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TURKEY

Home Office Science and Research Group

COUNTRY OF ORIGIN INFORMATION SERVICE

Country reports are produced by the Science & Research Group of the Home Office to provide caseworkers and others involved in processing asylum applications with accurate, balanced and up-to-date information about conditions in asylum seekers' countries of origin.

They contain general background information about the issues most commonly raised in asylum/human rights claims made in the UK.

The reports are compiled from material produced by a wide range of recognised external information sources. They are not intended to be a detailed or comprehensive survey, nor do they contain Home Office opinion or policy.

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ANNEXES

1. Scope of Document

1.01 This Country of Origin Information Report (COI Report) has been produced by Research Development and Statistics (RDS), Home Office, for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. It includes information available up to 30 September 2005.

1.02 The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

1.03 The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

1.04 The structure and format of the COI Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

1.05 The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.

1.06 As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

1.07 The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent

Disclaimer: "This country of origin information report contains the most up-to-date publicly available information as at 30 September 2005. Older source material has been included where it contains relevant information not available in more recent documents."

documents. All sources contain information considered relevant at the time this Report was issued.

1.08 This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.

1.09 COI Reports are published every six months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in COI Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country of Origin Information Bulletins, which are also published on the RDS website. They also have constant access to an information request service for specific enquiries.

1.10 In producing this COI Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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ADVISORY PANEL ON COUNTRY INFORMATION

1.11 The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country of origin information material. The Advisory Panel welcomes all feedback on the Home Office's COI Reports and other country of origin information material. Information about the Panel's work can be found on its website at *www.apci.org.uk*.

1.12 It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office COI Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be

taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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2. Geography

2.01 As recorded in the Europa Regional Surveys of the World: The Middle East and North Africa 2005, the Republic of Turkey covers an area of approximately 780,000 square kilometres (approximately 301,000 square miles). According to official figures the population in 2001 numbered 67.8 million. The capital city is Ankara while other principal cities include Istanbul, Izmir and Adana. **[1d] (p1186)** According to UN estimates, the country's population at mid-2003 totalled 70,885,000, giving an average density per sq. km of 90.9 inhabitants. Europa further reports that 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. **[1d] (p1151)**

2.02 As reported by the *Turkish Daily News* on 21 July 2005 "Turkey's population as of the end of June [2005] surpassed 72 million, an increase of 4.3 million since 2000. According to Anatolia news agency reports compiled from State Institute of Statistics (DIE) data, Turkey's population increased by 6.3 percent since 2000, when it was 67.8 million. The population of Turkey's largest city, Istanbul, increased to 11.3 million from 10 million five years ago." **[23t]**

2.03 As noted in Europa the Turkish language is spoken over most, but by no means all, of the country. In addition there are a number of non-Turkish languages. Kurdish [Kurmanji and Zaza] is widely spoken in the southeast along the Syrian and Iraqi frontiers. Smaller language groups include Caucasian, Greek and Armenian. **[1d] (p1152)**

2.04 The US State Department report on International Religious Freedom, published 15 September 2004 reported that approximately 99 percent of the Turkish population are Muslim; the majority of whom are Sunni. There are also several other religious groups, mostly concentrated in Istanbul and other large cities. **[5b] (p1)** As noted in this report:

> "The actual percentage of Muslims is slightly lower; the Government officially recognizes only three minority religious communities – Greek Orthodox Christians, Armenian Orthodox Christians, and Jews – and counts the rest of the population as Muslim, although other non-Muslim communities exist…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 the traditions of other religions found in Anatolia as well." **[5b] (p1)**

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3. Economy

3.01 As noted in the US State Department report 2004 (USSD), published 28 February 2005:

"The country had a market economy and a population of approximately 67.8 million. Industry and services dominated the economy, but agriculture remained important. During the year [2004], the real gross domestic product was expected to grow by over 10 percent and consumer prices were expected to rise by less than 12 percent…There were major disparities in income, particularly between the relatively developed west and the less developed east." **[5c] (Introduction)**

3.02 The British Embassy in Ankara reported on 18 April 2005 that:

"Turkey was the world's 18th largest economy in 2003 and had the fastest growth rate (9.9% GNP) among OECD countries in 2004. Textiles, automotive and electronic appliances are the fastest growing sectors, with many of the goods exported to Europe. An IMF backed stability programme has helped bring down annual inflation to single digits (CPI was 8.9% in March 2005), and prudent fiscal policies have brought about reductions in the budget deficit and national debt stock as measured against GNP. High unemployment and large income disparities are the biggest economic challenges facing Turkey. The official unemployment rate was 10.3% in 2004, but youth unemployment is much higher and there is a significant degree of hidden unemployment. Real wages have not recovered from the recession in 2001 and the large gap in income inequalities between the more prosperous west and the disadvantaged east remains." **[4c]**

3.03 On 31 December 2004, BBC News reported that Turkey was to re-launch its currency, knocking six zeros off the lira in the hope of boosting trade and powering its growing economy. "The currency – officially to be known as the new lira [New] Turkish Lira [YTL] – will be launched at midnight on 1 January. From that point, the one-million lira note will become the new one-lira coin." **[66ab]**

3.04 As reported by BBC Market Data on 4 September 2005, the exchange rate was then 2.46 [New] Turkish Lira (YTL) to £1 sterling. **[66f]**

3.05 The World Bank Data and Statistics for Turkey – World Development Indicators database, April 2005 (website accessed 4 September 2005) recorded a GNI per capita [average annual income] in 2003 of US$ 2,800 [corresponding to £1,520 in September 2005]. The GNI for 2002 was US$ 2,510. **[45]**

3.06 The European Commission Turkey 2005 Progress Report, released on 9 November 2005 noted that:

"As regards employment policy, the labour market continues to display poor performance and little progress can be reported. Low labour force participation and employment rates, in particular of women, high levels of youth unemployment, the large size of the informal economy and the strong rural/urban labour market divide remain the main challenges. The overall employment rate in 2004 stood at 43.7% with a slight increase compared to

2003. However, female employment is still low at just under 25%, while male employment picked up slightly from 62.9% in 2003 to 64.7% in 2004." **[71e] (p95)**

CORRUPTION

3.07 Transparency International ranked Turkey 77th out of 146 countries in its Corruption Perception Index for 2004. **[55a]** 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 3.2 in 2004 – a slight improvement from the 3.1 it received in 2003. **[55b]**

3.08 As noted in the European Commission 2005 Report:

"In the last year, some progress has been achieved in adopting anti-corruption measures. However, surveys continue to indicate that corruption remains a serious problem in Turkey. The new Penal Code punishes corruption-related crimes more seriously and the statute of limitations for such offences has been extended. The Code also introduces the concept of liability of legal persons in cases of corruption and contains provisions concerning corruption in public procurement." **[71e] (p17)**

3.09 The EC 2005 also noted that:

"The Ethical Board for Public Servants has started to operate. A circular was issued in 2004 instructing public bodies to co-operate fully with the Board. A regulation on the code of ethics for public employees entered into force in April 2005…One former Prime Minister and seven former ministers were tried before the High Tribunal on charges of corruption. The scope of parliamentary immunity has been identified as a significant problem in the context of corruption in Turkish public life. In spite of intensive debate, no development can be reported concerning Parliamentary immunity…The efficiency and effectiveness of governmental, parliamentary and other bodies established to combat corruption remains a matter of concern. The consistency of policies and the degree of co-ordination and co-operation is weak." **[71e] (p18)**

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4. History

4.01 As recorded in the Europa Regional Surveys of the World: The Middle East and North Africa 2005 [Europa]:

"On 11 September 1980 the armed forces, led by General Evren, seized power in a bloodless coup, the third in 20 years. There appeared to be three main reasons for their intervention: the failure of the Government to deal with the country's political and economic chaos, the ineffectiveness of the police forces and, more immediately, the sudden resurgence of Islamist fundamentalism. The coup leaders formed a five-man National Security Council (NSC) sworn in on the 18 September [1980]. Martial law was extended to the whole country and the legislature was dissolved." **[1d] (p1160)**

4.02 Europa further records that:

"The new government succeeded in reducing the level of political violence in Turkey and in establishing law and order. However, the likelihood that this had been achieved only at the expense of human rights caused concern amongst the Western Governments: Turkey was banned from the Council of Europe, EC aid was suspended, and fellow members of NATO urged Turkey to return to democratic rule as soon as possible…A new Constitution was approved by referendum on 7 November 1982, with a 91% majority, despite widely expressed objections that excessive powers were to be granted to the President, while judicial powers and the rights of trade unions and the press were to be curtailed." **[1d] (p1160)**

In May 1983 the 30-month ban on political activity was revoked and parties allowed to be formed under strict rules. A General election was held on 6 November 1983 and parliamentary rule was restored with a 400-seat unicameral Grand National Assembly. **[1d] (p1161)**

The Netherlands Ministry of Foreign Affairs Official General report on Turkey, published January 2002, reported that "The new regime managed to curb political violence which had been raging for about 10 years, but at the cost of established democratic rights. The adoption of new, far tougher constitution in a 1982 referendum was followed a year later by the restoration of civilian rule." **[2a] (p9)**

GENERAL ELECTION 1995

4.03 According to the UNHCR Background Paper on Refugees and Asylum Seekers from Turkey published September 2001:

"In 1995, the Islamist Refah Party-RP (Welfare Party) took advantage of the discontent over corruption, high inflation and unemployment to win a majority in the general elections of December 1995. RP and the centre-right DYP formed Turkey's first Islamist-led coalition government in June 1996…. [However] Refah Prime Minister Necmettin Erbakan was at odds with the military, over government policies such as allowing female civil servants to wear traditional headscarves. Necmettin Erbakan resigned under intense military pressure in June 1997." **[18c] (p19)**

THE NATIONAL SECURITY COUNCIL'S (MGK) ACTIONS 1997

4.04 The Europa Regional Surveys 2005 records that 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 on the 5 March 1997 were reluctantly agreed by Prime Minister Erbakan, under intense pressure. The measures were designed to maintain Turkey's secularist state and western orientation. In June 1997 Erbakan resigned. The President invited Mesut Yilmaz, leader of the main opposition ANAP (Motherland Party), to form a government. **[1d] (p1166)** **See also Section 5 on National Security Council**

GENERAL ELECTION 1999

4.05 Europa recorded that, on 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 1999 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. **[1d] (p1168)**

4.06 Europa reports that in May 2000 Parliament elected as the new President of Turkey Ahmet Necdet Sezer, who previously had been the President of the Constitutional Court. **[1d] (p1168)**

CONFLICT WITH THE PKK (PARTIYA KARKEREN KURDISTAN - KURDISTAN WORKERS' PARTY)

4.07 Europa reported that in 1984, the outlawed PKK led by Abdullah Öcalan 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. **[1d] (p1164)**

4.08 The Netherlands report of 2002 stated that:

"The PKKs armed operations in south eastern Turkey, starting 1984 and peaking from 1990 to 1994, involved attacks on civilian (in many cases Kurdish) and military targets, causing around 30,000 deaths. The PKK was guilty of atrocities, including murders, especially in rural parts of the south east but also in other areas….The PKK attempted to make the south east ungovernable, by systematically destroying economic and social infrastructure etc and by deliberately polarising the local population." **[2a] (p11)**

4.09 The Netherlands report continued "From the outset the Turkish army took tough action against the PKK. The combat against the PKK was often also accompanied by various other kinds of human rights violations by the security forces." **[2a] (p12)**

4.10 Europa reported that in October 1998 the PKK's leader, Abdullah Öcalan, was forced to leave his base in 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. After his capture widespread Kurdish protests were held throughout Europe. **[1d] (p1168)**

4.11 Europa continued: "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." 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 [later changed to life imprisonment]. **[1d] (p1168)**

4.12 According to the UNHCR Background Paper 2001:

"On 2 August 1999, he [Abdullah Öcalan] called on the PKK to withdraw its troops from Turkey, and cease military operations from 1 September 1999. On 8 February 2000, it [the PKK] formally announced that it would abandon the armed struggle in favour of a political approach. The security situation improved considerably since." **[18c] (p15)**

4.13 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]**

4.14 The BBC reported on 2 September 2003 that, on 1 September 2003, the PKK/KADEK had 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 of laws removing restrictions on Kurds. A spokeswomen for the PKK stated that she did not expect a return to all-out conflict but instead some sort of low intensity warfare. **[66e]**

4.15 As recorded in Europa, in November 2003 KADEK assumed the present name of Kongra-Gel (Kurdistan's People's Congress). **[1d] (p1194)**

4.16 On the 29 May 2004 the BBC reported that Kongra-Gel declared that its five-year unilateral cease-fire would end in three days time (on the 1 June 2004) and that it would start to target Turkish security forces. However, according to the BBC it is difficult to know how seriously to take the threat of renewed military action by Kongra-Gel as deep divisions have been reported within the organisation. It is believed that a sizeable faction wants to renounce the armed struggle once and for all. **[66z]**

4.17 On 23 June 2004 the *Turkish Daily News* reported that a group of Kongra-Gel militants under the command of Osman Öcalan the brother of Abdullah Öcalan had rejected calls to end the ceasefire and had arrived in the Iraqi city of Mosul. The *Turkish Daily News* reported that Kongra-Gel had split into three factions, one group that supported the end of the ceasefire, and two groups who opposed a return to military conflict. **[23n]**

4.18 As mentioned in the Europol document 'Terrorist Activity in the European Union: situation and trends report (TE-SAT) October 2003 - 17th October 2004)' dated 2 December 2004:

"Due to disagreements on both the supremacy within the organization and the future political line, in May 2004, high-ranking leaders and board members, among them Osman ÖCALAN, brother of Abdullah ÖCALAN, split off the organisation and, in the beginning of August 2004, announced via the print media the foundation of a new organisation named 'Patriotic Democratic Party' (Partiya Welatperez'e Demokratik, PWD). PWD's proclaimed objective is to promote and enlarge the rights of Kurds by political means." **[20] (p44)**

4.19 In an article dated 1 September 2004, *The Guardian* reported that:

"Two Turks and 11 Kurds have been killed in three days' of fighting between the army and the Kurdistan Workers party or PKK, now known as Kongra-Gel, in Hakkari province on the Turkish border with Iraq. A Turkish official said yesterday that more than 1,000 troops took part in the offensive…. More than 20 soldiers or policemen have been killed since June 1 [2004], when the rebels called off a ceasefire declared in 1999 after the capture of their leader, Abdullah Ocalan." **[38d]**

4.20 On 10 July 2005 the BBC reported that at least 20 people had been injured in a bomb blast in a popular seaside resort in west Turkey.

"The explosive device had been placed in a bin near a bank in the centre of the resort of Cesme, some 70km (44 miles) from the port town of Izmir. Nobody has claimed the attack so far, but Islamist militants, far-left militants and Kurdish activists have been behind bombings in the past…A previous bomb attack in the Aegean Sea resort of Kusadasi in April [2005], in which one police officer was killed and two more injured, was claimed by Kurdish guerrillas." **[66aw]**

4.21 On 16 July 2005 the BBC reported that:

"An explosion on a minibus in the Turkish Aegean resort of Kusadasi has killed at least five people, including one British and one Irish woman. At least 13 other people were wounded, including five other Britons, three of them seriously…No group has said it carried out the bombing… The blast comes six days after a bombing in the nearby town of Cesme, which left at least 20 people injured. Kurdish militants claimed responsibility for that attack, as well as one in Kusadasi in April [2005], in which one policeman was killed and four other people were wounded…A group called the Kurdish Liberation Hawks (Tak) said it carried out the bombing in Cesme on 10 July… The Tak is an offshoot of the Kurdistan Workers' Party (PKK), which has been fighting the government for independence since 1984." **[66az]**

4.22 As noted in an article in *The Economist* of 18 August 2005:

"When Turkey's prime minister came to power some 30 months ago, few expected his mildly Islamic government to resolve the country's knotty Kurdish question. But last week, in a landmark speech in Diyarbakir, Recep Tayyip Erdogan became the first Turkish leader ever to admit that Turkey had mishandled its rebellious Kurds. Like all great nations, declared Mr Erdogan, Turkey needed to face up to its past. He added that more democracy, not more

repression, was the answer to the Kurds' long-running grievances. Mr Erdogan's visit to the largest city in the mostly Kurdish south-east followed ground-breaking talks with a group of Turkish intellectuals, seen by some as mouthpieces for rebels of the outlawed PKK terrorist group. In these talks Mr Erdogan pledged that, despite a renewed spasm of rebel violence, there would be no going back on his reforms. The Kurdish problem, he said, could not be solved through purely military means." **[85]**

4.23 On 19 August 2005 the BBC reported that:

"The Kurdish rebel group fighting for autonomy in south-eastern Turkey, the PKK, has announced a one-month ceasefire. The statement called on the armed wing of the Kurdistan Workers Party (PKK) to hold fire until 20 September. But the PKK said rebels would defend themselves if attacked. Last week Turkey's prime minister described the situation in the south-east as a political problem which needed settling through more democracy. The PKK statement on Friday said the ceasefire call was a response to Prime Minister Recep Tayyip Erdogan's speech. 'We will give time to Prime Minister Erdogan's well-intended efforts,' said Zubeyir Aydar, head of the PKK's political wing Kongra-Gel." **[66av]**

4.24 On 22 September 2005, the *Turkish Daily News* reported that PKK had extended a one-month suspension of hostilities until 3 October 2005. "The PKK called for a month's 'inactivity' on Aug. 20 after Prime Minister Recep Tayyip Erdoğan acknowledged in a speech the existence of a 'Kurdish problem' and that democratic reforms were the answer. However, Turkey's army ignored the PKK call, just as it did a five-year cease-fire by the group that ended last year, with operations against the terrorists continuing with full force." **[23ay]**

See also Section 6B on PKK/KADEK/Kongra-Gel and the conflict in the Southeast

EUROPEAN UNION REFORMS 2001-2002

4.25 As noted in the UNHCR background paper 2001 "Turkey has been an associate member of the then European Commission [sic] (now EU) since 1 December 1964 and made a formal application to join the EU in April 1987…. In 1999, the EU declared Turkey a candidate for EU Accession at its Helsinki Summit." **[18c] (p22)**

4.26 *The Independent* reported in October 2001 that Turkey had 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 membership of the European Union. The amendments, ranging from easing restrictions on using the Kurdish language, to making it harder to ban political parties, were the first big shake-up of Turkey's Constitution since it was drafted after the 1980 military coup. **[44a]**

4.27 As stated in the European Commission's Regular Report on Turkey's Progress Towards Accession 2002, published October 2002:

"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 Acts No 4744, 4748 and 4771, modified

various provisions of 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." **[71a] (p25)**

4.28 The European Commission 2002 continued: "The adoption of these reforms demonstrates the determination of the majority of Turkey's political leaders to move towards further alignment with the values and standards of the European Union. These reforms were adopted under difficult political and economic circumstances, and represent a major shift in the Turkish context." **[71a] (p17)**

4.29 The European Commission 2002 further reported that "The reform package adopted by Parliament in August 2002 was particularly far reaching. Among the amendments adopted are the lifting of the death penalty in peace time, the possibility for Radio and TV broadcasting in Kurdish, the widening of freedom of expression and greater freedom for non-Moslem religious minorities." **[71a] (p17)**

4.30 However, the European Commission concluded in its 2002 report that Turkey did not fully meet the Copenhagen political criteria for EU membership. **[71a] (p47)**

GENERAL ELECTION 2002

4.31 As recorded in the document 'Political Structure of Turkey' (dated August 2005) available in the References section in the website of the Office of the Prime Minister, Directorate General of Press and Information (website accessed on 5 September 2005):

"Following the November 3 [2002] elections, the Justice and Development Party (AKP) received 363 seats in the 550-seat assembly. Only one other party, the Republican People's Party (CHP), exceeded the 10% vote threshold to enter parliament. The Justice and Development Party (AKP) won an overwhelming victory and thus a majority in parliament in the general elections held on November 3... While, the Justice and Development Party (AKP) has 14 female deputies, the Republican People's Party (CHP) has 12...The Justice and Development Party (AKP) claimed victory in the November 3 elections, paving the way for Turkey's first single-party government to assume power in over a decade. According to the official results, the AKP and the Republican People's Party (CHP) were the only two parties out of 18 to attain the 10% threshold required to enter parliament. In addition, nine independent candidates won seats in parliament. Some 10 million of Turkey's total 41.5 million voters did not cast their ballots in the elections. The AKP won 34.29% of the votes, which amounts to 363 seats in parliament, while the CHP won 19.38% of the votes, winning 178 seats... On November 10, the Supreme Election Board (YSK) announced the official results of the November 3 general elections. According to the official results, 32,768,161 out of 41,231,967 voters cast their ballots in the elections. A total of 31,528,783 votes were considered valid. The YSK announced that the Justice and Development Party (AKP), which received 10 million 808 thousand 229 votes, and the Republican People's Party (CHP), which won 6 million 113 thousand 352 votes, were the winners in the elections. On November 21, independent Elazığ Deputy Mehmet Ağar joined the True Path Party (DYP). With this action, the DYP has become the third party represented in parliament, along with the ruling Justice and Development Party (AKP) and the opposition Republican People's Party (CHP)." **[36i]**

Party	Percentage of votes cast	Number of parliamentary seats
AKP	34.29	363
CHP	19.38	178
DYP	9.54	-
MHP	8.36	-
GP	7.25	-
DEHAP	6.22	-
ANAP	5.13	-
SP	2.49	-
DSP	1.22	-
YTP	1.15	-
BBP	1.02	-
YP	0.94	-
IP	0.51	-
BTP	0.48	-
ÖDP	0.34	-
LDP	0.28	-
MP	0.22	
TKP	0.19	-
Independents	1.00	9

[36i]

4.32 The Organisation for Security and Co-operation in Europe (OSCE) found in their report on the Turkish elections, published 4 December 2002 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." **[14] (p2)**

EUROPEAN UNION REFORMS 2002- 2005

4.33 *The Independent* reported on 14 December 2002 that 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 the human rights criteria. **[44b]**

4.34 The European Commission Regular Report on Turkey's progress towards Accession 2003, published in November 2003, recorded that:

"Four major packages of political reform have been adopted over the last year [2002-2003], 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. In this context, the seventh reform package adopted in July 2003 was particularly important." **[71b] (p15)**

4.35 Information obtained from the Turkish Prime Minister's website (accessed August 2003), detailed that the fourth reform package (December 2002)

stipulated that punishment handed down for convictions of torture and abuse could not be converted into fines and neither could they be postponed. Further measures were introduced that made 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 were no longer required to disclose their sources to the authorities. **[36a] (p1-4)**

4.36 The Prime Minister's website reported that "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 (ECtHR). Under the law, if an individual, who applied to the ECtHR, 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." **[36b] (p1)**

4.37 The same website reported that on 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'. The sixth reform package 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. **[36c] (p1-3)**

4.38 As outlined in the Prime Minister's website, the seventh reform package was approved by the Parliament on 29 July 2003 and by President Ahmet Necdet Sezer on 6 August 2003. The package reduced the political role of the armed forces. The National Security Council's 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] (p1-2)**

4.39 The website noted that 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 seventh reform 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] (p2-4)**

4.40 However, the European Commission, in its November 2003 report, concluded that despite these reforms Turkey still failed to meet the Copenhagen political criteria. **[71b] (p42-44)**

4.41 On 16 September 2004 the BBC reported that Turkey's government had withdrawn from debate a penal code reform bill seen as crucial to the country's EU entry. **[66ae]**

4.42 On 26 September 2004 it was reported by the BBC that the Turkish parliament had approved reforms to its penal code. As noted by the BBC, the Penal Code reform implies that: assaults on women will be more heavily punished, that rape in marriage is recognised and that there will be life terms for perpetrators of 'honour killings' and jail terms for the sexual molestation of children, trafficking of human organs and the pollution of the environment. Tougher measures

against perpetrators of torture will be introduced and corruption in government has to be tackled. Proposals to criminalise adultery have been dropped. **[66af]**

4.43 As reported by the BBC on 6 October 2004, the European Commission had recommended opening talks on the admission of Turkey to the EU but EU officials had said that Ankara had to meet stiff conditions and there had been no recommended date to start negotiations with Turkey. **[66ai]** Key points from the European Commission's report on Turkey's progress towards meeting the conditions for EU membership such as political reforms; economic reforms; military reforms; judicial reforms; human rights torture; women's rights; children's rights; minority rights; freedom of religion and freedom of the press were highlighted by the BBC. As noted by the BBC "The report is the basis for the Commission's recommendation to open Turkish accession talks." **[66aj]**

4.44 As stated in the Recommendation of the European Commission on Turkey's progress towards accession published 6 October 2004: "In view of the overall progress of reforms, and provided that Turkey brings into force the outstanding legislation mentioned above, the Commission considers that Turkey sufficiently fulfils the political criteria and recommends that accession negotiations be opened." **[71d] (p3)**

4.45 As noted in the conclusions of the European Commission Regular Report on Turkey's progress towards Accession 2004, published 6 October 2004:

"In conclusion, Turkey has achieved significant legislative progress in many areas, through further reform packages, constitutional changes and the adoption of a new Penal Code, and in particular in those identified as priorities in last year's report and in the Accession Partnership. Important progress was made in the implementation of political reforms, but these need to be further consolidated and broadened." **[71c] (p167)**

4.46 On 15 December 2004 the BBC reported that the European Parliament had called on European Union leaders to open entry talks with Turkey 'without undue delay'. "A non-binding resolution supporting the start of accession negotiations was backed by 407 MEPs, with 262 against." **[66ak]**

4.47 As reported by the BBC on 17 December 2004, "The EU has offered to begin membership talks with Turkey next year, with 3 October [2005] given as a start date. EU leaders said the aim of the talks – which could take up to 15 years – would be full membership, but Turkey's entry could not be guaranteed." **[66al]**

4.48 On 1 April 2005 BBC reported:

"Turkey has again postponed the introduction of a revamped penal code – just hours before it was due to come into force. The two-month delay is all strangely redolent of the first parliamentary passage of the code. Last September and October [2004] all seemed set fair for the passing of a new penal code to top off the extraordinary process of legislative reform that Turkey has put itself through over the past four years. The code was to be passed just before the European Commission issued its final report on Turkey's fitness for entry into the EU – and the new code was crucially important because the old one was so badly riddled with sexual discrimination. But then the new code hit a huge snag. Within it was a clause proposing the criminalisation of adultery – and a row broke out. And then, just as the measure was about to go to parliament, the

entire code was pulled. Surgery took place…The revised code made no mention of criminalising adultery. Instead it looked – and looks – like a thoroughly modernising measure. Most dramatic are the changes made to the law as far as violence against women are concerned. Rape within marriage has been made a crime. Leniency for rapists who marry their victims has been abolished. The difference between women and girls in sexual assault cases has been abolished. Provocation is no longer a defence in 'honour killings' – the murder of women accused of illicit affairs by their relatives. Attacks on women that were once handled as attacks on the family or as creating disorder in society, will now be treated as attacks on individuals." **[66ba]**

4.49 The BBC news report of 1 April 2005 continued:

"The statute of limitations for major corruption cases, especially involving government and business, has been abolished. All laws will have to be in accordance with the international agreements that Turkey is party to. Discrimination on religious, ethnic and sexual grounds has been made a crime. Privacy has been protected – the police will be punished for entering homes without good reason, the interception of telephone calls and the gathering of personal information restricted…It is the media that are protesting now. They say that several clauses are so vaguely worded that they are left open to legal action from some of Turkey's rather zealous prosecutors. In particular they point to a clause which bans publication of material that might be contrary to Turkey's 'fundamental national interest'…There are other problems too. The old press law forbade criticism of certain state institutions; the new penal code has a clause, albeit rewritten, that does much the same thing…For a couple of weeks now journalists have been demonstrating, arguing and lobbying. Late last week Amnesty International weighed in, expressing its concern. The government indicated some sympathy but only now has made its move. So this postponement looks – though it is never good to be too confident about anything in Turkey's legislative process – as if it is just that: a delay in implementation whilst the government and parliament work out what to do with what many now say is a hastily and badly drafted piece of media regulation." **[66ba]**

4.50 On 25 May 2005 the *Turkish Daily News* reported that the economy minister Babacan had been named to lead the EU negotiations. "After months of delay that raised European criticism of a slowing down in the reform process, Turkey appointed yesterday Cabinet's youngest minister as the chief negotiator for accession talks with the European Union, due to start on Oct. 3 [2005]." **[23z]**

4.51 As reported by BBC News on 27 May 2005:

"The Turkish parliament has approved changes to a new penal code – a key condition for the start of European Union membership talks…The last-minute changes came after journalists said that some clauses were highly restrictive of media freedom… Few pieces of reform legislation have been as difficult to get through parliament as the new penal code… A couple of months ago, just as the code was supposed to come into force, journalists protested at clauses covering what could or could not be published. They said that some were as bad as those in the old code. Some of those clauses have been changed, but there are still restrictions that will raise eyebrows in western Europe: criticising some state institutions is still a criminal offence, as is receiving payment or reward from a foreign power or body for publishing material deemed 'contrary to

fundamental national interests' – such as suggesting that the killings of Armenians in World War I was a genocide. But the code as a whole has been welcomed by EU officials and human rights activists as a giant step forward for the Turkish penal system." **[66bg]**

4.52 As reported by the *Turkish Daily News* on 1 June 2005:

"The new Turkish Penal Code (TCK) came into effect as of today despite an ongoing debate over whether it is really a document that can be described as a major step towards further democratization. The implementation of the TCK, which was promoted as a hugely important law in Turkey's efforts to join the European Union, was postponed to June 1 after journalists criticized the code for limiting the press. Despite the two-month effort to amend the code in line with the concerns voiced, journalists are still critical... President Sezer approved the Criminal Procedures Law, the Criminal Records Law and changes made to the Criminal Trials Law on Tuesday, a day before becoming effective. The laws are part of a major legal reform effort to harmonize Turkish law with EU norms. The approved laws and the TCK are legal changes Turkey promised the EU it would make before starting EU accession negotiations on Oct. 3." **[23aa]**

4.53 As noted in the UK Foreign and Commonwealth Human Rights Annual Report 2005, released in July 2005, "On 1 June 2005 a new Turkish penal code came into force along with several related laws, including a code on criminal procedure and a law on execution of sentences. This package of new legislation has effectively overhauled the Turkish penal system, aligning it more closely with EU models." **[4h] (p104)**

4.54 As outlined in the May-June 2005 issue of *Newspot* (published in the website of the Office of the Prime Minister, Diretorate General of Press and Information) in an article on the new Turkish Penal Code:

"The new Turkish penal code went into effect on June 1 [2005], along with the penal procedures and the law on the execution of sentences. The new penal code changes the duration and number of penalties in certain cases…Here are some of the changes in the new penal code: All judicial records will be kept confidential. Such records can only be obtained by the individual himself or by authorized officials…Where delay may be a matter of concern, houses can be searched only by a prosecutor's order. No search can be done in law offices without the presence of a prosecutor…A body search will be conducted without upsetting the individual's privacy…Judicial searches may not take place at night time at private homes, businesses or other enclosed areas. Those authorized to conduct a search may use appropriate force if met with resistance from the individual(s). A person may request his/her attorney to be present during searches carried out at home, the office, etc. Prison terms may be converted into fines…Security officers who carry out torture will receive a prison term of 3-12 years…The perpetrators of 'honor killings' will be sent to life in prison. Beating a spouse will be considered a crime. Any individual abusing his/her spouse and resorting to violence will receive a sentence of 3-8 years in prison. A spouse cannot be forced to have sex. A rapist cannot rape a girl/woman with the hope of marrying the female. Rapists will be punished. Men who leave their pregnant wives may receive a prison term…Finally, the new Turkish penal code carries harsh penalties for journalists." **[36j]**

4.55 As reported by the *Turkish Daily News* on 1 July 2005:

"The General Assembly of Parliament yesterday reapproved an amendment to the new penal code concerning a reduction in sentences for those convicted of running unlicensed education institutions, acts against the national interest, violations of privacy, and slander, reported the Anatolia news agency. President Ahmet Necdet Sezer had previously vetoed the amendment proposal and asked Parliament to re-examine the changes… The article on unlicensed education, which is largely perceived to mean illegal Koran courses, reduced the sentences from between six months and three years' imprisonment to between three months and one year. The new penal code allows sentences of less than a year to be converted into fines…An amendment was made to Article 305 of the TCK changing the scope of 'acts against the fundamental national interest'. The title of the article was changed to 'Attempting to derive benefit from acts against fundamental national interests'…. With changes made to the article covering the punishment of juveniles, children under the age of 12 and those with diminished mental capacity who are unable to grasp the legal meaning and consequences of their actions will not be held criminally liable…An amendment increased the penalty by up to 75 percent for specific crimes committed more than once by the same person or those committed more than once against the same person by the same offender. Accordingly, the sentence for a person convicted of sexual offences or of child molestation can be increased if the crime was committed more than once by the same person, i.e. a series of rapes or, for example, the multiple rape of the same person." **[23ac]**

4.56 As noted in the European Commission Turkey 2005 Progress Report, published on 9 November 2005:

"After the intensive reforms of the previous two years, Parliament continued its regular legislative work. A total of 184 draft laws have been submitted to Parliament since October 2004. Between October 2004 and June 2005 Parliament adopted 166 new laws. Since the previous Regular Report, Parliament has adopted several laws which build on the political reform process. The most important are: the Law on the Establishment of Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal and the Law amending the Code of Civil Procedures (October 2004), the Law on Associations (23 November 2004), the Law on the Enforcement of Sentences and Security Measures (29 December 2004), the Law amending some of the articles of the New Turkish Penal Code (31 March 2005), the Law on the Implementation of the Code of Criminal Procedure and the Law on Misdemeanours (31 March 2005), the Law Amending the Law on the Enforcement and Implementation Procedure of the Code of Criminal Procedure, the Law amending the Law on the Enforcement and Implementation Procedure of the Turkish Penal Code (18 May 2005), the Law amending the Law on Enforcement of Sentences, the Law amending the Law on Judicial Records, the Law amending the Code of Criminal Procedure (1 June 2005)… The government has reviewed the reform process regularly, assisted by the Reform Monitoring Group, a body responsible for supervising the implementation of the reforms. The Secretariat General for EU Affairs continues to play an important coordinating role as regards the alignment with and implementation of EC norms and standards as well as on the programming of financial cooperation in support of these objectives." **[71e] (p10-11)**

4.57 As noted in the 'General evaluation' section of the EC 2005 report, "Political transition is ongoing in Turkey and the country continues to sufficiently fulfil the Copenhagen political criteria." **[71e] (p41)**

SUICIDE BOMBINGS 2003-2005

4.58 The BBC reported that on 17 November 2003 two suicide bomb attacks were carried out against two synagogues in Istanbul killing at least 23 people and wounding more than 300. **[66m]** On 20 November 2003 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. **[66n] [66o]** According to the BBC on 25 February 2004 Turkish prosecutors issued charges against 69 people suspected of involvement in the four suicide bombings. **[66p]**

4.59 The BBC also reported that on 16 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. **[66r]**

4.60 On 11 October 2004 the BBC reported that Istanbul's largest synagogue had reopened almost 11 months after being severely damaged in a suicide bombing linked to al-Qaeda, when suicide bombs at two synagogues in Istanbul in November 2003 had killed 29 people. **[66ag]** On 25 October 2004 it was reported by the BBC that the British Consulate in Istanbul had reopened nearly a year after it was partly destroyed by a suicide bomber. **[66ah]**

4.61 On 28 June 2005 the *Turkish Daily News* reported that "A prosecutor on Monday [27 June] demanded life sentences for four Islamic militants who were among a group of al-Qaeda-linked suspects accused of carrying out a series of suicide bombings in Istanbul in 2003… A total of 70 people are on trial for the bombings and Öz asked the court to sentence two other defendants to a maximum of 22 1/2 years in prison and 15 others to up to 15 years for membership in a terror group." **[23ad]**

4.62 As reported by the *Turkish Daily News* on 8 July 2005:

> "Police have boosted security in and around public buildings after an attempted suicide bomb attack last week in front of the Justice Ministry in the center of the capital, the Anatolia news agency said yesterday. A 25-year-old suspected left-wing militant was shot dead by police last Friday [1 July] as he ran out of the Justice Ministry building after failing to detonate a bomb strapped to his body. The assailant was a suspected member of the outlawed extreme-left Revolutionary People's Liberation Party-Front (DHKP-C), and police had been searching for him for more than two years." **[23ae]**

RELEASE OF KURDISH DEPUTIES

4.63 The Prime Ministers website (accessed August 2003) reported that in line with the fifth reform package (passed in January 2003) 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. **[36b]**

4.64 On 21 April 2004 the BBC reported that the outcome of the retrial was that the four deputies had to remain in prison. **[66w]** An Amnesty International Press Release dated 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." **[12h] (p1)**

4.65 On 7 June 2004 the BBC reported that a Turkish prosecutor had called for the 15-year jail sentence for the four Kurdish deputies to be overturned. The prosecutor stated that the conviction should be quashed because the witnesses called to give evidence in the original trial had not been called for the re-trial. **[66y]**

4.66 An article in *The Independent* on 10 June 2004 reported that on the 9 June 2004 the four Kurdish Deputies were freed from prison. The newspaper reported that "Hundreds of supporters sang, performed Kurdish folk dances, cheered and hurled flowers at the four as they left Ulcunlar [sic] prison in Ankara after an appeals court ordered their release." **[44c]**

4.67 On 14 July 2004 it was reported by the BBC that a Turkish court had ordered a retrial for the four Kurdish former MPs, who were freed after a decade of imprisonment. "The court said the four did not receive a fair hearing at their original trial in 1994 when they faced charges of collaborating with Kurdish rebels…No date has yet been set for the new trial. Earlier this week, police pressed for new charges to be brought against the four for making separatist speeches at rallies in south-eastern Turkey last month." **[66ac]**

4.68 On 22 October 2004 the BBC reported that Kurdish activist Leyla Zana had announced plans to set up a new political party in Turkey, as she faces a retrial for alleged separatist links. The former MPs imprisoned with Mrs Zana were with her as she made the announcement in the Turkish capital, Ankara…After the announcement, Mrs Zana went to court for a retrial on the charges for which she was originally imprisoned – alleged links to the outlawed Kurdistan Workers' Party (PKK), which waged a bloody struggle for autonomy during the 1990s." **[66ad]**

4.69 On 7 January 2005 the Anatolia news agency reported:

"Former DEP deputies Leyla Zana, Hatip Dicel [sic] and Orhan Dogan, who have started up the Democratic Society Movement, together with former chairman of HADEP [People's Democracy Party] Murat Bozlak and DEHAP [Democratic People's Party] Chairman Tuncer Bakirhan, attended the first "of the movement's Istanbul programme of meetings to bring together intellectuals and NGOs as well as consult the people" at the Taksim Hill Hotel. Reading out a prepared press statement before the meeting Orhan Dogan maintained that huge changes and transformations were taking place in all aspects of life, and that Turkey was not separate from this process of change." **[30f]**

(See also Section 6B on Pro-Kurdish political parties)

5. State Structures

THE CONSTITUTION

5.01 The 'Introduction to Turkish Law' (1996), by Ansay and Wallace, states:

> "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'." **[64] (p26)**

5.02 Introduction to Turkish Law continues:

> "The principal characteristics of the state have been described in Articles 1 through 3 of the Constitution. Article 1 states 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'. Provisions contained in the first three articles are specially protected by Article 4 of the constitution according to which Articles 1, 2 and 3 shall not be amended, nor shall their amendment be proposed." **[64] (p27)**

5.03 As noted in Introduction to Turkish Law: "The 1982 Constitution, like its predecessors, retained the Kemalist conception of secularism. While it clearly recognized the freedom of religion (which compromises the freedom of faith and the freedom of worship), it kept the directorate of Religious Affairs (Diyanet Isleri Baskanligi) as part of the administrative apparatus (Art. 136)." **[64] (p31)** Introduction to Turkish Law also stated that Article 3's reference to the indivisibility of the state with its territory and nation is a clear ban on separatist movements. **[64] (p28)**

5.04 In April 2004 the *Turkish Daily News* reported that the Government proposed 10 amendments to the Constitution. Some of the changes included adding the statement 'men and women have equal rights' to Article 10, removing all references to capital punishment in Articles 15, 17 & 38 and annulling article 143 which effectively abolished State Security Courts. **[23n]**

5.05 As reported by the *Turkish Daily News* on 24 June 2004, the Constitution package was approved by Parliament on 7 May 2004 and sent to the President. **[23o]**

5.06 Amnesty International's report 'Europe and Central Asia Summary of Amnesty International's Concerns in the Region January - June 2004' published 1 September 2004 stated that:

"Notable laws in this period were the package of constitutional changes approved by the Turkish Parliament on 7 May [2004]. As of June [2004] one third of the articles in the 1982 constitution had been changed and this was the ninth time it had been amended. Among the changes, Article 143 – providing for State Security Courts – and Article 131/2 – providing for a member chosen by the General Chief of Staff to be represented on the Higher Education Council – were both repealed, and by adjusting part of Article 160 the annual military expenditure was made more transparent and placed under the monitoring of the Exchequer (*Sayıştay*)." **[12l] (p56)**

5.07 The AI report continued:

"An important alteration to Article 90 of the Constitution placed international conventions above domestic law; this means that where there is a contradiction between the provisions of domestic law and an international agreement, international standards will take precedence. The impact of this measure was already beginning to be reflected in certain Court of Appeal decisions in subsequent months. A further amendment to Article 38 of the Constitution provided for extradition orders to be complied with in those cases which fell under the provisions of the International Criminal Court (ICC); although Turkey is not yet a signatory to the ICC Statute, this paves the way for it to become a party. All provisions in the Constitution (in Articles 15, 17, 38 and 87) relating to the death penalty were removed." **[12l] (p56)**

CITIZENSHIP AND NATIONALITY

5.08 As regards nationality by birth, Introduction to Turkish Law states that:

"Turkish nationality is mainly acquired through the relation to the father or mother. Thus a legitimate or illegitimate, but legally recognised, child of a Turkish father or mother is Turkish. Legitimate children born to a Turkish mother, and not acquiring the nationality of the father by birth, as well as all illegitimate children born to Turkish mothers, are Turkish. Children born of non-Turkish parents do not acquire Turkish nationality by reason of birth on Turkish soil. An exception is the case of children born in Turkey and not acquiring at the time of birth the nationality of either their father or mother; they are Turkish at birth." **[64] (p89)**

5.09 Regarding acquisition of nationality other than by birth. Introduction to Turkish Law states that:

"Any foreigner may acquire Turkish nationality by means of naturalisation (telsik). Persons who have lived in Turkey more than five years and have all the qualifications required by the law may apply to the Ministry of Interior, and, upon the recommendation of this Ministry, the Council of Ministers may grant Turkish nationality." **[64] (p89)**

5.10 As highlighted in the IOM (International Organisation for Migration) document 'Irregular Migration and Trafficking in Women: The Case of Turkey', dated November 2003:

"The Amendment to the Turkish Citizenship Law (No. 4866): This amendment, enacted by the Parliament on 4 June 2003, introduced some changes to the Turkish Citizenship Law (Law No. 403 of 1964). Before being amended this law

played an important role in the sharp increase of paper marriages and this led to calls for amendments to prevent further abuse. The amendment has made it more difficult for a foreigner to acquire Turkish citizenship through marriage, by imposing a three-year waiting period before a foreign spouse may obtain Turkish nationality. Anyone not living in the same household, will not be eligible for Turkish citizenship." **[86] (p27)**

See also Section 5 on Military service, for information on the deprivation of nationality for evasion of military service

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POLITICAL SYSTEM

5.11 As recorded in the document 'Political Structure of Turkey' dated August 2005) available in the References section in the website of the Office of the Prime Minister, Directorate General of Press and Information (website accessed on 5 September 2005):

"Legislative authority is vested in the Turkish Grand National Assembly (TGNA). The TGNA is composed of 550 deputies. Parliamentary elections are held every five years. Deputies represent the entire nation and before assuming office, take an oath, the text of which is included in the Constitution. The duties and authority of the TGNA are outlined as follows: to adopt, amend and abrogate laws, to supervise the Council of Ministers and ministers, to give authority to the Council of Ministers to pass decrees with the power of law, to adopt the budget and final account draft laws, to ratify the printing or minting of currency, to make decisions for declaring war, martial law or emergency rule, to approve the signing of international agreements and to make decisions for declaring general or special amnesties." **[36i] (Section on Legislature)**

