Yılmaz as Prime

Minister.

2 October State of Emergency lifted in the provinces of Batman, Bingöl and Bitlis.

December Turkey was the only one of 12 applicants for EU membership not to be offered even preliminary negotiations. A poor human rights record and economic factors led to the decision.

1998

16 January Constitutional Court issued verdict resulting in the closure of the Refah (Welfare) Party.

5 March The newly formed Virtue Party became the largest political group in parliament, with 140 MPs, after most former Refah MPs join Virtue.

12 May President of the Human Rights Association, Akin Birdal, shot six times in a failed assassination attempt. The assassins were trained by a non-commissioned officer in the Jandarma.

17 September Kurdistan Democratic Party and Patriotic Union of Kurdistan in Northern Iraq signed an agreement to drive the PKK out of areas under their control.

October Abdullah Öcalan left his long-term home in Syria. Turkish and Syrian officials signed an agreement at Adana in Turkey. Under it, Syria agreed to recognise the PKK as a terrorist organisation, agreed not to tolerate PKK activity on its territory and agreed to hand over PKK militants residing in Syria to Turkey.

12 November Abdullah Öcalan arrived in Rome and was arrested on arrival on an international arrest warrant issued by Germany. Germany decided not to ask for his extradition, fearing a violent reaction by the Kurdish community in Germany.

1999

16 January Abdullah Öcalan left Italy by plane and, via a circuitous route, arrived in Kenya. Chief Prosecutor of the High Court of Appeals filed a suit against HADEP in the Constitutional Court calling for its closure and citing an "organic relationship" between HADEP and the PKK.

15 February Abdullah Öcalan was captured by Turkish special forces and returned to Turkey where he was detained.

18 April In the General Election the Democratic Left Party (DSP) won the largest number of seats, closely followed by the Nationalist Action Party (MHP).

May A three party coalition was formed by the DSP, the MHP and ANAP (Motherland Party). Headed by Bülent Ecevit, the new Government commanded 351 seats in the Grand National Assembly.

29 June Abdullah Öcalan was found guilty of treason, and held personally responsible for the deaths of thousands of people who were killed in the PKK's violent struggle against the Turkish State. He was sentenced to death.

August Öcalan called on the PKK to withdraw its troops from Turkey and cease military operations from 1 September. Two days later the PKK presidential council confirmed that PKK combatants would indeed cease operations against Turkey.

17 August A major earthquake (7.4 on the Richter scale) hit north-western Turkey. It was centred close to İzmit, in the centre of Turkey's industrial heartland. It was Turkey's worst earthquake since 1939. The official death toll was 17,840, but there were no reliable figures for the number of people

missing or unaccounted for. An outpouring of material aid and sympathy from Greece promised a thaw in Turkish-Greek relations.

12 November An earthquake measuring 7.2 on the Richter scale hit north-west Turkey, devastating towns some 70 km. east of the epicentre of the August earthquake. At least 737 people died.

December After Greece dropped lingering objections, Turkey was finally made an official candidate for eventual EU membership. No date was set for actual negotiations, pending improvement in Turkey's observance of human and democratic rights.

2000

12 January The Government agreed to respect an injunction from the European Court of Human Rights calling for the suspension of Öcalan's execution, pending his appeal to the Court.

May The reformist judge Ahmet Necdet Sezer was elected President.

December During Government action to break up prisoner hunger strikes and violent protests against small-cell "F type prisons, 31 prisoners and two security officials perished.

2001

June The Constitutional Court banned the main opposition party Fazilet (Virtue Party) for undermining Turkey's secular order. In a more limited sanction than that demanded by the public prosecutor, the judges voted to expel only two Fazilet deputies from Parliament.

3 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.

2002

6 February Law No. 4744 (the so-called "Mini-Democracy Package"), adjusting some Turkish laws to the October 2001 constitutional amendments, was adopted by the Turkish Parliament.

March Law No. 4748: further reform package.

3 August The Turkish Parliament adopted a 14-point reform package, which abolished the death penalty in peacetime, allowed for broadcasting and education in Kurdish, and decriminalised criticism of the military and state organisations. Law No. 4771.

3 November General election. The coalition government was crushingly defeated, winning no seats in Parliament. The Islamist-orientated AKP won two-thirds of the seats. President Sezer subsequently appointed AKP Deputy Leader Abdullah Gül as Prime Minister.

30 November Ending of emergency rule in the final two provinces (Diyarbakır and Şırnak) where it remained.

12 and 13 December The European Union summit in Copenhagen decided that Turkey would have to wait until December 2004 before a review that could lead to negotiations for Turkey to join the EU. The review would decide whether Turkey met human rights criteria.

December The Turkish Government passes the fourth reform package which changes the law on political parties allowing Tyyip Erdogan to become Prime minister.

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.

13 March The Constitutional Court banned HADEP.

14 March Following his entering Parliament after his victory in a by-election, AKP leader Recep Tayyip Erdoğan was appointed Prime Minister.

1 May An earthquake measuring 6.4 on the Richter scale hits the eastern province of Bingöl. 177 people are killed including 84 children trapped when their school dormitory collapsed.

July The Turkish Parliament passes the sixth reform package aimed at improving human rights.

August The win back to society law comes into effect offering a partial amnesty to members and supporters of terrorist organisations. The Turkish parliament passes the seventh reform package, which among other things limits the influence and power of the military.

September The PKK/KADEK announced an end to their four cease-fire with the Turkish Government.

October In October 2003 the Turkish Government decided to send up to 10,000 Turkish troops to Iraq, in response to a request by the United States. [66n] The proposal was endorsed in the Grand National Assembly by 358 votes to 183. However opinion polls within Turkey suggest the majority of Turks were against the decision. Members of Iraq's Governing Council were also against the deployment. [66o]

November In November 2003 after increasingly fierce opposition from the US appointed Iraqi Governing Council and public opinion in Turkey the Government decided against sending any peacekeepers to Iraq. [66p] On the 15 November 2003 two suicide bomb attacks were carried out against two synagogues in Istanbul killing at least 24 people and wounding more than 300. [66q] 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. [66r] [66s] In November 2003, KADEK changed its name to the Kurdistan Peoples Congress (KHK). [5d] (p2)

2004

March On the 10 March 2004 a suicide attack was carried out on a Masonic lodge which killed one person and the suicide bomber. [66v]

On the 28 March local elections were held and were won overwhelmingly by the ruling AKP. The AKP won 43% of the vote and secured 55 of the 81 mayoral posts including Istanbul and Ankara. The main opposition, centre-left Peoples Republican Party, took around 15% of the vote, with the right-wing Nationalist Action and True Path parties winning around 10%. Turkey's main pro-Kurdish movement the Democratic Peoples Party (DEHAP) and its left wing allies retained control of five major cities in the predominantly Kurdish southeast. They included the regions biggest city, Diyarbakir. [66aa]

SOURCES: [1a][4a][5][36][41d][76][66i]

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ANNEX B: PARTIES WHICH CONTEST PARLIAMENTARY ELECTIONS

Article 68 of the Constitution states "...Political parties are indispensable elements of the democratic political system. Political parties are founded without prior permission and conduct their activities in accordance with the rules set forth in the Constitution and the law. The statutes and programmes of political parties shall not conflict with the indivisible integrity of the State comprising its territory and the nation, human rights, national sovereignty, and the principles of the democratic and secular Republic. No political party whose aim is to support or establish the domination of a class or group, or any kind of dictatorship, can be set up..." [45] (See para 4.40 – 4.45 for details of the November 2002 General Election.)

Adalet ve Kalkınma Partisi (AKP) (Justice and Development Party).

www.akparti.org.tr Founded 2001 by former members of the banned Fazilet (Virtue Party). Islamist-orientated. AK (a Turkish word meaning "white" or "clean") is reformist, and champions the poor. Its leader is Recep Tayyip Erdoğan, who states that AKP is a synthesis of Islam and democracy without any conflict of interest, but is also conservative democrat. The Deputy Chairman is Abdullah Gül. On launching AKP, Mr Erdoğan distanced the new party from Fazilet, and declared that it would be truly democratic and financially transparent and would seek a reconciliation between Turkey's Islamic traditions and Western democratic values. He also declared the party's support for Turkish membership of the EU. AKP was, according to the opinion polls, the most popular party in the run-up to the November 2002 general election, but on 20 September 2002 Mr Erdoğan was banned by Turkey's electoral board from running in the general election because of his criminal conviction. (Turkish law, as it then was, disqualified candidates with criminal records from running for office). After AKP's victory in the general election, the law was changed, Mr Erdoğan was elected in a by-election, and on 14 March 2003 he was appointed Prime Minister. [1a][3][66b][66c]

Anavatan Partisi (ANAP) (Motherland Party). www.anap.org.tr Founded 1983. Supports free market economic system, moderate nationalist and conservative policies, rational social justice system, integration with the EU, and closer ties with the Islamic world. Chair. Ali Talip Özdemir. Sec.-Gen. Yaşar Okuyan. [1a][41d][61c]

Aydınlık Türkiye Partisi (ATP) (Enlightened Turkey Party). Centre-right. Leader Tugrul Turkes. On 12 September 2002 formed an alliance with the DYP for the forthcoming general election. [20]

Bağımsız Türkiye Partisi (BTP) (Independent Turkey Party). [30]

Büyük Birlik Partisi (BBP) (Great Unity Party). www.bbp.org.tr Founded 1993. Chair. Muhsin Yazıcıoğlu. [1a]

Cumhuriyet Halk Partisi (CHP) (Republican People's Party). www.chp.org.tr Founded 1923 by Kemal Atatürk, dissolved in 1981 and reactivated in 1992. Merged with Sosyal Demokrat Halkçı Parti (Social Democratic Populist Party) in February 1995. Left-wing. Leader Deniz Baykal. Sec.-Gen. Tarhan Erdem. [1a]

Değişen Türkiye Partisi (DEPAR) (Changing Turkey Party). www.depar.org Founded 1998. Chair. Gökhan Çapoğlu. [1a]

Demokrasi ve Barış Partisi (DBP) (Democracy and Peace Party). Founded 1996 to advocate Kurdish autonomy. Pro-Kurdish. Leader Refik Karakoç. [1a]

Demokrat Partisi (DP) (Democratic Party). Founded Nov. 1992. Chair. Yalçın Koçak. [30]

Demokrat Türkiye Partisi (DTP) (Democratic Turkey Party). www.dtp.org.tr Founded Jan. 1997. Leader İsmet Sezgin. [1a]

Demokratik Halk Partisi (DEHAP) (Democratic People's Party). Founded 1997. DEHAP states that it is not organised on an ethnic base, and is not a solely Kurdish party; it is a party of Turkey, and wishes to embrace all the people of Turkey. [24b] In early September 2002 HADEP, EMEP and SDP (Socialist Democracy Party) decided to unite under the roof of DEHAP at the 3 November 2002 general election. HADEP leader Murat Bozlak said "This is the first step of a wide unity." Although HADEP was banned in March 2003, DEHAP has not been banned. [31]

Demokratik Sol Partisi (DSP) (Democratic Left Party). www.dsp.org.tr Founded 1985. Centre-left. Draws support from members of the former Republican People's Party. Chair. Bülent Ecevit. Sec.-Gen. Zeki Sezer. [1a]

Doğru Yol Partisi (DYP) (True Path Party). www.dyp.org.tr Founded 1983. Centre-right. Replaced the Justice Party (founded 1961 and banned in 1981). Chair. Mehmet Agar [51]. Sec.-Gen. Nurhan Tekinel. [1a][41d]

Emeğin Partisi (EMEP) (Labour/ Labourers Party). www.emep.org Founded 1996. Stalinist. Legal wing of TDKP. Gained 0.17% of the national vote in the April 1999 general election. Chair. Abdullah Levent Tüzel. Publications - "Evrensel", "Özgürlük Dünyası". [1a][80a]

Genç Parti (GP) (Young Party). Founded recently by Cem Uzan, a Turkish businessman. Allegedly espouses a xenophobic brand of nationalism. [23c]

Hak ve Özgürlükler Partisi (HAK-PAR) (Rights and Freedoms Party) Founded February 2002. A central issue in its manifesto aim of establishing democracy in Turkey is the resolution of the Kurdish question. Is facing a closure case on charges that its statute and programme contain elements contrary to the "indivisible unity of the State and the nation". Head is Abdulmelik Firat, a well-known Kurd and a former long-serving MP. [74][76a]

İşçi Partisi (İP) (Workers' Party). www.ip.org.tr Founded 1992. Maoist, nationalist. Chair. Doğu Perinçek. [1a]

Liberal Demokratik Parti (LDP) (Liberal Democratic Party). www.ldp.org.tr Founded 1994. Observer member of Liberal International. Chair. Besim Tibuk. [1a]

Millet Partisi (MP) (Nation Party). www.mp.org.tr Founded 1992, as successor to the centre-right Reformist Democracy Party (IDP), itself descended from the original MP. Chair Aykut Edibali. [1a]

Milliyetçi Hareket Partisi (MHP) (Nationalist Action Party). www.mhp.org.tr Founded 1983. Formerly the Conservative Party. Leader Devlet Bahçeli (resigned in aftermath of 2002 general election). Sec.-Gen. Koray Aydın. [1a][41d]

Özgürlük ve Dayanışma Partisi (ÖDP) (Freedom and Solidarity Party). www.odp.org.tr Founded 1996. Radical left. Environmentalist. Leader Ufuk Uraz. [1a]

Saadet Partisi (SP) (Felicity/Happiness/Contentment Party). www.sadetpartisi.org.tr Founded 2001 by the traditionalist wing of the banned Fazilet (Virtue Party). Islamist. Leader Recai Kutan. Mr Kutan said that the SP

would not challenge the principles of the secular state but would seek to further religious rights, including legalisation of the wearing of Islamic headscarves in schools and public offices. [1a][3]

Toplumcu Demokratik Partisi (TDP) (People's Democratic Party) Founded January 2002 by Sema Pişkinsüt, former Parliamentary Human Rights Commission Chairperson. [23b]