5.12 As further recorded in 'Political Structure of Turkey':

"The executive branch in Turkey has a dual structure. It is composed of the President of the Republic and the Council of Ministers...The President of the Republic is the Head of the State...The President is elected for a seven year term by a two thirds majority of the full membership of the TGNA...A President cannot be elected for a second term in office. The President of the Republic has functions and authority related to the legislative, executive and judicial fields. His/her functions in the legislative fields are to convene the TGNA when necessary, to publish laws and when deemed necessary, to send them back to the Parliament for discussion, to hold a referendum in Constitutional amendments when he/she considers it necessary, to file suit with the Constitutional Court claiming a violation of Constitutional law, to issue decrees with the power of law and regulate the internal workings of the Parliament and to decide when new TGNA elections are necessary. The executive duties of the President are: to appoint or accept the resignation of the Prime Minister, to appoint or dismiss Ministers in the event that he deems it necessary, to chair meetings of the Council of Ministers or summon the Council to meet under his chairmanship, to appoint accredited envoys to represent the Turkish State abroad and receive representatives of foreign states, to ratify and publish international agreements, to act as the Commander in Chief of the Turkish Armed Forces, to appoint the Chief of General Staff, to convene the National Security Council and to chair meetings of the Council, to proclaim martial law or

impose a state of emergency by a decree to be decided by the Council of Ministers meeting under his chairmanship, and to issue decrees with the power of law, to approve decrees as signatory, to commute or pardon the sentences of certain convicts on the grounds of old age, chronic illness or infirmity, to appoint the members and President of the State Auditory Council, to conduct investigations, enquires and research through the State Auditory Council, to select the members of the Higher Education Council, and to appoint University Chancellors. Duties and authority of the President related to the judiciary are to appoint: members of the Constitutional Court, one fourth of the members of the Supreme Court of Appeals, members of the Supreme Military Appeals Tribunal, members of the Supreme Council of Judges and Public Prosecutors. No appeal may be made to any legal body, including the Constitutional Court, against decrees and presidential orders signed directly by the President of the Republic. The President of the Republic may be impeached for high treason." **[36i] (Section on Executive)**

5.13 'Political Structure of Turkey' also recorded that:

"The Council of Ministers consists of the Prime Minister, designated by the President of the Republic from members of the TGNA, and various ministers nominated by the Prime Minister and appointed by the President of the Republic. Ministers can be dismissed from their duties by the President or upon the proposal of the Prime Minister when deemed necessary. When the Council of Ministers is formed, the government's program is read at the TGNA and a vote of confidence is taken...The fundamental duty of the Council of Ministers is to formulate and to implement the internal and foreign policies of the state. The Council is accountable to the Parliament in execution of this duty. The Constitution also includes national defense in the section related to the Council of Ministers. The Office of the Commander-in-Chief, the Office of the Chief of the General Staff and the National Security Council form the authorative organizations for national defense... The Prime Minister is responsible for ensuring the Council of Ministers functions in a harmonious manner. He/she supervises implementation of government policy. The Prime Minister is the *de facto* head of the executive branch. Each Minister is accountable to the Prime Minister who in turn ensures that Ministers fulfill their functions in accordance with the Constitution and its laws." **[36i] (Section on Executive)**

5.14 As reported by the *Turkish Daily News* on 3 June 2005:

"Prime Minister Recep Tayyip Erdoğan announced a surprise Cabinet reshuffle on Thursday [2 June] replacing State Minister for Women's Affairs Güldal Akşit with Nimet Çubukçu, Agriculture Minister Sami Güçlü with Mehmet Mehdi Eker and Public Works Minister Zeki Ergezen with Faruk Nafız Özak…He said President Ahmet Necdet Sezer had approved the new appointments and that the new ministers would start in their posts today after the changes were published in the Official Gazette." **[23ag]**

5.15 The US State Department Report 2004 (USSD), published on 28 February 2005 noted that:

"The Constitution provides citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage; however,

the Government restricted the activities of some political parties and leaders." **[5c] (Section 3)**

5.16 Europa records that on 5 May 2000 the Grand National Assembly elected Ahmet Necdet Sezer, hitherto President of the Constitutional Court and the Government's nominee, as Turkey's tenth President with 330 votes out of 533 in a third round voting. **[1d] (p1168)**

5.17 The Netherlands Ministry of Foreign Affairs Official General report on Turkey published January 2002 reported that "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] (p14)**

5.18 The Europa Regional Surveys of the World 'The Middle East and North Africa 2005' states 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." **[1d] (p1193)**

NATIONAL SECURITY COUNCIL (MGK) OR (NSC)

5.19 As recorded in 'Political Structure of Turkey':

"The National Security Council consists of the Prime Minister, the Chief of the General Staff [the army], the Minister of National Defense, the Minister of Interior, the Minister of Foreign Affairs, the Commanders of the Army, Navy and the Air Force and the General Commander of the Gendarmerie. The NSC makes decisions related to the determination, establishment and application of national security policy. The Council of Ministers gives priority to National Security Council decisions where measures deemed necessary for the preservation of the existence and independence of the state, the integrity and indivisibility of the country and the peace and security of the society are concerned." **[36i] (Section on Executive)**

5.20 The European Commission Turkey 2005 Progress Report noted that:

"Further changes have been introduced over the last year in order to align civilian control of the military with practice in EU Member States. As regards the duties, functioning and composition of the National Security Council (NSC), implementation of reforms adopted in previous years has begun. In October 2004 the NSC convened for the first time under the chairmanship of the new civilian Secretary General. This institution is currently composed of 7 civilian members and 5 military members. The Secretary General does not have the right to vote. The staff of the NSC Secretariat General decreased from 408 to 305 persons. As provided for under the reforms, the NSC meets every two months. The minutes of such meetings are not made public. However in practice, a brief press release has generally been given after each meeting. During the last year, subjects discussed included international and security issues such as Iraq and terrorism, Cyprus, energy issues and EU-Turkey relations." **[71e] (p12-13)**

5.21 The EC 2005 report also stated that:

"The armed forces continue to exercise significant political influence. Individual military members of the NSC as well as other senior members of the armed forces have continued to regularly express their opinion on domestic and foreign policy issues via public speeches and press briefings. These statements concerned in particular Iraq, Cyprus, terrorism, the principle of secularism and EU-Turkey relations. In November 2004, the Deputy Chief of Staff made extensive comments on aspects of last year's Regular Report. In March 2005, the General Staff issued an official statement reacting to incidents which took place at the occasion of the celebration of the Newroz (marking the beginning of the spring). In April 2005 at the headquarters of the Military Academies Command, the Chief of General Staff delivered a speech consisting of a comprehensive tour d'horizon on foreign policy and domestic issues." **[71e] (p14)**

5.22 As noted in USSD 2004:

"The military exercises indirect influence over government policy and actions in the belief that it is the constitutional protector of the State…The Constitution prohibits the Government from issuing orders or recommendations concerning the exercise of judicial power; however, the Government and the National Security Council (NSC), an advisory body to the Government composed of civilian government leaders and senior military officers, periodically issued announcements or directives about threats to the State, which could be interpreted as general directions to the judiciary." **[5c] (Introduction & Section 1e)**

5.23 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." **[23i]**

LOCAL GOVERNMENT

5.24 The Netherlands Ministry of Foreign Affairs 2002 reported that:

"Turkey is divided into 81 provinces (il), each headed by a provincial governor (vali). Provinces are subdivided into districts (ilçe), administered by a district governor (kaymakam). Districts may be further broken down into 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] (p18)**

5.25 The Netherlands report also stated that "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] (p19)**

5.26 The Netherlands report continued:

"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] (p19)**

5.27 As noted by the Netherlands Ministry of Foreign Affairs 2002:

"Every village or neighbourhood has its own head, often known by the name 'muhtar'. The muhtar acts as an intermediary between the population and the authorities, being the sole keeper of address records. The only official document that a muhtar can issue is a residence certificate (ikametgâh ilmühaberi). In theory, anyone taking up residence in or leaving a particular neighbourhood or village is supposed to report this to the local muhtar. In practice, that is often not done, with the muhtar not being approached until a need arises for a certificate of residence somewhere. **[2a] (p20)**

5.28 As noted in a letter from the British Embassy in Ankara to the Home Office, dated 14 September 2005:

"I am responding to a Home Office request for further information on Muhtars in Turkey and any computer system they might use. Muhtars are the elected heads of villages or small towns who are responsible for local administrative matters (e.g. recording births and registering names and addresses of newcomers to their village). Together with my colleague [name omitted], I recently visited two Muhtars' offices in north eastern Turkey. Both Muhtar offices were very basically equipped and there was no evidence of any kind of computer equipment. In one village, local people told us that they had been without electricity for a year. (Turkish NGOs report that lack of infrastructure, including electricity, is still a problem in outlying areas of Turkey.)." **[4g]**

5.29 The letter from the British Embassy in Ankara further noted:

"We also spoke to a Mayor in the same region about the role of Muhtars. He told us that local Muhtars' Councils gathered regularly at Municipal level and that there was also a National Union of Muhtars which individual Muhtars could refer to for support and legal advice. The Muhtar Council gathering was the main medium through which Muhtars worked together and shared information. According to the Turkish State Statistics Institute report for 2004, less than 10% of households possess a computer and internet access. These figures drop sharply with increasing age and lower levels of education.

In answer to your query, in the light of the above, we judge it unlikely that a national, networked Muhtar computer system exists in Turkey today. However, local political party officials and NGOs have told us that Muhtars are sometimes distrusted because of their allegedly close relations with police and jandarma (who do possess computer systems) and are consequently suspected of informing the law enforcement agencies about the activities of local people." **[4g]**

5.30 As recorded in the document 'Political Structure of Turkey' dated August 2005) available in the References section in the website of the Office of the Prime

Minister, Directorate General of Press and Information (website accessed on 5 September 2005):

"According to a decision of the Supreme Board of Elections (YSK), there were twenty political parties which took part in the [28 March 2004] elections. The local administrators that are elected will be in office for five years. The voters elected mayors for 16 metropolitan municipalities, 58 city municipalities, 65 cities, 792 municipalities and 2,253 districts. Some 52,929 muhtars (local administrators), 3,122 city general assembly members and 34,075 municipality assembly members were elected on March 28. There are 12 new municipalities in these elections… According to the election results, out of 81 cities, the ruling Justice and Development Party (AKP) won 57 mayoral races, including those in Turkey's largest city, Istanbul and the capital Ankara. The main opposition Republican People's Party (CHP) won nine mayoral races, while the Nationalist Action Party (MHP) got four, and the True Path Party (DYP) one. The Social Democratic People's Party (SHP) won five mayoral races and the Democratic Left Party (DSP) won three." **[36i]**

Party	Percentage of votes cast (national breakdown
AKP	41.8
CHP	18.1
MHP	10.4
DYP	10.1
SHP	4.9
SP (Felicity Party)	4.01
ANAP (Motherland Party	2.46

[36i]

5.31 As noted in the European Commission 2005 report:

"The Law on Municipalities was first adopted in 2004 and then vetoed by the President. Subsequently it entered into force in July 2005 with minor amendments. The Law on Special Provincial Administrations was first adopted in 2004 and then vetoed by the President. It subsequently entered into force in March 2005 with some minor amendments. However, the President applied to the Constitutional Court on the basis of possible conflicts with constitutional provisions related to the unitary character of the State." **[71e] (p11-12)**

5.32 The EC 2005 report continued:

"The Law on Association of Local Governments was adopted in June 2005. Thus, together with the Law on Metropolitan Municipalities which was adopted in 2004, four basic local government reform laws are now in force. The Law on Municipalities and the Law on Special Provincial Administrations aim at strengthening the capacity of local government to deal with the challenges of rapid urbanization and mass immigration from rural areas. To this end these laws introduce modern public management concepts in order to create efficient, result oriented and transparent local government." **[71e] (p12)**

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THE JUDICIARY

See also Section 4 on European Union reforms 2002-2005; Annex F "Administration of justice" and Annex G for a comprehensive description of the court system in Turkey)

5.33 As recorded in 'Political Structure of Turkey':

"Judicial power in Turkey is exercised by independent courts and supreme judiciary organs. The judicial section of the Constitution, with the principle of a legal state as its basis, is founded on the independence of the courts and the judges, and the guarantee of judges' rights. Judges rule on the basis of Constitutional provisions, law and jurisprudence. The legislative and executive organs must comply with the rulings of the courts and may not change or delay the application of these rulings. Judges also assume the duties of monitoring elections. Functionally, a tripartite judicial system has been adopted by the Constitution and accordingly, it has been divided into an administrative judiciary, a legal judiciary and a special judiciary. The Constitutional Court, the Supreme Court of Appeals, the Council of State, the Supreme Military Court of Appeals, the Supreme Military Administrative Court and the Court of Jurisdictional Conflicts are the supreme courts mentioned in the judicial section of the Constitution. The Supreme Council of Judges and Public Prosecutors and the Supreme Council of Public Accounts are also two organizations having special functions in the judicial section of the Constitution." **[36i] (Section on Judiciary)**

5.34 The EC 2005 report stated that:

"The judicial system has been further strengthened via the adoption of structural reforms. Important progress was made with the entry into force on 1 June 2005 of the Penal Code, the Code of Criminal Procedure, the Law on Enforcement of Sentences and the Law on the Establishment of the regional Courts of Appeal. The entry into force of the Penal Code (as well as the other laws mentioned above), adopted in December 2004, was postponed until 1 June 2005 due to concerns about the provisions concerning both organised crime and freedom of expression… The adoption of a new Code of Criminal Procedure represents a major step forward. It introduces the concept of cross examination of witnesses during trials, which did not previously exist in the Turkish legal system. The Code establishes the concept of plea bargaining. In order to reduce the number of unmeritorious prosecutions, the Code increases the discretion of prosecutors, who are now able to assess the strength of the evidence before preparing an indictment. Moreover, judges are given the power to return incomplete indictments. Under the new Code, criminal investigations must be carried out by a judicial police force under the authority of the public prosecutor. The Chief Public Prosecutor will be responsible for preparing annual evaluation reports on the judicial police under his command. The Code introduces the requirement that certain trials are to be recorded on audio and video tape. Judges and prosecutors throughout Turkey have received training on the Code. However, implementation of the powers to discontinue unmeritorious cases and the operation of the judicial police will need to be assessed." **[71e] (p15)**

5.35 The EC 2005 report further noted that:

"Judges and prosecutors have a considerable role to play in the implementation of reforms. Courts have in general continued to apply the European Convention on Human Rights (ECHR). The courts are reported to have referred to the Convention in 224 judgments since 2004. In general, however, it is difficult to discern a clear positive pattern, as provisions of Turkish law and even articles of the ECHR are not interpreted consistently… It is of crucial importance that sustained efforts continue with respect to training judges, prosecutors and lawyers and where necessary, that they are reminded by the responsible authorities about their duties and obligations to respect the relevant provisions stemming from International and European conventions in the area of human rights and fundamental freedoms, as required under Article 90 of the Turkish Constitution." **[71e] (p17)**

5.36 The USSD 2004 outlined that:

"The Government carried out extensive legal reforms during the year aimed at meeting the requirements for European Union (EU) membership. In September [2004], Parliament adopted a new Penal Code and, in May [2004] approved a package of constitutional amendments. Elements of the new Penal Code included: Sentences for torture convictions were increased; 'honour killings' – the killing by immediate family members of women suspected of being unchaste – were defined as aggravated homicides; the statutes of limitations for all crimes were lengthened; and actions aimed at preventing free religious expression were defined as a crime punishable by 1 to 3 years' in prison." **[5c] (Introduction)**

5.37 The Freedom House report 'Countries at the Crossroads 2005 – Turkey', published in December 2004 noted that:

"Turkey's judicial system is characterized by the opposing pulls of, on the one hand, the enlightened reforms passed since 2001 and, on the other, the more traditional attitudes of the court system and especially the judges. While the reforms have increased judicial independence, seriously curbed the role of the military in the justice system, and fundamentally revised the penal code, the judges, prosecutors, and Ministry of Justice continue to be dominated by pre-reform ideas about defending national integrity, governmental institutions, and Turkish identity. Thus, as in other areas, implementation is the major stumbling block, although not the only one." **[62c] (p9)**

5.38 As noted in the European Commission report 2004:

"Since 1999, some important improvements have been made to the Turkish judicial system. The State Security Courts have been abolished and replaced by Regional Serious Felony Courts (also referred to as Heavy Penal Courts). New specialised courts have been set up in order to improve the efficiency of the judicial system. Legal amendments have improved the rights of defence. A Justice Academy has been established and training on international law and human rights for judges and prosecutors has been intensified." **[71c] (p23-p24)**

5.39 The EC report 2004 continued:

"The package of constitutional amendments adopted in May 2004 also revised Article 90 of the Constitution, enshrining the principle of the supremacy of international and European treaties ratified by Turkey over domestic legislation.

Where there is conflict between international agreements concerning human rights and national legislation, the Turkish courts will have to apply the international agreements." **[71c] (p24)**

5.40 The EC 2005 report noted that:

"The principle of the independence of the judiciary is enshrined in the Turkish constitution but is undermined by several other constitutional provisions. The Constitution provides that judges and prosecutors are attached to the Ministry of Justice in so far as their administrative functions are concerned. The Minister of Justice and the Undersecretary of the Ministry of Justice are members of the High Council of Judges and Prosecutors, which is responsible for the appointment, promotion, transfer, discipline and, broadly speaking, the careers of all judges and prosecutors. Furthermore, the High Council does not have its own secretariat and budget and its premises are inside the Ministry of Justice building. The judicial inspectors, who are responsible for regularly assessing the performance of all judges and prosecutors, are attached to the Ministry of Justice rather than to the High Council. Turkey should ensure the independence of the judiciary, in particular as regards the High Council of Judges and Prosecutors and the appointment of new judges and prosecutors. In the light of the impending recruitment of some 4,000 additional judges and prosecutors, the senior judiciary in Turkey have expressed concern that the influence of the Ministry of Justice in the appointment procedure may undermine the independence of the judiciary. There is a close relationship between judges and prosecutors; the public prosecutor's office is not clearly separated from the judge's, which could create the impression that the prosecutor is able to exert undue influence. A clear institutional and functional separation of the professional rights and duties of judges and prosecutors needs to be established." **[71e] (p16)**

5.41 The USSD 2004 reported that "The Constitution provides for an independent judiciary; however, the judiciary was sometimes subject to outside influences. There were allegations of judicial corruption." **[5c] (Section 1e)**

5.42 The USSD 2004 continued:

"The Constitution prohibits the Government from issuing orders or recommendations concerning the exercise of judicial power; however, the Government and the National Security Council (NSC), an advisory body to the Government composed of civilian government leaders and senior military officers, periodically issued announcements or directives about threats to the State, which could be interpreted as general directions to the judiciary." **[5c] (Section 1e)**

(See also section 5 on National Security Council (MGK) or (NSC)

5.43 The Freedom House report 'Countries at the Crossroads 2005 – Turkey', noted that:

"The Turkish constitution provides for an independent judiciary, but the court system is not in fact entirely separate from the executive. The executive plays a strong role in judicial training, appointment, promotion, and financing. Training of judges is inadequate, and because there is no proper review of cases, many of those that end up in the courts result in acquittal due to lack of merit. Public

prosecutors in Turkey have a status very close to that of judges, both functionally and symbolically, thus placing the defense in an inferior position. Prosecutors are sometimes pressured by the Ministry of Justice to pursue cases without merit, and the government issues circulars instructing public prosecutors on how to interpret certain laws." **[62c] (p12)**

5.44 The EC 2005 report noted that:

"The new Code of Criminal Procedure provides that defendants and witnesses who cannot speak the Turkish language are to be provided with an interpreter free of charge. However, concerns have been expressed that as there are currently no interpreters trained in legal interpretation between Turkish and other languages used in Turkey, there may be difficulties in ensuring adequate standards of accuracy. Measures should be adopted to address this problem." **[71e] (p17)**

5.45 The USSD 2004 also stated that "The legal system did not discriminate in law or in practice against ethnic, religious or linguistic minorities. However, legal proceedings were conducted solely in Turkish, with interpreting available sometimes, which seriously disadvantaged some defendants whose native language was not Turkish." **[5c] (Section 1e)**

5.46 The EC 2005 report recorded:

"So far as duration of trials before the Criminal courts is concerned, the average criminal trial period in 2004 was 210 days, while the average duration of civil proceedings was 177 days. The backlog of cases before the Criminal courts was slightly reduced in 2004; 1 070 133 criminal cases were carried over from 2003 to 2004, while 1 056 754 criminal cases were carried over from 2004 to 2005. The backlog of cases before the Civil courts also decreased slightly; 671 915 cases were carried over from 2004 to 2005, compared to 679 501 cases carried over from 2003 to 2004. The new Code of Criminal Procedure grants prosecutors greater discretion to discontinue unmeritorious cases and enables judges to return indictments which are not based on sufficient evidence. These powers should increase the speed with which cases are tried by the courts, as they will enable clearly weak cases to be dropped at an early stage. Moreover, the system of plea bargaining has been introduced by the new Code of Criminal Procedure." **[71e] (p105)**

5.47 As noted by the *Turkish Daily News* on 2 June 2005:

"According to an article included in the law that outlines the implementation process of the new TCK [the new Turkish penal code which came into force on 1 June 2005], all cases waiting at the Supreme Court of Appeals will be inspected as to whether the new TCK will benefit the individuals involved and if it does, the cases will be returned to the local courts. According to this article, 150,000 of the 175,000 cases at the Supreme Court of Appeals will be returned to local courts. These cases, in addition to the normal workload, are expected to swamp local courts." **[23ab]**

5.48 The EC 2005 report recorded that:

"So far as computerisation is concerned, progress on the National Judicial Network Project which started in 1998 continued and it is now operational in a

number of courts and prisons. This Project enables many tasks currently performed on paper, such as filing court proceedings, to be performed electronically. A database including decisions of the Supreme Court of Appeal and the Council of State has been created and added to the network. Judicial records can now be accessed through the network by judges and prosecutors. In addition, most courts and prosecutors' offices in Turkey have been connected with each other online." **[71e] (p105)**

See also Section 4 on European Union reforms 2002-2005

MILITARY COURTS

5.49 As recorded in 'Political Structure of Turkey':

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

5.50 The European Commission Regular Report on Turkey's progress towards Accession 2003, published November 2003 noted that:

"The Law on the Establishment and Trial Procedures of Military Courts has been amended with a view to ending military jurisdiction over civilians and to aligning the provisions of the military code of procedure with reforms adopted by previous packages concerning freedom of expression. As a result, military courts will no longer try civilians including juveniles held responsible for 'inciting soldiers to mutiny and disobedience, discouraging the public from military duty and undermining national resistance' under Article 58 of the Penal Code." **[71b] (p20)**

5.51 The European Commission Turkey 2005 Progress Report recorded that "There has been no further progress with regard to the provisions of the Military Criminal Code permitting the trial of civilians before military courts. However, a reduction in the number of civilians tried before military courts can be observed between 2004 and the first five months of 2005." **[71e] (p14)**

STATE SECURITY COURTS (DGM)

5.52 In April 2004 the *Turkish Daily News* reported that the Government proposed 10 amendments to articles of the constitution. One of these changes was annulling Article 143 and the abolition of State Security Courts. **[23n]** The Constitution package was approved by Parliament on the 7 May 2004 and sent to the President. **[23o]**

5.53 The Freedom House report 'Countries at the Crossroads 2005 – Turkey, noted that:

"Another [in addition to the introduction of the new penal code in September 2004] major change to the justice system has been the May 2004 abolition of State Security Courts. These courts, comprising both civilian and military judges, tried cases against the integrity of the state and had been accused of human rights abuses and an absence of due process…The cases formerly under their jurisdiction have been passed to other courts. The end of the State Security Courts is widely considered to be positive, although it remains to be seen whether the types of cases formerly tried in them will be any better served by the new system." **[62c] (p13)**

5.54 As stated by the European Commission 2004:

"As part of the package of constitutional amendments adopted in May 2004, the State Security Courts were abolished. Jurisdiction over most of the crimes falling within the competence of the State Security Courts – principally organised crime, drug trafficking and terrorist offences – has been transferred to newly-created regional Serious Felony Courts. Some crimes formerly heard by the State Security Courts, notably under Article 312 of the Penal Code, have been transferred to the jurisdiction of the existing Serious Felony Courts…. The office of the Chief Public Prosecutor for State Security Courts was also abolished; prosecutions before the Regional Serious Felony Court are handled by the office of the Chief Public Prosecutor. Suspects before both types of Serious Felony Courts enjoy identical rights, including the right to consult a lawyer as soon as they are taken into custody." **[71c] (p24)**

5.55 Amnesty International's Summary of Concerns September 2004 stated that "Human rights defenders welcomed the move to abolish the much criticized State Security Courts, but strongly urged that the establishment of special heavy penal courts which would deal with organized crime, 'terrorism' and crimes deemed to endanger state security be more than simply a change of name for the same institution." **[12l] (p56)**

THE CONSTITUTIONAL COURT (ANAYASA MAHKEMESI)

5.56 As recorded in 'Political Structure of Turkey':

"The basic function of the Constitutional Court, established in the 1961 Constitution, is to examine the constitutionality, in both form and substance, of laws, and decrees with the power of law and the Rules of Procedure of the Turkish Grand National Assembly. Other functions of the Court are as follows: With the capacity of the High Tribunal, the Constitutional Court judges the following: the President, members of the Council of Ministers, members of supreme courts, the chairman and members of the Supreme Council of Judges and Public Prosecutors and of the Supreme Council of Public Accounts, the Chief Republic Prosecutors and the Deputy Republic Chief Prosecutors for crimes related to their offices. It audits the finances of political parties. It examines TGNA decisions to revoke the immunities of deputies, or to dismiss members of parliament. It chooses the Chairman and Deputy Chairman of the Court of Jurisdictional Conflicts. The Constitutional Court is composed of 11 regular and four substitute members. Decisions are made when the eleven members convene. The decisions of the Constitutional Court are final. These

decisions cannot be amended in any manner and their application cannot be delayed." **[36i] (Section on Higher Courts)**

5.57 The USSD 2004 reported that:

"The Constitutional Court examined the constitutionality of laws, decrees, and parliamentary procedural rules and heard cases involving the prohibition of political parties. If impeached, ministers and prime ministers could be tried in the Constitutional Court. However, the Court could not consider 'decrees with the force of law' issued under a state of emergency, martial law, in time of war, or in other situations with the authorization of Parliament." **[5c] (Section 1e)**

5.58 As reported on 26 July 2005 by the Office of the Prime Minister, Directorate General of Press and Information (quoting the newspaper *Cumhuriyet*) on the previous day Tulay Tugcu was elected the first female head of the 44-year-old Constitutional Court. **[36k]**

See Section 6C on the European Court of Human Rights (ECtHR)

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LEGAL RIGHTS/DETENTION/REPORTING CONDITIONS

5.59 The European Commission Turkey 2005 Progress Report recorded that a revised Regulation on Apprehension, Detention and Statement Taking, a Regulation on Judicial and Preventive Search and a Regulation on the Judicial Police, entered into force on 1 June 2005. **[71e] (p16)**

5.60 As noted in the EC 2005 report:

"The Law on Enforcement of Sentences, which also entered into force on 1 June 2005, brings clarity to this area by replacing numerous regulations which previously governed the enforcement of sentences. The Law is generally in line with EU best practice and addresses issues such as prisoners' rights and obligations, order and discipline within prisons, and rehabilitation and reintegration of offenders. The Law establishes the concepts of community service and probation. However, there is a need for further training of prison officers on the content of this Law. Moreover, it is of concern that this Law provides that, at the request of the public prosecutor, and with the authorisation of an enforcement judge, a law enforcement officer may be present during meetings between prisoners and lawyers. This officer may also examine defence documents where there is a suspicion that the meetings are being used to enable communication with terrorist or criminal organisations. The provision has been criticised for being in contravention of Article 10 of the Turkish Constitution, which concerns equality before the law, and also raises questions in the light of certain international conventions to which Turkey is party." **[71e] (p16)**

5.61 The EC 2005 report also recorded that "As regards legal guarantees including access to justice, so far as the prohibition of arbitrary arrest is concerned, Article 90 of the Criminal Procedure Code provides that persons who are arrested by the police must be informed of the reason for their arrest." **[71e] (p105)**

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

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

As mentioned in this letter Article 109 and article 110 of the CCP set out the detail of 'judicial controls'.

A109 – Judicial supervision

(1) Where there are reasons for arrest as specified in Article 100 and where an investigation is being conducted with regard to an offence necessitating imprisonment, with an upper limit of 3 years or less, a decision may be taken to place the suspect under judicial supervision instead of placing him under arrest.
(2) Judgements in favour of judicial supervision may also be applied to cases for which the law prohibits arrest.
(3) Judicial supervision may involve the imposition of one or more of the following obligations upon the suspect:
    (a) not to go abroad,
    (b) to appear regularly within the time limits indicated at places specified by the judge,
    (c) to obey the summons of authorities or persons specified by the judge, and where necessary to comply with supervisory measures regarding the persons occupational activities or the pursuit of his education,
    (d) not to be permitted to drive any or certain vehicles, and where necessary to leave his driving licence at a government office in return for a receipt,
    (e) to undergo and accept medical care or treatment or examination, for detoxification purposes, particularly with respect to narcotics, stimulants or volatile substances or alcohol dependency and including hospitalization,
    (f) to deposit an amount of money as a security, as determined by the judge at the request of the public prosecutor, after taking into account the financial circumstances of the suspect and deciding if it is to be paid in more than one instalment,
    (g) not to possess or carry weapons, and if necessary to leave any weapons in his possession at a judicial depository, in return for a receipt,
    (h) to provide real and personal security for monies needed to secure the rights of the injured party, concerning which the judge, at the request of the public prosecutor, shall specify the amount and time limit for payment,
    (i) to provide assurances that he will pay alimony regularly, in accordance with any court verdict, and that he will fulfil his obligation towards his family.
(4) In applying subsection (b) above, the judge or the prosecutor may permanently or temporarily allow the suspect to drive vehicles as part of his occupational activities.
(5) Any time spent under judicial supervision may not be deducted from a sentence by reason of being considered as a restriction of personal liberty.

This provision shall not apply to cases listed under subsection (e) of this Article.

A110 – Judicial supervision decisions and administration by the authorities
(1) A suspect may be put under judicial supervision at the request of the public prosecutor, and according to the decision of a Justice of the Peace.
(2) The judge, at the prosecutors' request, may impose one or more additional judicial supervision conditions; he may also lift or change all or part of the obligations contained in the conditions, or exempt the suspect from fulfilling some of the conditions.

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

5.63 The USSD 2004 reported that:

"The law prohibits arbitrary arrest and detention; however, the Government did not always observe these prohibitions in practice. During the year [2004], police routinely detained demonstrators. Police detained dozens of members of the legal pro-Kurdish party DEHAP on several occasions. Police continued to detain and harass members of human rights organizations and monitors. The Government continued to detain persons, particularly in the southeastern province of Batman, on suspicion of links to Hizballah." **[5c] (Section 1d)**

5.64 The USSD 2004 continued: "Regulations on detention and arrest procedures require authorities to notify relatives as soon as possible of an arrest, and authorities generally observed this requirement." **[5c] (Section 1d)** As outlined in the January-February 2005 issue of *Newspot* (published in the website of the Office of the Prime Minister, Directorate General of Press and Information) in an article on the new Penal Procedural Law (CMUK) "Parliament's General Assembly passed the 333-article draft of the Penal Procedural Law (CMUK) at a two-day session on December 3-4 [2004]…Police will be required to immediately read out the rights of a detainee, and suspects will no longer be held for more than 24 hours without charges. Police will be required to notify a family member of the detention of the individual." **[36l]**

5.65 The USSD 2004 further noted that:

"Lengthy pretrial detention was a problem. The Constitution provides detainees the right to request speedy arraignment and trial; however, judges have ordered that some suspects be detained indefinitely, at times for years. Most such cases involved persons accused of violent crimes, but there were cases of those accused of nonviolent political crimes being held in custody until the conclusion of their trials. Detainees could be held for up to 6 months during the preliminary investigation period. If a case was opened, the pretrial 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. Persons detained for individual crimes under the Anti-terror Law have to be brought before a judge within 48 hours. Persons charged with crimes of a collective, political, or conspiratorial nature can be detained for an initial period of up to 4 days at a prosecutor's discretion and for up to 7 days with a judge's permission, which was almost always granted." **[5c] [5c] (Section 1d)**

5.66 As noted in the Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' made public in February 2005:

"According to the Turkish Code of Criminal Procedure (CMUK) law enforcement authorities are required both to keep detention records and to issue documentary evidence on the case to the suspect. According to Mr. Turan, these are the most commonly used documents in that respect: *Yakalama Tutanagý* – a form confirming the detention of the suspect. *Içişleri Bakanýgýi Şüphelive Sanýk Haklarý Formu* – a conformation that the detainee has been cautioned about his rights. *Üst Arama Tutanagý* – a form documenting a body check, if carried out.*Te şhis Tutanagý* – a form documenting the identification of the suspect. *Serbest Býrakama Tutanagý* – a confirmation on the release of the detainee. *Adlý muayenesi* or *adlý tip rappor* – medical examination report. All lawyers I asked about this issue, agreed that one could not take for granted that law enforcement authorities really issue these documents to the (released) suspect – although required by regulations on detention and arrest procedures. Many detainees would not demand their issuance, mostly because they do not know their rights or because they do not dare to ask. In many such cases the police would refrain from issuing the documents." **[16] (p21)**

RIGHT TO LEGAL ADVICE

5.67 As outlined in the EC 2005 report:

"The new Code of Criminal Procedure and the Regulation on Apprehension, Detention and Statement Taking provide for arrested persons to be informed of their rights, including their right to free legal counsel. Legal representation was already compulsory for juveniles accused of criminal offences. The new Code widens the scope of compulsory legal representation by providing that representation by legal counsel is to be mandatory for all offences punishable by more than five years' imprisonment. Of those accused of serious criminal offences, the number asking for a lawyer increased substantially between 2003 and 2005. However, there are reports that the police and gendarmerie continue to discourage detainees from requesting legal assistance." **[71e] (p16)** "Article 147 of the Code of Criminal Procedure provides that detainees must be reminded of their right to have a defence lawyer present and that a lawyer may be appointed by the Bar Association. Bar associations have reported a 100% increase in the appointment of lawyers for accused persons since the entry into force of the new Code." **[71e] (p106)**

5.68 As reported in the January-February 2005 issue of *Newspot* "During the entire judicial process, the defendant will have the right to consult with an attorney. In cases where defendants face more than five years imprisonment, a lawyer will be assigned to the individual without his consent. If the individual later retains another attorney, the lawyer assigned by the state will be dismissed." **[36l]**

The USSD 2004 noted that:

"The law provides that detainees are entitled to immediate access to an attorney and to meet and confer with an attorney at any time. In practice, authorities did not always respect these provisions and most detainees did not exercise these rights, either because they were unaware of them or feared antagonizing authorities. Once formally charged by the prosecutor, a detainee

is arraigned by a judge and allowed to retain a lawyer. After arraignment, the judge may release the accused upon receipt of an appropriate assurance, such as bail, or order detention if the court determines that the accused is likely to flee the jurisdiction or destroy evidence." **[5c] (Section 1d)**

5.69 The USSD 2004 continued:

"Private attorneys and human rights monitors reported uneven implementation of these regulations, particularly with respect to attorney access. According to HRA and a number of local bar associations, only approximately 5 percent of detainees consulted with attorneys. HRA claimed police intimidated detainees who asked for attorneys, sometimes telling them a court would assume they were guilty if they consulted an attorney during detention. A number of attorneys stated that, unlike in past years, law enforcement authorities did not generally interfere with their efforts to consult with detainees charged with common crimes; however, they said they continued to face difficulties working with detainees charged with terrorism." **[5c]** "Regulations on detention and arrest procedures require authorities to notify relatives as soon as possible of an arrest, and authorities generally observed this requirement." **[5c] (Section 1d)**

5.70 The Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' noted that:

"Under the regulations on detention procedures all detainees are entitled to immediate access to a lawyer and to meet with a lawyer at any time. Some sources reported, however, that many detainees do not exercise these rights, either because they were not informed of these rights or because they feared making demands would antagonise the security personal [sic]. At the same time, the authorities still do not always respect these provisions. However, all sources I talked to (with the exception of the head of TOHAV [Foundation for Society and Legal Studies] in Istanbul, Şehnaz Turan), confirmed that access to a lawyer has been improving in recent years." **[16] (p19)**

DETENTION FOR QUESTIONING PRIOR TO FORMAL ARREST

5.71 The EC 2005 report stated that:

"Article 141 of the Constitution limits the length of pre-trial detention by providing for the right to be judged within a reasonable time. Under Article 91 of the Criminal Procedure Code, a person who has been arrested shall in general be brought before a court within twenty four hours; in exceptional cases, this period may be extended to a maximum of four days. A person who has been remanded in custody awaiting trial may be detained, under Article 102 of the Criminal Procedure Code, for up to six months if accused of a minor offence and two years if accused of a serious offence; in exceptional cases, this period may be extended to three years." **[71e] (p105-106)**

5.72 As outlined in the January-February 2005 issue of *Newspot*:

"According to the new law [the new Penal Procedural Law (CMUK)], suspects cannot remain in police custody for more than 24 hours. Those arrested and brought to court will not be handcuffed. Police will inform individuals taken into custody of their legal rights. Prosecutors will have the right to extend the period of detainment for a consecutive three days, if gathering evidence is

difficult…Detainees suspected of crimes which stipulate punishment for less than two years will no longer be imprisoned for the duration of the trial." **[36l]** On 27 May 2005, the *Turkish Daily News* reported that the parliamentary General Assembly had passed a bill that amended the Criminal Procedures Law (CMK) effective from 1 June 2005. "The maximum time in custody before appearing in a relevant court will be 24 hours. Suspects facing charges carrying a fine or prison sentence of less than a year will not be detained beyond arrest and booking." **[23ah]**

5.73 The USSD 2004 noted that "Except when police apprehend suspects in the commission of a crime, a prosecutor must issue a detention order for a person to be taken into custody. The maximum detention period for persons charged with individual common crimes is 24 hours. Persons charged with collective common crimes can be held for 48 hours." **[5c] (Section 1d)**

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

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

5.75 The Turkish Ministry of the Interior stated in a report of September 2003: "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]**

5.76 According to figures obtained from the Human Rights Association of Turkey (IHD/HRA) large numbers of Turkish citizens are detained by the police but never arrested.

Date	Number of persons detained	Number of persons arrested
1998	42,991	3,659
1999	50,318	2,105
2000	35,007	1,937
2001	44,181	2,955
2002	21,612	1,148
2003	9,648	1,196
2004	6,391	774

[73a] (p1) [73b] (p1) [73c] (p1) [73d] (p1) [73e] (p1) [73f] (p3) [73g] (p2) [4j]

THE PROBLEM OF FALSIFIED DOCUMENTS

5.77 The Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' noted that:

"The Norwegian Directorate of Immigration has repeatedly been presented so-called documents 'proving' that an asylum-seeker was wanted by the Turkish authorities. Some of these documents were – according to the applicant – issued either by the Gendarmerie/Police or by the Ministry of Justice. All lawyers I asked about this invalidated the possible authenticity of such documents. Neither law enforcement authorities nor any other Turkish official were entitled to issue such a confirmation. Neither detention-orders, nor warrants were handed out to the suspect or any other third person before the suspect was detained. Both Mr. Islambay and Mr. Demirtaş claimed, however, that it was widely known that such (and other) 'documents' could be attained through bribery. Tanrikulu and Demirtaş mentioned that two court ushers from the former State Security Court in Diyarbakir had been arrested in the summer of 2004 and had been charged with corruption for selling fake documents. Such cases could be found all over the country and the two officials from Diyarbakýr where only the tip of the iceberg. Demirtaş and Islambay further mentioned that the problem of corruption was widespread and that this also applied to lawyers. One person working at a lawyers' office told me that they repeatedly had declined requests to produce fake documentary evidence, 'sufficient' for asylum applications. One lawyer stated that he had repeatedly rejected offers from Turkish citizens already staying in Western Europe, who offered him between 5,000 and 10,000 Euro for a complete 'asylum-file'. The same lawyer told me that it was considered 'easy' to get fake documents in Turkey and assumed that 'most of the documents presented to European Migration authorities are fake'." **[16] (p24-25)**

5.78 The Norwegian report continued:

"One lawyer stressed that it might prove difficult and unreliable to judge documents only by the looks of it since different types of forms (or only letters) may be used at different prosecutors offices (e.g. *Fezleke*s). Only a lawyer could conduct a reliable verification, since he/she could compare the document's contents (such as case-numbers) with the respective registries. Another lawyer told me that he had verified several documents for European Immigration authorities and that most of these documents had proved to be falsified. He had further noticed that most of these documents (some of them being 'warrants') referred to article 169 in the (old) Turkish Criminal Code. According to him, this article does not play an important role any more and it rarely leads to punishment: 'You can send the persons with article 169 back to Turkey, nothing will happen to them'. However, persons who are wanted for activities sanctioned by articles 125 and 168 in the Penal Code might still face severe problems after return, according to Demirtaş. He stressed that some of these persons really might be in need of protection and he suggested that documentation on such cases should be carefully verified." **[16] (p25)**

THE GENERAL INFORMATION GATHERING SYSTEM (GBTS)

5.79 The Swiss NGO Schweizerische Fluchtlingshife (Swiss Organisation for Refugees) stated in its report on Turkey published in June 2003 that:

"There are a number of different information systems in Turkey. The central information system is known as the GBTS (Genel Bilgi Toplama Sistemi – General Information Gathering System). This system lists extensive personal data such as information on arrest warrants, previous arrests, foreign travel restrictions, avoidance of military service, desertion, refusal to pay military tax and delays paying tax. Served sentences are as a rule removed from this information system and entered onto the database of criminal records (Adli Sicil)." **[8] (p41)**

5.80 As outlined in the September 2003 Report on GBTS system by the Turkish Ministry of Interior, the GBTS is operated by the Anti-Smuggling Intelligence and Data Collection Department of the Turkish National Police. The Ministry of the Interior further state that "In the GBT system records of the following are kept as a general rule":

(i) Persons who have committed a crime but have not been caught;
(ii) Persons who have committed serious crimes such as organised crime, smuggling, drugs related crimes, terrorism, unlawful seizure, murder, fraud;
(iii) Persons who have search warrants issued including those who have an arrest warrant issued "in absentia";
(iv) Persons who are barred from public service;
(v) Missing persons;
(vi) Persons of responsibility within political parties who have been convicted of crimes defined in the Political Parties Law No.2908, article 4/4;
(vii) Stolen, lost, appropriated motor vehicles, firearms, identification documents. **[17]**

5.81 The Ministry of the Interior stated that records of persons who have committed the above-mentioned crimes are retained even if they have already served their sentences. **[17]**

5.82 As stated by the Turkish Ministry of the Interior in September 2003, records are erased from the system under the following circumstances:

(i) Upon the death of a person convicted of a crime by a court;
(ii) As soon as a court decision of non-pursuit, acquittal or expiry of time limitation reaches the Turkish National Police (TNP) regarding a person who was previously registered in the GBTS;
(iii) In case of a crime other than those listed above, when the person is caught;
(iv) In case of stolen/lost/appropriated property, when the property in question is found. **[17]**

5.83 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 then on the GBTS. **[17]**

5.84 The Turkish Ministry of the Interior stated in September 2003 that "Only records of people who are under judicial proceedings or judicial examination are kept on the GBTS. No records of people are kept on the system who are detained and [subsequently] released by the security forces." **[17]**

5.85 The Swiss Organisation for Refugees in its report published June 2003 stated that "Experience has shown, however, that despite its name, this [GBTS] system does not by any means contain all the information relating to a given individual. Concrete examples have demonstrated that individuals are generally only entered onto the system following prosecution or issue of an arrest warrant by the public prosecutor or a court." **[8] (p41)**

5.86 However, the Swiss Organisation for Refugees also stated that "In several cases we have discovered that individuals who have been denounced as PKK activists or sympathisers show up as not being sought and therefore do not appear on the register even though authentic police statements prove that they have been denounced by name." **[8] (p41)**

5.87 The report continued "It should be mentioned that in addition to the GBTS central information system, the various security forces each have their own information systems…They include the registers of the police, the anti-terrorist department, the gendarmerie, JITEM, the military secret service etc. It is therefore perfectly possible for someone not to be listed on the central system but to be sought by the anti-terrorist unit." **[8] (p41)**

5.88 The Swiss Organisation for Refugees further stated that:

"Neither can the absence of a data entry or current investigation or the lack of a passport ban be taken as evidence that an individual is not in danger. Despite the absence of entries in the central information system, the individual concerned might be listed on one of the other information systems. This must certainly be assumed in the case of individuals who have already been taken into custody by the police, gendarmerie or some other branch of the security forces in the past." **[8] (p41)**

5.89 In a fax sent to the British Embassy in Ankara on 7 October 2005, the Assistant Director of the Trafficking and Organised Crime Directorate of the Turkish Ministry of Interiors confirmed that:

"In our country the GBT system is governed by the Trafficking Intelligence and Information Gathering Directorate attached to the Ministry of Internal Affairs. Law enforcement units such as the police and the gendarme can use the GBT system. While the customs officers stationed at international ports and borders cannot use the GBT system police units stationed at all land, air and sea borders are able to use the said system. Foreign establishments cannot use this system in any way whatsoever. The offence of leaving the country through illegal means can only be detected when the offenders are captured abroad. It is impossible to know who left the country through illegal means and therefore no records are being kept in relation to such matters. Draft evaders are also being registered in the GBT system. Records relating to individuals who are being prosecuted or are subject to investigation are being kept in the GBT system. Records relating to individuals who have been taken into custody and subsequently released are not registered in the GBT system." **[4f]**

DEATH PENALTY

5.90 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. **[66i]**

5.91 The European Commission 2004 reported that "Turkey has abolished the death penalty in all circumstances…. Protocol No. 13 to the ECHR concerning the abolition of the death penalty in all circumstances was signed in January 2004. Any remaining references to the death penalty were removed from Turkish legislation as part of the May 2004 constitutional amendments." **[71c] (p33)**