Türkiye Komünist Partisi (TKP) (Turkish Communist Party). www.tkp.org.tr
In November 2001 the Socialist Power Party (Sosyalist İktidar Partisi, SIP), which was founded in 1981, changed its name to the Turkish Communist Party, although under the Political Parties Law it is forbidden to establish a party with the word "communist" in its name. Gen. Sec. Kemal Okuyan. [1a][30d]

Yeniden Doğuş Partisi (YDP). (Rebirth Party). Founded 1992. Right wing. Leader Hasan Celal Güzel. [1a][30g]

Yeni Parti (YP) (New Party). Founded 1993. Leader Yusuf Bozkurt Özal. [1a]

Yeni Türkiye (YTP) (New Turkey). Founded July 2002 by İsmail Cem, and comprised of former DSP politicians. Based on social democratic principles. Intends to push aggressively for EU membership. [1a][38b]

Yurt Partisi (YP) (Homeland Party). Founded 2002. Leader Saadettin Tantır. [24a]

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).

www.hadep.org.tr Founded 1994. Pro-Kurdish nationalist party. Chairman Murat Bozlak. [1a] **Sources 88a 88b 88c** are printed from HADEP's website. 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. [63e]

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]

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ANNEX C: MAIN LEFTIST AND/OR ILLEGAL POLITICAL ORGANISATIONS

IMPORTANT. This annex 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 would not be possible to have a fully comprehensive list of illegal parties, because they are a constantly changing and clandestine scene.

Information on the current situation regarding leftist Parties in Turkey can be found on www.broadleft.org/tr.htm [80c]

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 the 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]

Apocular (Followers of Apo (the nickname of Abdullah Öcalan)). After 1974 Öcalan gathered six political colleagues to initiate a specifically Kurdish national liberation movement based on Marxism-Leninism. The Apocular were drawn almost exclusively from Turkey's growing proletariat, and imbued Kurdish nationalism with the idea of class war. In 1978 they renamed themselves the **PKK**. [16a]

ARGK. See **PKK**.

Ateş Hirsizi (Fire Thief). Formed in 1993. Anarchist. Publication - "Ateş Hirsizi". [80a]

BCH (Independent Republic Movement) (Bağımsız Cumhuriyet Hareketi) [80b]

BDGP (United Revolutionary Forces Platform) (Birleşik Devrimci Güçler Platformu (name in Turkish); Platforma Hezen Soresgeren Yekgirti (name in Kurdish). Founded 1998. Radical left. [80a][80b]

BP/KK-T (Bolshevik Party / North Kurdistan - Turkey) (Bolşevik Partisi / Kuzey Kürdistan - Türkiye) Illegal. Formed 1981 as TKP/ML (Bolşevik). Ex-Maoist, Stalinist. Publications - "Bolşevik Partizan", "Roja Bolşevik". [80a]

Ceyshullah (Army of Allah). Founded in Istanbul in 1995. Its aim is to bring about a theocratic régime 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). Founded 1975. Radical left. Part of ÖDP (see Annex B). Publications – "Bir Adım" (One Step), "Hareket" (Movement), "Devrimci Hareket" (Revolutionary Movement). [80a]

Devrim (Revolution). Split of Dev Yol in 1990. Ex-Maoist, radical left. Publication - "Devrim". [80a]

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). [80a]

Devrimci Hareket (Revolutionary Movement). [80b]

Devrimci İşçi Partisi - İnşa Örgütü (Revolutionary Workers Party - Build up Organisation). Trotskyist. Publication - "Enternasyonal Bülten". [80a]

Devrimci Mücadele (Revolutionary Struggle). Founded 1977 as Devrimci Derleş. Radical left. Publication - "Devrimci Mücadele". [80a]

Devrimci Sosyalist Yön (Revolutionary Socialist Direction) [80b]

DHKP-C / DHKP/C now known as the DHKC (Revolutionary People's Liberation Party - Front) (Devrimci Halk Kurtulus Partisi - Cephesi).

<http://www.dhkc.net> 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). [80a] In UK the DHKP-C has since 29 March 2001 been proscribed under the Terrorism Act 2000. See forthcoming API – Proscribed Organisations. **Source [54]** is printed from the group's website

DHP (Revolutionary People's Party) (Devrimci Halk Partisi). Founded 1994. Close to the PKK. Publication - "Alternatif" (Alternative). [80a]

Direnış Hareketi (Resistance Movement). Founded 1978 as THKP/C - Üçüncü Yol. Radical left. Publication - "Odak". [80a]

Dördüncü Sol - Insa Örgütü (Fourth Left - Construction Organisation). Trotskyist. Publication - "Son Kavga" (Last Fight). [80a]

DPG (Revolutionary Party Forces) (Devrimci Parti Güçleri). Radical left. Publications - "Maya" (Ferment), "Parti Yolunda". [80a]

DSIH (Revolutionary Socialist Workers Movement) (Devrimci Sosyalist İşçi Hareketi). Illegal. Radical left. Publication - "Kaldıraç" (Lever). [80a]

DSIP (Revolutionary Socialist Workers Party) (Devrimci Sosyalist İşçi Partisi). Founded 1997. Legal. Trotskyist. Publication - "Sosyalist İşçi" (Socialist Worker). [80a]

EMEP See Annex B

ERNK. See **PKK**.

Gerçek (Truth) [80b]

Hareket (Movement). [80b]

HDÖ (People's Revolutionary Leaders) (Halkın Devrimci Öncüleri). Illegal. [82]

Hevgirtin Welatparez (Patriotic Union). [80a]

Hizb-İ 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 İlim 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 İlim group bore particular responsibility for the atrocities committed by Hizbullah. The group had an ideological aversion to Iran, which adhered to Shia Islam; the İlim group was striving for a Sunni Islam state. When the İlim 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 İlim group, and, from 1996, Hizbullah became synonymous with the violent İlim 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 Veliöğlu, 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.

Many alleged Hizbullah members claim that they were tortured in custody, a claim that has been supported in some cases by medical evidence.

[2a][5a][5b] [7b] [32c] [82] [85]

Hizbullah Vahdet. Radical Islamic group, which centred on the Vahdet publisher in the 1980s. The group's leader is Abdulvahap Ekinci. The group's legal foundations are Davet Education and Culture Association and Abdulkadir Geylani Trust. The group publishes a periodical called "Vahdet".

[65]

HKG (People's Liberation Forces) (Halkın Kurtuluşu Güçleri). [80a]

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", "Altinordu", "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", "Taraf", 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 İstanbul on 1 April 2001. Proceedings were brought against IBDA/C's leader, Salih İzzet Erdiş, known by the nom de guerre Salih Mirzabeyoğlu, before İstanbul 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][82][85][65]

İHÖ (Islamic Movement Organisation) (İslami Hareket Örgütü). Illegal. [82]

İlerici Gençlik (Progressive Youth) [80b]

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 Cagırcı, the director of the operations team, was caught by police in İstanbul 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". [80a]

Jerusalem Fighters See **Kudüs Savaşçıları**

KADEK See **PKK**

Kaplıncılar /Sözde Hilafet Devleti. Illegal. [82]

KDB (Communist Revolutionary Union) (Komünist Devrimci Birlik). Illegal. [82]

KDH (Communist Revolutionary Movement) (Komünist Devrim Hareketi). Illegal. [82]

KDH/L (Communist Revolutionary Movement/Leninist) (Komünist Devrim Hareketi/Leninist). Illegal. Publication - "Köz". [80b][82]

KHK See **PKK**

Kongra-Gel See **PKK**

KKP (Kurdistan Communist Party) (Kürdistan Komünist Partisi). Illegal. [82]

Kongreya Azadî û Demokrasiya (Kurdistan Freedom and democracy Congress) [80b]

KP(İÖ) (Communist Party (Build Up Organisation)) (Komünist Partisi (İnşa Örgütü)). Illegal. Ex-Maoist, Stalinist. Split of MLKP in 1995. Publication - "Halkın Birliği". [80a][82]

KSB (Communist Fighters Union) (Komünist Savaşçılar Birliği). Publication – "İşçi Davası". [80b]

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 Kurtuluşcuları). 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 Daşraf Bilek (General Secretary), Sait Özsoy, Vasfi Özdemir, Mahfuz Yetmen, Şevket Kaçmaz, Lütfi Bakşi. 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/Malatyaites) 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. Its leadership is said to be engaged in talks with Hizbullah, with a view to assembling forces. 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" (Dawn Group), and in university circles they use the signature of "Muslim Youth". [65]

Marksist Tutum (Marxist Attitude). [80b]

Mezhepsizler Grubu. Illegal. [82]

Med-Zehra, also called **Hizb-i Kuran** (The Party of Q'uran). A radical Islamist group, named after the university, Medresetü'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). Trotskyist. [80a]

MLKP (Marxist Leninist Communist Party) (Marksist Leninist Komünist Partisi). Illegal. Founded 1995; merger of TKP/ML - Hareketi, TKIH, 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 Aydın, 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). [2a][12b][80a][82]

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). [80a][82]

Müslüman Gençlik Grubu. (Muslim Youth Group). Illegal. [82]

PADEK (Freedom and Democracy Party of Kurdistan) (Partiya Azadî û Demokrasî ya Kurdistanê (name in Kurdish); Kürdistan Özgürlük ve Demokrasi Partisi (name in Turkish)). Founded 2000 by faction of PYSK (Kurdistan Sosyalist Birlik Partisi). Left, Kurdish nationalist. [80a]

PDK (Kürdistan Demokrat Partisi). Illegal. [82]

PDK/Bakur (Democratic Party of Kurdistan/North) (Partî Demokratî Kurdistan/Bakur (name in Kurdish); Kürdistan Demokrat Partisi/Kûzey (name in 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". [80a][82] [65]

PDK(T) (Democratic Party of Kurdistan (Turkey)) (Kürdistan Demokrat Partisi (Türkiye) (name in Turkish); Partiya Demokrat a Kurdistan (Türkiyê)(name in Kurdish)). Left, Kurdish nationalist. Publication - "Xebat". [80a]

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**

<http://www.kongra-gel.org/index.php?newlang=english> (Kurdistan Workers' Party) (Partiya Karkerên Kurdistan (name in Kurdish); Kürdistan İşçi Partisi (name in 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. On 16 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). Deputy Prime Minister Yılmaz stated that, if former PKK members who were involved in unlawful activities in the past continued to be active within the same organisation, all the restrictive decisions and measures that applied to the PKK must also apply to the new organisation. He went on to say that the fact that the PKK had realised that violence and terrorism were not a solution was a positive development. However, those who were involved in terrorism in the past should, he said, definitely be brought to justice. Such tactical changes did not affect the policy of the Turkish State on this subject. Publication - "Serxwebûn" (written in Turkish). In UK the PKK has since 29 March 2001 been proscribed under the Terrorism Act 2000. See forthcoming API – Proscribed Organisations.

[1a][2a][5b][18c][61a][63b][67][80a][82]

PKK-DCS (PKK-Revolutionary Line Fighters) (PKK – Devrimci Çizgi Savaşçıları). [80b]

PKK/KKP (Communist Party of Kurdistan) (Partiya Komunistê Kurdistan (name in Kurdish); Kürdistan Komünist Partisi (name in Turkish)). Founded 1990 by Kurdish section of TKEP. Communist. Publication – "Dengê Kurdistan". [80a]

PNBK (National Platform of North Kurdistan) (Platforma Neteweyî ya Bakûrê Kurdistanê (name in Kurdish); Kuzey Kurdistan Ulusal Platformu (name in Turkish)). Founded 1999. Left, Kurdish nationalist. [80a]

PRK/Rizgari (Liberation Party of Kurdistan) (Partiya Rizgariya Kurdistan (name in Kurdish); Kürdistan Kurtulus Partisi (name in 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". [80a][82][65]

PRNK (National Liberation Party of Kurdistan) (Kürdistan Ulusal Özgürlük Partisi). Illegal. Probably disbanded. [80a][82]

PS-Kawa (Revolutionary Party) (Partiya Sores). Illegal. Founded 1998 as split of PYSK (Kurdistan Sosyalist Birlik Partisi). [80a][82]

PSK (Socialist Party of Kurdistan) (Partiya Sosyalist a Kurdistan (name in Kurdish); Kürdistan Sosyalist Partisi (name in Turkish)). Illegal. Founded 1974. Left, Kurdish nationalist. Its legal wing is the DBP (see Annex B). Publications - "Roja Nû", "psk-bulten". Leader Kemel Burkay [80a][82]

PSK- (Kurdistan Revolutionary Party)(Devrimci Kürdistan Partisi) (Partiya Soreşa Kürdistan). Illegal. [82]

Revolutionary Marxist League. Trotskyist. [80a]

RNK/KUK (Kürdistan Ulusal Kurtuluşçular). Illegal. [82]

RSDK (Socialist Democratic Organisation of Kurdistan) (Rêxistina Sosyalîst a Demokratîk a Kurdistanê (name in Kurdish); Kürdistan Demokratik ve Sosyalist Örgütü (name in Turkish)). Split of PYSK (Kurdistan Sosyalist Birlik Partisi). [80a]

RSWB (Organisation of Revolutionary Patriots Bethnarin) (Rêxistina Soresgerên Walatparêzên Bethnarin (name in Kurdish); Betnahrin Yurtsever Devrimci Örgüt (name in Turkish)). Radical left. [80a]

Şafak-Değişim See **Malatyalılar**

SED (Social Ecological Transformation) (Sosial Ekolijist Dönüşüm). Green. [80a]

SEH (Socialist Labour Movement) (Sosyalist Emek Hareketi). Publication - "Siyasi Gazete" (Political Gazette). [80b]

Selam Grubu. Illegal. [82]

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. [22][30]

SIP See **Sosyalist İktidar Partisi - Komünist Parti**

Sosyalist Alternatif (Socialist Alternative). Part of ÖDP (see Annex B). Trotskyist. Publication - "Sosyalist Alternatif". [80a]

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. Publications - "Sosyalist İktidar" (Socialist Power), "Sol" (Left). [30d][80a]

Sosyalist Politika (Socialist Politics). Part of ÖDP (see Annex B). Publication - "Sosyalist Politika". [80a]

Sosyalizm İçin Kurtuluş (Liberation for Socialism). Publication - "Kurtuluş". [80b]

Spartaküs. Illegal. [82]

TAYAD (the Solidarity Association of Prisoners' Families) (Tutuklu ve Hükümlü Aileleri Yardımlama Derneği). 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]

TDKP (Revolutionary Communist Party of Turkey) (Türkiye Devrimci Komünist Partisi). Illegal. Founded 1980. Ex-Maoist, Stalinist. Its legal wing is Emep (Labourers Party) (founded 1996), which gained 0.17% of the national vote in the April 1999 general election. Publication - "Devrimin Sesi". **Source [47]** is printed from TDKP's website.