5.92 As noted in a BBC article dated 19 July 2004 the maximum term of imprisonment under Turkish law is 36 years. **[66aa]** As outlined in the May-June 2005 issue of *Newspot* (published in the website of the Office of the Prime Minister, Directorate General of Press and Information) in an article on the new Turkish Penal Code, "The new Turkish penal code went into effect on June 1 [2005], along with the penal procedures and the law on the execution of sentences. The new penal code changes the duration and number of penalties in certain cases…Terrorist Abdullah Öcalan and similar criminals will remain in prison indefinitely." **[36j]**

5.93 The European Commission 2004 stated that:

"Turkey has made further progress with regard to international conventions on human rights since the last Regular Report [2003]…The First Optional Protocol to the International Covenant on Civil and Political Rights, providing for recourse procedures that extend the right of petition to individuals, was signed in February 2004. In April 2004 Turkey signed the Second Optional Protocol on the abolition of the death penalty." **[71c] (p29-30)**

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INTERNAL SECURITY

POLICE

5.94 The USSD 2004 reported: "The Turkish National Police (TNP), under Interior Ministry control, are responsible for security in large urban areas…There were allegations of police corruption." **[5c] (Section 1d)**

5.95 The Netherlands Ministry of Foreign Affairs 2002 reported that "The sphere of operation of the police, coming under the Ministry of the interior, is confined to urban areas. 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] (p20)**

5.96 The USSD 2004 also reported that "The TNP and Jandarma were effective and received specialized training in a number of areas, including human rights and counter-terrorism. Both police and Jandarma received human rights training." **[5c] (Section 1d)**

See also Section 6.C on Training on Human Rights

JANDARMA/GENDARMERIE

5.97 The EC 2005 report recorded that "The Gendarmerie is connected to the General Staff [army] in terms of its military functions, but affiliated to the Ministry of Interior in terms of its law enforcement functions. The control of the Ministry of Interior, of governors and district governors over the Gendarmerie should be strengthened in order to allow full civilian oversight on internal security policy." **[71e] (p14)**

5.98 The USSD 2004 reported that "The Jandarma, paramilitary forces under joint Interior Ministry and military control, are responsible for policing rural areas. The Jandarma are also responsible for specific border sectors where smuggling is common; however, the military has overall responsibility for border control." **[5c] (Section 1d)**

5.99 The Netherlands report on military service July 2001 reported that:

"As police powers are restricted to towns and cities, the area outside them falls within the competence of the Jandarma. The Jandarma maintain a network of police posts throughout Turkey. Police duties include both maintaining public order and enquires into offences. This means that the Jandarma are responsible for police duties in 93.5% of Turkish territory." **[2b] (p7)**

5.100 The Netherlands Ministry of Foreign Affairs 2002 reported that "In addition to policing, the Jandarma also have to combat smuggling, guard the outer perimeters of prisons and trace fugitives evading military service. Conscripts make up 90% of their strength. The jandarma have their own intelligence service: the JITEM." **[2a] (p21)**

SPECIAL FORCES

5.101 The Netherlands Ministry of Foreign Affairs 2002 reported that:

"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." **[2a] (p21)**

INTELLIGENCE AGENCY (MIT)

5.102 According to the Netherlands Ministry of Foreign Affairs 2002 "There is also an intelligence service: the MIT (Milli Istihbarat Teşkilati - National Intelligence Organisation)". **[2a] (p20)**

5.103 As stated on the website of the National Intelligence Organisation (MIT) (website accessed on 26 August 2005):

"The Turkish National Intelligence Organization was founded as a body subordinate to the 'Prime Ministry', under the Law no. 644 on the Turkish National Intelligence Organization, dated July 6, 1965. This Law, after being in force for 18 years, has been replaced by Law no. 2937 titled as the Law on the

State Intelligence Services and the Turkish National Intelligence Organization as of January 1, 1984 as a result of the efforts paid to eliminate any deficiencies, troubles, and gaps that were come accross [sic] during the practice of the previous law, and to adapt it to the rapidly changing and improving world conditions…Another aspect of Law no. 2937 which makes it different from Law no. 644 is that under Law no. 2937, the MIT has been subordinated directly to the 'Prime Minister'. The MIT has been subordinated directly to the 'Prime Minister', taking into consideration the fact that in accordance with the Constitution, the Cabinet and the Prime Minister are jointly responsible for carrying out the general policy of the Government." **[88] (Section on Duties, Powers and Responsibilities of the MIT)**

VILLAGE GUARDS

5.104 As noted in the Netherlands Ministry of Foreign Affairs 2002:

"When the state of emergency was declared in 1985 [in some of the provinces] 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] (p136)**

5.105 The Netherlands report continued:

"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] (p136)**

5.106 According to the Netherlands Ministry of Foreign Affairs 2002:

"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 equivalent to EUR 300, which people will not always be keen 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] (p137)**

5.107 The Netherlands report 2002 continued:

"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…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] (p137)**

5.108 The USSD 2004 reported that:

"The Government continued to organize, arm, and pay a civil defense force of approximately 58,000, 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 other 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." **[5c] (Section 1c)**

5.109 The Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' noted that:

"The legal basis for the Village Guard-system in the Southeast was given in law No. 3175, dated 26.3.1985, which was amended in 1990 by law No. 3612. In contrast to law No. 442, dated 1924, the newer law only refers to so-called 'temporary' village guards (gecici köy korucular), and not to other types of village guards.) Its main task is to support the Gendarmerie and the Army in their fight against the Kurdish rebels. According to diplomatic sources the bulk of the village guards (köy korucusu) is presently located in the provinces of Van, Bingöl, Siirt, Hakkari and Ş irnak. During the Iraq-war in 2003, some Village-Guards were relocated to the border in order to prevent PKK/Konra-Gel-militants from entering Turkey. The same source estimated that the number of village guards currently is at about 60,000." **[16] (p29)**

5.110 The Norwegian report continued:

"Mr. Selahattin Demirta, head of Human Rights Association in Diyarbakir, told me that the number of village guards had decreased from about 150,000 in the year 2000 to 56,000 in 2004. The head of DEHAP in the province of Diyarbakir, Birtane, estimated that the present number of village guards was about 50,000. According to the newspaper *Yeni Şafak* [of 20 July 2004] the Turkish General Staff numbered the total village guard force at 87,296. However, in contrast to the sources consulted during my trip, the General Staff distinguished between 28,754 so-called volunteer village guards (gönüllü korucular) and 58,542 "temporary" Village Guards (gecici köy korucular)." **[16] (p29)**

5.111 The Norwegian report continued:

"Mr. Celahettin Birtane, head of DEHAP in Diyarbakýr province, was the only source consulted who claimed that the authorities still recruit village guards, although in much smaller numbers than it was the case before the year 2000. He told me that the authorities had recently recruited some village guards in the

provinces Hakkari and Şirnak. None of the other sources could confirm that recruitment to the Village Guard-force is still going on. Neither could any of the persons I talked to confirm that any cases of forced recruitment had occurred in recent years. However, all sources consulted claimed that forced recruitment had been practiced before the end of the state of emergency, and in particular in the 1990's. Mr. Birtane told me that he personally knew cases of forced recruitment from his home-village close to the city of Diyarbakýr. The other sources did not give any concrete examples of that kind." **[16] (p29-30)**

5.112 As noted in the Human Rights Watch document 'Still critical. Prospects in 2005 for Internally Displaced Kurds in Turkey', dated March 2005:

"The continuing presence of village guards in some communities constitutes a major impediment to improved security and confidence among displaced villagers. This in turn has a major impact on their willingness to return…Displaced persons are understandably reluctant to return to remote rural areas where their neighbors, sometimes from a rival clan, are licensed to carry arms, as members of the village guard. Many villagers were originally displaced precisely because they refused to become village guards. Most village guards, like the displaced, are Kurds…Village guards were involved in the original displacement, and in the intervening years have continued to commit extrajudicial executions and abductions. In some cases, village guards are now occupying properties from which villagers were forcibly evicted. They are sometimes prepared to use violence to protect their illegal gains. The failure of successive Turkish governments to hold accountable members of the security forces and village guard for abuses has created a climate of impunity." **[9g] (p9)**

5.113 The EC 2005 report recorded that:

"No progress has been made in addressing the problem of village guards. Reports indicate that village guards have on occasion attacked returning IDPs. Official figures state that 57 601 village guards are still on duty (as opposed to 58 551 last year). Moreover, although the Turkish authorities state that no village guards have been appointed since 2000, NGOs suggest that new village guards have been recruited in response to the increasing number of clashes between security forces and illegal armed groups. Reportedly, authorisation to return to villages is sometimes only granted if returnees are willing to serve as village guards." **[71e] (p39)**

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PRISONS AND PRISON CONDITIONS

5.114 As stated in the European Commission 2005 report:

"With regard to the prison system the major development was the adoption of the new Law on the Execution of Sentences in December 2004. Despite some shortcomings, the Law and its secondary legislation – notably the Law on the Establishment of Probation Centres, adopted in July 2005 – introduces modern concepts such as community service and probation into Turkish law. A regulation on the rules and procedures for visiting convicts and detainees was published in June 2005… A number of rehabilitation, cultural and social and educational activities are ongoing in prisons." **[71e] (p21)**

5.115 The EC 2005 report continued:

> "According to official sources, in May 2005 there were 58 670 persons in prisons and detention houses. Of these, 31 812 were convicted prisoners and 26 858 were prisoners detained on remand. By May 2005, 14 431 prisoners had been released as a result of changes to the law brought about by the adoption of the new Penal Code. Regarding prison conditions in Turkey, there has been significant progress in recent years, but there is a need to continue expanding best practice to all prisons throughout the country as some remain overcrowded and under-resourced." **[71e] (p24)**

5.116 The EC 2005 report further noted that "The prison system has continued to improve although isolation in high security prisons remains a serious problem. The training of enforcement judges has, to date, been inadequate." **[71e] (p139)**

5.117 As noted in the International Centre for Prison Studies Prison Brief for Turkey (website information last updated on 9 April 2005), in 2004 the number of establishments/institutions was 503. The official capacity of prison system was 70,994 (at April.2004) while the total prison population (including pre-trial detainees/remand prisoners) totalled 67,772 at March 2004 with 49% pre-trial detainees/remand prisoners (March 2004 – 38.9% untried, 10.2% convicted but not finally sentenced). **[78]**

5.118 The International Helsinki Federation (IHF) report 'Human Rights in the OSCE Region', published on 27 June 2005 reported that:

> "Prisons were criticized by human rights organizations and international mechanisms for poor conditions, restricted access to basic services and unjustified punitive measures against defendants and convicts… In the reporting period, the ECtHR [European Court of Human Rights] requested as an interim measure suspension of the imprisonment of several political prisoners who were suffering progressive brain damage as a result of a prolonged 'death fast' in prisons." **[10a] (p6)**

5.119 The USSD 2004 reported that:

> "Conditions in most prisons remained poor, although the Government made significant improvements in the system, and the country's best prisons maintained high standards. Underfunding, overcrowding, and insufficient staff training remained common problems. The Human Rights Foundation reported that the Government provided insufficient funds for prison food, resulting in poor-quality meals; food sold at prison shops was too expensive for most inmates, and there was a lack of potable water in some prisons. According to the Medical Association, there were insufficient doctors, and psychologists were only available at some of the largest prisons. Some inmates claimed they were denied appropriate medical treatment for serious illness." **[5c] (Section 1c)**

5.120 The USSD 2003 reported 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)**

5.121 The USSD 2004 noted that:

> "At any given time, at least one-quarter of those in prison were awaiting trial or the outcome of a trial. Men and women were held separately; most female prisoners were held in the women's section of a prison. 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. However, some observers reported that detainees and convicts were sometimes held together." **[5c] (Section 1c)**

F-TYPE PRISONS

5.122 According to the US State Department report 2002 (USSD), published 31 March 2003:

> "Until late 2000, prisons were run on the ward system and most prisoners lived in 30-100 person wards. Under the ward system prisoner's 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 charged with terrorism or organised crime 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." **[5a] (p9)**

5.123 The IHF report 2004 reported that "Problems concerning the F-type prisons continued in 2003. F-type prisons were criticized for possibly leading to isolation of prisoners and for lack of group activities. Since the introduction of the F-type prison system in 2000, hundreds of people have participated in death fasts against this type of prison. On 20 October [2003], the 10th group of death fast activists went on hunger strike." **[10] (p8)**

5.124 The IHF report 2004 continued "With the two deaths in 2003, the number of persons who died because of death fasts protesting the existence of F-Type prisons reached 64. Between the beginning of actions related to F-type prisons and the end of 2003, a total of 113 persons have died for various reasons in relation to the introduction of this prison type." **[10] (p8)**

5.125 The USSD 2004 noted that "According to the HRF, six people died during the year [2004] in hunger strikes protesting F-type (small cell) prisons. The Government reported that, since 2000, the President pardoned 189 inmates on hunger strike. As of September [2004], six hunger strikers remained in prison, according to the HRF." **[5c] (Section 1c)**

5.126 As recorded in the International Helsinki Federation (IHF) report of June 2005:

> "Human rights organizations protested the conditions imposed in prisons, mainly maximum-security facilities (E-Type and F-Type prisons for persons tried

or convicted at former State Security Courts). The HRA reported that eleven inmates committed suicide in prisons, and six persons killed themselves by setting fire to themselves, a common form of protest. Another person died due to the so-called 'death fast', another form of protest by political prisoners. Nine prisoners died reportedly due to the prevention or neglect of medical treatment, and five others were killed by other inmates. The prevention of the treatment of prisoners with fatal or serious medical condition was a common problem." **[10a] (p6)**

5.127 As noted in the USSD 2003:

"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…The Government reported that the President pardoned 172 hunger strikers during the year. Two prisoners on hunger strike died during the year [2003], 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)**

5.128 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey in March and September 2002 and reported that:

"F-type prisons do possess facilities (workshops, a gymnasium, an outdoor playing field, a library) for communal activities and a legal and regulatory frame work has been adopted which ensures that prisoners can have access to those facilities. However, the development of communal activities has been held back by the reluctance of prisoners held under the Law to Fight Terrorism (who constitute the great majority of the inmate population of F-type prisons) to make use of the above mentioned facilities." **[13a] (p9)**

5.129 The CPT also reported 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. **[13a] (p11)**

5.130 However, the CPT also noted that in respect of Diyarbakir I prison some prisoners had no findings recorded after their medical examination on arrival, despite the fact that they undoubtedly bore injuries or displayed other medical conditions consistent with ill-treatment. **[13a] (p12)**

5.131 The EC 2005 report recorded that "The Parliamentary Human Rights Investigation Committee published a report on Tekirdag F-type prison in March 2005 and concluded that there were problems with the structure and administration of the prison." **[71e] (p24)**

MONITORING OF PRISON CONDITIONS

5.132 The EC 2005 report stated:

"The 131 Monitoring Boards, whose work focuses on living conditions, health, food, education and the rehabilitation of prisoners, continued to carry out inspections. By June 2005, these boards had made 1 247 recommendations, of which 532 had been acted upon. The Boards paid visits to 419 prisons between October 2004 and May 2005. Their composition still does not include a significant representation from civil society and their reports remain confidential. In the last quarter of 2004, the 141 Enforcement Judges received 830 complaints on actions involving prisoners and detainees. Of these applications, 83 have been accepted and acted upon, 4 have been partially accepted and acted upon, 679 have been rejected and 64 have resulted in other decisions, such as non-jurisdiction of the Enforcement Judges. Training of Enforcement Judges is ongoing." **[71e] (p24-25)**

5.133 As noted in the Amnesty International document 'Turkey Memorandum on AI's recommendations to the government to address human rights violations', dated 1 August 2005:

"Amnesty International welcomes recent steps by the government to allow for greater inspection of places of detention. Article 92 of the new CPC requires State Prosecutors to carry out inspections of places of detention – Amnesty International considers such inspections could be an effective and important measure against torture and ill-treatment if the inspections are carried out on both a regular and an *ad hoc* basis and the subsequent findings and recommendations made public.

Both the Parliamentary Human Rights Commission and the Provincial and Regional Human Rights Boards have both reportedly carried out recent visits to places of detention. While such extra levels of scrutiny are welcome, these bodies are not demonstrably independent or necessarily possessed of the necessary expertise in evaluating places of detention. At the moment, the only demonstrably independent body which enjoys the right to carry out visits unannounced in Turkey is the European Committee for the Prevention for Torture (CPT) whose findings and recommendations have generated significant change in Turkey regarding detention regulations and an apparently commensurate improvement in patterns of torture and ill-treatment."
[12s] (Section on The need for greater scrutiny of places of detention)

5.134 As recorded in the International Helsinki Federation (IHF) report of June 2005, "While the government expanded and improved the system of prison monitoring boards, these boards excluded from their mandate the issues of ill-treatment and prolonged isolation of detainees. As of May 2004, the boards had received nearly 12,000 complaints and accepted less then 4,000 of them." **[10a] (p6)**

5.135 The USSD 2003 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)**

5.136 The USSD 2004 noted that:

"The Government permitted prison visits by representatives of some international organizations, such as the CPT; however, domestic nongovernmental organizations (NGOs) did not have access to prisons. The CPT visited in March, and conducted ongoing consultations with the Government. Requests by the CPT to visit prisons were routinely granted. **[5c] (Section 1c)** International humanitarian organizations were allowed access to 'political' prisoners, provided they could obtain permission from the Ministry of Justice. With the exception of the CPT, which generally had good access, such organizations were seldom granted permission in practice." **[5c] (Section 1e)**

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MILITARY SERVICE

5.137 The Freedom House report 'Countries at the Crossroads 2005 – Turkey, noted that:

"The military holds a special place in the Turkish republic. Since Turkey's first military coup, in 1960, it has acted as the guarantor of Turkey's secularism, territorial integrity, and government functioning… While it has never stayed in power long, it used the first and subsequent coups, in 1971 and 1980, to increase its autonomy and enhance its role during civilian rule…Reducing the political influence of the military has been a prime concern of the EU. Beginning with the 2001 constitutional amendments, Turkey has confined the NSC to an advisory role with, as of August 2004, a civilian at its head; it has removed the military members from the higher education council and RTUK; and it has increased transparency and parliamentary oversight of military expenditures. The military is still not entirely subservient to the ministry of defense, and its budget remains disproportionately high…Public trust in the military is strong, and military schools are among the best in the country, thus contributing to the continued power and prestige of this institution." **[62] (p14)**

5.138 The Netherlands report on military service in Turkey July 2001 noted that:

"The army and military service 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] (p12)**

5.139 As recorded in Europa World online, Turkey: Defence (website accessed on 8 October 2005) "The total strength of the active armed forces at 1 August 2004 was 514,850 (including 391,000 conscripts), comprising an army of 402,000, a navy of 52,750 and an air force of 60,100. There was a gendarmerie numbering

150,000 and a coast guard of 2,200. Reserve forces totalled 378,700 in the armed forces and 50,000 in the gendarmerie." **[1e] (Turkey: Defence)**

5.140 According to Article 1 of the Military Act No.1111 (1927) every male Turkish citizen is obliged to carry out military service. **[25] (p1)** The Netherlands report 2001 states that the obligation commences on 1 January of the year in which a male citizen 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). **[2b] (p10)**

5.141 The *Turkish Daily News* reported that on 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 lead to a 17 percent reduction in the number of conscripts in the Turkish armed forces. **[23d]**

5.142 The Netherlands report 2001 reported 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 'yapmiştir' (done) or 'yapmamiştir' (not done) in the passport indicates whether the holder has completed military service or not." **[2b] (p15)**

DEFERRING MILITARY SERVICE

5.143 According to Article 35 of the Military Act No.1111 (1927) a number of provisions allow people liable to military service to defer their service, principally for educational reasons. In accordance with Article 35c, military service for those attending a school in Turkey or abroad is deferred until the end of the year in which they reach 29. Under Article 35e, the military service of university graduates who attend a postgraduate programme is deferred until the end of the year in which they reach the age of 33. Furthermore, for those post-graduate students whose studies in local or foreign post-graduate programmes are proved to be an innovation or development in the respective field of study, military service is postponed to the end of the year in which they reach the age of 36. **[25] (p13-14)**

5.144 As noted in the Netherlands report 2001:

"University graduates are governed by alternative rules laid down in the abovementioned Law on Reserve Officers and Reservists (No 1076). Reserve officers are recruited from this group. Where the number of university graduates exceeds the demand of the General Staff for reserve officers, every graduate has a choice of becoming a reserve officer or not. Where demand is greater than or equal to supply there is an obligation to become a reserve officer. Reserve officers serve sixteen months: four months' training and twelve months' service within a unit. Graduates who decide not to become reserve officers may perform their military service as privates or non-commissioned officers for a shorter period. This reduced military service (*kisa hizmet*) lasts eight months. **[2b] (p10-11)** 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." **[2b] (p29)**

5.145 As recorded in Wikipedia (undated section on Conscription, website accessed on 4 October 2005), "For Turkish citizens who have lived or worked abroad of Turkey for at least three years, on condition that they pay a certain fee in foreign currencies, a basic military training of one month is offered instead of the full-term military service. Also, when the General Staff assesses that the military reserve exceeds the required amount, paid military service of one-month's basic training is established." **[87]**

EVASION OF MILITARY SERVICE AND PUNISHMENT

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

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

- One month for those who report themselves within seven days;
- Three months for those who are arrested within seven days;
- Between three months and one year for those who report themselves within three months;
- Between four months and 18 months for those who are arrested within three months;
- Between four months and two years for those who report themselves after three months;
- Between six months and three years for those who are arrested after three months;
- Up to ten years' imprisonment in the case of aggravating circumstances, such as self-inflicted injuries, using false documents (Articles 79-81 of the Penal Code).

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

5.147 According to the Netherlands report 2001:

"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. From the legal point of view, 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] (p37)**

5.148 The Netherlands report 2001 continued:

"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] (p38)**

CONSCIENTIOUS OBJECTORS

5.149 The War Resisters International 2005 document noted that:

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

5.150 The War Resisters International 2005 document further noted:

"Since the 1990s, there are a small number of COs who publicly state that they refuse to perform military service for non-religious, pacifist reasons. The Turkish language actually makes a distinction between conscientious objectors (vicdani retci) and draft evaders (asker kacagi)… Between 1995 and 2004 approx. 40 men have openly declared themselves as conscientious objectors, mostly by making a public statement or giving media interviews about their reasons for refusing military service. COs may be punished under Article 63 of the Turkish Military Penal Code for avoiding military service. COs who attract media attention or publish articles about their refusal to perform military service may also be punished to between six months' and two years' imprisonment under Article 318 of the Turkish Criminal Code for 'alienating the people from the armed forces'. In 2004, a new Criminal Code was introduced (Law No 5237). Under the previous Criminal Code, "alienating people from the armed forces" was punishable under Article 155 with a similar term of imprisonment…In recent years, it appears that the Turkish authorities have refrained from harsh punishment of COs. This may have been caused by the fact that previous trials of COs attracted considerable (international) attention and the Turkish authorities may wish to avoid further attention for the issue of conscientious objection. However, as long as there are no legal provisions for their right to

conscientious objection, the legal position of COs remains vulnerable and they may still be subject to criminal prosecution. In 2004 there were five known cases of COs." **[53] (Section on Conscientious objection)**

5.151 The War Resisters International 2005 continued:

"Apart from the secular COs mentioned above, some members of religious denominations who forbid their members to bear arms, in particular Jehovah's Witnesses, have also refused to perform military service. Members of Jehovah's Witnesses have regularly been sentenced to imprisonment under Article 63 of the Penal Code for avoiding military service. In recent years, Jehovah's Witnesses are reportedly regularly allowed to perform unarmed military service within the armed forces. They have complied with this. However, in some cases, members of Jehovah's Witnesses have still been sentenced to imprisonment. In 2003 and 2004, several Jehovah's Witnesses were imprisoned for not taking the military oath and/or refusing to carry weapons. They are usually sentenced to one month's imprisonment, after which they are released pending trial." **[53] (Section on Conscientious objection)**

5.152 Netherlands report 2001 stated:

"Since refusal of military service on grounds of conscientious objection is not recognised in Turkey as such, the conscientious objector refusing military service is viewed by military criminal law as a straight forward case of draft evasion. The person concerned is according sentenced as described above, in precisely the same way as all other draft evaders, under article 63 of the Military Criminal Code. The individual conscripts motives for non-compliance with the military service obligation are not taken into account consideration in sentencing, so that refusal for reasons of principle attracts neither a heavier nor a lighter sentence." **[2b] (p45)**

5.153 The Netherlands report 2001 reported that since 1995 organised associations of military service objectors have been in existence. The two most important are *Izmir Savaş Karşitlari Derneği* (Izmir Anti-War Association, ISKD) and the *Istanbul Antimilitarist Inisiyatifi* (Istanbul Antimilitarist Initiative IAMI). The associations have a few dozen members. The secretary of ISKD is Turkey's best-known military service objector, Osman Murat Ülke. **[2b] (p41)**

5.154 According the Netherlands report 2001 "Apart from the (prison) sentences mentioned earlier in this chapter, conscripts who evade military service by residing abroad may lose their Turkish nationality if they cannot adduce any valid reason for evasion." This may be done by decision of the Council of Ministers on the basis of Article 25 of the Law on Turkish nationality (No 403). **[2b] (p39)**

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

military service. This is because in such cases it is unlikely that the individuals concerned would apply for an extension before the age of 38. **[2c] (section 6.6)**

5.156 Under Article 8 of Turkish Nationality Law No. 403 (1964), Turkish citizenship may be restored even if the individual concerned is not residing in Turkey at that point in time. **[26a] (p3)** The Netherlands report July 2002 states that "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." **[2c] [section 6.6]**

See also Section 6C on Treatment of returned failed asylum seekers

POSTING AFTER COMPLETION OF BASIC TRAINING

5.157 The Netherlands report 2001 stated that "Every conscript's unit for posting after his basic training is determined by computer by the Directorate for the Recruitment of Conscripts in the Ministry of Defence." The place of subsequent posting depends upon the basic training undergone, the place of registration and possible criminal record." **[2b] (p19)**

5.158 The report continued:

"Anyone who has been convicted of theft is therefore very unlikely to be placed in a unit responsible for managing an arms depot. Among others, spokesmen for the Turkish human rights association IHD and various military sources say that they do not believe that a record of past criminal offences, whether or not of a political nature, results in an extra-harsh posting by way of additional punishment….Spokesmen for the IHD also consider it unlikely that conscripts are screened on the basis of ethnic origin or religious or political convictions for the purpose of deciding on subsequent postings." **[2b] (p21)**

5.159 As noted in the War Resisters International 2005 document:

"For years, the Turkish armed forces have been involved in heavy fighting with the PKK in South Eastern Turkey. In 1999 a ceasefire was agreed between the Turkish government and the PKK, but the situation has remained tense ever since. All conscripts may be sent to serve in South Eastern Turkey as postings of conscripts are usually decided at random by computer. There is a sizeable group of conscripts of Kurdish origin who refuse to perform military service because they do not want to fight against their own people. Many Kurdish draft evaders have, in fact, left Turkey and applied for asylum abroad." **[53] (Section on Draft evasion)**

DISCRIMINATION IN THE ARMED FORCES

5.160 The War Resisters International 2005 document stated that "There have been regular reports of Kurdish conscripts in particular being subjected to discriminatory treatment, especially when they are suspected of having separatist sympathies." **[53] (Section on Draft evasion)**

5.161 The Netherlands report 2001 states that

"The armed forces operate a harsh regime. Non-commissioned officers and lieutenants in particular occasionally beat conscripts as a means of disciplining them. The use of insults – again by NCOs and lieutenants – to conscripts is a fairly regular occurrence…Harassment and discrimination by fellow soldiers or non-commissioned officers occur, depending in particular on the local commander. However, it is not possible to say that any single group suffers systematic discrimination. According to Turkish human rights organisations and former soldiers, in many cases the problems stem from conflicts between conscripts themselves." **[2b] (p49)**

5.162 The Netherlands report 2001 reported that "Systematic discrimination against Kurdish conscripts 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 addition the report continued "There is therefore no systematic discrimination against conscripts who are known to be left wing activists. Again much depends on the commander of the respective unit." **[2b] (p50)**

5.163 A Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa dated 10 September 2004, entitled "Turkey: Military and societal treatment of homosexuals who have been deemed unfit to serve in the military and/or who have been discharged from the military due to their sexual orientation (January 2002 - September 2004)" gives an overview of these issues quoting a variety of sources. A stated in the report:

"*GLBTQ: An Encyclopedia of Gay, Lesbian, Bisexual, Transgender and Queer Culture* describes Turkey as having a 'restrictive' military policy on homosexuals (2004), which prohibits military service by homosexuals (*GLBTQ* 2004; *Turkish Daily News* 17 July 2003). The Turkish military officially recognizes homosexuals as 'threats to the armed forces and discharges them for indecency if [their sexual orientation is] discovered' (*GLBTQ* 2004). Homosexuality is deemed to be an illness by the military, and those who are affected by it are exempt from serving (*Turkish Daily News* 8 Sept. 2003; KAOS GL 31 Oct. 2002; ibid. 2002; *The Nonviolent Activist* July-August 2002). Homosexuals seeking exemption are required to provide the military with a photograph of themselves while on the receiving end of anal intercourse as proof of their sexual orientation (ibid. see also KAOS GL 31 Oct. 2002; ibid. 2002)… KAOS GL, an advocacy group based in Turkey and aimed at combating discrimination against homosexuals (9 Sept. 2004), reported that in reality, very few conscripts apply to the military for exemption from military service on the basis of their sexual orientation because homosexuals who are exempted from military service on this basis face 'repressive Islamic social pressures' (*The Nonviolent Activist* July-Aug. 2002) and problems in respect of employment opportunities and social acceptance (KAOS GL 31 Oct. 2002)." **[7e]**

5.164 As reported by the *Turkish Daily News* on 13 August 2005:

"A military court's decision to sentence a gay Turkish conscientious objector to a record four-year prison term is a 'political sentence' and actually serves only to intimidate all conscientious objectors as well as homosexuals in Turkey, his lawyers claimed yesterday. Mehmet Tarhan, a pacifist and gay rights activist who refused to serve his compulsory military service, was arrested in April [2005] and interned in a military prison in the central Anatolian province of Sivas…After being arrested and imprisoned in April, Tarhan was asked to apply for a discharge from the army on the grounds that he is an openly homosexual

man, but he refused to do so, calling it discrimination. In June [2005] a judge ordered his release because he had already served the minimum three-month term of imprisonment and returned to his army unit. However, Tarhan was subsequently charged by the Turkish Military Penal Code (TACK) with Article 88, namely, 'Insubordination in front of the unit,' which carries a penalty of between three months and five years' imprisonment. The court duly dealt with the original offense and the second one – Article 88 – and sentenced Tarhan to a four-year and a two-year sentence of imprisonment to run concurrently. The defendant's lawyers announced they have appealed both sentences." **[23ai]**

5.165 As stated in an Amnesty International public appeal of 8 June 2005:

"Amnesty International is concerned for the safety of conscientious objector Mehmet Tarhan who has been subjected to death threats and beatings by other prisoners since his imprisonment on 11 April [2005] and the delay in ensuring his safety by the prison authorities after the abuses were reported… When Mehmet Tarhan informed prison authorities of the abuse no immediate action was taken to ensure his safety and the abuse reportedly continued. After his lawyer learned about the abuse, she raised her concerns for his safety with the prison administration and an investigation into the alleged abuse was opened and some action was then taken by the prison authorities to protect him…Amnesty International considers Mehmet Tarhan to be a prisoner of conscience, prosecuted for his conscientiously-held beliefs, and calls for his immediate release. The organization also urges the Turkish authorities to introduce an alternative civilian service for conscientious objectors which is not discriminatory or punitive…Amnesty International is concerned that the right to conscientious objection is not legally recognized by the authorities, and provisions do not exist for an alternative civilian service for conscientious objectors…In recent years in Turkey there have been a small number of conscientious objectors who have publicly stated their refusal to carry out military service. They are usually subject to criminal prosecution." **[12t]**

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MEDICAL SERVICES

5.166 As noted in the United Nations Development Programme (UNDP) Human Development Report 2002, Turkey ranked 88 (out of 177 countries) in the world, in comparison the UK ranked 12. The Human Development Index (HDI) is a composite index measuring average achievement in three basic dimensions of human development—a long and healthy life, knowledge and a decent standard of living. **[35a]** As stated in the United Nations Development Programme (UNDP) Human Development Report 2005 (Country Fact Sheets, Turkey) "Turkey is ranked 94th in the 2005 Human Development Report, with an HDI value of 0.750." The HDI rank for 2003 (177 countries) was 94, with an HDI value of 0.750. **[35b]**

5.167 As recorded in Turkey's Statistical Yearbook 2004, published by the State Institute of Statistics, in 2003 there were 1,172 hospitals with a bed capacity of 180,797. The total number of physicians was 95,190 with 721 people per physician (in 2002). **[89] (Section on Health)**

COST OF TREATMENT

5.168 The Foreign and Commonwealth Office reported in 2001 that if the patient has contributed to a social security scheme (SSK, BAG KUR, EMEKLI or 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. **[4a]**

5.169 On 21 February 2005 the *Turkish Daily News* reported that a law to transfer ownership of Social Security Authority (SSK) hospitals to the Health Ministry had come into effect over the weekend.

"The law also transfers health facilities owned by Postal and Telecommunications General Directorate (PTT) and Ziraat Bank to the ministry. SSK hospitals will from now on be run like other state-owned medical facilities. SSK members will still have to obtain referrals from their local hospital for treatment at university hospitals…Numerous political parties, nongovernmental organizations and labor groups criticized the government decision to transfer the hospitals to the Health Ministry. Those opposing to the law said the government intended to privatize the health sector, with many people only getting the treatment they could afford. The government decision is a small part of the social security reform process currently under way to ease the burden on taxpayers. Despite being owned by the SSK, hospitals are a drain to the state because of the huge losses they incur." **[23p]**

MENTAL HEALTH

5.170 As recorded in the World Health Organisation's (WHO) Department of Mental Health and Substance Dependence Mental Health Atlas 2005 the country has disability benefits for persons with mental disorders. "After being approved by a mental health board as a chronic mental health patient, the patient can benefit from the social security services…Mental health is part of the primary health care system. Actual treatment of severe mental health is available at the primary level…Mental health in primary care is available in only some provinces…Regular training of primary care professional [sic] in the field of mental health is present and the approximate number of personnel trained over the last two years totalled 3,000." **[37a] (Section on Mental Health Financing)**

5.171 The WHO Mental Health Atlas 2005 further states that there are 1.3 psychiatric beds per 10,000 population, one neurosurgeon, one neurologist, one psychologist and one social worker per 100,000 population. **[37a] (Section on Mental Health Financing)**

5.172 The Foreign and Commonwealth Office contacted Hacettepe University Hospital Psychiatric Department in April 2002 and confirmed that antipsychotic and antidepressant medication is available in Turkey. **[4b]**

5.173 The WHO Mental Health Atlas 2005 recorded that "The following therapeutic drugs are generally available at the primary health care level:

carbamazepine,
ethosuximide,
phenobarbital,
phenytoin
sodium valproate,

amitriptyline,
chlorpromazine,
diazepam,
fluphenazine,
haloperidol,
lithium,
biperiden,
carbidopa,
and levodopa." **[37a] (Section on Therapeutic Drugs)**

5.174 The WHO Mental Health Atlas 2005 continued:

"The mental health department was established within the Ministry of Health in 1983 with the primary tasks of improving mental health services, development and dissemination of preventive mental health services, integration of mental health with primary care, community education and protection of the community from harmful behaviours. The means of achieving these aims were through determination of standards, training programmes, data collection, research, creation of counselling and guiding units, creation of psychiatric clinics in state hospitals, assigning proper tasks to personnel, developing rehabilitation facilities, carrying out public education through the help of media, educating the public on harmful behaviour, and taking care of those who succumb to those behaviours." **[37a] (Section on Other Information)**

HIV/AIDS

5.175 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]**

5.176 In December 2001 the Foreign and Commonwealth Office contacted Hacetepe University, Ankara, which provides world-standard treatment for HIV and AIDS. The University confirmed that such drugs such as thyroxine, sequinavir, D4T, 3TC, acyclovir, zirtek, diflucon and metoclopramide, or their substitutes, are available in Turkey. **[4a]**

PEOPLE WITH DISABILITIES

5.177 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. **[23h]** Another article in December 2003 stated that 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. **[23j]**

5.178 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." **[23j]**

5.179 The USSD 2004 reported that:

"There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, although they did suffer from a lack of economic opportunity. The law does not mandate access to buildings and public transportation for persons with disabilities. Persons with disabilities have some privileges, such as the right to purchase products of State economic enterprises at a discount or acquire them at no cost… Companies with more than 50 employees were required to hire persons with disabilities as 2 percent of their employee pool, although the requirement was not consistently enforced." **[5c] (Section 5)**

5.180 The European Commission 2004 reported that "As regards the rights of disabled people, in July 2004 a circular was issued stating that at least 3% of the staff in public institutions with more than 50 employees should be disabled and/or ex-convicts. According to official sources, there has been a significant increase in the recruitment of disabled persons since last year. However, Turkey has still not accepted Article 15 of the European Social Charter on the rights of disabled persons." **[71c] (p46)**

5.181 The Freedom House report 'Countries at the Crossroads 2005 – Turkey', published in December 2004 noted that:

"The interests of people with disabilities are addressed by the High Council of Disabilities, which brings public officials together with nongovernmental groups. The council has admirable aims and even conducted a thorough survey of people with disabilities in 2002 in order to address problems better. Nevertheless, the needs of such people continue to exceed the limited services provided." **[62c] (p4)**

5.182 As noted in a report by the Mental Disability Rights International (MDRI) entitled 'Behind Closed Doors: Human Rights Abuses in the Psychiatric Facilities, Orphanages and Rehabilitation Centers of Turkey' (released on 28 September 2005):

"Behind Closed Doors describes the findings of a two-year investigation in Turkey by Mental Disability Rights International (MDRI) and exposes the human rights abuses perpetrated against children and adults with mental disabilities. Locked away and out of public view, people with psychiatric disorders as well as people with intellectual disabilities, such as mental retardation, are subjected to treatment practices that are tantamount to torture. Inhuman and degrading conditions of confinement are widespread throughout the Turkish mental health system. This report documents Turkey's violations of the European Convention for the Prevention of Torture (ECPT), the European Convention on Human Rights (ECHR), the UN Convention on the Rights of the Child (CRC) and other internationally accepted human rights and disability rights standards." **[90] (Executive Summary)**

5.183 The MDRI report continued:

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

5.184 The European Commission 2005 report noted that:

"As regards the rights of people with disabilities, a new law on Disabled People was adopted in July 2005. The law provides for guidelines for the classification of different kinds of disabilities, and includes provisions for care services, rehabilitation, early diagnosis, employment and education of disabled people. The law stresses the need to combat discrimination against people with disabilities, and stipulates that discrimination based on disability is a crime. The law also compels the employers and public institutions to make the necessary physical arrangements in the workplaces. However, more importance should be given to improving central and decentralised structures and facilities (community-based services or institutions) for disabled people, and to improving access to education for children with disabilities." **[71e] (p97)**

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EDUCATIONAL SYSTEM

5.185 The USSD 2004 reported that:

"Government-provided education through age 14 or the eighth grade is compulsory. Traditional family values in rural areas placed a greater emphasis on education for sons than for daughters. According to the Ministry of Education, 95.7 percent of girls and 100 percent of boys in the country attended primary school; however, a UNICEF report released during the year indicated that, in the rural areas of some provinces, over 50 percent of girls between 7 and 13 and over 60 percent of girls between 11 and 15 did not attend school." **[5c] (Section 5)**

5.186 On 22 February 2005 *The Guardian* reported that:

"The Turkish government is paying families to 'encourage' them to send their daughters to school, as part of its efforts to bring the number of girls in education into line with European standards. More than half of Turkey's young female population has no schooling, according to the United Nations children's fund, Unicef…Girls and women account for the vast majority of the 7 million people believed to be illiterate in the predominantly Muslim state. Under Turkey's education minister, Huseyin Celik, this inequity has begun to be addressed. With the help of Unicef, some 140,000 girls aged between seven and 13 have been enrolled at school over the past 18 months. The campaign, which started in 10 towns, expanded into 53 of Turkey's 81 provinces last year." **[38a]**

5.187 *The Guardian* further reported that for the first time last year [2004], Turkey spent more on education than defence, allocating £5.5bn to the sector. **[38a]**

5.188 As recorded on the UNICEF website:

> "Roughly one million girls of primary school age are not going to school in Turkey. The gender gap in primary education enrolment is 7% – about 600,000 more girls than boys. More than 50% of girls between 6 and 14 are out-of-school in some provinces. Haydi Kızlar Okula! – the girls' education campaign in Turkey – addresses the complex range of economic and social factors that contribute to the non-attendance of girls at school. The campaign was launched by Carol Bellamy and Dr. Hüseyin Çelik, the Minister of National Education, in the eastern province of Van in June 2003. The goal of Haydi Kızlar Okula! is to close the gender-gap in primary school enrolment by the end of 2005 through the provision of a quality basic education for all girls in 53 provinces with the lowest enrolment rates." **[91]**

5.189 As highlighted by UNICEF, the main barriers to girls' education were the followings:

> "Shortage of schools and classrooms; schools are often situated far from home and many parents do not want their children, especially girls, to travel far; parents do not want to send children to schools that are in a poor physical state with no toilets or running water; many families suffer economic hardship; the traditional gender bias of families favours the needs of men and boys over those of women and girls; the need to augment domestic income by keeping children at home to work; many parents consider the early marriage of their girls to be more important than their education; female role models in rural communities are scarce – or entirely absent; opportunities for secondary education are rare, discouraging interest at primary level." **[91]**

5.190 As recorded in Turkey's Statistical Yearbook 2004, in the education year 2003/2004, 90.57 per cent of males and 90.21 per cent of females were in primary education; in secondary education 50.24 per cent of males and 42.41 per cent of females and in higher education 14.18 per cent of males and 11.95 per cent of females. **[89] (Section on Education and Culture)**

5.191 The European Commission 2005 report noted that "Although eight years of education is mandatory, more than half a million girls do not attend school each year. In the Southeast, only 75.2% of girls are enrolled in primary education, while this figure is 91.8% for the whole country." **[71e] (p33)**

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6. Human Rights

6.A HUMAN RIGHTS ISSUES

GENERAL

6.01 As noted in the 'General evaluation' section of the European Commission Turkey 2005 Progress Report, published on 9 November 2005:

"Important legislative reforms have now entered into force and should lead to structural changes in the legal system, particularly in the judiciary. However, the pace of change has slowed in 2005 and implementation of the reforms remains uneven. Although human rights violations are diminishing, they continue to occur and there is an urgent need both to implement legislation already in force and, with respect to certain areas, to take further legislative initiatives. Significant further efforts are required as regards fundamental freedoms and human rights, particularly freedom of expression, women's rights, religious freedoms, trade union rights, cultural rights and the further strengthening of the fight against torture and ill-treatment. In particular, Turkey should integrate better the reform process into the work of all public authorities. Turkey's commitment to further political reforms should be translated into more concrete achievements for the benefit of all Turkish citizens regardless of their origin. As regards democracy and the rule of law, important structural reforms have been put in place, particularly in the area of the functioning of the judiciary. The six pieces of legislation mentioned in the Commission's 2004 recommendation entered into force. However, implementation on the ground remains uneven." **[71e] (p41)**

6.02 The EC 2005 report also noted that:

"Concerning the protection of human rights and minorities, despite some progress, the picture remains mixed. As regards the fight against torture and ill-treatment further provisions have entered into force, adding to the comprehensive legislative framework already in place, and the incidence of such practice is diminishing. Nevertheless, reports of torture and ill-treatment remain frequent and those perpetrating such crimes still often enjoy impunity." **[71e] (p41)**

6.03 As stated in the Amnesty International document 'Turkey Memorandum on AI's recommendations to the government to address human rights violations' dated 1 August 2005:

"Since the government has come to power in 2003, Amnesty International has welcomed the numerous steps that it has taken in order to improve human rights standards in Turkey. The organization is nevertheless concerned about continuing patterns of serious human rights violations. Amnesty International considers that there has in 2005 been a slowing of the reform process and a failure to build upon previous achievements. While there have been important initiatives in terms of legal change and training for state officials, there is still a crucial lack of mechanisms and institutions that will effectively monitor human rights standards and investigate individual violations in Turkey. Amnesty International considers that, even taking into account the reforms undertaken by the government, people who have been subjected to serious human rights

violations do not have any grounds to believe that the courts or authorities will be able to adequately investigate their case and bring those suspected of being responsible to justice. Most obviously – and in clear contradiction of the government's declared 'zero-tolerance for torture' policy – the response by the authorities to reports of incidents of torture and ill-treatment and other serious human rights violations perpetrated by members of the security forces has been inadequate." **[12s] (Introduction)**

6.04 The AI document 'Europe and Central Asia Summary of Amnesty International's Concerns in the Region July - December 2004' dated 1 September 2005 noted:

"The second half of the year [2004] was characterized by a flurry of activity by the government as it passed legislation in an attempt to meet the criteria to open accession negotiations with the European Union (EU)… Among the reforms introduced by the government was a new Law on Associations, a new Criminal Procedure Law, a new Turkish Penal Code, a new Law on the Execution of Sentences, and a new Law on Municipalities. The new laws contained many positive aspects and were often less restrictive than their predecessors…However, there remained serious concerns regarding provisions in the new laws which had been carried over unaltered from their predecessors and which had previously been used to restrict fundamental rights unnecessarily … One reason for the continuing problems in this new legislation was the hurried pace of the legislative reforms, which was sometimes apparently exacerbated by the European Commission's insistence that the laws in question had to be passed before accession negotiations were opened. This limited the opportunity for sufficient consultation amongst civil society, including Turkish human rights organizations, and meant that some drafts went through parliament without sufficient scrutiny." **[12u] (p77)**

6.05 The International Helsinki Federation (IHF) report 'Human Rights in the OSCE Region' (Events of 2004), published on 27 June 2005 noted that:

"Despite the legislative improvements, Turkey's laws and practices in 2004 still fell short of international standards for the protection of human rights. The main concerns were institutionalised impunity for human rights violations, extra-judicial killings, the situation of more than one million internally displaced persons (IDPs), torture and ill-treatment, violence against women and children, child labour, the situation of asylum seekers and refugees, inhumane prison conditions, restrictions on minority rights and restrictions on freedom of expression and freedom of peaceful assembly." **[10b] (p1)**

6.06 Amnesty International's annual report on Turkey covering the events of 2004, published May 2005 stated that:

"The government introduced further legal and other reforms with the aim of bringing Turkish law into line with international standards. However, implementation of these reforms was patchy and broad restrictions on the exercise of fundamental rights remained in law. Despite positive changes to detention regulations, torture and ill-treatment by security forces continued. The use of excessive force against demonstrators remained a serious concern. Those responsible for such violations were rarely brought to justice. Those who attempted to exercise their right to demonstrate peacefully or express dissent on certain issues continued to face criminal prosecution or other sanctions.