TDP (Revolution Party of Turkey) (Türkiye Devrim Partisi). Illegal. Founded 1978, formerly TKP (Birlik). Radical left. Publication - "Hedef" (Target). [80a][82]

Tehvid-Selam Islamic splinter group said to have links with Iran. The group adopts Hizbullahi ideas, and is closely related to the Hizbullah 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. [80a][82]

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). [80a][82]

THKP/C- Dev Yol. Illegal. [82]

THKP/C/HDÖ (People's Liberation Party/Front of Turkey - People's Revolutionary Vanguard) (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). [80a]

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). [80b]

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". [80a][82]

TIKB - B (Revolutionary Communists Union of Turkey - Bolshevik) (Türkiye İhtilalci Komünistler Birliği - Bolşevik). Illegal. Split of TIKB. Radical left. Publication - "Devrimci Duruş" (Revolutionary Attitude). [80a][82]

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, as if proud of their handiwork, that this journalist, or that Kurdish villager, had been "punished". Since then, the numbers of such killings have fallen notably, perhaps as sympathisers of such

organisations have recognised that such "revolutionary justice" is no more than common murder. 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][12a] In June 2002 TIKKO reportedly abducted and killed Muharrem Hız from Sırçalı village, Tokat province. [9b] 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. There are reported still to be a few dozen armed TIKKO fighters in the mountains of Tunceli province. [2a][12a]

TIP (Workers Party of Turkey) (Türkiye İsci Partisi). [80a]

TKEP (Communist Labour Party of Turkey) (Türkiye Komünist Emek Partisi). Illegal. Founded 1980, part of ÖDP (Özgürlük ve Dayanışma Partisi - see Annex B). Communist. [80a][82]

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 Birliği". [80j][82]

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). **Source [72]** is printed from the party's website. [80a][82]

TKKKÖ (Turkey and North Kurdistan Liberation Organisation) (Türkiye ve Kuzey Kürdistan Kurtuluş Örgütü). Illegal. [82]

TKP (Communist Party of Turkey) (Türkiye Komünist Partisi). Founded 1980 as TKP - İscinin Sesi. Communist. Publication - "İscinin Sesi" (Workers' Voice). [80a]

TKP/İS (Communist Party of Turkey/Workers Voice) (Türkiye Komünist Partisi/İşçinin Sesi). Illegal. [82]

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". [80a][82]

TKP/ML (Communist Party of Turkey/ Marxist Leninist) (Türkiye Komünist Partisi/ Marksist-Leninist). Founded 1972. Political military. Based on Maoist ideology, assuming that the rural areas of Turkey will be liberated first, leading to the creation of a peasants' army. The working classes in the cities will then unite with the peasants and help overthrow the "capitalist order". 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). **Source [69]** is printed from the party's website. [2a][67][80a]

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). [80a]

TKP/ML (Birlik) (Communist Party of Turkey/ Marxist-Leninist (Unity)) (Türkiye Komünist Partisi/ Marksist-Leninist (Birlik). Publication - "Uzun Yürüyüş". [80b]

TKP/(M-L) DABK (Communist Party of Turkey (Marxist-Leninist) East Anadolu Area Committee) (Türkiye Komünist Partisi (Marksist-Leninist) Doğu Anadolu Bölge Komitesi). Illegal. [82]

TKP/M-L Kons. Kes (Communist Party of Turkey/ Marxist-Leninist Conferencing Body) (Türkiye Komünist Partisi/Marksist-Leninist Koferansçı Kesim). Illegal. [82]

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". [80a][82]

TODEF See **DHKP-C**

Toplumsal Özgürlük Platformu (Social Freedom Platform). Part of ÖDP (see Annex B). [80a]

TSİP (Socialist Workers Party of Turkey) (Türkiye Sosyalist İşçi Partisi). Founded 1993. Legal. Communist. Publication - "Kitle" (Mass, Crowd). [80a]

Türkiye'de Marksist-Leninist Parti (Marxist Leninist Party in Turkey). Founded in 1980 as TKP/ML Spartakus. Stalinist. Publications - "Spartakus", "Bilimsel Komünizmin Sancağı Altında". [80a]

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 UİC called itself the "Caliphate State". After he died in 1995, his son Metin Kaplan replaced him as "caliph". Some members of UİC have rejected Metin Kaplan's caliphate, and UİC has divided into three groups. UİC 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 In Turkey. The German authorities arrested Metin Kaplan in March 1999, and he is still in prison. However, Mr Kaplan leads UİC from prison. The Turkish police have conducted operations against UİC militants in Sivas, Sakarya, Erzurum, Bursa and Çanakkale. [65]

Ürün (Product) [80b]

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. [66]

Annex D: Martial Law and State of Emergency in Turkey

Province	Martial law	State of emergency
Adana	26.12.78 – 19.11.85	19.11.85 – 19.3.87
Adıyaman	26.4.79 – 19.11.85	19.11.85 – 19.3.86
Afyon	12.9.80 – 19.7.84	-
Ağrı	20.4.80 – 19.11.85	19.11.85 – 19.3.87
Aksaray	Established 15.6.89, previously part of Niğde	
Amasya	12.9.80 – 19.7.84	19.7.84 – 19.3.85
Ankara	26.12.78 – 19.7.85	19.7.85 – 19.11.86
Antalya	12.9.80 – 19.3.85	19.3.85 – 19.7.87
Ardahan	Established 27.5.92, previously part of Kars	
Artvin	12.9.80 – 19.7.85	19.7.85 – 19.3.86
Aydın	12.9.80 – 19.7.84	19.7.84 – 19.11.84
Balıkesir	12.9.80 – 19.7.84	19.7.84 – 19.11.84
Bartın	Established 28.8.91, previously part of Zonguldak	
Batman	Established 16.5.90, previously part of Siirt	16.5.90 – 2.10.97
Bayburt	Established 15.6.89, previously part of Gümüşhane	
Bilecik	12.9.80 – 19.3.84	-
Bingöl	26.12.78 – 19.3.86	19.3.86 – 2.10.97
Bitlis	12.9.80 – 19.3.84	19.3.84 – 19.7.84. Reimposed 19.3.93 – 2.10.97
Bolu	12.9.80 – 19.7.84	-
Burdur	12.9.80 – 19.3.84	-
Bursa	12.9.80 – 19.3.85	19.3.85 – 19.3.86
Çanakkale	12.9.80 – 19.3.84	19.3.84 – 19.7.84
Çankırı	12.9.80 – 19.3.84	19.3.84 – 19.11.84
Çorum	12.9.80 – 19.7.84	19.7.84 – 19.7.85
Denizli	12.9.80 – 19.11.84	19.11.84 – 19.3.85
Diyarbakır	26.4.79 – 19.7.87	19.7.87 – 30.11.02
Düzce	Established 1999, previously part of Bolu	
Edirne	12.9.80 – 19.7.85	19.7.85 – 19.11.85
Elâzığ	26.12.78 – 19.3.86	19.3.86 – 19.3.93
Erzincan	26.12.78 – 20.4.80 and 12.9.80 – 19.7.85	19.7.85 – 19.11.85
Erzurum	26.12.78 – 19.11.85	19.11.85 – 19.3.86
Eskişehir	12.9.80 – 19.11.84	19.11.84 – 19.3.85

Gaziantep	26.12.78 – 19.11.85	19.11.85 – 19.3.86
Giresun	12.9.80 – 19.11.84	19.11.84 – 19.3.85
Gümüşhane	12.9.80 – 19.3.84	19.3.84 – 19.11.84
Hakkâri	26.4.79 – 19.7.87	19.7.87 – 30.7.02
Hatay	20.2.80 – 19.11.85	19.11.85 – 19.3.87
İçel	12.9.80 – 19.3.85	19.3.85 – 19.7.86
İğdır	Established 27.5.92, previously part of Kars	
İsparta		
İstanbul	26.12.78 – 19.11.85	19.11.85 – 19.11.88
İzmir	20.2.80 – 19.7.85	19.7.85 – 19.11.86
Karabük	Established 6.6.95, previously part of Zonguldak	
K. Maraş	26.12.78 – 19.3.85	19.3.85 19.11.85
Karaman	Established 15.6.89, previously part of Konya	
Kars	26.12.78 – 19.11.85	19.11.85 – 19.11.86
Kastamonu	12.9.80 – 19.3.84	19.3.84 – 19.7.84
Kayseri	12.9.80 – 19.11.84	-
Kilis	Established 6.6.95, previously part of Gaziantep	
Kırıkkale	Established 15.6.89, previously part of Ankara	
Kırklareli	12.9.80 – 19.3.84	-
Kırşehir	12.9.80 – 19.3.84	19.3.84 – 19.11.84
Kocaeli	12.9.80 – 19.3.85	19.3.85 – 19.11.85
Konya	12.9.80 – 19.11.84	-
Kütahya	12.9.80 – 19.3.84	-
Malatya	26.12.78 – 19.3.85	19.3.85 – 19.3.86
Manisa	12.9.80 – 19.11.84	19.11.84 – 19.3.85
Maraş	See K. Maraş	
Mardin	26.4.79 – 19.7.87	19.7.87 – 29.11.96
Muğla	12.9.80 – 19.7.84	-
Muş	12.9.80 – 19.3.84	-
Nevşehir	12.9.80 – 19.7.84	-
Niğde	12.9.80 – 19.7.84	19.7.84 – 19.11.84
Ordu	12.9.80 – 19.7.85	19.7.85 – 19.7.86
Osmaniye	Established 1997, previously part of Adana	
Rize	12.9.80 – 19.7.84	19.7.84 – 19.3.85
Ş. Urfa	26.12.78 – 19.3.86	19.3.86 – 19.3.87
Sakarya	12.9.80 – 19.7.84	19.7.84 – 19.3.85
Samsun	12.9.80 – 19.3.85	19.3.85 – 19.7.85
Siirt	26.4.79 – 19.7.87	19.7.87 – 30.11.99
Sinop	12.9.80 – 19.3.84	19.3.84 – 19.7.84
Şirnak	Established 16.5.90, from Siirt	
Sivas	26.12.78 – 26.2.80 and 12.9.80 – 19.3.85	19.3.85 – 19.7.86
Tekirdağ	12.9.80 – 19.7.84	-

Tokat	12.9.80 – 19.3.85	19.3.85 – 19.7.85
Trabzon	12.9.80 – 19.3.85	19.3.85 – 19.7.85
Tunceli	26.4.79 – 19.3.86	19.3.86 – 30.7.02
Uşak	12.9.80 – 19.11.84	19.11.84 – 19.3.85
Van	12.9.80 – 19.3.87	19.3.87 – 30.7.00
Yalova	Established 6.6.95, previously part of Istanbul	
Yozgat	12.9.80 – 19.7.84	-
Zonguldak	12.9.80 – 19.3.85	19.3.85 – 19.7.85

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ANNEX E: ADMINISTRATION OF JUSTICE

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." [78]

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. [78]

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). [78]

The defendant

4. The law of criminal procedure is intended not only to secure effective prosecution of offences, but also to secure to the accused an effective defence. 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. [78] Of all judgements in the year 2000 in Turkish criminal courts, 283,743 were sentences, 114,439 were acquittals, and 27,384 dismissals. [59]

Evidence

5. Under the Code of Criminal Procedure, the judge weighs the probative value of all evidence submitted during the preparatory phase and during the trial, taking into account the credibility of the witnesses and other evidence to the best of his ability and in good conscience. The Code prescribes the forms of proof admissible to establish the guilt of the accused: confession, testimony of witnesses, writings and records of officials, evidence gained through discovery, judicial notice, searches and seizures, and the opinion of experts. The Code stipulates in detail the conditions governing the admissibility of each of these means of proof in order to prevent abuses and to ensure that they contribute to the establishment of the truth. [78]

6. In accordance with the Code, all depositions and statements made by interrogated persons and defendants must be made of free will. 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). An additional subparagraph was incorporated into the Code, according to which the verdict of the court cannot be substantiated on evidence unlawfully obtained in the course of the preparatory investigation. [78]

Commencement and conduct of proceedings

Preparatory investigation

7. 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. [78]

8. 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. [78]

9. 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. [78]

10. 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. [78]

11. The preparatory investigation is, in principle, secret, performed without the presence of the parties and in written form. [78]

Final investigation (trial)

12. 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. [78]

13. All phases of final investigation are conducted in the presence of the defendant. The Turkish Code of Criminal Procedure has adopted trial in absentia as an exception, only in cases where light sentences are involved i.e. where the offence is punishable by a fine, imprisonment for up to two years, and/or confiscation. 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. [78] 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. A trial may also proceed without the presence of the accused in cases being dealt with by the State Security Courts on condition that the suspect has already been heard by the judge on a previous occasion. [2a]

14. 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] Final investigation is normally open to the public. Under the Code of Criminal Procedure, the court may decide, for the protection of public morals and security, to hold partly or completely closed sessions. The trials of children under 15 years of age must be conducted in closed sessions. [78]

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ANNEX F: POLITICAL CRIMINAL LAW

The Turkish Penal (or Criminal) Code (Türk Ceza Kanunu – TCK) was adopted by Law No. 765 of 1 March 1926, and was based on the Italian Criminal Code of 1889 as amended by the Mussolini regime. More than half of the original Turkish Penal Code has since been amended. Many political offences are listed in the Turkish Penal Code, while others may be found in the so-called Special Acts, such as the Anti-Terror Law (or Anti-Terrorism Act) No. 3713 of April 1991. Each law in Turkey is given and known by a number, assigned from a consecutive sequence. The numbering system dates from the foundation of the Republic in 1923, but unfortunately the sequence has been started afresh at various points, usually when the military has intervened in government.