State officials failed to take adequate steps to prevent and punish violence against women." **[12r] (Introduction)**

6.07 The US State Department Report (USSD) 2004, published 28 February 2005 stated that:

"The Government generally respected the human rights of its citizens; although there were significant improvements in a number of areas, serious problems remained. Security forces reportedly killed 18 persons during the year; torture, beatings, and other abuses by security forces remained widespread. Conditions in most prisons remained poor. Security forces continued to use arbitrary arrest and detention, although the number of such incidents declined. Lengthy trials remained a problem. Convictions of security officials accused of torture remained rare, and courts generally issued light sentences when they did convict. In politically sensitive cases, the judiciary continued to reflect a legal structure that favors State interests over individual rights." **[5c] (Introduction)**

6.08 However, the USSD 2004 also noted that:

"The Government carried out extensive legal reforms during the year aimed at meeting the requirements for European Union (EU) membership. In September, Parliament adopted a new Penal Code and, in May, approved a package of constitutional amendments. Elements of the new Penal Code included: Sentences for torture convictions were increased; 'honor killings' – the killing by immediate family members of women suspected of being unchaste – were defined as aggravated homicides; the statutes of limitations for all crimes were lengthened; and actions aimed at preventing free religious expression were defined as a crime punishable by 1 to 3 years' in prison. Constitutional amendments included: International agreements were given precedence over national law; military and defense expenditures were placed under Audit Court review; the State was assigned responsibility for ensuring gender equality; and the military lost its authority to name members of government boards overseeing higher education and broadcasting. Legislative amendments abolished the State Security Courts (SSCs); however, they created comparable high penal courts that picked up the caseload of the former SSCs." **[5c] (Introduction)**

6.09 As noted in the Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' made public in February 2005:

"Everybody I talked to during the mission agreed that the government has demonstrated a determination to improve the human rights situation…There was a broad consensus among the sources consulted that the scale of the legislative reforms was impressive and unprecedented in later Turkish history. However, legislative reform has not been concluded yet…Although there was a broad consensus that the legislative reforms pointed in the right direction, most of the people I talked to agreed that the more difficult part of the democratic reforms is still to come, namely the implementation of the reforms." **[16] (p7&9)**

6.10 As outlined in the Human Rights Watch (HRW) World Report 2005 published in January 2005:

"Turkey's human rights record continued to improve during 2004, albeit slowly and unevenly, as the country attempted to recover from the legacy of gross

violations committed by state forces and armed opposition groups fighting in the countryside and cities in the early 1990s… Progress in extending basic freedoms has been frustratingly slow, but continues a consistent trend of improvement as over previous years. Achievements in combating torture remain fragile, with a risk of backsliding into old habits as anti-terror operations resume." **[9e] (p1)**

6.11 The HRW report also noted that:

"Reform has taken one step back for every two steps forward as police, governors, prosecutors, and government institutions tend to interpret legislation as restrictively as possible. Nevertheless, there have been significant turning points: on June 9, 2004, for example, four Kurdish former deputies imprisoned for their non-violent activities since 1994 were released, and the state broadcasting channel gave its first program in the Kurdish language." **[9e] (p1)**

6.12 A HRW background briefing of 15 December 2004 entitled 'A Crossroads for Human Rights?' stated that:

"We are also at a departure point for human rights in Turkey: just ten years ago, torture was pandemic, with deaths in custody running at approximately one a week. State forces committed extrajudicial executions and 'disappearances', or political killings through their proxies, almost daily. Progress has been halting, and occasionally disappointing, but when there has been movement, it has been consistently in the direction of improvement… In two areas, however, Turkey's respect for human rights continues to fall well below international standards: torture and ill-treatment in police custody remain common, and there has been little progress on the return of internally-displaced Kurds to their homes… Torture remains common in Turkey today… Impunity remains a problem. Few torture cases result in prosecutions, and fewer in convictions. Sentences for torture rarely reflect the seriousness of the crimes…The persistence of abuses in police stations appears to principally be a function of lack of supervision." **[9f] (p1-2)**

6.13 As noted by Kirsty Hughes in a paper dated December 2004 entitled 'The political dynamics of Turkish accession to the EU: a European success story or the EU most contested enlargement?'

"Major changes have been made in the broad area of human rights, from the abolition of the death penalty, to a new policy of zero-tolerance of torture, improved rules for detention of suspects (to an extent which, some lawyers say, at least on paper make them among the best in Europe), removal of many but not all restrictions on freedom of expression and assembly, and improvements to minority rights, including some new freedoms for broadcasting and language course in languages other than Turkish, including Kurdish and other languages (albeit still under many restrictions). Major legislative improvements and changes have been made in women's rights and gender equality, in particular through the extensive revision of the penal code. Other changes have been made to the judicial system, including greater compliance with decisions of the European Court of Human Rights, and a number of international conventions have been ratified in the areas of both corruption and human rights." **[77] (p8-9)**

6.14 Kirsty Hughes further noted that:

"The breadth, depth and success of the reform process, and the major political challenge in managing and leading this process should not be underestimated… With such speed and breadth of reform, incomplete implementation may not be a surprise but it is a major problem. Many reforms remain incomplete for a variety of reasons. They include a mixture of deliberate obstructionism from low to high levels of the bureaucracy and the establishment – including in sections of the civil service, the judiciary, the military, police and gendarmerie – and other problems, including the sheer time necessary to establish appropriate institutional structures, provide effective training and retraining, change organisation cultures and encourage a wider mentality change." **[77] (p9)**

6.15 The Freedom House report 'Countries at the Crossroads 2005 – Turkey', published in December 2004 noted:

"Despite the amendments, Turkey's constitution lacks the inclusiveness, the clearly defined rights, and the limitation on state power that are crucial for democracy in a multicultural society. The reforms thus far have been largely imposed from the outside, with little grassroots effort from Turkey itself. Turks have great faith in the state's ability to serve their best interests, and a culture of freedom and democracy has yet to be fully instilled throughout the population. Education reform is required to improve opportunities for the poor and develop the popular basis for the full consolidation of reforms. With time, Turkey will ultimately need to draft an up-to-date civil constitution as well." **[62c] (p2)**

6.16 A Council of Europe news release dated 22 June 2004 stated that:

"The Parliamentary Assembly today decided to end the monitoring of Turkey, declaring that the country had 'achieved more reform in a little over two years than in the previous decade' and had clearly demonstrated its commitment and ability to fulfil its statutory obligations as a member state of the Council of Europe. However, the Assembly resolved to continue 'post-monitoring dialogue' with the authorities on a twelve-point list of outstanding issues." **[29]**

6.17 As noted in the Report of the Independent Commission on Turkey 'Turkey in Europe: More than a promise?' published in September 2004:

"It can be fairly said that Turkey has achieved more reform in just over two years than in the whole of the previous decade. The political and legal system of the country has changed profoundly… Beyond these achievements, however, determined efforts are necessary in order to ensure the effective implementation of the new legislation in all state structures and all parts of the country." **[75] (p20)**

6.18 The Freedom House report 'Freedom in the World 2005' published 25 August 2005 described Turkey as 'partly free'. Using the following scale of 1 (being the most free) to 7 (being the least free), Freedom House assessed Turkey's political rights as 3 and civil liberties as 3. "Turkey's civil liberties rating improved from 4 to 3 due to the passage of another round of major reforms, including a complete overhaul of the penal code, greater civilian control of the military, the initiation of broadcasts in minority languages, and a decrease in the severest forms of torture." **[62d]**

TORTURE

6.19 The European Commission 2005 report stated:

"With regard to the prevention of torture and ill-treatment, although reports of torture and ill-treatment are still frequent, the broad assessment of international and Turkish NGOs, as well as experts on the ground, such as lawyers and forensic doctors, is that incidence is diminishing. The President of the Council of Europe's Committee for the Prevention of Torture (CPT) stated in October 2004 that 'it would be difficult to find a Council of Europe Member State with a more advanced set of provisions in this area' while adding that, it is nevertheless 'right to underline that Turkey needs to pursue vigorously its efforts to combat torture and other forms of ill-treatment'. In particular, further efforts are required to ensure full implementation of existing legislation and to reinforce the fight against impunity." **[71e] (p22)**

6.20 The EC 2005 report also noted:

"As regards implementation, practice varies considerably throughout Turkey, although overall the situation continues to improve and both Bar Associations and NGOs confirm that reports of torture and ill-treatment are diminishing. According to these sources, severe forms of torture and ill-treatment are now rarely used and reports of ill-treatment in places of detention are less frequent than in the past. However, reports of ill-treatment outside of detention centres are still common, in particular, during the transportation of detainees, or in the context of demonstrations…Of the total complaints received by the Human Rights Presidency between October 2004 and March 2005 a significant proportion continue to relate to torture and ill-treatment. **[71e] (p22-23)** The government has remained committed to the fight against torture and ill-treatment, continuing to pursue a zero-tolerance policy towards torture. Nonetheless, on the ground, cases of torture and ill-treatment continue to be reported. Detainees are still not always made aware of their rights by the law enforcement bodies and prosecutors do not always promptly and adequately conduct investigations against public officials accused of torture. Continued efforts will be necessary to eradicate these methods, including the consistent imposition of appropriate sanctions on the perpetrators of torture and ill-treatment." **[71e] (p137)**

6.21 As noted in the Amnesty International Turkey Memorandum of August 2005:

"Amnesty International has been greatly concerned about the issue of torture and ill-treatment perpetrated by members of the security forces in Turkey for many years and sees this area as the testing ground for the reforms undertaken by the government. No issue more clearly illustrates the uneven impact of the reforms, the problems in their implementation and the need for further steps in order to eliminate the violations… Unfortunately, this is a challenge which the government still appears to be failing to meet. Torture and ill-treatment continues to be a widespread problem in Turkey. Amnesty International has raised its concerns regarding the statistics collected by the Human Rights Boards attached to the Prime Ministry but even these confirm that torture and ill-treatment continue to be a serious and widespread problem in Turkey… The repeated incidence of torture and ill-treatment in Turkey – despite the government's programme – shows clearly that further measures are necessary in order to eradicate torture by state agents. The eradication of torture should

be seen as the achievement of conditions in which torture and ill-treatment are extremely unlikely; they will occur, if at all, only in isolated cases; and if they do occur, there will be a reaction from the authorities which prevents the perpetrator from repeating the act, which satisfies conditions of justice and reparation, and which condemns the act in such a way that other public officials will be deterred from similar conduct. At the moment, this is far from the case in Turkey. The 'zero tolerance for torture' policy appears to be limited to legislative changes (such as increasing the punishment for individuals convicted of torture or allowing access of detainees to lawyers) and training given to police officers." **[12s] (Section on Concerns about continued torture and ill-treatment and impunity)**

6.22 The AI 2005 Annual Report on Turkey noted that:

"Detention regulations that provided better protection for detainees led to an apparent reduction in the use of some torture techniques, such as suspension by the arms and falaka (beatings on the soles of the feet). However, the regulations were often not fully implemented. Torture and ill-treatment in police and gendarmerie custody continued to be a serious concern with cases of beatings, electric shock, stripping naked and death threats being reported. Torture methods which did not leave lasting marks on the detainee's body were also widely reported. Deprivation of food, water and sleep and making detainees stand in uncomfortable positions continued to be reported, despite a circular from the Minister of the Interior prohibiting the use of such techniques. In addition, people were beaten during arrest, while being driven around or after being taken to a deserted place for questioning." **[12r]**

6.23 The International Helsinki Federation (IHF) report of June 2005 noted that:

"Turkish human rights organizations stated that the safeguards provided by the government were not always respected in practice by the security forces. Torture and ill-treatment occurred particularly in the southeast, but disadvantaged groups including the Roma and children in the poorer sections of bigger cities, including IDP children, were particularly vulnerable to torture and ill-treatment. Political detainees still risked torture and ill-treatment…The government declared a 'zero-tolerance' policy on torture, but rejected any debate with human rights organizations on the issue, and reacted negatively to arguments and initiatives by these organizations. Neither government nor NGO statistics are adequate to determine the frequency of torture in Turkey. While increased activity and visibility by the HRA and HRFT as well as better public awareness has resulted in better reporting of torture in recent years, it is believed that the most vulnerable groups are often discouraged from reporting torture, including by fear of retaliation. The HRA recorded 1,040 torture and ill-treatment complaints under detention, compared to 1,202 in 2003, while according to the government, the prosecutors launched cases against 2,395 security officers charged with torture and ill-treatment. In at least ten cases, prosecutors did not launch cases against the officers despite HRA efforts." **[10a] (p5)**

6.24 The USSD 2004 reported that:

"The Constitution prohibits such practices [as torture]; however, members of the security forces continued to torture, beat, and otherwise abuse persons regularly, particularly in the southeast. Security forces most commonly tortured leftists and Kurdish rights activists. According to the HRF, there were 918

credible cases of torture and mistreatment reported at its 5 national treatment centers during the year [2004]. Human rights advocates claimed that hundreds of detainees were tortured during the year in the southeast, where the problem was particularly serious, but that only a small percentage of detainees reported torture and ill-treatment because they feared retaliation or believed that complaining was futile. During the year [2004], senior HRF and HRA officials stated that there had not been a significant change in the frequency of torture over previous years. However, officials at a number of HRA branch offices, including in the southeast, said they had observed a decline in the practice. A number of attorneys in the southeast and other regions also reported that torture and ill-treatment had become significantly less common. Observers reported that police demonstrated greater restraint in their treatment of detainees and protestors during the year due to legal reforms and government directives." **[5c] (Section 1c)**

6.25 As noted in the Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' made public in February 2005:

"Most of the people I talked to agreed that there has been a reduction in the extent and severity of torture in Turkey. Diplomatic sources claimed that the government deserved much of the credit for these achievements. Its repeatedly declared intention to pursue a 'zero-tolerance policy' against torture was followed up by a number of important legislative amendments. Several sources attributed special importance to the fact that sentences for torture and ill-treatment can no longer be suspended or converted into fines. Equal importance was attached to the abolishment of the requirement to obtain permission from superiors to open investigations against policemen (and other public officials). According to diplomatic sources in Ankara, most of the legislative framework required to combat torture and ill-treatment is now on [sic] place. This had paved the way for and contributed to a marked improvement in Turkeys [sic] human rights record in general and especially when it comes to torture and ill-treatment." **[16] (p11)**

6.26 However, the Norwegian report continued:

"While the overall picture induces optimism, serious problems remain in the daily praxis. Both when it comes to the uneven level of implementation of the anti-torture measures as well as to the use of torture as such…According to diplomatic sources in Ankara, torture is more likely to happen where the Gendarmerie (Jandarma) is in charge of police duties (outside the cities). In most of the urban areas (i.e. the polices' area of responsibility), however the internal monitoring system implemented by the Ministry of Interior (including impromptu visits at police stations and detention facilities), seems to work better, apparently leading to a reduction in the number of torture cases at police-stations. The monitoring of detention-facilities, however, may also have led to an increasing number of people complaining about ill-treatment or torture outside police-stations. Several sources mentioned cases where suspects were picked up for questioning by plain-clothed police officers, driving around in unmarked police cars and questioning people at deserted places. According to the Human Rights Foundation in Ankara the danger of being tortured appears to be much higher in such cases of 'unofficial detention' than in regular police-custody." **[16] (p11-12)**

6.27 The Norwegian report further stated that:

"The overall trend, however, was described as positive in terms of physical torture and ill-treatment. Most sources consulted agreed that there were fewer cases, in which 'traditional' methods such as electric shocks or *falaka* were used. On the other hand, the NGOs I talked to claimed that there was a continuous use of less detectable methods of torture and ill-treatment. They specifically referred to the use of *psychological* torture (detainees stripped naked and/or sexually harassed, being subjected to mock executions or other threats as well as being prevented from sleeping, eating or going to the toilet). Mr. Kutlu [HRFT Ankara] and Mr. Demirtas [Head of IHD Diyarbakir] both made the assumption that these methods are being used because they are less likely to be discovered during the prescribed medical examination of the detainee." **[16] (p13)** **(See also Section 6A on Medical examination in detention)**

6.28 As outlined in the Human Rights Watch (HRW) World Report 2005 published in January 2005:

"There were fewer cases of torture and ill-treatment in 2004, largely due to safeguards imposed in recent years, and by the government's frequent assertions of zero-tolerance for such abuses. Nevertheless, detainees from all parts of the country report that police and gendarmes beat them in police custody. In some cases, detainees still complain that they have been subjected to electric shocks, sexual assault, hosing with cold water, and death threats. The persistence of these violations is a consequence of poor supervision of police stations, which permits security forces to ignore detainees' rights – and most importantly, the right to legal counsel." **[9e] (p2)**

6.29 The Freedom House report 'Countries at the Crossroads 2005 – Turkey', published in December 2004 noted that:

"Torture and ill-treatment by officials continue to be an issue in Turkey. The Erdogan government has declared a zero-tolerance policy toward torture, and it appears to be backing up its position with new detention laws and, as of April 2004, a policy forbidding police from entering the room when doctors examine alleged torture victims. Recent legal amendments have limited the initial custody period after arrest to 24 hours, a measure widely believed to reduce opportunities for torture… The cumulative result of these policies has been a marked decline in torture cases in the past couple of years. Turkey now needs to implement safeguards and legal amendments to ensure prosecution in accordance with the law…The trend is positive, but more still needs to be done." **[62c] (p7)**

6.30 The European Commission 2004 reported that:

"With regard to the prevention of torture and ill-treatment, most of the legislative and administrative framework required to combat torture and ill-treatment has been put in place since 2002, when the government declared its intention to pursue a zero-tolerance policy against torture. In accordance with various legislative amendments, pre-trial detention procedures have been aligned with European standards; sentences for torture and ill-treatment can no longer be suspended or converted into fines; and the requirement to obtain permission from superiors to open investigations against public officials has been lifted." **[71c] (p33)**

6.31 According to the Turkish Constitution the use of torture is prohibited, Article 17 states that 'no-one shall be subjected to torture or ill-treatment; no-one shall be subjected to penalty or treatment incompatible with human dignity'. **[15]**

6.32 According to figures compiled by the Human Rights Association of Turkey (IHD/HRA) between January and December 2004, 526 individuals reported experiencing torture or ill treatment in police custody and 249 individuals reported experiencing ill treatment outside of official detention facilities. **[4j]** The figures for 2003 were 818 and 241 respectively. **[73f] (p2)**

6.33 The report on the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) 7–15 September 2003 published 18 June 2004 found that "The facts found in the regions of Turkey visited by the CPT's delegation are globally encouraging. The Government's message of 'zero tolerance' of torture and ill-treatment has clearly been received, and efforts to comply with that message were evident." **[13b] (p10)**

6.34 The CPT report continued:

"Above all, numerous detained persons interviewed by the delegation emphasised the vivid contrast between, on the one hand, the manner in which they were treated whilst in police/gendarmerie custody in the course of 2003 and, on the other hand, the very harsh methods applied to them during periods of custody in previous years. One detainee interviewed stated that 'the gendarmes actually started talking to me about my rights'." **[13b] (p10)**

6.35 However, the CPT reported that:

"In each of the regions visited, some allegations were received of beatings during recent periods of police/gendarmerie custody; the establishments concerned by these allegations included the Anti-Terror Department at Adana Police Head Quarters, the Law and Order Departments at Diyarbakir and Mersin Police Headquarters, and the Baglar and Carsi police stations in Diyarbakir." **[13b] (p10)**

6.36 The European Commission 2004 reported that:

"Following allegations of 'systematic' torture in Turkey the Commission undertook a fact finding mission in September 2004 in order to carry out a further check on the situation vis-à-vis torture and ill-treatment in Turkey. This mission enabled the Commission to confirm that the Government is seriously pursuing its policy of zero tolerance in the fight against torture; however, numerous cases of ill-treatment including torture still continue to occur and further efforts will be required to eradicate such practices." **[71c] (p35)**

MEDICAL EXAMINATIONS IN DETENTION

6.37 As noted in the European Commission 2005 report:

"As regards medical examinations, training in accordance with the Istanbul Protocol for physicians and judicial staff is ongoing and further such training is planned. Currently examinations are routinely conducted, but their quality is not guaranteed throughout the country and full implementation of the Istanbul

Protocol is rare. – There is a limited capacity as far as forensic medicine is concerned and most doctors linked to the Forensic Medical Institute are concentrated in Istanbul and other major cities. Although examinations are increasingly conducted outside courthouses, there is a need to speed up the process of transferring them to hospitals and clinics. The fact that these still take place in several different types of location – including forensic clinics, state or university hospitals and local clinics – hampers the achievement of uniform standards. Moreover, it is of concern that the Forensic Medical Institute is not fully independent because of its reporting line direct to the Ministry of Justice." **[71e] (p23)**

6.38 The USSD 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 300 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. There were forensic medical centres in 27 of 81 provinces. Some former detainees asserted that doctors did not conduct proper examinations and that authorities denied their requests for a second examination" **[5c] (Section 1c)**

6.39 In its visits to Turkey the CPT (Committee for the Prevention of Torture) found that a majority of the detained persons interviewed in the course of the September 2003 visit alleged that law enforcement officials had been present during the examination. However, "A somewhat different picture emerged from the delegation's discussions with health care staff in Adana, Diyarbakır and Mersin. They indicated that on the whole it was now possible to ensure the absence of law enforcement officials. However, there were exceptions; for example, staff at Diyarbakır State Hospital stated that, whereas the police had in recent times been displaying a more cooperative attitude, it was still impossible to persuade members of the gendarmerie to leave the examination room." **[13b] (p12)**

6.40 The Amnesty International Medical Action Turkey note of 29 March 2004 reported:

"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'." **[12g] (p1)**

6.41 The AI medical action note further stated 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." **[12g] (p1-2)**

6.42 As noted in the Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' made public in February 2005:

"Another lawyer, Mr. Süleyman Islambay from Konya, showed me an example of such a medical examination report *(adli muayenesi* or *adli tip rappor*), which usually confirms that the persons examined do not have any visible signs of ill-treatment. Mr. Islambay told me that these examinations were quite superficial and usually conducted with law enforcement officials present. As far as he could observe (he has clients from the province of Konya), medical examinations are usually carried out during detention and either before arraignment or release – as required by the law. According to Mr. Kutlu medical investigations are only carried out by state-employed doctors, very few of them being forensic specialists and thus qualified to detect signs of torture. This statement was corroborated by Mr. Turan, who added that every medical examination was to be paid for by the detainee himself (6 million TL/about 3,5 Euro per case)… While the provisions relating to the medical examination are observed 'to a certain extent' (Süleyman Islambay) in most police-stations, they are ignored in others." **[16] (p13&20)**

PROSECUTION OF STATE OFFICIALS ACCUSED OF ILL-TREATMENT

6.43 As noted in the European Commission 2005 report:

"The new Penal Code, the new Code of Criminal Procedure and their implementing regulations contain provisions which strengthen the fight against torture and ill-treatment. The new Regulation on Apprehension, Detention and Statement Taking, issued in June 2005, introduces additional safeguards, in particular in the context of medical examinations and the right of defence. Furthermore, the Penal Code increases the term of imprisonment for those convicted of torture or ill-treatment and the statute of limitations, which in the past has allowed cases against alleged perpetrators of torture or ill-treatment to be dropped, is increased from ten to fifteen years. However, it is regrettable that the statute of limitations is not repealed for such crimes, as recommended by the UN Committee Against Torture (CAT) in 2003." **[71e] (p22)**

6.44 The EC 2005 report continued:

"As regards the fight against impunity, a number of cases have been brought against the security forces and trials are ongoing. In June 2005 the Court of Cassation overturned the verdict of a lower court in a murder case on the grounds that inter alia, torture had been used to extract evidence. Nevertheless, numerous challenges remain in this area. According to official statistics, of the 1 239 cases that were filed against law enforcement officials in the first quarter of 2005, only 447 prosecutions were pursued. Moreover, there are concerns that when cases are pursued, prosecutors still do not conduct timely and effective investigations against those accused of torture. Often such investigations are limited only to an examination of the medical report, despite the necessity – stated in the CPT report on the September 2003 visit – to look beyond the medical reports in the context of such investigations." **[71e] (p23)**

6.45 The EC 2005 report further reported that:

"Convictions are rare and the courts appear to be unable or unwilling to impose appropriate sanctions on those committing these crimes. In 2004, of the 1 831

cases concluded, 99 led to imprisonment, 85 to fines and 1 631 to acquittals. Notwithstanding efforts to assure the attendance of the accused at trials and recent changes to the penal code, cases against alleged perpetrators of torture and ill-treatment continue to exceed the statute of limitations. Moreover, courts are often reluctant to accept evidence from sources other than the Forensic Medical Institute. Police officers facing trial for such crimes are frequently not removed from duty pending the outcome of the trial." **[71e] (p23)**

6.46 As noted in the Amnesty International Turkey Memorandum of August 2005:

"One of the most serious obstacles to the successful implementation of the 'zero tolerance' policy is the failure to adequately investigate allegations of torture and ill-treatment. Amnesty International believes that most investigations carried out by prosecutors into complaints or allegations of serious human rights violations in Turkey are deficient and, when they do occur, criminal proceedings brought against those accused of perpetrating such acts are often flawed. The result appears to be an apparently overwhelming climate of impunity for state officials that perpetrate human rights violations. Amnesty International considers that the general lack of thoroughness of investigations by prosecutors demonstrates a lack of impartiality." **[12s] (Section on The need for effective investigations)**

6.47 The Amnesty International Turkey Memorandum continued:

"Amnesty International notes the circular issued by the Ministry of Justice on 20 October 2003 which gave instructions to prosecutors to carry out investigations themselves and to give priority to such investigations. Unfortunately, this does not appear to have had any serious effect on the quality of investigations. Amnesty International is struck by the high proportion of complaints of torture and ill-treatment in which prosecutors have decided to issue *'takıpsızlık kararları'* (decisions not to prosecute) after an apparently cursory and brief investigation, which is usually apparently restricted to an examination of the medical report of the detainee… Amnesty International considers that the failure of prosecutors to carry out investigations in accordance with the UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is one of the main contributing factors towards impunity in Turkey." **[12s] (Section on The need for effective investigations)**

6.48 The Amnesty International Turkey Memorandum further stated:

"Amnesty International believes that steps should be taken to ensure that investigations into serious human rights violations by security forces such as torture, extrajudicial executions, ill-treatment and deaths in custody are independent and impartial. This could be achieved by developing an independent mechanism such as a Police Complaints Commission that would investigate any allegations of torture or ill-treatment perpetrated by members of the police forces… It is essential that, even in the absence of an express complaint, an investigation should be undertaken wherever there is reasonable ground to believe that torture or ill-treatment might have occurred according to Article 12 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to which Turkey is a state party… It is essential that investigations – and any resulting court cases – examine the responsibility of commanding officers where members of the security forces are

alleged to have perpetrated serious human rights violations…Amnesty International is particularly concerned that members of the security forces have remained on duty after they have been accused of serious human rights violations and even where cases have been opened against them for torture or serious ill-treatment…The government should take effective measures to ensure that people who bring complaints of ill-treatment against police officers are protected against intimidation." **[12s] (Section on The need for effective investigations)**

6.49 As noted in the UK Foreign and Commonwealth Office Human Rights Annual Report 2005, released in July 2005:

"The government needs to do more to tackle impunity in the security forces. There has been some action against security force members who break the law, but the number of cases opened and the number of successful prosecutions remain very low. On 9 May 2005, seven police officers were sentenced to 20 months' imprisonment in connection with the torture and death of former Kurdish party HADEP executive Metin Yurtsever in 1998. On 21 October 2004, the court sentenced Ali Tasdemir, a policemen [sic] from Trabzon, to eight years' imprisonment for killing a 16-year-old who failed to stop his stolen car. On 21 February 2005, the trial began of three police accused of the extra judicial killing of Ahmet Kaymaz and his son Ugur on 21 November." **[4h] (p104)**

6.50 The FCO 2005 report continued:

"The new penal code hands down harsher penalties for torture, increasing the maximum sentence for public employees found guilty of torture from five to twelve years, with provision to extend the sentence to life imprisonment if torture results in death. The government has taken steps to facilitate the registering of complaints through the internet and other media and established bodies to investigate human rights allegations made against the gendarmerie and the police, although these are not independent of the relevant ministries." **[4h] (p106)**

6.51 As outlined in the May-June 2005 issue of *Newspot* (published in the website of the Office of the Prime Minister, Directorate General of Press and Information) in an article on the new Turkish Penal Code, "Security officers who carry out torture will receive a prison term of 3-12 years." **[36j]**

6.52 As stated in a press release entitled 'Turkey: Justice denied to tortured teenage girls', issued on 22 April 2005:

"Amnesty International today called for Turkey's Court of Appeal to urgently re-examine the case of four police officers acquitted of the torture and rape of two teenage girls after a massively delayed and grossly inadequate investigation and trial. 'This trial has already taken over four years and has been postponed more than 30 times,' said James Logan, researcher on Turkey at Amnesty International. 'For it to be dismissed at this stage over an entirely bogus technicality is abominable. Justice has not been served.' The police officers had been charged with subjecting Nazime Ceren Salmanoglu, then 16 years old, and Fatma Deniz Polattas, then 19 years old, to horrific torture including rape with serrated objects, beatings, suspension by the arms, and forced 'virginity tests' in early March 1999…The court today dismissed the case against the

police officers because of 'insufficient evidence', based on the General Board of the Forensic Medical Institute's assessment that the psychiatric reports submitted did not constitute valid evidence. This is unacceptable for several reasons: first and most critically because at least one of the doctors on the Board had previously received disciplinary punishment for covering up torture. In addition, many members of the Board are not specialists in these types of cases, and in any case an expert committee from the Institute had previously determined that this evidence was indeed valid. Extraordinary delays have marked the judicial proceedings from the outset and only after extensive psychiatric evaluations corroborated the allegations did the trial finally begin on 14 April 2000. The court then waited 28 months for medical reports to be forwarded from Turkey's Forensic Medical Institute. Amnesty International urges the Court of Appeals to reverse this decision to allow investigations and prosecution to take place and bring those responsible for these violent crimes to justice." **[12v]**

6.53 As noted in the USSD 2004:

"During the year, prosecutors opened trials against 2,395 security personnel on torture or ill-treatment charges. Through September [2004], courts reached final verdicts in 625 torture and ill-treatment cases begun in previous years, convicting 345 defendants and acquitting 1,094. Seven security officers received short suspensions from duty during the year for ill-treatment. Courts investigated many allegations of ill-treatment and torture by security forces; however, they rarely convicted or punished offenders. When courts did convict offenders, punishment generally was minimal; monetary fines did not keep pace with the rate of inflation, and sentences were sometimes suspended. The rarity of convictions and generally light sentences in torture cases contradicted the Government's official policy of zero tolerance for torture. Authorities typically also allowed officers accused of abuse to remain on duty and, in some cases, promoted them during their trial, which often took years. Administrative and bureaucratic barriers impeded prosecutions and contributed to the low number of torture convictions. Under the law, courts could not convict unless a defendant attended at least one trial session. Police defendants sometimes failed to attend hearings in order to avoid conviction; prosecuting attorneys claimed courts failed to make serious attempts to locate such defendants, even in cases where the defendants received salary or pension checks at their home address." **[5c] (Section 1d)**

6.54 According to a HRW briefing paper of 22 September 2004:

"Compared with the mid-1990s, it is far easier today for victims of torture to bring complaints against alleged perpetrators. However, even when evidence is very strong, convictions of offenders and appropriate sentences are rare. Plaintiffs are often intimidated. Prosecutions of persons accused of torture usually last several years, and sometimes more than a decade. In recent years, a number of serious cases involving torture have exceeded the maximum time period allowed for prosecutions (eight years in one recent case) and as a result the charges were dropped." **[9d] (p5)**

6.55 According to information obtained from Turkish Prime Ministers website (accessed 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)**

6.56 In their official response to the CPT report on its visit of September 2003 (published 18 June 2004) the Turkish Government stated that 8,060 security personnel have been subjected to judicial proceedings under Article 245 of the Turkish criminal code (ill-treatment) for offences committed between 1 January 1995 and 31 March 2004. Of these 1,766 have had the charges dropped, in 1,964 cases the decision was taken not to prosecute, 1,026 cases were still awaiting trial, 1,724 personnel were acquitted, 364 were convicted and 1,207 cases were postponed under law No 4616. **[13c] (p19)**

6.57 The Turkish Government's response reported that the figures for security personnel subjected to judicial proceedings under Article 243 of the Turkish criminal code (torture) for offences committed between 1 January 1995 and 31 March 2004 were as follows. In total 1,366 personnel were investigated, of which 72 had the charges dropped. In 476 cases the decision was taken not to prosecute, 242 were still awaiting trail, 475 were acquitted, 84 were convicted and 17 cases were postponed under law No 4616. **[13c] (p19)**

6.58 The Turkish Government's response also reported that in addition administrative proceedings were taken against 6,341 personnel for abuses under Article 245 of the Turkish criminal code (ill-treatment). Of these cases 6,025 resulted in no action being taken, 11 resulted in warnings being issued, 14 in reprimands, in 39 cases there were deductions from personnel's salary, 183 security personnel received short term suspensions and 69 long term suspensions. **[13c] (p20)**

6.59 The response reported that administrative proceedings were also taken against 950 personnel for abuses under Article 243 of the Turkish criminal code (torture). Of these cases 935 resulted in which no action being taken, 2 resulted in reprimands, in 1 case there was a deduction from salary, 1 short-term suspension, 8 long-term suspensions and 3 dismissals from the force. **[13c] (p20)**

6.60 As noted in a HRW background briefing of 15 December 2004 entitled 'A Crossroad for Human Rights?' "Impunity remains a problem. Few torture cases result in prosecutions, and fewer in convictions. Sentences for torture rarely reflect the seriousness of the crimes." **[9f] (p2)**

6.61 As outlined by the Council of Europe European Commission against Racism and Intolerance in its 'Third report on Turkey - Adopted on 25 June 2004 and made public on 15 February 2005':

"Some steps have been taken to tackle the problem of violence and ill-treatment on the part of the police. They include a reduction in the length of time spent in custody and some improvement in conditions of detention. Ministerial circulars have been issued, reminding law enforcement agencies that ill-treatment and the use of torture are strictly forbidden. This prohibition is regularly reiterated in public by the authorities. Allegations of ill-treatment and torture fall into the category of matters that call for urgent and priority legal proceedings… ECRI notes that there are several bodies which, alongside prosecutors, can receive complaints of human rights violations, including in cases where the alleged

perpetrators are law enforcement officials. These bodies, however, are not independent and have insufficient powers of investigation and sanction. The Turkish authorities have informed ECRI that they have improved training for law enforcement officials in human rights and the case-law of the European Court of Human Rights. ECRI welcomes progress made by Turkey in recent years in combating torture and impunity. It expresses concern however at continuing allegations of ill-treatment and in some cases torture, particularly during custody. According to several sources, the Kurds are particularly vulnerable to ill-treatment, especially Kurdish women who are doubly discriminated against in this area, in that they are subjected to sexual violence firstly because of their ethnic origin and secondly because of their gender. Further progress is therefore needed, in particular when it comes to implementing the new rules to protect human rights and changing the attitudes of law enforcement officials." **[76] (p27)**

ENFORCEMENT OF HUMAN RIGHTS

See section 6C on Treatment of non-governmental organisations (NGOs)

DISAPPEARANCES AND EXTRA-JUDICIAL EXECUTIONS

6.62 The European Commission 2005 report recorded that:

"Allegations of extra-judicial killings have increased, particularly in the context of the deteriorating security situation in the Southeast…In November 2004, a father and his 12-year-old son were killed by Special Forces during operations in the Kiziltepe district of Mardin. The Parliamentary Human Rights Investigation Committee sent a delegation to Kiziltepe and concluded that the security forces had used excessive force. Following the incident the Deputy Security Director and 3 members of the specialforces were suspended from duty. However, since the start of their trial these individuals have been returned to duty in different provinces. Regional Bar Associations and human rights NGOs have questioned the transparency and fairness of the ongoing trial. Moreover, members of the Human Rights Association are currently standing trial in relation to a report they prepared regarding this incident." **[71e] (p24)**

6.63 The International Helsinki Federation (IHF) 2005 report recorded that:

"According to a Human Rights Association (HRA) report on human rights violations in Turkey in 2004, over 40 persons were killed extra-judicially, over 30 in prisons and five in police custody under suspicious conditions. A large number of civilians were killed in alleged clashes with or during military operations against armed organizations, mainly the former PKK (Kongra-Gel). Furthermore, 61 persons were killed by unidentified perpetrators or under suspicious circumstances suggesting political motives." **[10a] (p2)**

6.64 The USSD 2004 reported that:

"There were no reports of politically motivated disappearances [in 2004]. The Government continued to investigate and explain some reported disappearances. The Ministry of Interior operated the Bureau for the Investigation of Missing Persons, which was open 24 hours a day. According to the Government, 14 persons were reported missing during the year due to suspected terrorist activities and 4 missing persons were located alive. There

were no new developments in the 2002 disappearance of Coskun Dogan. In March, a Diyarbakir SSC determined that there was insufficient evidence to prosecute 47 soldiers for their alleged involvement in the 2001 disappearance of Serdar Tanis and Ebubekir Deniz." **[5c] (Section 1b)**

6.65 The USSD 2004 reported that:

"There were no known political killings [in 2004]; 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 in 2003…According to the Government, seven persons died while in police or Jandarma custody during the year: Four deaths were recorded as suicides, two as heart attacks, and one was under investigation at year's end to determine the cause of death." **[5c] (Section 1a)**

6.66 The International Federation for Human Rights report 'Turkey Human Rights in the Kurdish Southeast: Alarming situation despite extensive legal reforms' 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." **[70a] (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. **[70a] (p10)**

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FREEDOM OF SPEECH AND THE MEDIA

6.67 As recorded in Europa World online (website accessed on 31 October 2005) "Almost all İstanbul papers are also printed in Ankara and İzmir on the same day, and some in Adana… There are numerous provincial newspapers with limited circulation." Among the dailies mentioned by Europa were: *Cumhuriyet*; *Hürriyet*, *Milliyet*, *Sabah*, *Türkiye*, *Yeni Asır* and *Zaman*. **[1e] (Turkey: the Press)** Among the daily newspapers mentioned in the Yahoo! News Directory list of newspapers for Turkey (website accessed on 31 October 2005) there were also the daily financial newspaper *Finansal Forum* and the dailies *Radikal* and *Yeni Safak*. **[6]** A comprehensive list of Turkish National daily newpapers (and figures on their circulation and distribution) can be found in the document 'Turkish Press' dated June 2005) available in the References section in the website of the Office of the Prime Minister, Diretorate General of Press and Information (website accessed on 4 October 2005). **[36n]**

6.68 The Netherlands Ministry of Foreign Affairs Official General report on Turkey published in 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)**

FREEDOM OF SPEECH/EXPRESSION

6.69 As noted in the European Commission 2005 report:

"With regard to freedom of expression, the situation of people sentenced for the expression of non-violent opinion continues to be addressed. The Turkish authorities have reported that a significant number of persons serving prison

sentences under articles of the old Penal Code have been set free. Both the authorities and a number of NGOs report that there has been a continued reduction in the number of prosecutions and particularly convictions in cases related to freedom of expression. Nevertheless, there are a number of new cases where individuals expressing non-violent opinions have been prosecuted and convicted, including under provisions of the new Penal Code." **[71e] (p25)**

6.70 The EC 2005 report continued:

"In May 2005 several amendments to the new Penal Code were adopted, which improved certain provisions related to freedom of expression…However, a number of articles which have been used to restrict freedom of expression in the past, and remained virtually unchanged in the new Code, were not addressed in the context of the May 2005 amendments. These and other articles still constitute a potential threat to freedom of expression given their broad margin of appreciation. This is particularly the case with regard to a number of vaguely worded articles which refer to offences against symbols of state sovereignty, the reputation of state organs and national security… In assessing whether to bring cases which impinge on the right to freedom of expression, the judiciary should consider whether the expression incites violence, armed rebellion or enmity, what the capacity of the individual or group is to influence the public and what kind of opportunity the target of the expression has to respond." **[71e] (p25-26)**

6.71 The EC 2005 report further noted that:

"There has been some progress on open and free debate in general… According to the Turkish Publishers Association, the publication of books related to sensitive issues, such as the Kurdish and Armenian questions, is reportedly easier than in the past and when cases are brought against authors or publishers acquittals are more common. However, books focusing on these issues are in some cases still banned and individuals are occasionally convicted. Recourse to legal action against cartoonists and satirists, including by the Prime Minister, is of concern. In June 2005, in such case, a journalist was sentenced to 3 months imprisonment." **[71e] (p25)**

6.72 As noted in the Amnesty International Turkey Memorandum of August 2005:

"Amnesty International has previously welcomed some of the changes made to the Turkish Constitution and legislation since 2001 in order to improve standards related to the right to freedom of expression. Amnesty International considers that the amendment to Article 90 of the Constitution by the government – which gives priority to international treaties on fundamental rights and freedoms to which Turkey is a state party over Turkish domestic legislation – is a key development. However, the organization is nevertheless still aware of numerous cases in which individuals are being prosecuted or have received monetary fines or custodial sentences for the peaceful expression of non-violent opinion. While courts have handed down some landmark judgments which have cited international standards, there are also several examples of important cases where the decisions of the Court of Appeals appear to be in contravention of international standards." **[12s] (Section on Freedom of expression)**

6.73 The AI Turkey memorandum continued:

"The restrictions provided for in the new TPC [Turkish Penal Code] appear to be considerably broader than this and are not limited to those instances which are demonstrably necessary on one of the permissible grounds. As such, the law could be used to penalize individuals exercising their human right to freedom of expression on matters of political opinion. For example, Section 3 of Part 4 of the new TPC entitled 'Crimes against signs of the state's sovereignty and the honour of its organs' (Articles 299 – 301) could be used to penalize individuals who exercise their right to freedom of expression by expressing political views. In particular, Amnesty International is disturbed that this section of the new TPC criminalizes offences such as 'insulting' the President (Article 299), or 'denigrating' the Turkish flag or anything carrying its replica and the national anthem (Article 300), Turkishness, the Republic, the Parliament, the government, the judiciary, the military and security forces (Article 301)… Moreover, Section 3 carries over aspects of Article 159 of the previous TPC, which criminalized insults against or denigration of various state institutions… We recognize that Paragraph (4) of Article 301 states that 'any expression of thought which is made with the intention of criticism does not constitute a crime'. However, Amnesty International recalls that a similar amendment was made in August 2002 to this provision in the previous TPC, under Article 159, yet this did not prevent prosecutions of statements by individuals who had exercised their right to freedom of expression." **[12s] (Section on Freedom of expression)**

6.74 The AI Turkey memorandum further noted:

"Some of the articles found within Section 4 of Part 4 of the new TPC (Articles 302 – 308) entitled 'Crimes against State Security' also appear to be in contravention of Turkey's obligations to comply with human rights standards… Some of the articles found within Section 4 of Part 4 of the new TPC (Articles 302 – 308) entitled 'Crimes against State Security' also appear to be in contravention of Turkey's obligations to comply with human rights standards… Amnesty International is additionally concerned by Section 5 of Part 3 of the new TPC entitled 'Laws against the Public Order' (Articles 213 – 222). Amnesty International notes that Article 312 of the previous TPC – which criminalized incitement of people to enmity on the basis of social, regional, ethnic or religious difference – has been carried over into the new TPC as Article 216. In the past, the Turkish state has been found to have been in breach of the right to freedom of expression by the European Court of Human Rights in its use of this provision." **[12s] (Section on Freedom of expression)**

6.75 The International Helsinki Federation (IHF) report of June 2005 noted that:

"Human rights organizations reported a significant decrease in prosecutions under legislation restricting freedom of expression. While the government amended several provisions under the Penal Code or other laws, persons expressing their views publicly on controversial issues such as minorities, the Kurdish question, Islam and other religions, and human rights violations were still under threat of prosecution and conviction… Prosecutions against persons expressing their opinions or reporting on controversial issues, including on minorities or Armenian or Kurdish issues and human rights violations, remained a state policy. According to HRA, 693 persons were sentenced to prison terms and fines for expressing their views, compared to 454 in 2003, while new cases were launched against 467 persons out of 2,488 persons subject to investigations for the same reason in 2004, compared to 1,706 persons in 2003.

The government prohibited or confiscated nine books or publications in 2004, compared to 285 in 2003." **[10a] (p3)**

On 13 September 2005, BBC News reported that the EU's enlargement commissioner and several MEPs had strongly criticised Turkey for bringing renowned author Orhan Pamuk to court. "Mr Pamuk has been charged under Turkey's criminal code with insulting the country's national character. The court case followed comments by Mr Pamuk about the deaths of one million Armenians and 30,000 Kurds in Turkey. The trial of Turkey's most internationally-acclaimed author is not due to start until mid-December". The enlargement commissioner Olli Rehn was reported by the BBC as stating that he had serious concerns over the interpretation of the penal code, and that the case was in contravention of the European convention on human rights. **[66bc]**

6.76 The USSD 2004 stated that:

"The Constitution provides for freedom of speech and of the press; however, the Government continued to limit these freedoms in some cases. The Government, particularly the police and judiciary, limited freedom of expression through the use of constitutional restrictions and numerous laws, including articles of the Penal Code prohibiting insults to the Government, the State, or the institutions and symbols of the Republic. Other laws, such as those governing the press and elections, also restrict speech. In September [2004], Parliament adopted legislation prohibiting imams, priests, rabbis, and other religious leaders from 'reproaching or vilifying' the Government or the laws of the State while performing their duties." **[5c] (Section 2a)**

6.77 The USSD 2004 continued:

"Individuals could not criticize the State or Government publicly without fear of reprisal, and the Government continued to restrict expression by individuals sympathetic to some religious, political, and Kurdish nationalist or cultural viewpoints. Active debates on human rights and government policies continued, particularly on issues relating to the country's EU membership process, the role of the military, Islam, political Islam, and the question of Turks of Kurdish origin as 'minorities'; however, persons who wrote or spoke out on such topics risked prosecution." **[5c](p9)**

6.78 However, the USSD also noted that "During the year [2004], there were indications that some judges in speech-related cases were conforming their rulings to recent, EU-related legal reforms." **[5c] (Section 2a)**

6.79 The Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' noted that:

"Where crucial articles had been removed or amended, public prosecutors and judges would look for and find other reasons to punish people who express oppositional views, according to the HRFT. Both the Penal Code and the Anti-Terror Law were still used to prosecute and convict persons who exercise their freedom of expression. After the amendment of articles 159 (insulting the state and the state institutions) and 169 (adding and abetting criminal organisations) in the Penal Code, state prosecutors have started to apply article 312 (incitement to racial, ethnic or religious enmity) in order to charge people who express their views. One example I was given to underline this was a decision

handed down by the Court of Cassation (Yargitay) in Ankara. The Yargitay had reversed a decision by the former State Security Court in Diyarbakýr, which had applied article 169 for sentencing a person who had demanded the release of Abdullah Öcalan." **[16] (p11)**

6.80 As outlined in the Human Rights Watch (HRW) World Report 2005 published in January 2005:

"Journalists and politicians who in earlier years would have received prison sentences for their statements have been acquitted, but prosecutors continue to indict people for their non-violent expression, and several writers served prison sentences during 2004…State security courts, commonly used to prosecute and imprison people for their non-violent opinions, were abolished in June 2004, but laws used to stifle free speech such as articles 159 of the criminal code (insulting state institutions) and 312 (incitement to racial hatred) remain in place, and were copied into the new criminal code that was adopted in October." **[9e] (p1)**

6.81 Amnesty International's report of 12 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." **[12d] (p7)**

FREEDOM OF THE MEDIA/PRESS

6.82 As outlined in the European Commission 2005 report:

"As regards freedom of the press, there have been some positive developments, such as acquittals and a number of releases, as a result of the adoption of the new Press Law and the new Penal Code, although, as indicated above, journalists continue to face prosecution and are sometimes convicted for the expression of non-violent opinion. According to the Turkish Press Council there are no journalists currently imprisoned in relation to their work. In addition to the abovementioned problematic articles in the new Penal Code, a number of other articles are retained which are of specific concern to journalists and which could, in particular, create a climate of self-censorship damaging to freedom of the press, information and expression. Several of these articles seem to contradict the new Press Law, which had aimed at 'avoiding prison sentences in cases of offences committed through the press'." **[71e] (p26)**

6.83 The EC 2005 also noted that:

"In response to fears about restrictions on freedom of the press in the new Penal Code, the Press Council established a new Legal Assistance and Support Service in June 2005. This Service will reportedly provide a lawyer free of charge to journalists facing charges brought against them under provisions of the new Code. The Service will also designate an observer to follow court cases involving journalists. According to International PEN, there are currently an estimated 60 writers, publishers and journalists under judicial process in Turkey." **[71e] (p26)**

6.84 The Freedom House report 'Freedom of the press 2005' (released on 25 August 2005) noted:

"Constitutional provisions for freedom of the press and of expression are only partially upheld. As part of its ongoing reforms to prepare for membership in the European Union, Turkey passed another series of reforms in 2004 that affected press freedom. A new press code was adopted in June that includes heavy fines instead of prison sentences for some press crimes, permits noncitizens to own periodicals and serve as editors, protects against disclosure of sources, and prevents authorities from closing publications or hindering distribution. The new code, which was due to take effect in April 2005, reduced the minimum sentence for defamation. However, prison sentences remain in place for crimes such as stating that genocide was committed against the Armenians in 1915, instigating hatred in one part of the population against another (used against journalists who write about the Kurdish population), or calling for the removal of Turkish troops from Cyprus. Criminal defamation laws for insult against institutions such as the president, the military, and Turkish national identity stand as well, and sentences are in fact longer for members of the media than for others." **[62e] (p204)**

6.85 The Freedom House 'Freedom of the press 2005' continued:

"Censorship is not explicit, but content censorship and self-censorship occur among editors and journalists, who are concerned about violating the many legal restrictions. Often, the courts side against journalists, who continue to be jailed and face huge fines for various press offenses…Despite overt government restrictions, independent domestic and foreign print media provide diverse views, including criticism of the government and its policies. Turkey's broadcast media are well developed, with hundreds of private television channels, including cable and satellite, as well as commercial radio stations. Media are highly concentrated in a few private conglomerates, which subtly pressure their editors and journalists to refrain from reporting that will harm their business interests. This could include avoiding criticism of the government, which often has contracts with other arms of the companies and advertisers." **[62e] (p205)**

6.86 Turkey ranked 105 (out of 194 countries) in the Freedom House Table of Global Press Freedom Rankings and the status of its press was considered 'partly free'. In 2004 the ranking for Turkey was 107. **[62e] (Table of Global Press Freedom Rankings)**

6.87 The Amnesty International Turkey Memorandum of August 2005 noted:

"Amnesty International welcomed the decision by the government to delay the entry into force of the TPC from 1 April to 1 June 2005 in order to address some of the objections of journalists' groups to some of these restrictions. Amnesty International wrote to the government in April outlining its concerns about the draft and again once it had seen the proposed changes. However, the final changes to the TPC offered only the most minor of improvements, mainly the removal of possible increased sentences for certain crimes where carried out by the press. Amnesty International believes that provisions of the new TPC may be used to unnecessarily restrict the right to freedom of expression." **[12s] (Section on The need for greater consultation with civil society)**

6.88 As stated in a press release issued on 7 July 2005:

"The OSCE Representative on Freedom of the Media, Miklos Haraszti, today praised the Turkish authorities for introducing important changes to the new Penal Code, following a legal review his Office produced last May listing 23 provisions that needed to be revoked. However, 'despite some improvements, the amendments do not sufficiently eliminate threats to freedom of expression and to a free press', Mr Haraszti said…Relating to Article 305 on 'offences against fundamental national interests', the Representative noted with satisfaction that two examples in the explanatory 'Reasoning Document' – making it a crime to demand the withdrawal of Turkish troops from Cyprus or to claim that Armenians were exposed to genocide – have been removed. On a negative note, however, Mr Haraszti observed three major areas where media freedom remains endangered: the right of journalists to report and discuss on public-interest issues is not secured; restrictions on access and disclosure of information have not been lifted; defamation and insult provisions remain a criminal rather than a civil offence, thereby leaving the free discussion of public affairs at risk. The Representative expressed his hope that modernisation of the Turkish Penal Code would continue in the spirit of improving the freedom of public scrutiny, while the provisions promoting self-censorship would all be removed." **[14a]**

6.89 The Reporters without Borders (RSF) annual report on Turkey published on 3 May 2005 stated that:

"The government continued its legal reforms in 2004 in efforts to meet European standards in preparation for its hoped-for admission to the European Union. Some of the changes should have positive effects for journalists. The new press law, passed in June [2004], replaced prison sentences with heavy fines. The harshest penalties, such as shutting down a media outlet or banning newspaper printing or distribution, were also dropped. Protection of journalistic sources was even strengthened. Some journalists prosecuted for 'complicity with terrorist organisations' were acquitted after the anti-terrorist law and the criminal code were amended in 2003… However, in contravention of EU standards, the new [penal] code says 'insults' are punishable by between three months and three years in prison, with the heavier penalty if the offence is committed in the media (article 127). In practice, a judge's interpretation of 'criticism' remained very subjective and unjustified prosecutions continued."

The RSF reported also noted that in 2004 one journalist was in prison, 39 were arrested, 14 physically attacked and five media censored. **[11d]**

6.90 The Freedom House report 'Countries at the Crossroads 2005 – Turkey', published in December 2004 noted that:

"While Turkey's constitution establishes freedom of the media (Articles 28–31) and EU harmonization reforms have included many measures to reduce political pressure on the media, including a new Press Law in 2004, in practice major impediments remain. The media are mostly privately owned. They, and journalists specifically, have been the victims of the penal code's provisions against aiding and abetting an illegal organization and insulting the state and state institutions, among others, despite recent reforms limiting their scope. Fines, arrests, and imprisonment are the punishments regularly allotted to media and journalists who, for example, criticize the military or portray Kurdish activists in too positive a light." **[62c] (p5)**

6.91 The European Commission 2004 reported that:

"As regards freedom of the press, notable progress has been made, although further efforts are required to address outstanding issues. The new Press Law adopted in June 2004 represents a significant step towards increasing press freedom." **[71c] (p39)**

6.92 The EC report 2004 continued:

"Under the new law, the right of journalists not to disclose their sources is strengthened; the right to reply and correction is reinforced; prison sentences are largely replaced by fines; sanctions such as the closure of publications, halting distribution and confiscating printing machines are removed; and the possibility to confiscate printed materials, such as books and periodicals, has been reduced. Moreover, foreigners will now be able to edit or own Turkish publications. However, Article 19, which states that those who publish information concerning ongoing court proceedings shall be punished with a heavy fine, has been criticised for being excessive." **[71c] (p38)**

6.93 RSF reported 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." **[11a]**

6.94 According to information obtained from the Turkish Prime Minister's website (August 2003) the sixth reform package passed in July 2003 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)**

6.95 As noted in the European Commission 2005 report:

"With regard to broadcasting, limited progress has been made during the past year. There are still strict time limits for broadcasts in languages and dialects other than Turkish, although programmes continue to be broadcast by the national state broadcasting corporation, TRT. Eleven applications have been made by local broadcasters to broadcast in languages and dialects other than Turkish, but none have received a response from the High Audio Visual Board (RTÜK), which claims that it has not received the necessary documentation to process the applications. Some of these applications have been pending since July 2004." **[71e] (p27)**

THE HIGH BOARD OF RADIO AND TELEVISION (RTÜK)

6.96 The USSD 2004 reported that:

"The Government owned and operated the Turkish Radio and Television Corporation (TRT). According to the High Board of Radio and Television (RTUK) there were 226 local, 15 regional and 16 national officially registered TV stations, and 959 local, 104 regional and 36 national radio stations. Other television and radio stations broadcast without an official licence. The wide availability of satellite dishes and cable television allowed access to foreign broadcasts, including several Kurdish-language private channels. Most media were privately owned by large holding companies that had a wide range of outside business interests; the concentration of media ownership influenced the content of reporting and limited the scope of debate." **[5c] (Section 2a)**

6.97 The Europa Regional Survey 2005 lists 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. **[1d] (p1200)**

6.98 The European Commission 2005 report recorded that:

"The Broadcasting Law (RTÜK Law) is still frequently invoked by RTÜK to impose heavy penalties, including fines and the suspension or cancellation of programmes or broadcasting licenses. In May 2005, RTÜK ordered the suspension of various programmes on private TV channels, while a number of others have faced sanctions or warnings. The monitoring of local broadcasts by the police on behalf of RTÜK has continued. In some cases the courts have overruled RTÜK decisions. For example, in March 2005, RTÜK ordered the closure for 30 days of Radio Dünya (Adana), which had broadcast Kurdish music. However, in April 2005, the Council of State overruled a previous decision by RTÜK against the same station, ruling that it should not face sanctions for broadcasting Kurdish music. An amendment to Article 133 of the Constitution was adopted in June 2005 by Parliament, with a view to changing the law such that members of RTÜK are elected by the political parties represented in Parliament. In July a new RTÜK board was elected." **[71e] (p27)**

6.99 As noted in the USSD 2004:

"The RTUK monitored broadcasters and sanctioned them if they were not in compliance with relevant laws. Parliament elected the RTUK Council members, who were divided between ruling and opposition parties. In July, Parliament revised the RTUK law to eliminate the NSC-nominated member from the Council, reducing Council membership from nine to eight. Although nominally independent, the RTUK was subject to political pressures. The RTUK penalized private radio and television stations for the use of offensive language, libel, obscenity, instigating separatist propaganda, or broadcasting programs in Kurdish. RTUK decisions could be appealed to the Provincial Administrative Court and then to the Council of State (Danistay). The RTUK reported that, in the first 9 months of the year, it closed 4 television stations and 6 radio stations for periods of 30 days each." **[5c] (Section 2a)**

6.100 As noted in the Reporters without Borders (RSF) annual report on Turkey:

"National broadcasting media were allowed to use the Kurdish language but the RTÜK continued to impose excessive penalties, ranging from a warning to

cancellation of operating licence, on the pro-Kurdish media or media very critical of the government. The Istanbul station Özgür Radyo was suspended for a month by the RTÜK on 18 August [2004] for 'inciting violence, terror and racial, regional, linguistic and religious discrimination or broadcasting programmes that stirred up hatred.' The RTÜK can withdraw its operating licence if it reoffends. The local station Günes TV, in the eastern town of Malatya, was also forced off the air for a month from 30 March [2004] after the RTÜK accused it of 'undermining the state and its independence and the unshakeable unity of the country with the people and undermining the ideals and reforms of Atatürk' (article 4 of the RTÜK Law 3984). Using the same article, the RTÜK suspended the local TV station ART in the southeastern city of Diyarbakir for a month in April for broadcasting two Kurdish love-songs in August 2003." **[11d]**

On 16 July 2005 the *Daily News* reported that "The new members of the Supreme Board of Radio and Television (RTÜK) on Friday elected as chairman Zahid Akman, who said they had no intention of imposing penalties such as closures, bans or fines in the coming period. Akman took over as chairman in a ceremony attended by Fatih Karaca, the man he is replacing. Karaca said he always called for RTÜK members to be elected and was happy that Parliament had implemented such a change." **[23aj]**

INTERNET

6.101 The USSD 2004 reported that:

"The Government did not restrict access to the Internet. However, the law authorizes the RTUK 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." **[5c] (Section 2a)**

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FREEDOM OF RELIGION

6.102 As stated in the European Union 2005 report:

"As regards freedom of religion, apart from some ad hoc measures, only very limited progress has been made in establishing legislation which addresses outstanding problems. Non-Moslem religious communities continue to experience difficulties connected with legal personality, property rights, training of clergy, residence rights and work permits for Turkish and non-Turkish clergy, schools and internal management. Action taken by the authorities to challenge the property rights of the non-Moslem religious foundations by the State is also a matter of concern. There has been no progress on the status of the large non-Sunni Muslim Alevi community in Turkey." **[71e] (p138)**

6.103 The USSD 2004 noted that:

"The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Government imposed

some restrictions on Muslim and other religious groups and on Muslim religious expression in government offices and state-run institutions, including universities, usually for the stated reason of preserving the 'secular State'. The Constitution establishes the country as a secular state and provides for freedom of belief, freedom of worship, and the private dissemination of religious ideas; however, other constitutional provisions regarding the integrity and existence of the secular state restrict these rights. The Constitution prohibits discrimination on religious grounds. The state bureaucracy has played the role of defending traditional Turkish secularism throughout the history of the Republic. In some cases, elements of the bureaucracy have opposed policies of the elected government on the grounds that they threatened the secular state." **[5c] (Section 2c)**

6.104 The USSD 2004 also noted that:

"The Government oversees Muslim religious facilities and education through its Directorate of Religious Affairs (Diyanet), which reports directly to the Prime Ministry. The Diyanet has responsibility for regulating the operation of the country's 75,000 registered mosques and employing local and provincial imams, who are civil servants. Some groups, particularly Alevis, claim that the Diyanet reflects mainstream Sunni Islamic beliefs to the exclusion of other beliefs; however, the Government asserts that the Diyanet treats equally all who request services… A separate government agency, the General Directorate for Foundations (Vakiflar Genel Mudurlugu), regulates some activities of non Muslim religious groups and their affiliated churches, monasteries, synagogues, and related religious property. There are 161 'minority foundations' recognized by the Vakiflar, including Greek Orthodox foundations with approximately 70 sites, Armenian Orthodox foundations with approximately 50 sites, and Jewish foundations with 20 sites, as well as Syrian Christian, Chaldean, Bulgarian Orthodox, Georgian, and Maronite foundations. The Vakiflar also regulates Muslim charitable religious foundations, including schools, hospitals, and orphanages." **[5c] (Section 2c)**

6.105 The USSD 2004 continued:

"Secularists in the military, judiciary, and other branches of the bureaucracy continued to wage campaigns against what they label as proponents of Islamic fundamentalism. These groups view religious fundamentalism – which they do not clearly define, but which they assert is an attempt to impose the rule of Shari'a law in all civil and criminal matters – as a threat to the secular State. The NSC categorizes religious fundamentalism as a threat to public safety. According to the human rights NGO Mazlum-Der and other groups, some government ministries have dismissed or barred from promotion civil servants suspected of antistate or Islamist activities. Reports by Mazlum-Der, the media, and others indicated that the military regularly dismisses religiously observant Muslims from military service. Such dismissals were based on behavior that military officials believed identified these individuals as Islamic fundamentalists, which they were concerned could indicate disloyalty to the secular State. According to Mazlum-Der, the military charged individuals with lack of discipline for activities that included performing Muslim prayers or being married to women who wore headscarves. According to the military, officers were sometimes dismissed for maintaining ties to what the military considered to be Islamic fundamentalist organizations, despite repeated warnings from superior officers." **[5c] (Section 2c)**

6.106 The USSD 2004 continued:

> "The law establishes 8 years of compulsory secular education for students. After completing the 8 years, students may pursue study at imam hatip (Islamic preacher) high schools. Imam hatip schools are classified as vocational, and graduates of vocational schools faced an automatic reduction in their university entrance exam grades if they applied for university programs outside their field of high school specialization. This reduction effectively barred imam hatip graduates from enrolling in university programs other than theology. Most families that enrol their children in imam hatip schools did so to expose them to more extensive religious education, not to train them as imams. In May [2004], President Sezer vetoed a bill that would have eliminated the disadvantage faced by graduates of imam hatip and other vocational schools seeking to enrol in the full range of university social sciences programs. Only the Diyanet is authorized to provide religion courses outside of school, although clandestine private courses existed. Students who complete 5 years of primary school may enrol in Diyanet Koran classes on weekends and during summer vacation. Many Koran courses functioned unofficially. Only children 12 and older could legally register for official Koran courses, and Mazlum-Der reported that police often raided illegal courses for younger children." **[5c] (Section 2c)**

6.107 On 24 June 2005 the *Turkish Daily News* reported that:

> "The parliamentary Justice Commission decided on Thursday to pass without change two Turkish Penal Code (TCK) articles stipulating penalties for teachers and managers of unlicensed Koran courses. President Ahmet Necdet Sezer had previously vetoed the articles. The articles had been criticized for removing any possibility of those found guilty of such crimes to be imprisoned. One article reduces the sentences accorded to those who teach and manage unlicensed educational courses from between six months to three years imprisonment to between three months and one year. The new penal code allows sentences below one year to be converted into fines." **[23al]**

6.108 The USSD 2004 further noted that:

> "Some Muslims, Christians, Jews, and Baha'is faced societal suspicion and mistrust. Jews and Christians from most denominations freely practised their religions and reported little discrimination in daily life. However, there were regular reports that citizens who converted from Islam to another religion were sometimes attacked and often experienced social harassment. Proselytizing on behalf of non-Muslim religions was socially unacceptable and sometimes dangerous. A variety of newspapers and television shows have featured anti-Christian and anti-Jewish messages, and anti-Semitic literature was common in bookstores. In October [2004], the Government's Human Rights Consultation Board issued a report on minorities, which stated that non-Muslims are effectively barred from holding positions in State institutions, such as the armed forces, the Ministry of Foreign Affairs, the National Police, and the National Intelligence Agency. A number of representatives of non-Muslim communities confirmed the report's conclusions." **[5c] (Section 2c)**

6.109 As noted by Kirsty Hughes in a paper dated December 2004 entitled 'The political dynamics of Turkish accession to the EU: a European success story or the EU most contested enlargement?'

"The strict secularism adopted in Turkey has strong historical roots in the foundation of the republic in 1923 and the Ataturk drive for modernisation and westernisation, distinct from and in contrast to the Ottoman period. In today's Turkey, the reluctance expressed by many to allow a softer approach to secularism seems to rest on two related fears – of conservative Islam and of fundamentalist Islam. Thus, many express concern that allowing fuller expression of religious identity and less control by the state may encourage the spread of conservative Islamic views and behaviour which will lead to social pressure on other Turks to adopt many elements of such a conservative lifestyle, possibly reinforced by conservative, religiously-inspired social legislation." **[77] (p11-12)**

6.110 Kirsty Hughes' paper continued:

"In terms of the state-religion divide, secularism is strictly enforced in public spaces, so that Islamic symbols or dress, notably the veil or headscarf is banned in schools, universities, parliament, and civil service (nor is restricted access to public life and work simply a female issue, since traditionalist Islamic men can also find access to the public space, including in the civil service, police and military is restricted). But at the same time as banning religious symbols in public spaces, the Turkish state strictly controls the practice and teaching of Islamic religion in Turkey, with the department for religious affairs – the Diyanet – controlling issues from religious education in schools, to building of mosques and training of Imams. Control, rather than suppression or genuine separation, has been the mantra for many years." **[77] (p12)**

(See also Section 6A on Headscarves)

6.111 On 9 December 2004, the Office of the Prime Minister, Directorate General of Press and Information reported (quoting the newspaper Hurriyet) that Prime Minister Erdogan had opened a Garden of Religions in Antalya. "Religious tolerance is a valuable legacy the Turkish Republic has inherited from the Ottoman Empire, said Prime Minister Recep Tayyip Erdogan yesterday in Antalya at the opening ceremony of a new complex of Muslim, Christian and Jewish worship sites. Erdogan pledged that his government would remove any remaining obstacles to religious freedom in Turkey." **[36f]**

6.112 According to the USSD report on religious freedom 2004:

"Approximately 99 percent of the population is officially Muslim, the majority of whom are Sunni. The actual percentage of Muslims is slightly lower; the Government officially recognizes only three minority religious communities – Greek Orthodox Christians, Armenian Orthodox Christians, and Jews – and counts the rest of the population as Muslim, although other non-Muslim communities exist. The level of religious observance varies throughout the country, in part due to the strong secularist approach of the Government. 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 the traditions of other religions found in Anatolia as well." **[5b] (p1)**

6.113 According to the Netherlands Ministry of Foreign Affairs report 2002:

"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)**

6.114 The European Commission 2005 report stated that:

"As regards property rights, of the 2 285 applications for registration of property in line with the January 2003 Regulation, 341 have been accepted. Applications could only be made by the 161 minority foundations listed in the Regulation. Given the religious communities' lack of legal status, their existing properties are permanently at risk of being confiscated and attempts to recover property by judicial means encounter numerous obstacles. A number of non-Muslim religious communities are still not entitled to establish foundations, including the Catholic and Protestant communities, and are thus deprived of the right to register, acquire and dispose of property." **[71e] (p30)**

6.115 The same EC 2005 report found that "Religious foundations continue to be subject to the interference of the Directorate General for Foundations, which is able to dissolve the foundations, seize their properties, dismiss their trustees without a judicial decision and intervene in the management of their assets and accountancy." **[71e] (p30)**

6.116 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)**

6.117 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 force was involved." **[2a] (p88)**

HEADSCARVES

6.118 According to the Netherlands Ministry of Foreign Affairs 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 reported in October 2003 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. **[66g] [66h]**

6.119 The *Daily Telegraph* reported in November 2002 that some of the millions who voted for the 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 Erdoğa. **[40]**

6.120 The *Turkish Daily News* reported in September 2003 that a headscarf fashion show was performed in Ankara. Parliamentary Speaker Bülent Arinç's wife, AKP women deputies and many other guests participated in the fashion show. **[23g]**

6.121 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. **[66g] [66h]**

6.122 The BBC reported that on 29 June 2004 the European Court of Human Rights upheld the right of Turkish universities to ban Muslim headscarves. **[66x]** *The Independent* (June 2004) reported that the seven judges came to a unanimous judgement that headscarf bans were appropriate when issued to protect the state, especially against extremist demands. **[44d]** A Human Rights Watch report from July 2004 described the ECtHR judgement as disappointing. **[9c] (p1)**

6.123 As noted by Kirsty Hughes in her paper dated December 2004:

"The secularism-Islam debate remains a powerful, divisive and contentious theme in Turkish politics… The *hijab* or headscarf has become the most potent symbol of this debate, which then inevitably spills over into other connected debates on human rights. Many secular human rights and women's NGOs, in asserting and calling for both women's rights and religious rights as part of the wider range of basic rights, do now argue that it is, and must be, a woman's individual choice and right to dress as she likes, and that traditional (mostly male) conservative secularists and Islamists on both extremes should stop focusing their fight and disagreement over the control of what women wear…International human rights organisations have also waded into this debate. Human Rights Watch, has called for women's individual rights to be respected, and for full access to higher education for all women irrespective of their independent decisions on head covering… Overall, to continue banning the headscarf in universities and in parliament and in public offices, amounts to an extensive discrimination against women in the workplace rather than simply reflecting a particular form of secularism and so the *status quo* may be unlikely to hold." **[77] (p13-14)**

6.124 The thirty-second session of the Committee on the Elimination of Discrimination against Women (CEDAW) in its concluding comments on Turkey dated 28 January 2005 stated:

"The Committee requests the State party to monitor and assess the impact of the ban on wearing headscarves and to compile information on the number of women who have been excluded from schools and universities because of the ban. It also calls on the State party to undertake further awareness-raising on the importance of education or women's equality and economic opportunities, and to overcome stereotypical attitudes." **[81] (p7)**

6.125 On 23 February 2005 the BBC reported that the Turkish parliament had granted an amnesty to 677,000 men and women who have been expelled from university over the past five years.

"The amnesty includes those expelled from university because their refusal to remove the Islamic headscarf. However, the regulation restricting the scarf remains in place. Turkey maintains a division between religion and state which includes a ban on the headscarf in universities and the civil service. Only a small minority of those expelled from Turkish universities over the last five years fell foul of the headscarf ban, but such is the controversy over it that the ban dominated debate before the amnesty issue came to parliament. Nearly 10 years after the restriction came into force, the two sides – religious Muslims and the secular establishment – are no closer to consensus. The secular establishment insists that the ban maintains the separation of religion and state enshrined in the constitution. More orthodox Muslims and human rights campaigners complain that it is an abrogation of freedom of expression and worship. A clear majority in Turkey, which is overwhelmingly Muslim, would like to see the ban lifted." **[66ap]**

6.126 As reported on 18 March 2005, by the Office of the Prime Minister, Directorate General of Press and Information (quoting *Turkiye*), "President Ahmet Necdet Sezer yesterday approved a controversial bill concerning student amnesty which he had previously vetoed. The bill enabling some 700,000 students who were dismissed from university since June 29, 2000 to return was passed by Parliament this week and then sent for the president's approval. The bill will go into effect after its publication in the Official Gazette." **[36l]**

6.127 As mentioned in a press release published on 18 May 2005 on the website of the Council of Europe (COE):

"The European Court of Human Rights is holding a Grand Chamber hearing today Wednesday 18 May 2005 at 9 a.m., in the case of Leyla Şahin v. Turkey (application no. 44774/98)… The application was lodged with the European Commission of Human Rights on 21 July 1998 and transmitted to the Court on 1 November 1998. It was declared admissible on 2 July 2002. In a Chamber judgment of 29 June 2004 the Court held unanimously that there had been no violation of Article 9 [of the European Convention on Human Rights] and considered that no separate issue arose under Articles 8 and 10, Article 14 taken together with Article 9, or Article 2 of Protocol No. 1 to the Convention. On 27 September 2004 the applicant requested that the case be referred to the Grand Chamber under Article 43 (referral to the Grand Chamber) and on 10 November 2004 the panel of the Grand Chamber accepted that request." **[29a]**

6.128 As noted in the USSD 2004:

"Authorities enforced the long-standing prohibition on the wearing of headscarves at universities and by civil servants in public buildings. Women who wore headscarves and persons who actively showed support for those who defied the prohibition were disciplined or lost their jobs in the public sector. Students who wear head coverings are officially not permitted to register for classes. Many secular Turkish women accused Islamists of using advocacy for wearing the headscarf as a political tool and expressed fear that efforts to remove the headscarf ban would lead to pressure against women who chose not to wear a head covering. Secular women also maintained that many women

wore headscarves under pressure from men. In June, the ECHR ruled that Turkish universities have the right to ban Muslim headscarves; the ruling was under appeal at year's end." **[5c] (Section 2c)**

ALEVIS INCLUDING ALEVI KURDS

6.129 The USSD report on religious freedom 2004 stated that:

"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 the traditions of other religions found in Anatolia as well. Alevi rituals include men and women worshipping together through oratory, poetry, and dance. The Government considers Alevism a heterodox Muslim sect; however, some Alevis and radical Sunnis maintain Alevis are not Muslims." **[5b] (p1)**

6.130 The USSD report on religious freedom also noted that:

"Alevis freely practice their beliefs and build 'Cem houses' (places of gathering). Many Alevis allege discrimination in the Government's failure to include any of their doctrines or beliefs in religious instruction classes in public schools, which reflect Sunni Muslim doctrines. They also charge a bias in the Diyanet [Directorate for Religious Affairs], which views Alevis as a cultural rather than religious group; the Diyanet does not allocate specific funds for Alevi activities or religious leadership. During a September [2004] visit to Germany, Prime Minister Erdogan told reporters that 'Alevism is not a religion' and said Alevi Cem houses are 'culture houses' rather than 'temples'." **[5b] (p3)**

6.131 The USSD report on religious freedom 2004 estimates that there are between 5 and 12 million Alevis in Turkey. **[5b] (p1)** The MRGI report 'Minorities in Turkey' published in July 2004 estimates that the Alevi population is 12–15 million. **[57b] (p7)** The European Commission 2005 report stated that there is an estimated Alevi population of 12-20 million. **[71e] (p31)** The US State Department Report (USSD) 2004, published 28 February 2005 noted that "There are an estimated 7 to 9 million Alevis, including ethnic Turks, Kurds, and Arabs." **[5c] (Section 2c)** As noted by *Zaman* on 4 March 2005, "A report that was prepared by the US, showing the number of Alevis as between seven and nine millions has provoked a reaction from Alevis and triggered a debate among Alevis about their actual number…The great difference between the numbers given by different Alevi resources and the debate on the issue shows that even Alevis are confused on this issue. Cem Foundation Ankara Spokesman Alper Caglayan said: 'Our actual number is 25,000,000.' But Alevi writer Cemal Sener quotes 15,000,000, another Alevi writer Reha Camuroglu says between 12-18,000,000. 'Bektasi Dedesi' (Bektasi Master) Sakir Keceli gives the number at 10-12,000,000 and the head of Pir Sultan Abdal Foundation Kazim Genc puts it at 15,000,000." **[84a]**

6.132 The World Directory of Minorities published in 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." **[57a] (p380)**

6.133 The European Commission 2003 reported that "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." **[71b] (p35)**

6.134 As reported by the *Turkish Daily News* on 22 June 2005:

> "Turkey's Alevis, who follow a moderate interpretation of Islam, warned Tuesday that they would go to the courts to fight for equality if the government fails to recognize their rights. Cem Foundation Chairman Prof. Izzettin Doğan said, 'We will present our petition to the Prime Ministry and the National Education Ministry today and if we don't receive a positive response, thousands of Alevis will file suit against the government.' Izzettin Doğan held a press conference yesterday with members of the newly founded Federation of Alevi Foundations and a lawyer, to state the demands of Alevis and what they plan to do. Doğan said their main demands were the inclusion of the Alevi faith in school textbooks, financial support from the government for the construction of Alevi places of worship and the allocation of funds for the community from the state budget…Although they account for about a fifth of Turkey's 70-million population and their religious practices differ significantly from those of the Sunni majority, Alevis are denied the status of a separate sect and, unlike the Sunnis, receive no financial support from the government." **[23am]**

6.135 The European Commission 2005 report recorded that:

> "As far as the situation of non-Sunni Muslim communities is concerned, there has been no change. In particular, Alevis **[15]** continue not to be officially recognised as a religious community and they are not officially represented in the Diyanet. They still experience difficulties in opening places of worship – their places of worship, 'Cem' houses, have no legal status – and they receive no funding from the authorities. In January 2005 the Alevi community was refused permission to build a 'Cem' house in Ankara on the grounds that it could not be considered as a place of worship. Although Alevis have been increasingly vocal in their demands, the authorities, in particular the Diyanet, have not accepted the need to change current practice. Alevi children are subject to compulsory Sunni religious instruction in schools, which fails to acknowledge their specificity. The parents of an Alevi child currently have a case regarding compulsory Sunni religious education pending before the ECtHR. In February 2005, the Ministry of Education indicated that Alevism and other faiths such as Christianity and Judaism would be included in compulsory religious education from next year." **[71e] (p31)**

MYSTICAL SUFI AND OTHER RELIGIOUS-SOCIAL ORDERS AND LODGES

6.136 As noted in the USSD 2004 "The law prohibits mystical Sufi and other religious-social orders (tarikats) and lodges (cemaats). The military ranked tarikats among the most harmful threats to secularism; however, tarikats remained active and widespread and some prominent political and social leaders associated with tarikats, cemaats, and other Islamic communities." **[5c] (Section 2c)**

NON-MUSLIM MINORITIES

6.137 The USSD 2004 reported that:

> "The 1923 Lausanne Treaty exempts non-Muslim minorities – which the Government interprets as referring exclusively to Greek Orthodox Christians, Armenian Orthodox Christians, and Jews – from Islamic religious and moral instruction in public schools upon written notification of their non-Muslim background. These students may attend Muslim religious courses with parental consent. Others, such as Catholics, Protestants, and Syriac Christians, are not exempted legally; however, in practice they were allowed to obtain exemptions. Officially recognized minorities may operate schools under the supervision of the Ministry of Education. Such schools are required to appoint a Muslim as deputy principal; reportedly these deputies had more authority than their nominal supervisors. The curriculum of these schools included Greek Orthodox, Armenian Orthodox, and Jewish instruction. In May, the Education Ministry stated that children with non-Muslim mothers could attend minority schools; previously, only those with non-Muslim fathers were permitted." **[5c] (Section 2c)**

6.138 The USSD 2004 further reported that:

> "Under existing restrictions, religious communities other than Sunni Muslims cannot legally train new clergy in the country for eventual leadership. Coreligionists from outside the country have been permitted to assume leadership positions in rare cases, but in general all religious community leaders, including Patriarchs and Chief Rabbis, were required to be citizens…The law allows the 161 minority foundations recognized by the Vakiflar to acquire property and the Vakiflar has approved 292 applications by non-Muslim foundations to acquire legal ownership of properties. However, the legislation does not allow the foundations to reclaim hundreds of properties expropriated by the State over the years" **[5c] (Section 2c)**

6.139 The USSD 2004 continued:

> "In January [2004], the Government replaced the Minorities Subcommittee, a body that monitored minorities as potential threats to the country, with the Board to Assess Problems of Minorities. Unlike the subcommittee, the board does not include representatives of the military and intelligence agencies and is charged with supporting the rights of non-Muslims. However, there were no indications that the new board made any serious efforts to address the concerns of non-Muslims during the year. In September [2004], Parliament adopted a law that prohibits forcing persons to declare or change their religious, political, or philosophical beliefs or preventing them from expressing or spreading such beliefs. The law specifically prohibits the use of force or threats to prevent persons from gathering for worship or religious ceremonies. Violations of the law are punishable with 1 to 3 years in prison." **[5c] (Sect. 2C)**

6.140 The European Commission 2005 report stated that:

> "In practice non-Muslim religious communities continue to encounter significant problems: they lack legal personality, face restricted property rights and interference in the management of their foundations, and are not allowed to train clergy. **[71e] (p29)** Some non-Muslim religious communities have been subject to violent or threatening harassment since last year, particularly from

extremist groups. **[71e] (p29)** In January 2005, Governors' Offices under the Ministry of Interior assumed responsibility for a number of issues related to non-Muslim minorities – including their health, social, cultural and educational institutions – which had previously fallen under the responsibility of the Provincial Security Directorates. The transfer of relevant documents to the Governors' offices is reportedly ongoing. **[71e] (p36)** Non-Muslim minorities not usually associated by the authorities with the Treaty of Lausanne, such as Syriacs, are still not permitted to establish schools. **[71e] (p36)** Although freedom of conscience is guaranteed by the Turkish Constitution and freedom of worship is generally not hindered, non-Muslim religious communities continue to encounter serious problems, particularly in terms of legal personality, property rights, the training of clergy, and the management of their foundations. The current legal framework does not recognise the right of religious communities to establish associations with legal personality in order to promote and protect their religions." **[71e] (p109)**

6.141 According to a report from Minority Rights Group International (MRGI) 'Minorities in Turkey' published in July 2004:

"It is estimated that there are 60,000 Armenian Orthodox Christians, 20,000 Jews and 2,000–3,000 Greek Orthodox Christians resident in Turkey. These are the only groups recognized as 'non-Muslim minorities'. There are also 15,000–20,000 Syriac Orthodox Christians and 5,000–7,000 Yazidis. Additionally, there are Muslim religious minorities, in particular the large Alevi community, whose population is estimated at 12–15 million." **[57b] (p7)**

6.142 As reported by the *Turkish Daily News* on 22 March 2005:

"Interior Minister Abdülkadir Aksu said the actual number of missionaries in Turkey was unclear in response to a written inquiry from Adıyaman deputy Mahmut Göksu from the ruling Justice and Development Party (AKP). 'It's impossible to work out the actual figure since their activities are secret' the minister added after mentioning that some news reports had revealed an increase in missionary activity in Turkey and claimed youngsters in city centers and villages were changing their religion. 'Changing religion depends on an individual's own will. The person should inform the authorities that they have changed their religion; otherwise it's impossible to know about it,' he said, adding that some 344 people have changed their religion in Turkey during the last seven years. Touching upon the missionary activities in Turkey, Aksu said any such activities aimed at spoiling Turkey's unity were being closely monitored. 'Security units are filing complaints at public prosecutors' offices against some foreigners or those of Turkish origin belonging to certain religious groups, for example, Protestants, Jehovah's Witnesses and Bahaists, upon claims that these groups abuse the freedom of religion and conscience safeguarded by the Constitution and international conventions,' the minister said. 'Everyone in Turkey knows how the missionaries work. They are mostly focused on children from poor families, those from different ethnic groups, sects and cultures and victims of natural disasters such as earthquakes and floods,' he added. Aksu said there were 88 worshipping places operating illegally in Turkey and noted the ministry had sent each of them a statement urging them to align themselves with the relevant legislation." **[23ak]**

CHRISTIANS

6.143 As noted in the European Commission 2004 report "The unofficial estimated Christian populations are: 60,000 Armenian Orthodox Christians; 20,000 Roman Catholics; 20,000 Syriac Orthodox Christians; 3,000 Greek Orthodox Christians; 2,500 Protestants; 2,000 Syriac Catholics; 2,000 Armenian Catholics; 500 Armenian Protestants; and 300 Chaldean Catholics." **[71c] (p43)**

6.144 The European Commission 2005 report noted that:

"The continued ban on the training of clergy means that non-Muslim religious minorities are likely to encounter difficulties in sustaining their communities beyond the current generation…Nationality criteria restrict the ability of non-Turkish clergy, such as the Syriacs and Chaldeans, to work for certain churches. Public use of the ecclesiastical title of Ecumenical Patriarch is still banned and the election of the heads of some religious minority churches is still subject to strict conditions. Non-Turkish Christian clergy continue to experience difficulties with respect to the granting and renewal of visas and residence and work permits. Religious textbooks have been redrafted in order to address the concerns of Christian minorities. However, it is still not possible for clergymen and graduates from theological colleges to teach religion in existing schools run by minorities." **[71e] (p31)**

6.145 As recorded by the EC 2005 report "In June 2005 the Protestant church in Diyarbakir was finally able to register as a place of worship and in March 2005 a Protestant church was established as an association in Ankara." **[71e] (p30)**

6.146 The USSD report on religious freedom 2004 outlined that:

"Police occasionally bar Christians from holding services in private apartments, and prosecutors sometimes open cases against Christians for holding unauthorized gatherings. [However] In May [2004] a Diyarbakir court acquitted Ahmet Guvener, pastor of the Diyarbakir Evangelical Church, in the opening hearing of his trial on multiple charges of operating an 'illegal' church. The prosecutor told the court that Guvener's actions no longer constituted a crime due to international law and recent Turkish legal reforms." **[5b] (p3)**

6.147 The USSD report on religious freedom 2004 also noted that:

"No law explicitly prohibits proselytizing or religious conversions; however, many prosecutors and police regard proselytizing and religious activism with suspicion, especially when such activities are deemed to have political overtones. Police occasionally bar Christians from handing out religious literature and sometimes arrest proselytizers for disturbing the peace, 'insulting Islam,' conducting unauthorized educational courses, or distributing literature that has criminal or separatist elements. Courts usually dismiss such charges. Proselytizing is often considered socially unacceptable; Christians performing missionary work are sometimes beaten and insulted. If the proselytizers are foreigners, they may be deported, but generally they are able to re-enter the country. Police officers may report students who meet with Christian missionaries to their families or to university authorities." **[5b] (p4)**

6.148 A press statement from Mazlum-Der (Organisation of Human Rights and Solidarity for Oppressed People) dated 10 February 2005 outlined that:

"Izmit Protestant Church has twice been stoned by unidentified people within one week, and suffered financial damage. One of the hot issues in the popular agenda in Turkey lately, debates around Christian missionary work entered a new phase by these incidents. It is only regrettable that debates on missionary work and complaints against the opening of new churches and distribution of Bibles have been followed by such act of vandalism… Authentic Islamic sources contain no provisions legitimating forced intervention in one's faith. A long debated issue in Turkey, freedom of belief, should not be interpreted differently according to changing circumstances and potential beneficiaries." **[82a]**

6.149 As reported in the USSD 2004:

"In March [2004], authorities approved an application by a group of expatriate, German-speaking Christians to establish a religious/charity association in Alanya, Antalya Province. In the past, authorities rejected such applications on the grounds that the law prohibited associations based on religion. The arrangement authorizes group members to build and maintain a church, but does not explicitly allow them to worship. The Ecumenical Patriarchate in Istanbul continued to seek to reopen the Halki seminary on the island of Heybeli in the Sea of Marmara, which was closed in 1971 when the State nationalized private institutions of higher learning. The Ecumenical Patriarchate faced a series of other problems related to its properties." **[5c] (Section 2c)**

JEWS

6.150 As outlined by the Council of Europe European Commission against Racism and Intolerance in its 'Third report on Turkey - Adopted on 25 June 2004 and made public on 15 February 2005':

"The Jewish community in Turkey is not very large. Until recently, it enjoyed a relatively peaceful existence in Turkey, aside from a few isolated antisemitic (sic) incidents. In the opinion of representatives of the Jewish community, the climate has suddenly changed, mainly in the wake of a series of international terrorist attacks in November 2003, targets of which included two synagogues in Istanbul. There is now a feeling of insecurity in the Jewish community because of these and other incidents, such as physical assaults on individuals purely because they are Jewish, at least one of which proved fatal. Anti-Semitic propaganda continues to appear in certain sections of the media and it is apparently not unusual to come across sweeping statements in the press in which Turkey's Jewish community is equated with the policies of the state of Israel. It also appears that legal proceedings are not always instituted under Article 312 in order to punish those who make antisemitic remarks in public, although this article prohibits incitement to racial hatred. However, ECRI notes with satisfaction that the police are working with the Jewish community to improve security and that antisemitic remarks made by the son of one of the perpetrators of the aforementioned attacks have been condemned by the government and that legal proceedings were instituted against him by the judicial authorities." **[76] (p25)**

6.151 As reported by *The Guardian* on 29 March 2005:

"Mein Kampf, the book Hitler wrote in prison before he rose to power in 1933, has become a bestseller in Turkey, provoking consternation…Its publishers believe that more than 100,000 copies have been sold in the past two months. Its sudden appeal has alarmed Turkey's Jewish community and is causing concern in the EU…'Obviously we're very concerned' Ivo Molinas, one of Turkey's 25,000 Jews, said in Istanbul. 'This is a democratic country and the book can't be banned, but it would be good if the Turkish government openly said they don't like it being sold. Unfortunately, there has been no such approach.' Although Jews have been assured by booksellers and the publishers that their motives are 'purely commercial and not ideological', Jewish officials say the book's popularity has coincided with a wave of anti-semitic articles in the press."