Below is a list of the most common political crimes with the appropriate Article numbers, descriptions of the offences and the sentences.

Political crimes in the Turkish Penal (or Criminal) Code (TCK), as amended

TCK Art.	Description of offence	Sentence
125	Annexing (part of) Turkey.	Death
126	Serving in the army of a State at war with Turkey.	Death
127	Conspiring to wage war against Turkey in conjunction with a foreign power.	Min. 5 years', max. life imprisonment
128	Causing danger of war to Turkey or other countries.	Min. 2 years', max. life imprisonment
129	Helping a hostile army or causing obstruction to Turkey in time of war.	Min. 5 years', max. death
130	Not honouring supply agreements with the army in time of war.	Min. fine. For fraud min. 10 years' imprisonment
131	Destroying military installations.	Min. 8 years' imprisonment. In time of war or if military potential endangered: death*
132	Forging or destroying State secrets, or using them improperly.	Min. 2 years' imprisonment. In time of war or if military potential endangered: life imprisonment
133	Espionage.	Min. 15 years' imprisonment. In time of war or if military potential endangered: death*
134	Conspiracy to violate Articles 132 and 133.	Min. 1 year imprisonment. In time of war or if military potential endangered: max. 15 years' imprisonment
135	Entering military premises without authorisation, illegal possession of State secrets	1 to 5 years' imprisonment. In time of war 3 to 10 years' imprisonment
136	Publication of matters which must be kept confidential in the interest of the State	Min. 5 years' imprisonment. In time of war or if military potential endangered: min. 10 years'. For purposes of espionage: life imprisonment for the first case and death in the second
137	Publication of matters of which publication is prohibited	Min. 5 years' imprisonment. In time of war or if military potential endangered: min. 10 years'. For the purposes of espionage: life imprisonment for the first case and death in

		the second
138	Publication of matters of which publication is prohibited by an official with access to this information by virtue of their work. Not properly fulfilling one's role as a diplomat and damaging Turkey's interests. Being aware of the aforementioned matters and not reporting them.	Min. 5 years' imprisonment. In time of war or if military potential endangered: life. Min. 5 years' imprisonment Min. 6 months' imprisonment
139	Ignoring orders and instructions issued on behalf of the State in time of war.	Between 1 and 6 years' imprisonment
146	Causing the discontinuation of Parliament or preventing it from fulfilling its role.	Death*
147	Causing the discontinuation of the Cabinet or preventing it from fulfilling its role.	Death*
148	Recruiting soldiers for another country without the Government's consent.	3 to 6 years' imprisonment. In the event of recruiting other soldiers: raised by 1/3
149	Incitement to armed revolt.	Min. 20 years' imprisonment. Should it lead to actual armed uprising: death*. Conspiracy: min. 6 years' imprisonment
150	Supplying weapons to conspirators	Between 1 and 24 years' imprisonment
151	Not reporting crimes under Articles 146-150 despite being aware thereof. Knowingly and willingly transporting conspirators	Min. 6 months' imprisonment Between 1 and 24 years' imprisonment
152	Assuming unlawful command of a warship, port, town or military unit.	Life imprisonment
153	Inciting members of the armed forces or police to disobedience.	1 to 3 years' imprisonment. If committed in public: 2 to 5 years' imprisonment. In time of war, increased by 1/3
154	Inciting the population to commit the crimes specified under 146 to 153 inclusive.	1 to 3 years' imprisonment
155**	Inciting the Turkish people to civil disobedience or dissuading them from national military service	2 months' to 2 years' imprisonment plus a fine
156	Attempting to assassinate the President	If unsuccessful: life imprisonment. If successful: death*.
157	Physically assaulting the President	Min. 5 years' imprisonment
159	Insulting the Turkish nation, the Republic, Parliament, or the moral personality of the Government or the military or security forces of the State or the moral personality of judicial authorities, with the intention to insult or deride the institution.	1 to 3 years' imprisonment.
161	Using propaganda in time of war to mislead the Turkish people.	Min. 5 years' imprisonment. If against soldiers: min. 15 years'. If committed in collusion with the enemy: life
168	Forming an armed band to carry out the crimes specified under Articles 125, 131, 146, 147, 149 or 156 or being in command of such an organisation. "Just" being a member of such an organisation.	Min. 15 years' imprisonment 10 to 15 years' imprisonment.
169	Offering support and shelter to an organisation as specified under Article 168.	3 to 5 years' imprisonment
171	Committing the crimes specified under Articles 125, 131, 146, 147, 149 or 156 in conjunction with others.	125, 131, 133 and 156: 8 to 15 years' imprisonment. 146 and 147: 4 to 12 years' imprisonment 149: 2 to 7 years' imprisonment
172	Inciting the population to commit one of the	2 to 5 years' imprisonment

	crimes specified under Articles 125, 131, 146, 147, 149 or 156	
312 sect. 2	Inciting, in a form that could endanger public order, the people to hatred on the grounds of class, religion, denomination or regional differences. Insulting part of the people degradingly and in a way that hurts human dignity.	1 to 3 years' imprisonment 6 months to 2 years imprisonment.

* On 3 August 2002 Parliament approved the end of the death penalty in peacetime and its replacement with life imprisonment without the possibility of parole.

**Article 155 is sometimes used for passing sentence on conscientious objectors.

The sentences and fines specified in the above Articles are often imposed in compliance with Article 5 of the aforementioned Anti-Terror Law No. 3713, which provides for increasing the sentence by half.

Political crimes under the Anti-Terror Law No. 3713 of 12 April 1991, as amended

Article	Description of offence	Sentence
6	Disclosure and publication of terrorist objectives, pamphlets etc. for terrorist organisations.	Fine
7	Founding and leading a terrorist organisation Forming part of a terrorist organisation Providing support to and propaganda for a terrorist organisation in a form that encourages the use of terrorist methods	5 to 10 years' imprisonment and fine 3 to 5 years' imprisonment and fine 1 to 5 years' imprisonment and fine. Where the support is in the form of buildings etc.: doubled
8 (Article 8 was abolished in July 2003)	Issuing propaganda against the indivisible unity of the State and the people of Turkey. (Article 8 was abolished in July 2003)	1 to 3 years' imprisonment and fine. If through the media: fine for the organisation and 6 months' to 2 years' plus fine for the administrators responsible. Also broadcasting ban for the medium for 1 to 15 days'. If visual, 1 to 3 years' imprisonment "if the act does not require a heavier penalty". If the act is committed in a form that encourages the use of terrorist methods, the sentence is increased by a third. Mass media: increased by between a third and a half. (Article 8 was abolished in July 2003)

Sources- [12c][66a][76][52][36c]
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ANNEX G: The Court System

The Court System

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. [19]

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. [19]

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. [19]

i. Civil Courts of the Peace (Sulh Hukuk Hakimligi)