6.152 As recorded by the European Commission 2005 report "In October 2004 Istanbul's main synagogue was reopened following last year's bombing, with an official ceremony attended by the Prime Minister." **[71e] (p30)**

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FREEDOM OF ASSEMBLY AND ASSOCIATION

6.153 The European Commission 2005 report stated:

"As regards the right to peaceful assembly, while public demonstrations are subject to fewer restrictions than in the past, a number of incidents have raised concerns. In several regions brutality by the security forces has been alleged in the context of demonstrations and outdoor NGO press statements. During a demonstration marking international Women's Day in Istanbul on 6 March 2005, police intervened with disproportionate force, using tear gas and truncheons and injuring a number of participants. The government quickly conveyed the message that such behaviour on the part of the police is unacceptable… Following this incident, in April 2005 the Ministry of Interior issued a circular, reminding governors of the importance of implementing the August 2004 circular, which sought to prevent the use of disproportionate force by members of the security forces and ensure appropriate sanctions when excessive force is used. The new circular emphasises the need for the inspection body within the Ministry of Interior to exercise more vigilance in ensuring consistent implementation. In practice the implementation of such circulars varies considerably from province to province. A meeting was convened in Ankara in March [2005] by the authorities with the governors of all Turkish provinces with a view to raising awareness regarding the implementation of reforms in the area of peaceful assembly." **[71e] (p30)**

6.154 The EC 2005 report also recorded that "In apparent contravention of the June 2004 circular regarding demonstrations, marches and press conferences, NGOs continue to report that the police video-tape their outdoor, and occasionally indoor, meetings." **[71e] (p30)**

6.155 As noted in the International Helsinki Federation (IHF) report of June 2005:

"The Law on Assemblies, Meetings and Demonstrations was amended in August 2003. According to the new law, governors were no longer allowed to ban demonstrations and the previous authority of governors or the Interior Ministry to postpone demonstrations and meetings for 30 days was reduced to

ten days. In addition, the maximum period for the postponement or ban of a meeting was brought down from three months to one month. Organizers still needed to notify the security authorities before demonstrations or meetings, which the police often took as an authorization process. Police often intervened in demonstrations and open-air meetings organized by Kurdish activists, students, unionists, human rights groups or left-wing groups. Excessive security measures and the negative attitudes of the police toward demonstrators led to tensions. In August [2004], the Interior Ministry instructed the police to avoid excessive force in intervening in demonstrations and meetings, and requested the authorities to punish the police when they used excessive force. However, the government often protected the police when criticized for excessive force and harassment of persons, especially Kurdish activists, left-wing unionists and students, involved in peaceful assembly." **[10a] (p4)**

6.156 Amnesty International's annual report on Turkey (covering the events of 2004), published May 2005 stated that:

"The use of excessive force against demonstrators remained a serious concern…A high proportion of complaints of ill-treatment related to excessive use of force by the security forces during demonstrations. Despite a circular from the Minister of the Interior instructing officers not to use disproportionate force, there were continuing reports of protesters being beaten and sprayed with pepper gas even after they had been apprehended." **[12r]**

6.157 The USSD 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. Police beat, abused, detained, or harassed some demonstrators." **[5c] (Section 2b)**

6.158 According to information obtained from the Turkish Prime Ministers website (August 2003) reforms on Freedom of Association and Assembly were passed in July 2003. Demonstrations and protest marches can be postponed only for 10 days instead of 30, and only when it is 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'. **[36e] (p2-3)**

6.159 The European Commission 2005 report stated:

"As regards freedom of association, the new Law on Associations entered into force in November 2004. As outlined in last year's report, the Law is important in reducing the possibility for state interference in the activities of associations and has already begun to bring a number of practical benefits for associations, thus facilitating the further development of civil society in Turkey. However, the March 2005 regulation, detailing the implementing rules for this Law, imposes restrictions on the registration of associations whose name and/or objectives are considered to be contrary to the Turkish Constitution. This is of particular concern in relation to constitutional articles referring to the integrity of the state or the interpretation of the principle of secularism. In practice, this means that, in contravention of Article 11 ECHR (freedom of assembly and association), associations whose objective includes promoting a certain cultural identity or a particular religion will still not be able to register. Indeed, there have already

been reports of such associations encountering difficulties when seeking to register officially." **[71e] (p26)**

6.160 The EC 2005 report also noted:

"The Department of Associations has now taken over responsibility for associations from the Directorate General of Security in all 81 provinces. While the local associations desks are now located within the governors' offices, the personnel working for these desks are often the same as those who had previously worked for the Directorate General for Security. Notwithstanding the remaining restrictions on the registration of associations under the new regulation, some associations established on the basis of race, ethnicity, religion, sect, region, and other minority groups have been able to register…

However, the new legislation is not yet being consistently and uniformly implemented. For example, in some regions NGOs complain that they are still required to notify association desks in order to conduct cultural activities, panels or meetings even though this is no longer a legal requirement." **[71e] (p28)**

6.161 The USSD 2004 reported that:

"The Constitution provides for freedom of association; however, there were some restrictions on this right in practice… In November [2004], Parliament adopted a law [the Law on Associations] that reduces limits on the right to form and join associations by removing restrictions on the establishment of associations based on race, religion, sect, region, or minority status, and on student associations. The law also allows associations to co-operate with foreign organizations and establish branches abroad without prior permission. The law removes the requirement that associations inform local authorities of general assembly meetings and prohibits law enforcement authorities from searching association premises without a court order. However, the new law maintains the requirement that foreign associations receive permission from the Interior Ministry, in consultation with the Ministry of Foreign Affairs, before engaging in activity in the country." **[5c] (Section 2b)**

6.162 As confirmed by the British Embassy in Ankara on 22 April 2005, the Law on Associations (law number 5253 also referred to as Associations Law) was approved by the President on 22 November 2004 and published in the Official Gazette on the following day. **[4d]**

(See also Section 6C on Treatment of non-governmental organisations (NGOs)

6.163 The Europa Regional Survey 2005 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." **[1d] (p1193)**

6.164 The EC 2005 report noted:

"As regards political parties, in February 2005 the Court of Cassation rejected a case, brought in March 2003 by the General Prosecutor, requesting the closure of seven political parties. However, closure cases relating to the Turkish

Communist Party (TKP), the Rights and Freedoms Party (HAK-PAR) and the Democratic People's Party (DEHAP) are ongoing. The Law on Political Parties needs to be amended to ensure that political parties are permitted to operate in line with the standards established by the ECHR and the case law of the ECtHR. Political parties are still restricted from using languages other than Turkish." **[71e] (p28)**

6.165 The USSD 2004 noted that:

"The Constitution provides citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage; however, the Government restricted the activities of some political parties and leaders… Political parties and candidates could freely propose themselves and be freely nominated by various elements in the country; however, the High Court of Appeals Chief Prosecutor could seek to close political parties for unconstitutional activities by bringing a case before the Constitutional Court." **[5c] (Section 3)**

6.166 As noted in the USSD 2003:

"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)**

6.167 In October 2004, The Human Rights Foundation website reported that:

"The Court of Cassation rejected on 14 October [2004] the closure case against 7 political parties launched for not participating 2 successive general elections. In his announcement after the meeting Chairman of the Court of Cassation Mustafa Bumin said that the Article 105 of Law on Political Parties, upon which the cases had been launched, was annulled. He added that the closures case launched by Chief Prosecutor at the Court of Cassation against the political parties Türkiye Sosyalist Isçi Partisi (Socialist Workers Party of Turkey), Adalet Partisi (Justice Party), Türkiye Adalet Partisi (Justice Party of Turkey), Büyük Adalet Partisi (Great Justice Party), Türkiye Özürlüsüyle Mutludur Partisi (Turkey Is Happy With Its Disabled People Party), Devrimci Sosyalist Isçi Partisi (Revolutionary Socialist Workers Party) and Anayol Partisi (Main Path Party) was rejected." **[83b]**

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EMPLOYMENT RIGHTS

6.168 As stated in the USSD 2004:

"The Constitution provides workers, except police and military personnel, the right to associate freely and form representative unions, and they do so in practice. However, the Government maintained some limited restrictions on the right of association. Unions were required to obtain official permission to hold

meetings or rallies and to allow government representatives to attend their conventions and record the proceedings; however, these requirements were not always enforced. Approximately 1.6 million of the 11 to 12 million wage and salary earners were unionized. The labor force numbered approximately 24 million, with approximately 35 percent employed in agriculture. The law prohibits antiunion discrimination; however, such discrimination occurred occasionally in practice. Union representatives claimed that employers sometimes layed off workers because they had joined a union, using alleged incompetence or economic crises as a pretext." **[5c] (Section 6a)**

6.169 The European Community 2005 report recorded that:

"With respect to trade unions, significant constraints remain on the right to organise and the right to collective bargaining, including the right to strike. Turkey still falls short of ILO standards. **[71e] (p34)** The new Penal Code provides for imprisonment for those who use force and threaten others regarding membership of, or participation in, trade union activities. It also envisages imprisonment where trade union activities have been hindered illegally. However, there have been reports of workers being fired, or public sector employees moved to different jobs, because of their trade union activities." **[71e] (p35)**

MAJOR TRADE UNION CONFEDERATIONS

6.170 As recorded in Europa Regional Survey of the World: The Middle East and North Africa 2005, the major trade union confederations were TÜRK-IŞ (Confederation of Turkish Labour Unions) and DISK (Confederation of Progressive Labour Unions). **[1d] (p1204)**

MAIN EMPLOYERS' ASSOCIATIONS

6.171 As recorded in Europa the major trade union associations are TÜSIAD (Turkish Industrialists' and Businessmen's Association) TISK (Turkish confederation of employers' Associations). **[1d] (p1202)**

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PEOPLE TRAFFICKING

6.172 The European Commission 2005 report stated:

"Articles 79-80 of the Penal Code, which came into force in June 2005, substantially increase penalties for smuggling and trafficking persons. When the offences are committed by an organisation, the penalties are increased further. The Penal Code also provides for the freezing and confiscation of assets of smugglers and traffickers. The Turkish authorities arrested several members of organised human trafficking gangs in the first nine months of 2005." **[71e] (p112)**

6.173 The EC 2005 report continued:

"The National Task Force on Combating Trafficking in persons continued to meet regularly. In February 2005 the Turkish authorities, in co-operation with the International Organisation for Migration, initiated a counter-trafficking programme. Women tourists thought to be at risk from traffickers are provided

with information concerning trafficking, including the telephone number of a free emergency helpline. Moreover, an anti-trafficking public information campaign has been launched. The programme also provides assistance to victims of trafficking; within this programme 103 victims have been assisted to return to their country of origin. The programme covers training of officials, which has contributed to an increase in the number of victims identified by the authorities. In 2004, 239 persons were identified as victims of trafficking, while in the first six months of 2005 126 victims were identified. Prosecutions were brought against 227 traffickers in 2004 and against 215 traffickers in the first six months of 2005…Ongoing efforts in the field of trafficking in persons need to be maintained." **[71e] (p112-113)**

6.174 The EC 2005 also recorded that "54,810 illegal migrants were apprehended in Turkey in 2004 (compared to 48,055 in 2003). The Turkish authorities apprehended 7,470 illegal migrants in the first quarter of 2005." **[71e] (p111)**

6.175 As noted in the US Department of State 'Trafficking in Persons Report', released on 3 June 2005:

"Turkey is a transit and destination country for women and children trafficked primarily for sexual exploitation. Some men, women, and children are also trafficked for forced labor. There has been increasing evidence of internal trafficking of Turkish citizens for forced labor and sexual exploitation. Most victims come from Eastern Europe and the former Soviet Union, including Moldova, Ukraine, Russia, Azerbaijan, Kyrgyzstan, Georgia, Romania, Kazakhstan, Uzbekistan, and Belarus. The Government of Turkey does not fully comply with the minimum standards for the elimination of trafficking: however, it is making significant efforts to do so. Over the last year, the government stepped up its training of law enforcement personnel to increase victim identification and end the automatic deportation and removal of victims. As a result, Turkish officials have improved their screening and identification of victims. However, the government needs to take more preemptive steps to ensure that there is a corresponding increase in convictions and sentences for traffickers. Despite the government's increased efforts to raise understanding of the trafficking phenomenon, the level of awareness among some members of the judiciary and the general public remains low." **[5e] (Country narratives – Turkey)**

6.176 The Trafficking in Persons Report 2005 continued:

"The Government of Turkey has taken substantial measures over the past year to improve its enforcement efforts. In October and December 2004, Turkey made significant revisions to its penal code and code of criminal procedures, including expanding investigative tools in trafficking cases and increasing punishments for traffickers. The government funded domestic and international anti-trafficking operations, specifically for training. In 2004, this covered more than 400 police, 120 Jandarma, and 160 judges. The government reportedly initiated 142 prosecutions for suspected trafficking crimes during 2004, a large increase over 2003 figures. Five cases for which information was provided produced convictions. The government failed to provide detailed follow-up information on the remaining cases." **[5e] (Country narratives – Turkey)**

6.177 The Trafficking in Persons Report 2005 further noted:

"The Government of Turkey has taken significant steps to halt past practices of automatic deportation of victims. The police and Jandarma are actively cooperating with an NGO shelter and implementing a protocol for victim referrals. As a result of training and awareness campaigns, law enforcement successfully identified 265 victims in 2004, an exponential increase over the handful identified in 2003… The government has implemented a new policy to provide full medical assistance to victims of trafficking. In addition, the government issued humanitarian visas to 13 victims, allowing them to stay in Turkey and receive government services. The Turkish Jandarma printed and distributed 9,000 anti-trafficking brochures to police precincts and citizens throughout Turkey. Although the government established a hotline for trafficking victims in 2004, it has not yet implemented a large-scale, targeted information campaign. Most recently, the government publicly launched its 2005 counter-trafficking campaign, which is too recent to show results." **[5e] (Country narratives – Turkey)**

6.178 As recorded in the International Helsinki Federation for Human Rights (IHF) report of June 2005:

"Turkey remained a major country of destination for irregular migrants seeking to reach European countries. According to the Turkish Interior Ministry, 481,000 persons were arrested from 1995 through 2004, most of whom were deported, on the grounds that they were 'illegal migrants'. The ministry stated that the police and gendarmes arrested 39.000 'illegal migrants' in 2004, while they also deported 22,000 foreigners for other ordinary crimes. Turkey deported asylum seekers among these groups on the grounds that they should have sought asylum before they were arrested." **[10a] (p9)**

6.179 As recorded on the website of the Turkish Ministry of Foreign Affairs (section on '157' Helpline for the victims of trafficking last updated on 16 September 2005), '157' the toll free, tip-off number/emergency helpline for the victims of trafficking, open 24 hours a day, seven days a week, accessible throughout Turkey including mobile phones will be operational soon. "A shelter in Istanbul has been established for the victims of trafficking. Victims can benefit from this service free of charge." **[60c]**

6.180 The USSD 2004 stated that:

"The Government participates in antitrafficking initiatives through the OSCE, the Southeast European Cooperative Initiative (SECI), the Council of Europe, the North Atlantic Treaty Organization, the International Center for Migration Policy Development, Interpol, Europol, and the Stability Pact Task Force on Trafficking in Human Beings. During the year, the Government expanded bilateral and multilateral protocols with neighboring countries and regional groups to include antitrafficking law enforcement agreements. The Government's effectiveness in assisting other countries in combating trafficking varied. Counterparts in source countries reported that, in many instances, Turkish law enforcement agencies refused to share intelligence, evidence, and other critical trafficking case information." **[5c] (Section 5)**

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FREEDOM OF MOVEMENT

6.181 As regards freedom of movement within the country, foreign travel, emigration and repatriation, the USSD 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. The Government maintained a heavy security presence in the southeast, including numerous roadway checkpoints. Provincial authorities in the southeast, citing security concerns, denied some villagers access to their fields and high pastures for grazing." **[5c] (Section 2d)**

6.182 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." **[48] (p10)**

6.183 An interlocutor advised the IND fact-finding mission that the issue of a passport would not be withheld if the applicant had not completed his military service; this is because there are provisions in law to defer military service. **[48] (p11)**

6.184 However, the Netherlands Ministry of Foreign Affairs' 'Turkey/military service' report published in July 2001 records that "Persons of call-up age are not usually issued with passports, and cannot have passports renewed. In a small number of cases, and with the consent of the military authorities, a passport with a short period of validity is issued. The entry 'yapmiştir' (done) or 'yapmamiştir' (not done) in the passport indicates whether the holder has completed military service or not." **[2b] (p15)**

6.185 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. **[48] (p10)**

6.186 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." **[7d] (p1-2)**

NÜFÜS CARD/IDENTITY CARD

6.187 The Netherlands Ministry of Foreign Affairs 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)**

6.188 The Netherlands report continued "The population registry also has responsibility for issue of identity cards (in Turkish: nüfus cüzdani) 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)**

6.189 The USSD 2004 reported that:

"National identity cards list a person's religious affiliation. Some religious groups, such as Baha'is, alleged that they were not permitted to state their religion on their cards; however, there were reports that authorities have become more flexible regarding the religious affiliation that may be listed. In September [2004], an Ankara court approved the application of a family requesting permission to leave the religion portion of their children's identity cards blank until they reach 18 years of age. Conversion to another religion entails amending a person's identity card; there were reports that local officials harassed persons who converted from Islam to another religion when they sought to amend their cards. Some persons who were not Muslim maintained that listing religious affiliation on the cards exposed them to discrimination and harassment." **[5c] (Section 2c)**

6.190 As outlined by the Council of Europe European Commission against Racism and Intolerance in its 'Third report on Turkey' – adopted on 25 June 2004 and made public on 15 February 2005 – "There is still room for improvement in the matter of religious freedom, in particular as regards removing the reference to religion on identity cards and abolishing compulsory religious education in schools." **[76] (p6)**

6.191 As confirmed by the British Embassy in Ankara on 22 July 2005:

"Under Turkish law citizens are obliged to produce an official ID card if requested by police or jandarma. If you cannot produce identification when

required, or refuse to do so, you can be held in detention until your identity is proved. The maximum standard detention period in Turkey is 24 hours, extendable for a further 12 hours to allow time for transfer between custody and the nearest court. (Suspects can be held up to 48 hours for organised crime offences, illegal drug production/sale, and certain crimes against the State). Under the Law on Misdemeanours those who refuse to give ID information, or who give false information, to civil servants conducting their duty are liable to a small administrative fine." **[4e]**

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TREATMENT OF FOREIGNERS SEEKING ASYLUM IN TURKEY

6.192 As noted in the European Commission 2005 report:

"In the area of asylum, a National Action Plan for alignment with the acquis on migration and asylum was adopted in March 2005. The Action Plan provides for the adoption of the acquis in accordance with a set timetable, which should now be implemented. Certain provisions of the Action Plan, including on subsidiary protection, mass influx and accelerated procedure, require clarification. In this context, the lifting of the geographical limitation to the 1951 Convention remains a key issue.

The number of new asylum seekers decreased significantly in the reporting period. While 3 026 applied for asylum in 2004, 1 054 persons sought asylum in the first five months of 2005. There is still a large caseload from previous years, mainly concerning Iranian asylum seekers (70%). In 2004, there were 964 new applicants from Iraq but many applications submitted in previous years have not been determined." **[71e] (p111)**

6.193 The EC 2005 report continued:

"Turkey applies the principle of non-refoulement to aliens at its borders. Applications for asylum are handled in co-operation with the UN High Commissioner for Refugees (UNHCR). However, there continue to be reports that some asylum seekers at the border are prosecuted for illegal entry and deported. Aliens who are apprehended away from the border are not always permitted to submit an application for asylum, as they are considered to have acted in bad faith; the UNHCR encounters considerable difficulty in gaining access to such persons while in detention. There are reports that asylum seekers of European origin who are not covered by the geographic limitation to the Geneva Convention, notably Chechens and Belarusians, encounter considerable difficulties in submitting asylum applications. There is a need to establish procedures for asylum seekers at international airports. Turkey is also encouraged to enhance efforts to improve reception conditions." **[71e] (p111-112)**

6.194 The EC 2005 report further noted:

"Although the UNHCR continues to bear the principal responsibility for meeting the material needs of non-European refugees and applicants for asylum, the Turkish authorities continued to provide direct aid in the form of cash, food, clothing, health services and heating material.

Non-European asylum applicants receive medical assistance from the UNHCR while they are waiting for their application to be decided; if they are granted the status of temporary asylum seeker, they are then entitled to use state health care facilities. The children of applicants for asylum have the right to attend Turkish primary schools. Unaccompanied child asylum seekers are cared for by the Social Services Child Protection Agency. Turkey has continued to train officials on asylum issues." **[71e] (p112)**

6.195 The USSD 2004 noted that:

"An administrative regulation provides for the granting of asylum or refugee status in accordance with the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol; however, the Government exercised its option under the Convention of accepting obligations only with respect to refugees from Europe. The Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. According to the Government, Europeans recognized as refugees could remain in the country and eventually acquire citizenship; however, it was not clear how often this happened in practice. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting the small number of European refugees and asylum seekers. Chechens, many of whom arrived in 2001, reported problems making asylum applications with the Government and renewing temporary residence permits. The Government offered non-European refugees temporary asylum while they were waiting to be resettled in another country. The UNHCR conducted refugee status determination for applicants from non European countries and facilitated the resettlement of those recognized as refugees. The UNHCR reported that no recognized refugees were returned to a country where they feared persecution during the year; however, three asylum seekers whose applications remained under review by the UNHCR were deported to their country of origin…Detained illegal immigrants found near the country's eastern border areas were more likely to be questioned about their asylum status and referred for processing than those caught while transiting or attempting to leave the country. Even along the eastern border, however, access to the national procedure for temporary asylum was hindered by the lack of reception facilities for groups of interdicted migrants, potentially including asylum seekers, and interpreters to assist security officials." **[5c] (Section 2d)**

6.196 The USSD 2004 further stated that:

"Regulations require asylum seekers to apply within 10 days of arrival and submit proof of identity in order to register for temporary asylum. An appeal can be lodged within 15 days of a decision by authorities not to receive an asylum claim; after the appeal procedure, rejected applicants are issued a deportation order that can be implemented after 15 days. According to the UNHCR, the Government demonstrated greater flexibility than in past years in applying these regulations; however, asylum seekers arriving in the country after transiting through one or more other countries continued to face difficulties in lodging an application. As a result, some of the refugees and asylum seekers registered with the UNHCR were unable to register with the Government or otherwise legalize their status in the country." **[5c] (Section 2d)**

6.197 As noted in the U.S. Committee for Refugees and Immigrants 'World Refugee Survey 2005', Turkey released on 16 June 2005:

> "Turkey maintained a geographic reservation on the 1967 Protocol to the Convention Relating to the Status of Refugees (1951 Convention) to limit to Europeans its obligations under the 1951 Convention. Turkish law protected asylum seekers from refoulement if they 'register their claims within ten days; provide valid identity documentation; and receive resettlement assistance from UNHCR or directly from resettling countries.'...Despite progress in curbing illegal transit migration, Turkey lacked an effective process to screen asylum seekers from the thousands of interdicted migrants it periodically caught in sweeps. The Passport Law of 1950 criminalized entrance into Turkey without valid travel documents." [92]

6.198 The World Refugee Survey 2005 continued:

> Turkey deported three Iranian asylum seekers registered with the Office of the UN High Commissioner for Refugees (UNHCR) and an additional 41 asylum seekers before UNHCR could assess their applications, including 23 to their countries of origin. Heeding UNHCR's advisory not to return people to Iraq, Turkey deferred repatriation for 945 rejected Iraqis asylum seekers. The Government also permitted about 1,800 Somali and more than a hundred Sudanese failed asylum seekers to remain on humanitarian grounds, pending greater stability in their countries of origin…Turkey detained 193 persons of concern to UNHCR, in addition to the 41 aforementioned deported asylum seekers…Asylum applicants—documented or not—had to register with Turkish authorities within ten days of arrival, and reside in the town closest to their point of entry unless UNHCR recommended their transfer for security or other reasons. Asylum seekers also had to regularly present themselves to the local police, sometimes on a daily basis. Authorities in each city determined the terms of residence, and violators were subject to immediate deportation at the Government's discretion…In April [2004], Turkey offered temporary legal residence, as foreigners, to more than 1,000 Iranian asylum seekers originally holding refugee documentation from UNHCR in Iraq. Re-categorizing them, however, excluded the Iranians from benefits as asylum seekers or refugees, including third-country resettlement, health benefits, and protection from *refoulement*. UNHCR extended to these refugees some limited financial and medical assistance despite their changed status and did not rule out resettlement as a durable solution. Turkish authorities also granted residence permits to some 375 asylum seekers who entered Turkey illegally in 2004." **[92]**

6.199 As recorded in the World Refugee Survey 2005 in Turkey there were in total 7,800 refugees and asylum seekers, including 4,000 from Iraq and 2,000 from Iran. **[92]**

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6.B HUMAN RIGHTS: SPECIFIC GROUPS

ETHNIC GROUPS

6.200 As outlined in the Netherlands Ministry of Foreign Affairs Official General report on Turkey published in January 2002 "Turkey has a multi-ethnic, 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)**

6.201 A report from Minority Rights Group International (MRGI) 'Minorities in Turkey' published in July 2004 noted that:

"The Kurdish community is the largest ethnic minority in Turkey, with a population estimated to be at least 15 million. They mostly live in south-eastern and eastern Turkey, although a large number have migrated to cities in western Turkey. The Roma population is over 500,000 according to official records, and Roma live throughout Turkey. The Bosnian population is more than 1 million. Arabs live in all parts of Turkey, but are concentrated in the provinces of Antakya, Mardin and Siirt… The Circassians, who number over 3 million, live throughout Turkey. Laz live around Artvin, Rize and in the large cities. Their population is between 500,000 and 1 million. Ethnic Bulgarians mostly live in Thrace." **[57b] (p7)**

6.202 The World Directory 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. **[57a] (p379)**

6.203 The US State Department report (USSD) 2004, published on 28 February 2005, reported that "The Constitution regards all citizens as equal and prohibits discrimination on ethnic or racial grounds; however, societal and official violence and discrimination against women and minorities remained problems…The Constitution provides a single nationality designation for all Turks and does not recognize ethnic groups as national, racial, or ethnic minorities." **[5c] (Section 5)**

6.204 As outlined by Kirsty Hughes in a paper dated December 2004 entitled 'The political dynamics of Turkish accession to the EU: a European success story or the EU most contested enlargement?'

"Turkey in fact encompasses extensive ethnic and religious diversity. The two largest minority groups are the Alevis (a religious minority) and Kurds (some of who are Alevis). Some suggest that up to 47 different ethnic groups can be identified in Turkey. Officially, the only minorities recognised in Turkey were defined by the 1923 Treaty of Lausanne to be three non-Muslim religious groups – Orthodox Greeks, Jews and Armenians. Not only did this not recognise other religious minorities but it also ignored ethnic and linguistic definitions of minorities, which is not compatible with modern international human rights law on minorities. The report called for a broader definition of citizenship, so that citizens could be citizens 'of Turkey' (in Turkish Turkiyeli – of Turkey), rather than Turks." **[77] (p19)**

6.205 As noted in the European Commission Turkey 2005 Progress Report released on 9 November 2005:

"Turkey's approach to minority rights remains unchanged since last year's report. According to the Turkish authorities, under the 1923 Treaty of Lausanne, minorities in Turkey consist exclusively of non-Muslim communities. The minorities usually associated by the authorities with the Treaty of Lausanne are

Jews, Armenians and Greeks. However, there are other communities in Turkey which, in the light of the relevant international and European standards, could qualify as minorities." **[71e] (p35)**

6.206 The EC 2005 report continued:

"In October 2004 a report released under the auspices of the Human Rights Advisory Board – a state body which reports to the Office of the Prime Minister – questioned the policy on minorities and communities, highlighting in particular the restrictive interpretation of the 1923 Treaty of Lausanne and encouraging Turkey to align its policy with international standards…The report provoked a lively debate within Turkey. However, it was of concern that an investigation was subsequently launched against the author of the report and the chairman of the Board and that those directly responsible for the report resigned, claiming that their positions were untenable. The Board has not been operating since this time." **[71e] (p35)**

See also Section 6C. on Government monitoring of human rights

6.207 The EC 2005 report also noted that:

"Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages. It has not yet ratified Additional Protocol No 12 to the ECHR on the general prohibition of discrimination by public authorities. This is particularly important given that minorities are often subject to *de facto* discrimination, and encounter difficulties in acceding to administrative and military positions." **[71e] (p36)**

KURDS

6.208 As noted in the USSD 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." **[5c] (Section 5)**

6.209 As outlined by the Council of Europe European Commission against Racism and Intolerance in its 'Third report on Turkey - Adopted on 25 June 2004 and made public on 15 February 2005':

"According to estimates, there are between twelve and fifteen million Kurds living in Turkey. There are no official statistics as national censuses do not take account of people's ethnic origins. The Kurds live mainly in the South-East, although many of them have left the region as part of the drift to the towns and also because of the armed conflict that went on for several years between the authorities and the PKK." **[76] (p20)**

6.210 The ECRI report also stated:

"ECRI is pleased to note that the constitutional and legislative changes in the field of human rights and fundamental freedoms should help to give the Kurds

greater freedom of expression, freedom of assembly and freedom of association. It notes, however, that in the case of the Kurds, such freedoms are still severely curtailed, especially in practice. ECRI notes in particular reports that Kurdish students have been arrested and/or expelled from university for having signed petitions or demonstrated in support of the teaching of Kurdish in universities…In some cases, however, persons who have expressed their Kurdish identity by peaceful means have been acquitted. ECRI hopes that the new laws will pave the way for a rapid improvement in this area. It notes that parents are now permitted by law to give their children Kurdish first names, even though a circular prohibits them from choosing names incorporating the letters Q, W or X, which exist in the Kurdish language but not in the Turkish alphabet." **[76] (p22)**

6.211 The Netherlands Ministry of Foreign Affairs 2002 estimated that there were 13 million Kurds in Turkey. **[2a] (p7)** It also stated 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, Elaziğ, Diyarbakır, Bingöl and Şanliurfa. Most of the Kurdish population is Sunni Muslim." **[2a] (p124)**

6.212 The Netherlands report 2002 also observed that:

"The government in Turkey does not persecute Kurds solely because they are Kurds. This would, moreover, be incompatible with the abovementioned 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) thus also have equal access to public institutions such as health care and authorities responsible for issuing official documents." **[2a] (p126)**

KURDISH LANGUAGE

6.213 The European Commission 2005 report stated that:

"Notwithstanding a greater tolerance for the use of languages other than Turkish, the exercise of cultural rights is still precarious. No local broadcasting in Kurdish has yet been authorised, Kurdish language courses have closed down and politicians continue to be convicted for using the Kurdish language in certain contexts. Turkey continues to adopt a restrictive approach to minorities and cultural rights. **[71e] (p41)**

The judiciary's role in guaranteeing the right to use Kurdish is mixed. In May 2005 the Court of Cassation revoked a decision which had banned the use of Kurdish music during an election campaign. However, a Criminal Court in Diyarbakir ordered the confiscation of a number of music albums in January and February 2005 on the basis of Article 312 of the former Penal Code, claiming that the Kurdish language lyrics constituted propaganda in support of an illegal organisation. Moreover, problems continue to be reported concerning the registration of certain Kurdish names, and practice varies throughout the country. There are still restrictions on the use of languages other than Turkish by political parties." **[71e] (p38)**

6.214 As noted in the UK Foreign and Commonwealth Human Rights Annual Report 2005, released in July 2005:

"Broadcasting (both radio and TV) in non-Turkish languages, including Kurdish dialects, began on 7 June 2004 on the state-owned national broadcaster TRT. Private language courses in Kurdish opened across Turkey in 2004, including in Van, Batman and Sanliurfa. However, harassment of Kurdish groups and political parties is still common among the general population. It also remains illegal to carry out political campaigning in any language other than Turkish." **[4h] (p106)**

6.215 Amnesty International's report 'Europe and Central Asia Summary of Amnesty International's Concerns in the Region January – June 2004' published 1 September 2004 stated that:

"During this period a fundamental taboo was finally broken when state television and radio channels began broadcasts for the first time in languages other than Turkish, a measure of symbolic significance in signalling official acceptance that Turkish is not the only language belonging to citizens of the Turkish Republic. The much delayed implementation of the August 2002 law, which had provided for broadcasts in 'different languages and dialects traditionally used by Turkish citizens in their daily lives', came about in the week beginning 6 June when state television and radio channels began broadcasts in Bosnian, Circassian, Kırmançi, Zazaca and Arabic…. It is probable that in time the limited non-Turkish language broadcasts offered by the state broadcasting services will be supplemented by private and eventually local television channel broadcasts." **[12l] (p57)**

6.216 As noted in the USSD 2004:

"While there were some improvements during the year, the Government maintained significant restrictions on the use of Kurdish and other ethnic minority languages in radio and television broadcasts and in publications… During the year, the HRF recorded fewer complaints that authorities prevented parents from registering their children under traditional Kurdish names." **[5c] (Section 5)**

6.217 The Freedom House report 'Countries at the Crossroads 2005 – Turkey', published in December 2004 noted that "The legalization of these [non-Turkish language] broadcasts was a major step for Kurdish rights and freedom of expression…The broadcasts have been criticized for being too short and being limited to the national station, and liberalization still has a long way to go. However, the significance of the changes cannot be overstated." **[62c] (p16)**

6.218 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." **[66q]**

TEACHING IN KURDISH

6.219 The European Commission 2004 noted that:

"A Regulation entitled Teaching in Different Languages and Dialects Traditionally Used by Turkish Citizens in their Daily Lives entered into force in December 2003. This allowed for the first time private courses in Kurdish. Six

private schools started teaching Kurdish (Kirmanci dialect) in Van, Batman and Şanliurfa in April 2004, in Diyarbakir and Adana in August 2004 and in Istanbul in October 2004. These schools do not receive financial support from the state and there are restrictions concerning, in particular, the curriculum, the appointment of teachers, the timetable and the attendees. Notably, students must have completed basic education and therefore will be older than 15." **[71c] (p49)**

6.220 According to a report by MRGI published July 2004:

"In Adan, Batman, Şanliurfa and Van, the Ministry of National Education, General Directorate of the Private Teaching Institutions, has permitted Kurdish courses. However, at least four other applications (Circassion and Kurdish) have not been finalised for more than a year due to bureaucratic delays and the strict requirements about establishing the courses. Further, the use of minority languages in schools, or even requesting their use, continues to lead to punishment." **[57b] (p10-11)**

6.221 As noted in the USSD 2004 "During the year, private Kurdish language instruction courses were opened in Istanbul and six southeastern cities (Van, Batman, Sanliurfa, Diyarbakir, Kiziltepe, and Adana) pursuant to legislation adopted in 2002. According to observers, officials had delayed the courses by raising bureaucratic obstacles." **[5c] (Section 5)**

6.222 On 2 August 2005 the *Turkish Daily News* reported:

"Private Kurdish language schools, launched as part of Turkey's European Union-inspired reform efforts, shut down in six provinces and two southeastern towns one after another due to lack of interest among the public, said the owner of a language school in the southeastern province of Diyarbakir yesterday. Seven language centers have opened, mostly in the Southeast, with one more in the process of completing bureaucratic procedures before its opening since Turkey allowed private teaching of Kurdish in 2002… The schools that closed down yesterday were in the provinces of Istanbul and Şanlıurfa and the Kızıltepe district of Mardin. Similar centers in the provinces of Batman and Adana shut down earlier and centers in Diyarbakir and Van had no new enrollments this year… So far, 2,027 people have enrolled in the schools, with 1,056 of them completing the program." **[23ap]**

6.223 The European Commission 2005 report noted that:

"The teaching of Kurdish suffered a serious setback in August 2005 when the owners of all existing courses decided to close the 5 remaining schools, despite the fact that one of these – the school in Mardin – had opened as recently as April 2005. Two schools – in Adana and in Batman – had closed down earlier in the year due to financial difficulties. The decision to close down these courses was motivated by several factors, including a lack of financial resources and restrictions concerning, in particular, the curriculum, the appointment of teachers, the timetable and the attendees. More generally, the course owners claimed that the demand for such courses is limited, particularly as it is necessary to pay for them." **[71e] (p37)**

6.224 As reported by the *Turkish Daily News* on 26 May 2005:

"The Supreme Court of Appeals' General Board on Legal Matters has unanimously decided to reverse a lower court decision not to close the Education Personnel Labor Union (Eğitim-Sen). Charges filed against Eğitim-Sen were based on constitutional articles stipulating Turkey's official language as Turkish and prohibiting the state from teaching other languages at the expense of Turkish. Eğitim-Sen's charter allows the teaching of local dialects and languages." **[23an]**

On 3 June 2005 the *Turkish Daily News* reported that "The Education Personnel Labor Union (Eğitim-Sen) will appeal to the European Court of Human Rights today on a supreme court ruling to reverse a lower court decision not to shut down the labor union, said Eğitim-Sen Chairman Alaaddin Dinçer yesterday, as reported by the Anatolia news agency." **[23ao]**

6.225 As recorded in the EC 2005 report:

"In May 2005, the Court of Cassation ruled to close the teachers' union Eğitim Sen, on the grounds that a clause in its statute calling for education in mother tongue languages was in contravention of the Turkish Constitution. The legal action against the union was initiated by the Ministry of Labour and Social Security, under pressure from the General Staff, in June 2003. In September 2004 and February 2005 the Ankara Labour Court ruled in favour of Eğitim Sen, arguing that the Turkish Constitution should be interpreted in accordance with the ECHR, and that a decision to close down the union was not in compliance with Articles 10 (freedom of expression) and 11 (freedom of association) of the Convention. The May 2005 decision of the Court of Cassation reversed this ruling, stipulating that 'freedom of association can be limited for the protection of national security, integrity of the country and public order' and that 'Turkish citizens cannot be provided education in a language other than Turkish'. The union has withdrawn the clause on mother tongue education pending the outcome of an application to the ECtHRs for an interim measure to block the union's closure." **[71e] (p28-29)**

PRO-KURDISH POLITICAL PARTIES

(See Annex B and Annex C for details of political parties)

6.226 As outlined by the Council of Europe European Commission against Racism and Intolerance in its 'Third report on Turkey (adopted on 25 June 2004 and made public on 15 February 2005):

"On the subject of freedom of association, ECRI notes that the bans on parties representing the interests of the Kurdish community have remained in place despite rulings by the European Court of Human Rights, which has frequently found against the government for violating freedom of association in this area. ECRI notes with approval that, following the constitutional and legislative amendments, it will be more difficult to ban a political party in future. In addition, cautions and ancillary penalties such as the removal of financial support may replace or precede outright bans on political parties." **[76] (p22)**

6.227 As outlined by Kirsty Hughes in her paper dated December 2004:

"Development of a modern Kurdish political culture is still difficult. The 10% share of votes limit on political representation means Kurdish parties cannot

break through into parliament, and the Kurdish party Dehap is under threat of closure. More positively, with her release from prison earlier in 2004, former Kurdish MP Leyla Zana is aiming to establish a broader Kurdish political movement. But many doubt how much more progress can be made unless and until the conflict in the South East finally comes to an end." **[77] (p25)**

HADEP

6.228 The Netherlands Ministry of Foreign Affairs 2002 reported that:

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

6.229 Europa reported that in January 1999 a motion was filed for the dissolution of HADEP (a pro-Kurdish political party), owing to its alleged links with the PKK (Kurdistan Workers Party); however in March 1999 the Constitutional Court ruled that HADEP was to be allowed to contest the 1999 elections. **[1d] (p1168)**

6.230 Keesings Record of World Events of April 1999 reported that the pro-Kurdish Peoples Democracy Party (HADEP) received less than 5 per cent of the vote in the 1999 general election. However, HADEP won control of several municipalities in the southeast, including the regional capital, Diyarbakır in simultaneous local elections. **[32a] (p42911)**

6.231 As reported by the BBC on 13 March 2003:

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

RELATIVES OF HADEP MEMBERS

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

DEHAP

6.233 In one news report of November 2002 the BBC noted that Dehap was a pro-Kurdish alliance between the People's Democracy Party (Hadep), the Toil Party (Emep) and the Socialist Democracy Party (SDP). "It was formed partly to pre-empt moves by the courts to ban Hadep, which has been accused of having links to separatist Kurdish rebels of the Kurdistan Workers Party (PKK). Emep and the SDP were also too weak to run for election independently…Dehap is popular in the mainly Kurdish south-east, and urban centres with many Kurdish migrants." **[66ar]**

6.234 As recorded in the document 'Political Structure of Turkey' dated August 2005) available in the References section in the website of the Office of the Prime Minister, Directorate General of Press and Information (website accessed on 5 September 2005) in the November 2002 elections the AKP and the Republican People's Party (CHP) were the only two parties out of 18 to attain the 10% threshold required to enter parliament. DEHAP obtained 6.22% of the total votes. **[36i]**

6.235 The pro-Kurdish newspaper the Kurdistan Observer reported on 27 March 2003 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]." **[50]**

6.236 The USSD 2004 noted that:

"The Government restricted the activities of some political parties and leaders, and sought to close the pro-Kurdish Democratic People's Party (DEHAP)… Police detained dozens of members of the legal pro-Kurdish party DEHAP on several occasions… In May, SSCs in Van and Erzurum acquitted DEHAP President Tuncer Bakirhan on charges of separatism and spreading terrorist propaganda in public speeches. The courts determined that Bakirhan's comments did not encourage violence and were within the realm of legally protected speech. In June, police detained and released DEHAP official Nedim Bicer for using the expression 'sayin' ('esteemed') in reference to Abdullah Ocalan during a May press conference." **[5c] (Introduction; Sections 1d & 2a)**

6.237 The USSD 2004 further noted that:

"There were no new developments during the year [2004] in the legal case seeking the closure of the pro-Kurdish DEHAP on charges of separatism… During the year, police raided dozens of DEHAP offices, particularly in the southeast, and detained hundreds of DEHAP officials and members. Jandarma and police regularly harassed DEHAP members, through verbal threats, arbitrary arrests at rallies, and detention at checkpoints. Security forces also

regularly harassed villagers they believed were sympathetic to DEHAP." **[5c] (Section 3)**

6.238 The USSD 2004 continued:

"Although security forces released most detainees within a short period, many faced trials, usually for supporting an illegal organization, inciting separatism, or for violations of the law. In January [2004], an Erzurum prosecutor opened a case against DEHAP Chairman Tuncer Bakirhan on charges relating to a 2002 speech. A court convicted Bakirhan and sentenced him to 1 year in prison, but postponed the sentence. In February, the High Court of Appeals upheld the conviction of DEHAP Party Assembly member Abdulkerim Bingol on charges relating to a 2003 speech. Bingol began serving his 18-month prison sentence in April. In April, DEHAP official Giyasettin Torun claimed that Istanbul police kidnapped him, blindfolded him, and subjected him to threats and beatings for several hours before releasing him without charge. In June, a prosecutor in Van indicted local DEHAP Chairman Hasan Ozgunes, HRA official Zuleyha Cinarli, and 11 others on terrorism charges stemming from their participation in a press conference on the Kurdish problem and the prison conditions of jailed PKK leader Abdullah Ocalan. A court acquitted them in August. In December, a Bursa prosecutor opened a case against eight DEHAP members, including Murat Avci, head of the party branch in Bursa, in connection with slogans allegedly shouted at a DEHAP event in June." **[5c] (Section 3)**

6.239 As noted in the Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' made public in February 2005:

"The Head of DEHAP in the province of Diyarbakýr, Mr. Celalettin Birtane, claimed that members and officials of DEHAP and its predecessor HADEP (which was banned in March 2003) had been subject to regular harassment by security officials in recent years. The scope of harassment ranged from verbal threats, arbitrary detention and arrest to different forms of criminal and judicial persecution. Even villagers whom the authorities suspected of being sympathetic to HADEP/DEHAP had been harassed by the Gendarmerie, according to Birtane. He added that many DEHAP offices had been raided and party-officials and ordinary members being detained in recent years. He claimed that this had happened both in Diyarbakýr and other provinces in the Southeast." **[16] (p25)**

6.240 The Norwegian report further noted:

"Mr. Birtane pointed out that the attitude of the authorities against his party had become "more relaxed" in 2004. (He made it clear that he only referred to the situation in the province of Diyarbakýr and that he could not comment on the situation in other parts of South-Eastern Turkey.) He described the harassment by the authorities as less brutal and as more subtle. Instead of raiding party-offices and detaining officials, the authorities would rather erect administrative obstacles and delay or reject permissions for public activities." **[16] (p25)**

6.241 The Norwegian report continued:

"Regarding the treatment of party-members in the province of Diyarbakýr, Birtane stated that neither officials nor ordinary members [of DEHAP] were prosecuted at that time (referring to 2004) only for supporting the party.

However, the situation in other provinces in the Southeast and as well as in other parts of the country might be different. This last remark was confirmed by representatives of HRFT [Human Rights Foundation of Turkey], stating that the behaviour of local security forces were quite unpredictable. While the situation in Diyarbakýr could be described as calm for the time being, the police in Izmir had arbitrarily detained 140 party-sympathizers, [of DEHAP] who had demanded the release of (PKK-head) Öcalan during a demonstration. Such things could happen everywhere in Turkey and the police would distinguish between party officials, affiliates or sympathizers when intervening in a demonstration." **[16] (p25-26)**

6.242 The Norwegian further noted:

"While intervening in public party activities, security forces do still use force, for example in order to disperse demonstrations. Persons who are arrested on such occasions might face trials, usually for 'supporting an illegal organisation', 'inciting separatism', or for violations of the Law on Meetings and Demonstrations. The Human Rights Foundation stated that people who wish to exercise their right to express their dissent in a peaceful way still risk being harassed, beaten or facing criminal prosecution." **[16] (p25-26)**

6.243 On 29 July 2005, the *Turkish Daily News* reported that "Erzurum Democratic People's Party (DEHAP) branch chairman Bedri Fırat was sentenced to 10 months in prison and ordered to pay a fine of YTL 400 for referring to terrorist Kurdistan Workers' Party (PKK) leader Abdullah Öcalan as 'Sayın,' a sign of respect meaning 'respectable' or 'honorable'." **[23ar]**

6.244 As reported on 17 August 2005, by the pro-Kurdish online newspaper KurdishMedia (quoting the Associated Press):

"Turkey's main pro-Kurdish party said Wednesday it was dissolving itself to join a new pro-Kurdish political movement to advance the rights of the country's estimated 12 million Kurds. The People's Democracy Party, or DEHAP, said in a statement that it decided to join the Democratic Society Movement, or DTH, which is led by Kurdish activist Leyla Zana and three other former lawmakers. The four Kurds, who were released from prison last year, launched their movement in October [2004] and are expected to turn it into a political party in the hopes of mediating peace between autonomy-seeking Kurdish guerrillas and the government…The DEHAP announced its decision to dissolve as prosecutors try to close down the party, accusing it of being a focal point for separatist activities and having ties to Kurdish guerrillas. The constitutional court has closed down four pro-Kurdish parties, including DEHAP's predecessor, in 2003. The party also said Wednesday that recent remarks by Turkish Premier Recep Tayyip Erdogan during a visit to the Kurdish-dominated southeastern city of Diyarbakir had raised hopes for a new conciliatory atmosphere. In Diyarbakir, Erdogan admitted that the government had made past mistakes in the region, and promised to bring investment in education, housing and health care to the southeast, and to improve unemployment that stands at more than 50 percent in some cities." **[93a]**

6.245 As reported by the *Turkish Daily News* on 19 August 2005:

"The Ankara Prosecutor's Office filed charges against the Democratic People's Party (DEHAP) on Thursday, a day after it announced it was dissolving itself to

join Leyla Zana's Democratic Society Movement (DTH), on grounds that the party's final statement contained words that flattered jailed terrorist Kurdistan Workers' Party (PKK) leader Abdullah Öcalan. The office based the charges on Article 215 of the Turkish Criminal Code (TCK) on praising crime and criminals, and the investigation will center on whether or not the final DEHAP statement, in fact, praised Öcalan. DEHAP had referred to Öcalan as 'Sayın,' which is a mark of respect in Turkish and which is similar to "Sir" in English." **[23aq]**

6.246 On 25 August 2005, the *Turkish Daily News* reported that one Ankara prosecutor had sent eight officials of the now-defunct Democratic People's Party (DEHAP) to the Ankara 11th Criminal Court to answer charges as part of an investigation into the final DEHAP statement. The *Turkish Daily News* further reporded that the prosecutor had questioned ten DEHAP executives before recommending the arrest of eight of them and that the former DEHAP leader Tuncer Bakırhan was among those whose arrest the prosecutor had sought. **[23as]**

On the following day the *Turkish Daily News* reported that the Ankara 11th Criminal Court had dismissed the prosecution's request for the arrest of eight former Democratic People's Party (DEHAP) officials but ruled to place them under judicial supervision. As reported by the *Turkish Daily News* Bakırhan and seven other former DEHAP officials were banned from traveling overseas and will have to check in at their local police station once a week. **[23at]**

6.247 On 19 September 2005 the *Turkish Daily News* reported that:

"A provincial official of Turkey's main pro-Kurdish People's Democratic Party (DEHAP) was arrested on Saturday over his alleged role in a violent demonstration in favor of Kurdistan Workers' Party (PKK) leader Abdullah Öcalan earlier this month, reported the Anatolia news agency…Ten people, among them three policemen, were injured, and 80 people detained when Kurdish protestors, many of them DEHAP activists, clashed with the police in Van on Sept. 5 in a pro-Öcalan demonstration." **[23au]**

DEMOCRATIC SOCIETY MOVEMENT (DTH)

6.248 As reported on the website of the Office of the Prime Minister of Turkey Directorate General of Press and Information on 27 December 2004 (quoting the *Turkish Daily News*):

"A group of 14 activists, including four former Democracy Party (DEP) deputies Leyla Zana, Orhan Dogan, Selim Sadak and Hatip Dicle, held their first meeting in Diyarbakir this weekend to lay the groundwork to form a new political party. Dogan, reading from a 12-page manifesto outlining the new movement's principles, said that they planned to found a new party called the Democratic Society Movement (DTH) that would campaign for policies based up on the will of the people. Dogan said, 'For now, the DHT will limit itself to voicing its opinion on Turkey's democratization and the Kurdish problem.' He added that the DTH fully supported Turkey's efforts to join the European Union." **[36g]**

6.249 As noted in Policy Watch #940 of the Washington Institute for Near East Policy - Is the PKK Still a Threat to the United States and Turkey? dated 10 January 2005:

"'Democratic Society Movement': When the Kurdish nationalist Democratic Peoples Party (DEHAP) lost stronghold cities such as Bingol, Siirt, Van, Mus, and Agri in the March 28, 2004, local elections – a sign that PKK/Kongra-Gel's appeal is in decline – Ocalan started the process of establishing a political party. On October 23 [2004] former Turkish parliament members from the Kurdish nationalist Peoples Democracy Party (HADEP), Leyla Zana, Orhan Dogan, and Hatip Dicle, declared the formation of the Democratic Society Movement. Communications between Ocalan and them, tracked by Turkish intelligence officers, as well as Ocalan's press remarks on April 18, July 31, and October 23, reported in the Kurdish nationalist daily Özgür Politika, prove Ocalan's role in this movement. It is also relevant that there is significant overlap between the demands of Kongra-Gel and the Democratic Society Movement, including joint emphasis on 'constitutional recognition to all ethnic identities including Kurdish identity.' The growing prominence of the Democratic Society Movement indicates that while previously Kurdish nationalist political parties, such as HADEP and DEHAP, were secondary to the PKK, now the political party is the main body of the organization, with the military wing working for its sake." **[42]**

(See also Section 4 on Release of Kurdish deputies)

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

6.250 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]** As recorded in Europa, in November 2003 the party assumed the present name of Kongra-Gel (Kurdistan's People's Congress). **[1d] (p1194)** On 4 April 2005, the pro-Kurdish online newspaper KurdishMedia (quoting AFP) reported that:

"Turkey's armed rebel Kurdish movement has decided to revert back to its original name of PKK after two name changes in three years, a pro-Kurdish news agency reported on Monday. The MHA news agency said a 'congress' of 205 members of the organisation, considered terrorist by Turkey and many Western countries, met in 'the mountains of Kurdistan' and decided to once again go by its original name of the Kurdistan Workers' Party, whose Kurdish acronym is PKK." **[93b]**

6.251 As noted in the European Commission 2005 report:

"Concerning the situation in the East and Southeast of the country, where most people are of Kurdish origin, progress has been slow and uneven. In some cases, the situation has even deteriorated. While no comprehensive policy has yet been established to address the socioeconomic and political problems in this region, it is notable that in August 2005 Prime Minister Erdogan met with several Kurdish intellectuals, visited Diyarbakir and emphasised the need to resolve through democratic means, what he described as 'the Kurdish issue'. The security situation, which had gradually improved since 1999 has become more precarious since the resumption of violence by the PKK, an organisation which appears on the EU list of terrorist organisations. The level of violence has increased and armed clashes between the security forces and armed groups occur frequently leading to casualties including mortalities on the both sides. Although the state of emergency rule has been lifted, a number of security

measures, such as roadblocks and checkpoints, have been reinstated in some provinces of the Southeast. This situation has had an impact on the lives of the population. In this difficult context there are concerns that the security forces sometimes respond inappropriately." **[71e] (p38)**

6.252 On 8 November 2004 the BBC reported that a Dutch court had blocked the extradition to Turkey of a Kurdish woman said to be a militant leader. "Nuriye Kesbir, alleged to belong to the separatist Kurdistan Workers Party (PKK), is accused of organising attacks on military targets in the 1990s. The Dutch justice ministry approved her handover in September [2004] after the supreme court ruled she could be extradited. But a court in The Hague has said the Netherlands could not be sure she would receive a fair trial in Turkey." **[66as]**

6.253 On 20 January 2005 the BBC reported that a Dutch appeals court had ruled that Nuriye Kesbir could not be extradited to Turkey. The three appeals court judges who supported the earlier ruling were reported as saying: "The court is of the opinion that Kesbir, as a woman and as a prominent member of the PKK, has a heightened risk of being tortured during her detention in Turkey," they said in a statement. "The court recognises that the Turkish government has recently made important improvements in the area of human rights, but... there is a difference between what the government wants and what happens at a lower level, at prisons and police stations." **[66u]**

6.254 On 11 January 2005 the *Turkish Daily News* reported that, according to a report released by the Diyarbakir Human Rights Associations, the number of armed conflict between security forces and the Kurdistan's Workers Party (PKK/Kongra-Gel) increased. While in 104 people died and 31 were wounded in armed clashes in 2003, 219 people died and 126 were wounded in 2004. **[23q]**

6.255 The USSD 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, 18 civilians, 62 members of the security forces, and 79 terrorists died during the year [2004] as a result of armed clashes." **[5c] (Section 1a)**

6.256 On 6 April 2005 *Zaman* reported that the operation that Turkish Armed Forces had launched against the terrorist organization the Kurdish People's Party (PKK/Kongra-Gel) continued at the border surrounding the southeastern Turkish cities of Sirnak and Hakkari:

"During the five-day operations, nine terrorists died and their weapons seized and an experienced sergeant was executed. According to information supplied by security units, the largest and most extensive operation in the last six-years is underway. The operation is being conducted from both land and sea. Two brigades and 2000 interim village guards have also participated in the operation. As the operation has shifted to the border, arms equipment and barracks belonging to the terrorist [sic] have reportedly been seized. It is assumed that 1,500 terrorist [sic] remain in hiding in the region. The operation began on March 31 on the steep rocky Cudi Mountain, a place used by PKK terrorists as a passage to Turkey from Iraq. The PKK, which is constantly changing its name in order not to be included among the terrorist organization lists of the European Union (EU) and the US, had held a restructuring congress between March 28 and April 4 and declared the founding of the new PKK and requested the new structure be celebrated with action until May 6." **[84a]**

6.257 The BBC reported on 15 April 2005 that "Turkish security forces have killed 21 members of the Kurdish paramilitary group, the PKK, in south-eastern Turkey, officials in the area say. Three members of the Turkish armed forces also died in the three-day operation in Siirt province, they said. It is reported to be the biggest clash in the area since the PKK declared a unilateral truce in 1999." **[66at]**

6.258 On 12 May 2005 *Turkish Daily News* reported that according to local officials Turkish soldiers had exchanged fire with outlawed Kurdistan Workers' Party (PKK) members in southeastern Turkey in the rural province of Tunceli in a clash that killed three terrorists. **[23u]** On 16 May 2005 the same newspaper reported that Turkish security forces carrying out an extensive operation in Tunceli had killed at least nine members of PKK/Kongra-Gel over the weekend while an attack against a police station in Ağrı had injured three officers. **[23w]** On 18 May 2005 it was reported by the *Turkish Daily News* that "Four Turkish soldiers were killed in a mountainous area of Siirt on Tuesday when their vehicle hit a landmine planted in the road. Officials said the outlawed Kurdistan Workers' Party (PKK/Kongra-Gel) had planted the mines. Meanwhile, reports said that two alleged PKK suicide bombers were killed when one prematurely detonated the explosive device he was carrying and the other was shot by police officers". **[23af]**

6.259 As reported by the BBC on 2 July 2005: A bomb attack on a passenger train in eastern Turkey has killed six people and injured at least 12…The train was carrying 45 passengers between the towns of Elazig and Tatvan in Bingol province…Officials blamed Kurdish paramilitaries of the PKK. Military officials said those killed were security guards. **[66au]**

6.260 As recorded by the *Turkish Daily News* on 12 July 2005

"Interior Minister Abdulkadir Aksu said 65 terrorists were killed, 43 captured and 41 others surrendered to security forces in 2005 until May, the Anatolia news agency reported. The minister was responding to an official parliamentary questionnaire. "Security forces increased their intelligence gathering and operations to obstruct the attacks of the terrorist organization," said Aksu. "A total of 99 terrorists were killed and 139 captured in 2004." He also mentioned that two PKK members, one of whom was female, were recently captured in Mersin while attempting to conduct attacks following training in PKK camps abroad." **[23w]**

6.261 On 10 July 2005 the *Turkish Daily News* reported that:

"Beefing up its positions in the southeast, the army has redeployed specialized commando units from western Turkey and is reinstalling checkpoints on roads guarded by soldiers and armored [sic] vehicles… Fighting remains confined largely to remote areas and is of far lower intensity that the conflict that raged here between 1984 and 1999 and resulted in about 37,000 deaths. Although reforms by Ankara to expand Kurdish freedoms have eroded popular support for the PKK, the funerals of killed militants, increasingly marred by violence, have shown that unrest may easily spill over into urban areas…The militants, estimated at about 5,000, retreated to neighboring northern Iraq in 1999 after they declared a truce following the capture of their leader Abdullah Öcalan. At

least 1,500 of them are believed to have crossed back into Turkey, bringing along arms and explosives." **[23v]**

6.262 On 12 July 2005 the BBC reported that:

"Kurdish rebels have kidnapped a Turkish soldier after robbing dozens of vehicles at a temporary roadblock in eastern Turkey, Turkish officials say. The rebel checkpoint was set up between the towns of Tunceli and Pulumur. Kurdish rebels have been known to kill Turkish soldiers by the roadside after finding them at checkpoints. Others they have taken hostage for months… More than 40 cars were stopped on the road between Tunceli and Pulumur. The drivers were robbed and a soldier was taken from one of them and abducted. The vast majority of soldiers serving in Turkey's east are conscripts carrying out mandatory national service." **[66ay]**

6.263 As reported by Aljazeera.net on 17 July 2005:

"After years of relative calm, Turkey's southeastern region is once again witnessing armed clashes between soldiers and ethnic Kurdish rebels. In the past month, 20 Turkish soldiers have been killed in the region by mines or in ambushes, while the military has conducted operations against the rebels of the Kurdish Workers Party (PKK) involving up to 10,000 troops… 'The terrorist threat is even more serious now,' Buyukanit told the press back in May [2005]. 'Terrorists are infiltrating into the country.' This was a reference to the PKK's bases next door in northern Iraq – territory nominally under the control of the US-backed Baghdad government…The fighting has returned after the PKK abandoned its unilateral ceasefire last year… 'People are very anxious,' says Selahattin Demirtas, chair of the Diyarbakir Human Rights Association (IHD). 'They are afraid that the killing will go on like before.' Many in the region are also disappointed and angry that while the PKK declared a ceasefire for more than five years, the authorities did not do likewise." **[68]**

6.264 As reported by the *Turkish Daily News* on 18 July 2005 "Security forces have killed 10 Kurdistan Workers' Party (PKK) terrorists in an operation carried out in Şırnak. According to a statement released by the Şırnak Governor's Office, the operation was carried out between July 13 and 16…The PKK have also become increasingly bold in their attacks…At least 30 soldiers have been killed and 41 others injured in the southeast since May, many of them by explosions of bombs or mines believed planted by the PKK." **[23y]**

6.265 As reported by the BBC on 5 August 2005:

"Five Turkish soldiers have been killed in an attack by suspected Kurdish rebels, officials say. At least six others were reportedly wounded in the attack, in Turkey's south-eastern Hakkari province. It is the most serious loss of life for the Turkish army since six soldiers died in a bomb attack in early July. Kurdish rebels have stepped up their campaign of attacks on civilian and army targets in the past few months." **[66bb]**

6.266 On 12 September 2005 the *Turkish Daily News* reported that five soldiers had been killed in separate clashes with PKK in the southeast and east. **[23ax]** On 23 September 2005 the same newspaper reported that security forces had killed three PKK terrorists and captured two more in the eastern city of Van only hours after PKK extended its 'cease-fire' to 3 October. **[23ba]** On 27 September

2005 it was reported by the *Turkish Daily News* that "Two temporary village guards died in an armed attack carried out by the terrorist Kurdistan Workers' Party (PKK) against a military unit in charge of security on the Şırnak-Hakkari highway in southeastern Turkey, a statement from the local Governor's Office said yesterday." **[23bb]**

(See also Section 4 on Conflict with the PKK)

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INTERNALLY DISPLACED PEOPLE (IDPS) AND THE RETURN TO VILLAGES PROGRAMME

6.267 The European Commission 2005 report stated that:

"The situation of internally displaced persons (IDPs) remains critical, with many living in precarious conditions. With a view to complementing the 'Return to Village and Rehabilitation Programme', the Turkish government proposed recently the establishment of a new governmental body, co-ordinated through a new unit in the Ministry of Interior, to develop policy on IDP return and coordinate implementation of the existing Programme, in accordance with the United Nations Guiding Principles on Internal Displacement. In July 2005 the authorities issued a circular encouraging the relevant Governors' offices to continue to ensure the return of IDPs, raise public awareness of the return scheme and collaborate effectively with NGOs." **[71e] (p39)**

6.268 The EC 2005 report continued:

"There are approximately 1 500 applications pending to the ECtHR regarding displaced persons, which account for approximately 25% of all cases pending against Turkey. In June 2004 the Court ruled in favour of one group of applicants in a case concerning the denial of access to property in the Southeast, and in 2005 the Council of Europe began to consider Turkey's compliance with the judgement. Several factors hamper the return of IDPs: the continued relative economic underdevelopment of the East and Southeast, the absence of basic infrastructure, the lack of capital, limited employment opportunities and the security situation. In particular, the existence of a large number of landmines [estimated by international NGOs to be 900 000 units] constitutes a strong disincentive to return. Reports suggest that landmines killed 20 people and injured 20 in the first seven months of 2005. Moreover, the discretion of the governor plays a crucial role in the implementation of the legal and administrative provisions regulating return. No progress has been made in addressing the problem of village guards. Reports indicate that village guards have on occasion attacked returning IDPs." **[71e] (p39)**

6.269 The EC 2005 report further noted that:

"The Law on Compensation of Losses Resulting from Terrorist Acts adopted in 2004 has started to be implemented although with considerable delay and uncertainty. The law expired on 27 July 2005, although the authorities are working to establish an extension. As of August 2005, the Turkish authorities reported that 173 208 applications had been lodged. So far, 2 200 decisions providing for compensation of losses have been made. As of March 2005, 212 000 YTL had been paid to 22 people whose applications were considered eligible by the evaluation commissions. In May the Ministry of Foreign Affairs

issued a circular to the Governorates urging them to rigorously implement the Law on Compensation. According to some sources, implementation of the Law has been slow. International NGOs as well as potential beneficiaries have highlighted that the system established by the Law has several shortcomings." **[71e] (p38)**

6.270 As noted in the U.S. Committee for Refugees and Immigrants 'World Refugee Survey 2005', Turkey released on 16 June 2005:

"There were 350,000 to 1 million IDPs in Turkey. The Ministry of Interior counted less than 400,000 but its figure included only persons displaced as a result of village and hamlet evacuations in the southeast. It did not include people who fled violence stemming from the conflict between the Government and Kurdish separatists, which included evacuations, spontaneous movement, displacement from the southeast to the central and western parts of Turkey, and related rural-to-urban movement within the southeast itself. In July [2004], Parliament passed a law allowing persons who lost property in the conflict to apply for compensation but it imposed a one-year deadline that would be difficult to meet for IDPs who had left the country or lacked documentation and excluded IDPs who had accepted token compensation in the past. The Government claimed that about 128,000 IDPs had returned as of November. The Government reportedly did not allow some IDPs to return to the southeast unless they signed a statement that they had been displaced by terrorism, rather than by government actions, and that they would not seek government assistance." **[92]**

6.271 As noted in the Human Rights Watch document "'Still critical'. Prospects in 2005 for Internally Displaced Kurds in Turkey", dated March 2005:

"Most [IDPs] are in much the same situation as they were a decade ago: still displaced and living in harsh conditions in cities throughout the country. Declining political violence has improved security in the region, but in many areas the countryside is still not safe, and certainly not welcoming. Government assistance for return continues to be arbitrary, lacking in transparency, inconsistent, and insufficient. In 2004, the Turkish government announced three initiatives to assist the displaced: the creation of a government agency with special responsibility for IDPs; a project for IDPs to be jointly undertaken by UNDP and the Turkish government; and the Law on Compensation for Damage Arising from Terror and Combatting Terror (Law 5233 – 'Compensation Law')… As of February 2005, the government had not established the proposed IDP agency, had not approved the UNDP project, and had made no rulings under the Compensation Law." **[9g] (p6)**

6.272 The HRW document of March 2005 continued:

"The Turkish government's current chosen vehicle for providing assistance to IDPs is the Return to Village and Rehabilitation Project. Successive governments have produced various return initiatives since 1995, all of them hobbled by a lack of fundıng and insufficient political drive… **[9g] (p6)** All villagers interviewed by Human Rights Watch affirmed that the atmosphere was much less tense attributable to the decline in political violence, although the degree of improvement varies from province to province, and from district to district. Returning villagers told Human Rights Watch that their villages are no longer being visited by armed militants looking for food and recruits, and that relations

with the local gendarmerie have improved. While some mentioned harsh words and threats from the military, most indicated that the routine brutality of the past had, in general, been replaced by a level of tolerance and respect… **[9g] (p9-10)** Clearly, the Return to Village and Rehabilitation Project is not doing its job in its current form. The project is under-funded. There are no clear guidelines about what a community or a particular villager can expect. Assistance is distributed in an arbitrary and inconsistent manner. Work in repairing infrastructure has not even kept up with the existing slow rate of return." **[9g] (p23-24)**

6.273 The HRW document of March 2005 further noted:

"The Turkish government's implementation during 2005 of its new Compensation Law will be a key test of its commitment to a new approach toward IDPs. Introduced as a reform to meet the political requirements for E.U. candidacy, the law is intended to provide compensation to displaced persons for material damage caused between 1987 and 2004 by armed opposition groups as well as by government security forces. The Law on Compensation for Damage Arising from Terror and Combatting Terror (Law 5233) was passed by the Turkish parliament on July 17, 2004. Regulations for implementing the law were published in the Official Gazette on October 20, 2004… The Compensation Law compensates for material damage inflicted by armed opposition groups and security forces combatting those groups. Damage assessment commissions established on a provincial level will investigate deaths, physical injury, damage to property and stock, and loss of income arising from inability of the owner to access their property between July 19, 1987, and July 17, 2004… **[9g] (p27)** Since the testimony of fellow villagers who were eye-witnesses to the destruction is potentially excluded from this list because such evidence is not mentioned explicitly in the regulation, the testimony of the muhtar (the government representative elected in all villages) will be critical. There is, however, a long history of muhtars being subjected to various forms of pressure by gendarmerie and governors. At the peak of the displacements, several muhtars were murdered… **[9g] (p30)** The Compensation Law contains no provision for legal aid to assist applicants in preparing their claims, or assessing an amount of compensation proposed by a commission. It expects poorly educated farmers from a region with 35 percent illiteracy to assemble comprehensive and complex documentation in order to establish their eligibility for compensation." **[9g] (p32)**

6.274 On 28 June 2005 the *Turkish Daily News* reported that:

"Diyarbakır Governor Efkan Ala has made the first compensation payments to victims of terrorism and an anti-terrorist campaign to five individuals whose gardens were damaged during a military operation against terrorist Kurdistan Workers' Party (PKK) members last year. Speaking at the ceremony, Ala said they had received 17,000 applications for compensation since the law came into effect on July 27, 2004, noting that four commissions had assessed 350 of the cases and had awarded YTL 335,000 in 85 of them." **[23ax]**

6.275 As reported by the *Turkish Daily News* on 6 July 2005:

"About a third of internally displaced people have returned to their homes in 14 southeastern and eastern provinces of Turkey, where the government has a project in effect called Return to Villages and Rehabilitation, Interior Minister Abdülkadir Aksu said yesterday. European Union-candidate Turkey has faced a

stream of cases filed against it at the European Court of Human Rights by some who had to leave their homes in eastern and southeastern Turkey mainly due to fighting between security forces and members of the outlawed Kurdistan Workers' Party (PKK)… Aksu sent a circular to the governors of the 14 provinces pointing out that the international dimension the matter has increased because of cases filed against the Turkish state in the European court and highlighting of the issue in EU progress reports on Turkey. 'According to information obtained from governors' offices in 14 provinces, 125,539 people returned to their homes as of June 2005, among some 360,000 people who had migrated [to other parts of the region and country] for security reasons,' Aksu said in his circular, a copy of which was sent to the *Turkish Daily News*, regarding the project that was launched in 1994." **[23aw]**

6.276 The USSD 2004 noted that:

"Various NGOs estimated that there were from 1 to 3 million IDPs remaining from PKK conflict, which reached its height between 1984 and 1990. The Government reported that 378,000 residents 'migrated' from the southeast during the conflict, with many others departing before the fighting. In July [2004], Parliament adopted a law allowing persons who suffered material losses during the conflict with the PKK to apply for compensation. Under the law, IDPs who fled the region are eligible for cash or in-kind payment for losses caused by terrorism or by the State's antiterror operations. However, the Foundation for Society and Legal Studies and a number of international organizations criticized the law because some villagers who fled the region, particularly those who fled the country, would have difficulty meeting the 1-year deadline for applying for payment and because villagers who received token amounts of compensation in the past would be ineligible for benefits. Residents of the southeast and representatives of regional bar associations also said the law established unreasonable documentation requirements and awarded levels of compensation far below standards established by the ECHR." **[5c] (Section 2d)**

6.277 The USSD 2004 continued:

"According to human rights activists, villagers, and some southeast members of Parliament, the Government did not allow some displaced villagers to return to the southeast unless they signed a document stating that they had left their homes due to PKK terrorism, rather than government actions, and that they would not seek government assistance in returning. Village guards occupied homes abandoned by IDPs and have attacked or intimidated IDPs attempting to return to their homes with official permission. Voluntary and assisted resettlements were ongoing. In some cases, persons could return to their old homes; in other cases, centralized villages have been constructed." **[5c] (Section 2d)**

6.278 As outlined in the Human Rights Watch (HRW) World Report 2005 published in January 2005:

"The government has once again failed to established an effective framework for the return of the hundreds of thousands of Kurds forcibly displaced from the southeast during the early 1990s…More than a quarter of a million villagers, mainly Kurdish, remain unable to return to their homes in the southeast, after having been forced out of their homes by security forces in brutal operations accompanied by torture and 'disappearance' during the conflict between

security forces and the PKK during the 1990s. In most cases, communities were forcibly evacuated if they refused to join the paramilitary 'village guards', a brutal and corrupt force that was armed and paid by the government to fight the PKK." **[9e] (p1-2)**

6.279 The European Commission 2005 report recorded that:

"Very few individuals of Syriac-origin have been able to return from abroad. Those that have lost their Turkish nationality are not able to register their property in the framework of the ongoing land registry in the Southeast. In this context, there has been a worrying increase in the number of complaints from Syriacs in Turkey and abroad regarding the seizure of their uninhabited property by both citizens in the region and the land registry authorities. Moreover, those that do return continue to face harassment from the village guards." **[71e] (p40)**

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

6.281 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 reported that:

"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]**

6.282 The European Commission 2005 report recorded that "There have been no developments concerning the return of Turkish refugees from Northern Iraq." **[71e] (p111)**

NEWROZ/NEVRUZ CELEBRATIONS

6.283 As outlined by the Netherlands Ministry of Foreign Affairs report 2002 Newroz (or in Turkish Nevruz) is the New Year celebrated by Kurds, Persians and in Central Asia on the 21 March. **[2a] (p87)**

6.284 The European Commission 2005 report recorded that "While this year's [2005] Newroz celebrations in March were authorised and peaceful in most provinces, an incident in Mersin related to the tearing of the Turkish flag by two children ignited certain nationalist reactions." **[71e] (p40)**

6.285 As noted in a Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa dated 20 April 2005, entitled 'Turkey: The situation of Kurds, including the extent to which legislative reform packages have been implemented (August 2004 - April 2005)', one Turkish-language newspaper (*Ozgur Politika* 21 March 2005) reported that large celebrations were held on 21

March 2005 in cities throughout Turkey by Kurds on the occasion of the Newroz festival and that these celebrations were carried out without incident, except in Tunceli, Mersin and the Ulus district of Siirt. **[7g]**

6.286 The USSD 2004 noted that:

"On March 21 [2004], most celebrations of Nevruz, the Kurdish New Year, took place without incident, according to the HRF; however, the HRF reported that police beat celebrants at a number of locations. In Agri Province, authorities refused to allow celebrations because the application featured the Kurdish spelling "Newruz," including the letter "w," which is not found in Turkish." **[5c] (Section 2b)**

ARABS

6.287 According to World Directory of Minorities (1997) "There are probably about one million Arabs in the provinces of Urfa, Mardin, Siirt and Hatay (Alexandretta). Unlike the Turkish Sunni Majority Sunni Arabs belong to the Shaf'I tradition (which they share in common with most Sunni Kurds). They are denied the opportunity to use their language except in private, and the use of Arabic is forbidden in schools." **[57a] (p382)**

6.288 The World Directory of Minorities continued "About 200,000 Alawi, or Nusayri Arabs live in the northern most settlements of the larger Alawite community in Syria. They are a distinct religious community from Alevis but have in common reverence for Ali, the prophet's son-in-law, as an emanation of the divinity. Alawites have an uneasy relationship with Sunnis, but are more comfortable with Christians." **[57a] (p382)**

6.289 The World Directory also stated that "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'." **[57a] (p382)**

CAUCASIANS

6.290 The World Directory of Minorities (1997) estimate that there are probably about one million people of Circassians or Abkha descent in Sakariya, Bolu, Bursa, Eskişehir, Sinop, Samsun, Tokat and Kayeri. There are also about 80,000 Sunni Georgians and 10,000 Orthodox Christian Georgians located mainly in the Artvin province in the north east and around 150,000 Laz (a south Caucasian language related to Georgian) speakers in Turkey. **[57a] (p382-383)**

ARMENIANS

6.291 The World Directory of Minorities (1997) reports that "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." **[57a] (p380)**

6.292 The European Commission 2005 report recorded that "The training of Armenian language teachers is still not possible pending acceptance by the Turkish

authorities of an Armenian department within an Istanbul university for the study of the Armenian language." **[71e] (p37)**

GREEKS

6.293 The USSD Report on International Religious Freedom 2004 estimates that there are less than 3,000 Greek Orthodox Christians in Turkey. **[5b] (p1)** The World Directory of Minorities (1997) states that "There are probably 3,000 ageing Greek Christians, mainly in Istanbul, the residue of 80,000 still there in 1963. Formal expulsions police harassment and a climate of fear and popular animosity have since then reduced the community to its present number." **[57a] (p381)**

6.294 As noted in the EC 2005 report:

"The Greek minority continues to encounter problems obtaining approval for new teaching materials and the recognition of teachers trained abroad. **[71e] (p36)** Moreover, in contravention of the 2003 Labour Law and in contrast with the situation of their colleagues of Turkish origin, Greek minority teachers are still only permitted to teach in one school…In practice Greek citizens have problems inheriting property, despite the existence of a decree which appears to grant them such rights. At least one case has been lodged with the ECtHR in relation to this issue. The Greek minority on the island of Gökçeada (Imvros) continues to encounter a number of difficulties." **[71e] (p37)**

ROMA

6.295 As recorded in the EC 2005 report the Roma population is estimated between 500,000 and 2,000,000.

"Legislation preventing Roma from entering Turkey as immigrants is still in force. Roma reportedly experience difficulties in accessing adequate housing, education, health and employment. During the past two years Roma-led advocacy organisations have been established in five Turkish cities. In cooperation with these organisations Istanbul's Bilgi University has begun to conduct research aimed at mapping the exact number and location of Roma in Turkey and at establishing a clearer picture of the problems that they encounter." **[71e] (p37)**

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WOMEN

6.296 The European Commission 2005 report stated:

"There has been little progress regarding women's rights, although the entry into force of the new Penal Code delivers some important improvements, as reported last year. The main areas of concern for women in Turkey continue to be domestic violence, 'honour killings', a high illiteracy rate, and low participation in Parliament, local representative bodies and the labour market…In a positive development, the Law establishing the Directorate General for the Status and Problems of Women entered into force in November 2004, although further efforts will be required to strengthen its institutional capacity. In 2005, in cooperation with the United Nations Population Fund

(UNFPA), it launched a nationwide awareness campaign regarding violence against women. In August 2005 a regulation was issued on the establishment of an Advisory Board on the Status of Women…A Parliamentary Committee on Women's Rights and Gender Equality and a Committee on Violence against Women and Children were established." **[71e] (p32)**

6.297 The EC 2005 report also noted that "In Turkey there is still a high incidence of physical and psychological abuse within the family; sexual abuse, forced and often early marriages, unofficial religious marriages, polygamy, trafficking and 'honour killings' continue to be reported. An absence of statistical data on such violence, coupled with a lack of effective monitoring for victims, obstructs efforts to tackle the issue." **[71e] (p32)**

6.298 The EC 2005 report further noted that:

"There is an urgent need to ensure implementation of the Law on the Protection of the Family as the security forces still often fail to investigate women's complaints of violence. In particular, further training for staff dealing with the victims of domestic violence – such as social workers, law enforcement officers, health care providers and the judiciary – is required and resources offering advice for those falling victim to such abuse should be made more widely available. While the number of women's shelters in Turkey has increased since last year, there remains an urgent need to further increase the provision of such shelters." **[71e] (p32-33)**

6.299 The EC 2005 report also outlined that "In spite of various legal and practical initiatives, the problem of discrimination on the basis of gender remains a cause for concern. Women remain vulnerable to discriminatory practices, due largely to a lack of education and a high illiteracy rate (about 20% of women in Turkey are illiterate and in the Southeast this figure is considerably higher)." **[71e] (p33)**

6.300 The USSD 2004 stated that:

"The Constitution regards all citizens as equal and prohibits discrimination on ethnic or racial grounds; however, societal and official violence and discrimination against women and minorities remained problems. In May [2004], Parliament amended the Constitution to specify that men and women have equal rights and that it is the duty of the State to ensure that this protection is put into practice. Before the amendment, the Constitution only stated broadly that all individuals were equal before the law." **[5c] (Section 5)**

6.301 The USSD 2004 continued:

"Violence against women remained a chronic problem, and spousal abuse was serious and widespread. The law prohibits spousal abuse; however, complaints of beatings, threats, economic pressure, and sexual violence continued. Beating in the home was one of the most frequent forms of violence against women… The law provides that victims of spousal violence may apply directly to a judge for assistance and authorizes judges to warn abusive spouses and order them to stay away from the household for 6 months. Judges may order further punishments for those who violate such orders. According to women's rights advocates, authorities enforced the law effectively, although outside of major urban areas few spouses sought assistance under the law." **[5c] (Section 5)**

6.302 The USSD 2004 further stated that:

> "The law prohibits rape, including spousal rape; however, laws and ingrained societal notions made it difficult to prosecute sexual assault or rape cases. Women's rights advocates believed cases of rape were underreported. In September [2004], Parliament adopted a new Penal Code that considers rape a crime against the individual, rather than a crime against society. The Code eliminates several rape-related laws that women's rights advocates criticized as discriminatory, including a measure that allowed rapists to escape punishment by marrying their victims and another that linked punishment for rape to the victim's marital status or virginity." **[5c] (Section 5)**

6.303 As noted in the Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' made public in February 2005:

> "According to Ms. Nebahat Akkoç and the other women's rights activists consulted, violence against women is endemic all over Turkey and not limited to 'backward' parts such as Eastern Anatolia. It appears, however, that the problem is especially grave in traditional areas, where tribal customs still play an important role in every day life. Ms. Zülal Erdogan and Ms. RemziyeTanrýkulu from the Diyarbakýr Bar Association supported this view and pointed out that there are more cases in conservative, Kurdish families in the Southeast and among migrants from the Southeast living on the outskirts of the metropolitan areas." **[16] (p32)**

6.304 The Norwegian report continued:

> "All sources consulted on the issue considered the recent changes in both the Civil Code and in the Penal Code to be crucial steps in the campaign to further equality between women and men and to eliminate the use of violence against women. Among other regulations, Article 159 of the Civil Code (stating that women needed their husbands' consent to work outside the home) and Article 438 of the Criminal Code (providing for a reduction in the punishment for rapists under certain conditions) have both been abolished." **[16] (p32)**

6.305 As reported by BBC News on 7 March 2005:

> "The European Union has expressed shock and concern at the 'disproportionate force' used by Turkish police during a protest in Istanbul. Police used truncheons and tear gas to break up Sunday's demonstration ahead of International Women's Day. The EU, which has told Turkey it must continue with political reforms, said: 'On the eve of a visit by the EU during which the rights of women will be an important issue, we are concerned to see such disproportionate force used.' 'We were shocked by images of the police beating women and young people demonstrating in Istanbul,' the three EU representatives said in a joint statement. 'We condemn all violence, as demonstrations must be peaceful.'… About 300 people gathered for the unauthorised demonstration on Sunday, chanting anti-government slogans and demanding equal rights for women. After about 100 refused to follow police orders to disperse, officers armed with tear gas and truncheons charged on the crowd, say reports. Police were seen beating and kicking the men and women trying to flee." **[66bd]**

6.306 As stated in an AI public statement issued on 7 March 2005:

"Amnesty International is greatly concerned by the disproportionate use of force by police officers against individuals who had gathered peacefully in Istanbul on 6 March to celebrate Women's Day early. Police used truncheons and pepper gas to disperse some 500 people who had gathered in the Sarachane and Beyazit quarters of Istanbul, which resulted in 63 individuals being detained and at least three people being reportedly hospitalized. The police had reportedly intervened on the basis that the demonstration had not been authorized. While images of the ill-treatment received wide press coverage internationally because of the European Union Ministerial Troika that began in Ankara today, such scenes are regularly broadcast in Turkey in which police appear to particularly target demonstrators from opposition groups for brutal treatment…Amnesty International welcomes news that the government has opened an investigation into the incident but calls on the authorities to publish the full findings of the investigation, to ensure that perpetrators of human rights violations are brought to justice and to take further urgent steps to ensure that police officers conform to international standards on the right to freedom of assembly and on the use of force." **[12w]**

6.307 As noted in the Amnesty International's document 'Turkey: Implementation of reforms is key', dated 11 March 2005:

"In recent months the government has undertaken several reforms towards meeting its responsibilities in this area. On 26 September 2004, a new Penal Code was passed. It is a positive step towards the better protection of women's rights in Turkey and takes into account many of the recommendations made by groups and activists working in this area. In addition, legal status has been given to a Directorate on the Status of Women attached to the Prime Ministry which will work to strengthen the position of women in Turkish society. On 24 December 2004 legislation came into force which obligates municipalities with a population of more than 50,000 inhabitants to establish shelters for women. However, in meetings with Amnesty International, Turkish government representatives have not been able to give any information about a long-term implementation plan for establishing women's shelters. Governments have a responsibility to respect, protect and fulfil women's rights; this includes ensuring there is a legal, administrative and policy framework in place." **[12x]**

6.308 The AI document of March 2005 continued:

"It is vital that the government takes urgent steps now to ensure that the recent legislative changes become real and that they are fully implemented by ensuring that adequate funding is available from their central budget; otherwise there is the risk that the reforms will be meaningless. The need for shelters is especially pressing as they are critical in situations where women's lives are at risk. Despite the legal changes introduced, there is still a drastic shortage of shelters in Turkey - there are only 13 shelters in a country with a population of approximately 70 million." **[12x]**

6.309 Amnesty International's report 'No turning back – full implementation of women's human rights now! 10 year review and appraisal of the Beijing Declaration and Platform for Action' published in February 2005 stated that:

"At every level of the criminal justice system in Turkey, the authorities fail to respond promptly or rigorously to women's complaints of rape, sexual assault or

other violence within the family. The police are reluctant to prevent and investigate family violence, including the violent deaths of women. The police force's own record of human rights violations makes victims of domestic violence reluctant to seek their help. Prosecutors refuse to open investigations into cases involving domestic violence or to order protective measures for women at risk from their family or community. The police and the courts do not ensure that men, who are served with court orders, including protection orders, comply with them. In most cases the authorities fail to ensure that the perpetrators of violence in the home are brought to justice in accordance with international standards for fair trial." **[12q] (p4)**

6.310 Amnesty International report continued:

"There are many barriers facing women in Turkey who seek access to justice and protection from violence. Police officers often believe that their duty is to encourage women to return home and 'make peace' and fail to investigate the women's complaints. Many women, particularly in rural areas, are unable to make formal complaints, because leaving their neighbourhoods subjects them to intense scrutiny, criticism and, in some cases, violence. Women in Kurdish and Arabic speaking areas of the country may not be able to communicate well in Turkish, and may fear further violence at the hands of the police or security forces. NGOs in Turkey cited a severe shortage of government-run shelters and support services currently available: approximately 14 'guesthouses' and 19 community-based services to support women living with violence at home. AI is further concerned that the authorities are failing to ensure that women who have experienced violence have access to the full range of rights for reparation, including compensation for the criminal injuries they receive, rehabilitation, remedy and reparation." **[12q] (p4)**

6.311 The thirty-second session of the Committee on the Elimination of Discrimination against Women) (CEDAW) in its concluding comments on Turkey dated 28 January 2005 stated:

"The Committee is concerned about the persistence of violence against women, including domestic violence. It is concerned that women victims of violence are unaware of their rights and the protection mechanism available to them under the law. The Committee is furthermore concerned that support services for women victims of violence, including shelters, are inadequate in number. It is also concerned that, under the recently enacted Law on Municipalities, the responsibility for establishing shelter has been delegated to municipalities without adequate mechanism to monitor its implementation and ensure financing." **[81] (p5)**

6.312 The Freedom House report 'Countries at the Crossroads 2005 – Turkey', published in December 2004 noted that "Women's rights in Turkey are not fully realized in the cities and are observed even less in rural districts. Although constitutional amendments in the spring of 2004 included a provision granting women full equality before the law, building on earlier changes in the civil and penal codes, progress has not been significant." **[62c] (p7)**

6.313 The report of the Independent Commission on Turkey 'Turkey in Europe: More than a promise?' dated 6 September 2004, outlined that:

"There is no denying that in parts of Turkish society, traditional practices abusive to women and girls continue. They include domestic violence, 'crimes of honour', arranged marriages and inadequate schooling for girls, resulting in female illiteracy and the exclusion of women from jobs and healthcare. As the Co-Rapporteurs of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe indicated in their report earlier this year, there appears to be a great divide between modern and traditional Turkey and between West and East as far as women's rights are concerned. Nearly 95% of the crimes of honour recorded are committed in eastern and south-eastern Turkey, where the suicide rate among women – apparently imposed as an alternative to murder by a family member or to escape a forced marriage – is twice as high as elsewhere. Certainly, this situation is intolerable in a modern state and cannot be justified by social and cultural traditions or a region's lack of economic development." **[75] (p27)**