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. [19]

ii. Civil Courts of First Instance (Asliye Hukuk Hakimligi)

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. [19]

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. [19]

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. [19]

The competence of the Commercial Courts is clearly described under Article 5 of the Commercial Code. [19]

iv. Penal Courts of the Peace (Sulh Ceza Hakimligi)

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. [19]

v. Penal Courts of First Instance (Asliye Ceza Hakimligi)

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 ilce, sometimes divided into several branches according to the need and population. Therefore, at the moment there are 899 such Courts in Turkey. [19]

vi. Central Criminal Courts (Agur Ceza Mahkemesi)

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. [19]

vii. State Security Courts (Develet Gıvenlik Mahkemesi)

According to the law, State Security Courts handle the criminal offenses described in Article 9 of the said law which are about the security of the state. It consists of a presiding judge and two members with a public prosecutor. There are 12 such Courts throughout Turkey. [19]

viii. Execution Investigation Authority (Icra Tetkik Hakimligi)

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 ilce in Turkey. [19]

viv. 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. [19]

x. The Court of Cassation (Yargitay)

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. [19]

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. [19]

B. Administrative Courts

The administrative courts include the Council of State, subordinate courts at the regions, and the Supreme Military Administrative Court. [19]

i. The Council of State (Danistay)

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. [19]

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. [19]

iii. Supreme Military Administrative Court (Askeri Yuksek 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. [19]

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. [19]

ii. The Military Criminal Court of Cassation (Askeri Yargitay)

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. [19]

D. The Constitutional Court (Anayasa Mahkemesi)

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. [19]

The Constitutional Court consists of 11 regular members and 4 alternate members. All judges of the constitutional Court hold office until they retire at the age of 65 like all other judges in Turkey. [19]

ANNEX H: REMOVAL FIGURES FOR TURKISH

NATIONALS

Removals of Turkish nationals to Turkey

Date	Germany (2)	Switzerland (1)	Netherlands (1)	UK (1)	Denmark (1)	USA (2)	Canada (2)	Australia (2)	Sweden (1)	Total of both (1) and (2)	Total of (1)
1989		850								850	850
1990		786								786	786
1991		1171								1171	1171
1992	1860	883								2743	883
1993	1631	309								1940	309
1994	3426	147	69		10	33	55			3740	226
1995	2611	109	177	125	15	26	34			3097	426
1996	4647	60	199	190	26	18	25	43	105	5313	580
1997	4972	38	163	250	15	39	28	47	66	5618	532
1998	8692	46	224	185	16	53	30	39	44	7329	515
1999	4960	71	137	85(a)	20	68(c)	16	73	52	5482	365
2000	4982	75	244	90(a)	22	63(c)	59	29	28	5592	459
2001	4322	92	112	140(b)	35	66(c)	67	31	39	48565	418
Totals										48565	7520

1. Numbers only relate to returns of rejected asylum seekers

2. Numbers include both asylum and non-asylum returns.

(a) Excluding in-country removals, because of data quality issues.

(b) For the period April to December 2001 (figures unavailable for Jan. to Mar. 2001 because of data quality issues).

(c) In fiscal year 1.10.98 to 30.9.99, or 1.10.99 to 30.9.00, or 1.10.00 to 30.9.01.

(d) Total includes 'announcement to leave after detention 18, ordered to leave by border police 14, expelled 203, controlled departure 69'

Where numbers are not shown statistics are not presently available for those years.

SOURCES

Germany: Information from the German Federal Agency for the Recognition of Foreign Refugees

Sweden, USA, Canada, Australia: Inter-Governmental Consultations on Asylum Refugee and Migration Policies in Europe, North America and Australia

Denmark: Letter and email from Danish Immigration Service

Netherlands: Letter and email from Netherlands Ministry of Justice

Switzerland: Statistics from the Swiss Federal Office for Refugees

United Kingdom: Statistics from Research Development and Statistics Directorate

Analysis of responses to CIREA questionnaire on Turkey, September 2001

ANNEX I: PROMINENT PEOPLE

Atatürk, Kemal (born 1880/1881, died 1938) (Original name 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. It is widely believed throughout Turkey that without Atatürk Turkey in its present form simply would not exist.

Bahçeli, Devlet. Was leader of MHP (Nationalist Action Party), and Deputy Prime Minister 1999-2002.

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.

Bumin, Mustafa. Chairman of the Constitutional Court, Turkey's highest court.

Cem, Ismail. Foreign Minister 1997-2002, and founder of YTP (New Turkey Party) in July 2002.

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. 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.

Erdoğan, Recep Tayyip. Prime Minister from March 2003. Born in 1954, he was in 1994-1998 the popular and charismatic Islamist (Virtue/Fazilet) mayor of Istanbul. He served four months in prison in 1999 for reciting a poem with an Islamic message (and thereby "inciting religious hatred"); the poem included the lines "The mosques are our barracks, the domes our helmets, the minarets our bayonets and the faithful our soldiers". Leader of the Islamist-orientated AK Partisi (Justice and Development Party), which he led to victory in the November 2003 general election, although he was ineligible to stand for Parliament because of his criminal conviction. The law was changed, he was elected in a by-election, and on 14 March 2003 he was appointed Prime Minister. "I am first and foremost a Muslim. I am someone who tries hard to practise my faith" he says. [60c]

Gül Abdullah. Prime Minister from November 2002 to March 2003, and a leading member of the AKP (Justice and development Party). Mr Gül was born in 1950. Graduating from the Faculty of Economics of Istanbul University, he studied languages and attended postgraduate studies in London and Exeter. On his return to Turkey, he gave courses in economics, and then worked as an economist in the Islamic Development Bank in Jeddah. [63c]

Kutan, Recai. Leader of Islamic SP (Felicity/Contentment Party).

Öcalan, Abdullah (nickname "Apo"). Leader of the PKK. Born in 1949 in Urfa, he grew up speaking Kurdish, but forgot much of the language during his teenage years. In 1971 he entered the prestigious Faculty of Political Sciences at Ankara University. Marxism was the dominant creed for his generation of students. 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. Deserters from the PKK have claimed that their authoritarian commander brooked no opposition,

and organised the execution of scores of dissident colleagues. He was captured, forcibly returned to Turkey in February 1999, put on trial, convicted of treason and sentenced to death. On 2 August 1999 he called on the PKK to end its armed struggle. In January 2000 the Turkish Government agreed to respect an injunction from the European Court of Human Rights calling for the suspension of Öcalan's execution, pending his appeal to the Court. With the abolition in 2002 of the death penalty for offences in peacetime, his sentence was commuted to life imprisonment without conditional release. [301] [58]

Özcan, Hüsamettin. Deputy Prime Minister 1999-2002.

Özkök, General Hilmi. Born 1940, Chief of the General Staff for a four year term from August 2002. One of the most powerful men in Turkey.

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, where in 1999 he criticised Turkey's Constitution for restricting democratic freedoms. He has a reputation for personal integrity, and a deeply ingrained respect for the rule of law. Very secular.

Yılmaz, Mesut. Prime Minister in 1991, 1996, and 1997-1999, and Deputy Prime Minister 1999-2002. Was Chairman of ANAP (Motherland Party).

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