6.314 Amnesty International's report 'Turkey: Women and confronting family violence' published in June 2004 stated that:

"As in countries throughout the world, the human rights of hundreds of thousands of women in Turkey are violated daily. At least a third and up to a half of all women in the country are estimated to be victims of physical violence within their families. They are hit, raped, and in some cases even killed or forced to commit suicide. Young girls are bartered and forced into early marriage…Violence against women is widely tolerated and even endorsed by community leaders and at the highest levels of the government and judiciary. The authorities rarely carry out thorough investigations into women's complaints about violent attacks or murders or apparent suicides of women. Courts still reduce the sentences of rapists if they promise to marry their victim, despite recent moves to end the practice." **[12j] (p1)**

6.315 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." **[12d] (p8)**

HONOUR KILLINGS

6.316 As noted in the USSD 2004:

"Honor killings – the killing by immediate family members of women suspected of being unchaste – continued in rural areas and among new immigrants to cities. Women's advocacy groups reported that there were dozens of such killings every year, mainly in conservative Kurdish families in the southeast or among migrants from the southeast living in large cities. In September, Parliament adopted a law under which murders committed with a motive related to 'moral killing' are considered aggravated homicides, requiring a life sentence. The law is designed to discourage the practice of issuing reduced sentences in

honor killing cases; however, some human rights advocates argued that the wording of the law is not explicit enough to prevent judges from viewing the honor killing tradition as a mitigating factor for sentencing. Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform the killing." **[5c] (Section 5)**

6.317 The Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey noted that:

"Like other forms of violence against women, honour killings happen in all parts of the country. They appear to be more frequent in the Black-Sea Region and in Kurdish inhabited areas in the Southeast, where tribal customs play an important role in everyday life. From the sunni-dominated areas of central-Anatolia (such as Konya) however, fewer cases are reported…Just like other kinds of violence within the family, no comprehensive recording or statistical monitoring is conducted as to the prevalence of honour killings. Most of the NGO's representatives I talked to, estimated that the number of unreported or undetected cases was significantly higher than the official numbers. Honour killings are often hushed up and some women who have apparently committed suicide have in fact been killed or even forced to kill themselves by their family." **[16] (p33-34)**

6.318 The Freedom House report 'Countries at the Crossroads 2005 – Turkey', noted that:

"In February 2004, the government instructed prayer leaders to state that honor killings are a sin against God, and the 2004 revisions to the penal code included an end to sentence reductions for these crimes, among other provisions to improve women's rights. On the other hand, AKP leaders attempted to include a law criminalizing extra- and pre-marital sex in the penal code amendments, which, although it was ultimately excluded, raised fears of Islam in politics and a disproportionate negative effect on women." **[62c] (p7-8)**

6.319 The European Commission 2004 reported that "The new Penal Code envisages life imprisonment for crimes against life that are motivated by 'tradition and customs' and it is foreseen that this provision will be applied in cases of so-called 'honour killings'." **[71c] (p45)**

6.320 The European Commission 2005 report recorded that "The courts are starting to apply relevant provisions of the new penal code. In August 2005, the Court of Cassation overturned the decision of a lower court, which had reduced a prison sentence in relation to an honour crime because the perpetrator was inter alia 'provoked' by the victim. The decision made reference to the fact that the new penal code does not foresee reduced sentences for such crimes." **[71e] (p32)**

6.321 Amnesty International's report of June 2004 reported two of cases of those found guilty of honour crimes being sentenced to life imprisonment. According to the report "These cases have shown the positive steps that have been taken and the efforts being made within the Turkish judicial system to treat 'honour killings' as seriously as other murders…However, although some courts appear to have begun implementing the reforms, the discretion accorded to the courts continues to permit the perpetrators of domestic violence unwarranted leniency." **[12j] (p17)**

6.322 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." **[66s]** 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. **[66t]**

6.323 On 22 May 2005, the *Turkish Daily News* reported that:

"Parliament's General Assembly has decided to establish an investigation commission on 'honor killings' in order to ascertain the reasons behind such tragedies and determine precautions that could be taken to prevent them from happening…In the recent years, 'honor killings', (male family members killing female relatives for so-called immoral behavior), has taken an extra dimension with the occurrence of such crimes in urban areas. In the past, male relatives for having shamed the family killed women who were raped or subjected to other types of abuse. When this largely rural practice started to happen in the cities, it started to make the newspaper headlines. Families used to call on the youngest male to carry out the murder, because children would receive lighter sentences. According to the new Turkish Penal Code, all family members that are present when the decision to murder the female relative is taken are equally guilty of the crime." **[23v]**

6.324 As reported by *The Times* on 2 June 2005:

"Until yesterday local judges were entitled to take into account mitigating circumstances and hand down reduced sentences to the few 'honour' killers who are caught. Now a new penal code, designed to conform with EU law, classes so-called honour killings as murder, with a life sentence attached…Human rights groups are now criss-crossing Turkey with projects designed to change attitudes to honour killings…Nebahat Akkoc, the founder of the rights group KA-DER, said: 'Honour killings do not happen all of a sudden. There is a process involved and everyone knows the girl will be punished. So it is possible to intervene and we are trying to dissuade friends and neighbours from becoming accomplices.'" **[94a]**

6.325 As noted in the UK Foreign and Commonwealth Human Rights Annual Report 2005, released in July 2005:

"In the past year the courts have handed down several landmark sentences for honour killings: in September 2004 in Erzurum and Diyarbakir the courts gave two sentences for 30 and 36 years, respectively. The government also showed its commitment to address honour crimes and protect women's rights when it co-tabled with the UK a successful resolution in the UN General Assembly on honour crimes. Parliament passed a law on 28 October 2004 to establish a new directorate-general for women's status which will protect women's rights and in December passed a new municipalities law requiring municipalities to open shelters for women in communities of more than 50,000 people. This law is expected to come into force later this year. In May 2005 parliament agreed to establish a commission of 15 members of parliament to examine the causes of honour killings and look for ways to prevent them. However, violence against

women remains an issue in Turkey. On 18 January 2005 the human rights association publicised four honour killings that took place on the same day. NGO shadow reports to CEDAW in January 2005 highlighted the problem of endemic domestic violence." **[4h] (p106)**

VIRGINITY TESTING

6.326 The USSD 2002 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." **[5a] (p27)**

6.327 The USSD 2003 reported that "Unlike in previous years, HRF recorded no reports of forced 'virginity testing'." **[5d] (p24)**

6.328 The Council of Europe Commissioner for Human Rights report published December 2003 stated 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)**

6.329 However, in the above report 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)**

6.330 The European Commission 2004 reported that "As regards virginity testing, the new [Penal] Code foresees a prison sentence for those ordering and conducting such tests in the absence of a court order. However, contrary to the request of women's NGOs, the consent of the woman on whom the test is to be conducted is still not required." **[71c] (p45)**

6.331 The Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey' noted that under the new Penal Code, virginity testing will be prohibited unless formally authorised by a judge or a prosecutor. "Some women's activists, however, were critical of the fact that virginity testing still could be conducted without the consent of the woman." **[16] (p32)**

6.332 As noted in the document 'Turkish Civil and Penal code reforms from a gender perspective: the success of two nationwide campaigns', published in February 2005 by the Tukish NGO Women for Women's Human Rights (WWHR) – New Ways:

"The new Penal Code includes an inadequate provision regarding virginity testing. Despite the efforts of the women's movement, the actual term 'virginity testing' is not employed in the Penal Code. Instead, Article 287 entitled 'Genital Examination' has been included in the new law. The article stipulates that anyone who performs or takes a person for a genital examination without the proper authorization from a judge or a prosecutor can be sentenced to between three months to one year of imprisonment. Women's groups are protesting this article as it fails to explicitly name and ban the practice, and also because the article does not require the woman's consent for genital examination, thereby leaving room for forced examination and human rights violations." **[95]**

EMPLOYMENT/GENDER EQUALITY

6.333 The European Commission 2005 reported stated:

"Participation by women in the workforce is still among the lowest in OECD countries, at 25.4%. Many women still work in the informal sector and are therefore not covered by social security. However, women's participation in certain professions is relatively strong; approximately 30% of lawyers, academics and doctors are women. In July 2005 a woman was, for the first time, elected President of the Constitutional Court." **[71e] (p33)**

6.334 The EC 2005 report also noted that:

"As regards equal treatment between women and men, no progress can be reported as regards the transposition of the EC Directives prohibiting discrimination on employment…While the new penal code entered into force in June 2005 has profoundly improved women's fundamental rights as reported in last year's Regular report, full transposition of the directives on gender-equality is still required. Further alignment is still required in particular concerning parental leave, equal pay, access to employment, burden of proof, as well as statutory and occupational social security." **[71e] (p96)**

6.335 The USSD 2004 considered that:

"Women continued to face discrimination in employment to varying degrees and were generally underrepresented in managerial level positions as well as in government. Women generally received equal pay for equal work in professional, business, and civil service positions, although a large percentage of women employed in agriculture and in the trade, restaurant, and hotel sectors worked as unpaid family labor…The Directorate General on the Status and Problems of Women, under the State Minister for Women's and Children's Affairs, is responsible for promoting equal rights and raising awareness of discrimination against women. In October [2004], Parliament adopted legislation that allows the Directorate General to expand its limited staff." **[5c] (Section 5)**

6.336 The USSD 2004 continued:

"Independent women's groups and women's rights associations existed but have not significantly increased their numbers or activities, mostly due to funding problems. There were many women's committees affiliated with local bar associations. Other organizations included the Association for Supporting and Training Women Candidates (Ka-Der), Flying Broom, the Turkish Women's

Union, the Association for Researching and Examining Women's Social Life, and the Foundation for the Evaluation of Women's Labor." **[5c] (Section 5)**

6.337 In her paper of December 2004 Kirsty Hughes outlined that:

"Women's NGOs are a particularly strong element of Turkey's growing set of civil society organisations. Their grassroots and political activity across the country represent a vital dynamic in the political and social struggle to improve women's rights, and the genuine respect of those rights in Turkey… Women's NGOs have mostly strongly welcomed the EU goal and the impact of EU political demands, together with the future impact of adopting EU social legislation including gender equality laws. But they also emphasise their own long-running activities in pushing for legal, social and political change." **[77] (p21)**

6.338 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. **[23f]** As recorded in Europa Regional Surveys of the World 'The Middle East and North Africa 2005' 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. **[1d] (p1164)**

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CHILDREN

6.339 The European Commission 2005 report noted that

"With respect to children's rights, the right to education of children, in particular of girls, is not respected in some regions, and school attendance is particularly low in rural areas in the Southeast.

Although the Turkish Labour Law prohibits the employment of children under the age of 15, there are still several shortcomings as regards the scope of application of the law. A new Law on the Protection of Children, adopted in July 2005, established for the first time a legal framework aimed at safeguarding the rights and well-being of both children with particular problems and children under legal investigation or who have been convicted of crimes. While the Law is a welcome development, it does not fully comply with international standards as concerns child specific legislation, in that the provisions related to juvenile offenders (aged 12 to 18) still fall under the ordinary penal framework." **[71e] (p33)**

6.340 The USSD 2004 reported that "The Government was committed to furthering children's welfare and worked to expand opportunities in education and health, including a further reduction in the infant mortality rate. The Minister for Women's and Children's Affairs oversaw implementation of official programs for children. The Children's Rights Monitoring and Assessment High Council focused on children's rights issues." **[5c] (Section 5)**

6.341 The USSD 2004 continued:

"Government-provided education through age 14 or the eighth grade is compulsory. Traditional family values in rural areas placed a greater emphasis on education for sons than for daughters. According to the Ministry of Education, 95.7 percent of girls and 100 percent of boys in the country attended primary school; however, a UNICEF report released during the year indicated that, in the rural areas of some provinces, over 50 percent of girls between 7 and 13 and over 60 percent of girls between 11 and 15 did not attend school." **[5c] (Section 5)**

See also Section 5 on Educational system

6.342 The USSD 2004 also reported that:

"Gaps in social security and health insurance programs left approximately 20 percent of families and their children without coverage. Persons not covered by insurance may use a special program to access public health care. Immunization rates in some eastern and southeastern provinces lagged behind the rest of the country. According to UNICEF, the infant mortality rate dropped to 29 per 1,000 in 2003." **[5c] (Section 5)**

6.343 The USSD 2004 also noted that "Child abuse was a problem. There were a significant number of honor killings of girls by immediate family members, sometimes by juvenile male relatives…In September, Parliament eliminated an article of the Penal Code under which a mother who killed an illegitimate child to protect family honor could receive a reduced sentence." **[5c] (Section 5)**

6.344 As noted in the USSD 2004:

"The law prohibits the employment of children younger than 15 and prohibits children under 16 from working more than 8 hours a day. At 15, children may engage in light work provided they remain in school. The Constitution provides that no person shall be required to perform work unsuitable for their age, gender, or capabilities, and the Government prohibited children from working at night or in areas such as underground mining. The law prohibits children attending school from working more than 2 hours per day or 10 hours per week." **[5c] (Section 6d)**

6.345 However, the USSD continued:

"Child labor was widespread. The State Statistical Institute reported that the number of child laborers between the ages of 12 and 17 dropped from 948,000 in 2003 to 764,000 during the year; however, some observers claimed that the actual number of working children was rising…According to the Labor Ministry, 65 percent of child labor occurred in the agricultural sector. However, some observers maintained that the bulk of child labor had shifted to urban areas as rural families migrated to cities. Many children worked in areas not covered by labor laws, such as agricultural workplaces with fewer than 50 workers or the informal economy. According to the Labor Ministry, the Government allocated $15 million (20.3 trillion lira) for programs to eliminate child labor during the year." **[5c] (Section 6d)**

6.346 The European Commission 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." **[71b] (p36)**

CHILD CARE ARRANGEMENTS

6.347 The Netherlands Ministry of Foreign Affairs 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)**

6.348 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 Yuvalari) 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)**

6.349 In addition the Netherlands report 2002 also stated 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)**

6.350 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

6.351 As noted in the Amnesty International document 'Turkey Memorandum on AI's recommendations to the government to address human rights violations', dated 1 August 2005:

> "Article 122 of the draft of the new TPC which forbids discrimination on the basis of 'language, race, colour, gender, political thought, philosophical belief, religion, denomination and other reasons' was amended at the last moment so that 'sexual orientation' was removed from the draft. Amnesty International is therefore concerned that discrimination on the basis of sexuality was not criminalized in the new TPC. This is coherent with Article 10 of the Constitution which states that 'Everybody is equal before the law without making any distinction on the basis of language, race, colour, gender, political thought, philosophical belief, religion, denomination and other reasons.' Amnesty International considers that both these articles should be amended to ensure full equality in law and practice of individuals of different sexual orientation." **[12s] (Section on Minority rights and discrimination)**

6.352 As outlined by the international Lesbian and Gay Association (ILGA) (website accessed 17 February 2005) 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." **[27a] (p1-2)**

6.353 The website of Lambda Istanbul (accessed in February 2005) states that "Lambda, Istanbul is the largest queer [Homosexual] liberation group in Turkey. It was formed by a small number of gays and lesbians as a result of a police ban on Christopher Street Day celebrations in 1993. Since then, Lambda, Istanbul has grown in membership and aims to raise its voice on behalf of the gay communities in Istanbul." **[33] (p1)**

6.354 The website of KAOS GL ('Brochure for KAOS GL' accessed on 1 October 2005) states that "KAOS GL is a group founded in September 1994 with the purpose of bringing Turkey's homosexuals together to struggle against discrimination. The group's underlying philosophy is that liberation of homosexuals will also free heterosexuals. KAOS GL has been publishing the journal KAOS GL (now a quarterly) since it was founded." **[96]**

6.355 As reported by Human Rights Watch on 27 September 2005:

> "Selahattin Ekremoglu, deputy governor of the Turkish capital Ankara, on September 15 wrote a letter to the gay and lesbian group Kaos GL that said a court procedure had been opened to dissolve the organization. He claimed that the name and regulations of the group violated a provision in the Turkish Civil Code that forbids 'establishing any organization that is against the laws and principles of morality.'… On July 15, Kaos GL applied to the Ministry of Interior for recognition as a nongovernmental organization. The ministry initially approved the request, but the Ankara deputy governor, who reports to the Interior Ministry, has now responded by launching a lawsuit to close the organization." **[9h]**

6.356 The European Community 2005 report recorded that:

> "In September 2005, the registration of Kaos GL Gay and Lesbian Cultural Research and Solidarity Organisation was temporarily blocked by Ankara's Deputy Governor. In a letter to the association and to the local prosecutor, he noted that the Civil Code proscribes the establishment of an association which is "contrary to law and morality". However, the prosecutor decided not to pursue the case, concluding that homosexuality cannot be equated with immorality." **[71e] (p28)**

6.357 On 14 October 2004 the website of the International Lesbian and Gay Association reported (quoting Agence France-Presse) that:

> "The homosexual movement in Turkey is still in its fledgling stages, but gays and lesbians are increasingly becoming outspoken. They are expanding their networks, organizing conferences and film festivals and taking part in May Day marches. KAOS GL's Umut Guner believes Turkey's drive to improve human rights in line with EU standards is also forcing officials, albeit slowly, to overcome prejudices against homosexuals. Some time ago, he says proudly, government agencies invited KAOS GL alongside other civic groups to work in commissions on health care and AIDS prevention. In a milestone move earlier this year, gay and lesbian activists were for the first time received in the Turkish parliament to convey their appeals for legal protection. Their main demand, to make discrimination 'on the basis of sexual orientation' a jailable offense, was first included in the draft of a major reform overhauling Turkey's penal code, which the EU was pressing for. The amendment would have marked the first political victory in Turkey for the movement and made it the first Muslim nation to guarantee legal protection for gays and lesbians. But the ruling Justice and Development Party (AKP), a conservative group with Islamic roots, dropped the plan, making homosexuals happy at a time when the government has yet to deliver on promises to its own religious electorate…For Kursad Kahramanoglu, the Turkish co-head of the International Lesbian and Gay Association (ILGA), Turkey is far ahead of other Muslim nations when it comes to tolerance for homosexuals. Most Muslim countries punish homosexuality, some with death, whereas in Turkey, homosexuals today figure among the country's top singers, television personalities and fashion designers. Still, prejudice is strong in daily life. Activists say most of them risk their jobs if they disclose their sexual identity and there are no laws to protect their rights. The Turkish army, they complain, is the only NATO force to still consider homosexuality a psychological disorder, and the police are notoriously harsh with transsexuals and transvestites." **[27b]**

6.358 In comments submitted to the Advisory Panel on Country Information in September 2004 UNHCR stated that:

> "Gay and lesbian groups report incidents of civilian violence against gays and transgender persons, including murders, especially in Istanbul. It is quite possible that such incidents are under-reported. There may also be some prevalence of gay and transgender suicide throughout Turkey, but mostly in conservative areas. It is a widely known fact that the homosexuals receive unfair treatment from the Police. Their complaints against the police are not properly evaluated" **[18a] (p8)**

6.359 According to the Netherlands Ministry of Foreign Affairs 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)**

6.360 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)**

6.361 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)**

6.362 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)**

See also Section 5 on Military service

TRANSVESTITES

6.363 The Netherlands Ministry of Foreign Affairs 2002 reported that "Turkish law does not prohibit transvestism. Nor does government policy discriminate against transvestites in any way."

6.364 The Netherlands report 2002 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)**

6.365 Amnesty International's annual report on Turkey published in May 2004 stated that:

"On 18 February [2003] the trial of Süleyman Ulusoy (known as 'the Hose'), a police superintendent, was suspended under the terms of the December 2000

'amnesty law' (Law No. 4616 on Conditional Suspension of Trials and Sentences for Offences Committed up until April 1999). A videotape showing him beating transvestites with a hosepipe in the Beyoğlu police headquarters in Istanbul had been broadcast on television in 2000. He remained on duty in Istanbul." **[12i] (p2)**

TRANSSEXUALS

6.366 According to the Netherlands Ministry of Foreign Affairs 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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6.C HUMAN RIGHTS: OTHER ISSUES

MEMBERS OF ILLEGAL ORGANISATIONS

6.367 As highlighted in the USSD 2004:

"The HRA [Human Rights Association] estimated that there were approximately 6,000 to 7,000 political prisoners, including leftists, rightists and Islamists. Of these, approximately 1,500 were alleged members of Hizballah or other radical Islamist political organizations. The Government claimed that alleged political prisoners were in fact charged with being members of, or assisting, terrorist organizations. According to the Government, there were 4,508 convicts and detainees held on terrorism charges at year's [2004] end." **[5c] (Section 1e)**

6.368 The USSD 2004 also reported that:

"In July [2004], the High Court of Appeals overturned the April [2004] conviction of Leyla Zana, Hatip Dicle, Orhan Dogan, and Selim Sadak, former members of Parliament from the Democracy Party. An Ankara SSC had convicted the four defendants in their retrial on charges of being members of, or supporting, the PKK. The Court of Appeals ruled that the SSC had failed to conform to recent legal reforms in its conduct of the retrial. The Court of Appeals' reasons for overturning the verdict included the SSC's rejection without explanation of a defense request for the replacement of the chief judge, the use of statements and testimony by the prosecution that were not read in court, the SSC's refusal to permit some defense witnesses to testify, and the failure to have audio and video recordings used as evidence transcribed by impartial parties. In June, the Court of Appeals ordered the release of the defendants. As a result of the Court

of Appeals ruling, a heavy penal court in October [2004] began a new trial for the defendants." **[5c] (Section 3)**

See also Section 4 on Release of Kurdish deputies

6.369 The Netherlands Ministry of Foreign Affairs Official General report on Turkey published January 2002 reported that "There has been no change in the Turkish authorities' attitude towards the PKK [Kongra-Gel] 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)**

6.370 The Netherlands report 2002 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)**

ACTIVISTS ENGAGING IN MARGINAL ACTIVITIES FOR ILLEGAL ORGANISATIONS

6.371 The Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)' noted that:

"According to diplomatic sources in Ankara the security forces' actions against persons suspected of taking part in marginal activities for illegal organisations is quite unpredictable. Handing out of leaflets could trigger detention, Ill-treatment and criminal persecution one day, and go without any sanctions the next day. Although regional differences seem to play a role, it would be difficult to see a pattern as to how security-forces would sanction a certain behaviour in a certain city or area.

Professor Şeref Ünal, former state secretary at the Ministry of Justice gave a similar reply when I asked him to comment on the administration of justice in such proceedings. He stated that case law in cases of marginal activities (handing-out of leaflets, spreading of propaganda and so forth) varied extremely. A person being found in possession of PKK/Konra-Gel pamphlets might be acquitted by one court while another court could sentence him to two or three years in prison." **[16] (p26)**

6.372 The Norwegian report continued:

"The Human Rights Foundation reported that several persons had recently been arrested for handing-out PKK/Konra-Gel-leaflets. Before the amendment of paragraph 169 of the Criminal Code (support for illegal organisations) this paragraph was frequently applied in such proceedings. Now, some state prosecutors would tend to apply paragraph 168 (membership of an illegal organisation). However, most of the accused in such proceedings are acquitted, according to the Human Rights Foundation. I was further informed about a principle judgement of the Court of Cassations *(Yargita*y) in Ankara, which might indicate a new line for state-prosecutors and judges in cases of marginal activities of illegal organisations. In September 2004, the court of cassation repealed a judgement of the (former) State Security Court of Diyarbakýr who had sentenced a person to a prison-sentence of 45 months for having demanded the release of Abdullah Öcalan during the DEHAP election campaign in March 2003. In this case the State Security Court had applied

article 169 of the Penal Code. In its judgement, the Court of Cassation decided that article 169 could not be applied any more in such cases after it had been amended in August 2003. It imposed the newly established Regional Serious Felony Court to apply article 312 of the Penal Code (incitement to racial hatred) instead. This judgement, establishing a new principle, is expected to have an important impact on similar cases in the future." **[16] (p26-27)**

RELATIVES OF MEMBERS OF THE ILLEGAL ORGANISATIONS

6.373 As noted in the Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)':

"To the question on whether persons who are suspected of having one or more family members in the PKK/Konra-Gel might face persecution, I got few and mostly vague answers… Both Mr. Tanrýkulu and the head of DEHAP in Diyarbakýr, Mr. Birtane stated that such arrests happened 'sometimes' along with other forms of harassment as well, such as repeated questioning by the police, intimidation, verbal assaults, beating, detention and arrest. The level of harassment would often depend on the degree of kinship and on the rank of the respective relative in the PKK/Konra-Gel. However, it was difficult to detect a pattern on how relatives of PKK/Konra-Gel militants are dealt with, it depends on the circumstances and on the law-enforcement officials in charge. Any person having a relative within the PKK/Konra-Gel should expect some attention from the authorities without becoming automatically subject to harassment or persecution. Harassment solely on the grounds of being a relative to a suspected criminal could not be ruled out." **[16] (p27)**

6.374 According to the Netherlands Ministry of Foreign Affairs report 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)**

6.375 The Netherlands report continued "However, 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)**

6.376 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 FAILED ASYLUM SEEKERS

6.377 The Netherlands report 2002 states that:

"There are no indications that Turkish nationals are persecuted in Turkey purely because they applied for asylum abroad. The Turkish authorities are aware that many citizens leave the country for economic reasons and apply for asylum elsewhere. However, people who have engaged in activities abroad which the Turkish authorities regard as separatist are at risk of persecution if the Turkish authorities find out." **[2a] (p144)**

6.378 According to the Netherlands Ministry of Foreign Affairs Official General report on Turkey published in January 2003:

"In the removal of refused Turkish-Kurdish asylum seekers to Turkey it is true that they are checked on return in the same way as other Turkish subjects. It is checked whether there are criminal judgements or that there is a criminal investigation by the Jandarma against the person concerned. Those refusing to do military service and deserters are [also] recorded at the border posts." **[2d] (p102)**

6.379 The Netherlands 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." **[2d] (p102)**

6.380 The Netherlands report 2003 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." **[2d] (p102-103)**

6.381 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." **[48] (p51)**

6.382 The Netherlands Ministry of Foreign Affairs report on Military Service published in 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)**

In comments submitted to the Advisory Panel on Country Information in September 2004, UNHCR noted: "While this practice generally applies to draft evaders, especially when they are university graduates, it does not apply to deserters in any case. An evader who is not a university graduate and who is over the recruitment age may not expect to be set free after arrest." **[18a] (p7)**

6.383 The UNHCR further stated that:

"For those who are not university graduates: In case of a possible medical report to prove that the applicant was unable to perform the military service due to a medical reason and if the report provides reasons for not performing the service when arrested, this will be considered by the Military Police (*Inzibat*) and case will be referred to the military prosecutor. Meanwhile the detainee will stay in custody." **[18] (p8)**

6.384 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]**

6.385 Turkish citizens who are without passports are returned on one-way emergency travel documents, which are issued by the Turkish Consul General in London.

6.386 As noted in a Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa dated 29 April 2005, entitled 'Turkey: Procedures that must be followed by, and documents that must be provided to, Turkish airport and land border authorities for a Turkish citizen and/or foreign national to be allowed to enter or leave Turkey; the security/law enforcement personnel

present; action taken in cases where a person is wanted by the Turkish authorities (January 2003-April 2005)':

"Turkish citizens who do not have a valid passport or travel document are still entitled to enter Turkey if they show their Turkish identity card (*Nüfus Cüzdani*), or another valid identity card, to border authorities. According to the Embassy, [the First Secretary of the Embassy of the Republic of Turkey in Ottawa, in correspondence with the Research Directorate dated 25 April 2005]. '[t]hose who demonstrate by other means that they are citizens are also accepted in, pending the police assessment that they are citizens.' **[7f]**

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GOVERNMENT MONITORING OF HUMAN RIGHTS

6.387 The USSD 2003 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)**

6.388 The USSD 2004 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. The Justice and Interior ministries conducted numerous training programs for law enforcement and security officials, judges, and prosecutors on recent legal reforms and European Court of Human Rights (ECHR) case law." **[5c] (Section 1d)**

6.389 The European Commission 2005 report noted that "With regard to the promotion and enforcement of human rights, the institutional framework has not been modified. While institutions such as the Reform Monitoring Group, the Human Rights Presidency and the Parliamentary Human Rights Investigation Committee continue to carry out important work, there is an urgent need to consolidate and strengthen the capacity of these institutions." **[71e] (p20)**

6.390 The European Commission Regular Report on Turkey's progress towards Accession 2004 published 6 October 2004 reported that "With regard to the promotion and enforcement of human rights, Turkey has established a number of bodies since 1999 such as the Reform Monitoring Group, the Human Rights Presidency, the provincial and sub-provincial Human Rights Boards, the Human Rights Advisory Committee and several investigation boards." **[71c] (p32)**

HUMAN RIGHTS ADVISORY BOARD (IHDK)

6.391 The *Turkish Daily News* of 8 February 2005 reported that:

> "The Prime Ministry Human Rights Advisory Board (IHDK) chairman Prof. Ibrahim Kaboglu and three of the top members of the board resigned on Monday, noting that they were incapable of continuing with their work, because the government had no intention of listening to them. He said: "We weren't pushed out for neglecting our work, we were pushed out for performing our work properly. Some circles reacted negatively when we made a certain decision or became angry when we proposed something they did not like." The government announced on Feb. 3 the term of office had ended for 14 members of the 78-member Board including Chairman Ibrahim Kaboglu, reported CNN-Turk television on its Web site. Speaking at the press conference, Kaboglu said his attorney had filed a lawsuit against the government for terminating the terms of 14 members." **[23s]**

6.392 As recorded on 28 March 2005 on the website of the Hellenic Resources Network, HR-Net:

> "'Ozgur Politika news (25/03/05) reported that five members of the Turkish Prime Ministry Human Rights Advisory Board [BIHDK] have resigned. The resigning BIHDK members announced their reasons at a joint press conference held at the Turkish Human Rights Foundation [TIHV] headquarters. TIHV Chairman Yavuz Onen, holding the joint press conference, said that the government had not consulted once with the board despite making many legal changes to the four adaptation packages issued so as to ensure conformity with the EU's political and economic criteria. Pointing out that the board's work had been aimed at specific 'centres' within the public and had ruffled feathers within the government; Onen said that this situation had surprised them. He went on: 'We condemn the government's insincere attitude towards human rights as well as the fact that it is acting entirely in contrast with its rhetoric of being faithful to the principles of the democratic lawful state with respect for human rights that it repeated so often within the context of the EU. We have evaluated the situation and are resigning.' Together with Onen the following persons also resigned: Board member of the Association of Forensic Scientists Kadir Ozag, Chairman of the Pir Sultan Abdal Cultural Association Kazim Genc, Vice Chairman of the Association of Turkish Physicians Metin Bakkalci, Chairman of the Turkish Foundation for the Institution of Human Rights Nevzat Helvaci and the representative of the Turkish Middle East Public Administration Institution Yasemin Ozdek." **[49a]**

6.393 The European Commission 2005 report recorded that "Since the publication of a report on minority rights in Turkey in October 2004, the Human Rights Advisory Board under the Office of the Prime Minister – a body composed of NGOs, experts and representatives from ministries – has not been operating." **[71e] (p21)** **(See Section 6.B on Ethnic groups)**

6.394 As noted in the Amnesty International Turkey Memorandum of 1 August 2005:

> "Turkey has an urgent need for effective and independent National Human Rights institutions which will promote and protect human rights, including through effective investigation of patterns of human rights concerns and individuals' complaints about human rights violations they have suffered, and

through making recommendations accordingly. Present examples of bodies which it is claimed fulfil the function of a National Human Rights Institution include the above-mentioned and ill-fated Human Rights Advisory Board as well as the Provincial and Regional Human Rights Boards attached to the Prime Ministry. The latter bodies have been well-publicized by the government. However, Amnesty International has serious concerns about the operations of these Boards – concerns which are shared by Turkish and international human rights non-governmental organizations" **[12s] (Section on The urgent need for independent, resourced and effective national human rights institutions)**

TRAINING ON HUMAN RIGHTS

6.395 The European Commission 2005 report noted that "With regard to training on human rights, the Turkish authorities continue to pursue a number of programmes targeting relevant personnel in the Ministries of Interior and Justice, the gendarmerie and the police." **[71e] (p21)**

6.396 The UK Foreign and Commonwealth Human Rights Annual Report 2005, released in July 2005, noted that "Many national training programmes were completed successfully, including one co-sponsored by the UK to train more than 8,000 judges and prosecutors in human rights and European law…The government has set up training programmes in human rights for law enforcement officers." **[4h] (p106)**

6.397 The USSD 2004 reported that "The TNP and Jandarma were effective and received specialized training in a number of areas, including human rights and counterterrorism. The armed forces emphasized human rights in training for officers and noncommissioned officers. Noncommissioned police officers received 2 years of training." **[5c] (Section 1d)**

REFORM MONITORING GROUP

6.398 According to the European Commission 2004:

"Since its establishment in September 2003, the Reform Monitoring Group has examined a number of human rights violations and exerted influence to resolve specific problems raised by foreign embassies and NGOs. Another monitoring body, the Human Rights Advisory Committee, which is composed of representatives from the authorities and civil society, has held a number of exchanges, but in practice its impact has been limited." **[71c] (p32)**

6.399 The European Commission 2005 report recorded that "The government has reviewed the reform process regularly, assisted by the Reform Monitoring Group, a body responsible for supervising the implementation of the reforms." **[71e] (p11)**

HUMAN RIGHTS PRESIDENCY AND HUMAN RIGHTS BOARDS/COUNCILS

6.400 The European Commission 2005 report noted that:

"The Human Rights Presidency has continued to intensify its work to provide training on human rights, process complaints and address specific cases. Efforts have focused, in particular, on increasing awareness of the existence of the Presidency and the provincial Human Rights Boards. Nevertheless, the

impact of the Presidency remains low as it has a limited budget, its role in relation to line ministries is poorly defined and it is not consulted on legislative proposals. In September 2005, the President of the Human Rights Presidency resigned." **[71e] (p21)**

6.401 The EC 2005 report also noted:

"From October 2004 to March 2005, the Human Rights Boards and the Presidency received complaints of human rights abuses from 565 individuals. This figure represents less than one complainant per board, suggesting limited awareness of the existence of the boards and/or low levels of trust. In practice, the boards are under-resourced and their effectiveness varies depending on the approach of the deputy governor chairing them. Two important Turkish human rights NGOs, the Human Rights Association and Mazlum Der have maintained their policy of not participating in these Boards, although in a handful of cases individuals from these NGOs have participated in a personal capacity." **[71e] (p21)**

6.402 The USSD 2004 noted that:

"There were government-sponsored human rights councils in all 81 provinces and 850 subprovinces to serve as a forum for human rights consultations among NGOs, professional organizations, and the Government. The councils investigated complaints and, when deemed appropriate, referred them to the prosecutor's office. However, some councils failed to hold regular meetings or effectively fulfil their duties. Human rights NGOs generally refused to participate on the councils, maintaining that they lacked authority and were not independent, in part because unelected governors and subgovernors served as chairmen." **[5c] (Section 4)**

6.403 The USSD 2004 continued:

"A Human Rights Presidency monitored the implementation of legislation relating to human rights, coordinated with NGOs, and educated public officials. The Presidency was attached to the Prime Ministry; it did not have a separate budget, and its resources were limited. Other government human rights bodies include the High Human Rights Board, an interministerial committee responsible for making appointments to human rights posts; a Human Rights Consultation Board, which serves as a forum for the exchange of ideas between the Government and NGOs; and 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. The parliamentary Human Rights Committee, which has a mandate to oversee compliance with the human rights provisions of domestic law and international agreements, investigated alleged abuses, prepared reports, and carried out detention center inspections." **[5c] (Section 4)**

6.404 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." **[12d] (p2)**

PARLIAMENTARY HUMAN RIGHTS COMMISSION/ PARLIAMENTARY HUMAN RIGHTS INVESTIGATION COMMITTEE

6.405 The Netherlands report 2002 stated that "A Parliamentary Human Rights Commission set up by the Turkish Parliament started work in December 1990." **[2a] (p64)**

6.406 As outlined in 'The Activity Report of the Human Rights Investigation Commission from 3 November 2002 – 20 May 2004' provided by the Turkish Embassy in London in August 2004, a number of sub commissions were formed during this period to visit provinces and cities and to investigate specific cases of human rights abuses. In January 2003 sub commissions visited the provinces of Diyarbakir, Bingol, Batman, Mardin, Mus, and Tunceli to monitor how the situation in these provinces had changed after the lifting of the State of Emergency. In May 2003 a sub committee visited Andac village, Uludere in Sirnak province in order to investigate the shooting of Haci Olmez by Gendarmes on the 8 April 2003. **[60a] (p1-2)**

6.407 The Activity Report also stated that the Human Rights Investigation Commission received 804 applications relating to human rights issues in the period 3 November 2002 to 10 May 2004. Of these 244 (30%) were related to prisons, 142 (15%) to judicial problems and 75 (9%) were related to torture and ill-treatment. During the period 549 of the 804 applications were concluded, 207 were still being processed and 47 were still pending. **[60a] (p8-9)**

6.408 The USSD 2004 noted that "The parliamentary Human Rights Committee, which has a mandate to oversee compliance with the human rights provisions of domestic law and international agreements, investigated alleged abuses, prepared reports, and carried out detention center inspections." **[5c] (Section 4)**

6.409 The European Commission 2005 report noted that:

"The Parliamentary Human Rights Investigation Committee has continued its work conducting investigations in cases involving human rights abuses. However, its overall impact is constrained by limited resources and the fact that it currently plays no role in scrutinising legislation. **[71e] (p11)** The Parliamentary Human Rights Investigation Committee continued to collect complaints on human rights violations and, in relation to some high-profile cases, requested that the relevant authorities follow up and redress the situation when necessary. It received 1 307 complaints between October 2004 and June 2005. The Committee conducted an investigation into the alleged extra judicial killing of a 12-year-old boy and his father in Kilzitepe province in November 2004." **[71e] (p11)**

MINISTRY OF INTERIOR'S INVESTIGATION OFFICE

6.410 As recorded in the European Commission 2005 report:

"The Ministry of Interior's Investigation Office, which was established in February 2004, has received 1 003 complaints of human rights abuses from the

public. These complaints are assessed by inspectors, who follow them up with the relevant authorities within the ministry at local or central level. Most complaints received have been made against the police. To date, on only one occasion has a complaint led to disciplinary action being taken against a public official. This Office has also carried out inspections of a number of the provincial police disciplinary boards and has inspected detention procedures and places of detention in 26 provinces." **[71e] (p21)**

PRISON INSPECTION COMMITTEES/PRISON MONITORING BOARDS

6.411 The Netherlands Ministry of Foreign Affairs report 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)**

6.412 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)**

6.413 The USSD 2004 noted that:

"The Government permitted prison visits by representatives of some international organizations, such as the CPT [Council of Europe's Committee for the prevention of torture and inhuman or degrading treatment or punishment]; however, domestic nongovernmental organizations (NGOs) did not have access to prisons. The CPT visited in March [2004], and conducted ongoing consultations with the Government. Requests by the CPT to visit prisons were routinely granted. **[5c] (Section 1c)** International humanitarian organizations were allowed access to "political" prisoners, provided they could obtain permission from the Ministry of Justice. With the exception of the CPT, which generally had good access, such organizations were seldom granted permission in practice." **[5c] (Section 1e)**

6.414 As noted in the European Commission 2005 report:

"A number of provincial Human Rights Boards have begun to carry out unannounced visits to places of detention in a number of provinces. Although a positive development, NGOs have raised doubts about the independence of such monitoring and of the Human Rights Boards in general. Nevertheless, it is to be hoped that this monitoring will represent a first step towards establishing fully independent monitoring as recommended by the CPT and the UN. Turkey signed the Optional Protocol to the UN Convention against Torture (OPCAT) in September 2005. This protocol provides for a system of regular visits to places of detention by complementary international and national independent expert bodies." **[71e] (p24)**

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

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

6.416 According to the information from the Turkish Embassy:

"Within a year of its establishment JIHIDEM received 221 applications of which 65 were deemed to be within the human rights abuse definition of JIHIDEM, 73 were not within its definition and were directly related to Gendarmes' actions and that 83 were not related to Gendarmes at all. Among the 65 applications that were investigated 19 were for ill treatment, 16 were for ill treatment/unjust custody, 12 for non-effective investigation, 6 for unjust custody, 5 for being pressurised to withdraw complaints, 3 for torture, 2 for not abiding with a suspect's custody rights, 1 for the abuse of a person's right to life and 1 for the abuse of a person's private life." **[60a] (p11)**

6.417 The information continued "Following the conclusion of the investigations of applications made to JIHIDEM 10 were sent to courts, 10 had already been under judicial investigation, 1 resulted in disciplinary action imposed by the personnel manager, 43 were found to be not true and the investigation on 1 is still continuing." **[60a] (p11)**

6.418 The *Turkish Daily News* reported in May 2004 that members of the Gendarmerie Human Rights Violations Investigation and Assessment Centre were distributing brochures about human rights to villagers in Diyarbakir. The brochures asked for assistance in stopping human rights violations and provided a telephone number for people to call if they witness any abuses. Diyarbakir Gendarmerie Command said that the brochure would be distributed to all villages in the region. **[23m]**

6.419 The information provided by the Turkish Embassy also reported that "In order to enable the public to easily access and make applications to JIHIDEM and also to promote JIHIDEM, an internet web site called www.jandarma.gov.tr has been activated in addition to known application tools (letter, phone, fax, in person)." **[60a] (p11)**

6.420 The European Commission 2005 report recorded that "Since its establishment in 2003, the gendarmerie's Human Rights Violations Investigation and Assessment Centre has received 162 direct complaints, the majority of which relate to allegations of ill-treatment or unjust detention. To date, disciplinary measures have been taken in 3 cases." **[71e] (p24)**

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EUROPEAN COURT OF HUMAN RIGHTS (ECTHR)

6.421 As stated in the European Commission 2005 report:

> "Turkey has made progress in relation to the execution of judgments of the European Court of Human Rights (ECtHR). This has been highlighted notably in several resolutions by the Council of Europe's Committee of Ministers and several other sources, including the Parliamentary Assembly of the Council of Europe rapporteur on the implementation of judgements of the ECtHR in June 2005. Both the Committee and the rapporteur have, however, noted that a number of issues are outstanding. In general, it is important that the Turkish authorities ensure that direct effect is given to the case-law of the ECtHR in the Turkish legal order so as to implement the constitutional, legislative and regulatory framework created by Turkey in response to the Court's judgments. New Article 90 of the Constitution should encourage domestic authorities to act accordingly." **[71e] (p19)**

6.422 The EC 2005 report continued: "Since October 2004, the ECtHR has delivered 129 final judgements concerning Turkey. On 120 occasions the Court found that Turkey had violated the ECHR, and 7 friendly settlements were concluded. In 2 cases, it was found that Turkey was not in violation of the ECHR. During this period, 1 812 new applications regarding Turkey were made to the ECtHR." **[71e] (p19)**

6.423 As reported by BBC News on 12 May 2005:

> "Turkey's trial of Kurdish rebel leader Abdullah Ocalan was unfair, the European Court of Human Rights in Strasbourg has ruled. Turkey said it would address flaws found by the court – suggesting a retrial would be an appropriate option… 'The applicant was not tried by an independent and impartial tribunal,' the European Court of Human Rights (ECHR) said in a statement. The judges ruled that the presence of a military judge on the panel meant that the Turkish court's judgement could not have been fair. They did not directly call for a retrial but said retrying or reopening Ocalan's case would be 'an appropriate way of redressing the violation'…Turkey is one of the 46 members of the Council of Europe, which set up the ECHR. The Grand Chamber's judgement is final for Council members and cannot be appealed." **[66be]**

6.424 On 5 June 2005, the pro-Kurdish online newspaper KurdishMedia (quoting AFP) reported that:

> "Turkish Justice Minister Cemil Cicek said Sunday he was opposed to a retrial of jailed Kurdish separatist leader Abdullah Ocalan taking place in a foreign country, Anatolia news agency reported. Cicek said he had not received any request to move the trial overseas and that such a move was 'inconceivable.'… Turkish authorities said they would abide by the European court ruling [of 12 May 2005]. But in order for a new trial to take place Ocalan must request it and he has refused to do so on grounds he would not receive a fair trial in Turkey, according to his lawyers. On Wednesday, Ocalan, who was head of the separatist Kurdish Workers' Party (PKK), said through his lawyers that he wanted to be tried outside of Turkey by a special tribunal set up by the Council of Europe." **[93c]**

6.425 The EC report further noted that:

"Provisions enabling retrial still do not apply to cases that were pending before the ECtHR prior to 4 February 2003, including the case of Öcalan….As regards the Öcalan case, the Grand Chamber of the European Court of Human Rights delivered a judgement in May 2005 concluding that Turkey was responsible for violating provisions concerning the right to a fair trial. The judgement indicated that the remedial measures might include retrial or the reopening of the case, but left the issue largely to be decided by the Turkish authorities. To date it is not clear what measures the Turkish authorities will take to ensure compliance with the judgement." **[71e] (p20)**

6.426 The USSD 2003 reported 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)**

6.427 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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TREATMENT OF NON-GOVERNMENTAL ORGANISATIONS (NGOS)

6.428 The European Commission 2005 report recorded that:

"Human rights defenders continue to encounter significant judicial harassment in practice, as illustrated by the number of open investigations and prosecutions…In the report on her October 2004 visit to Turkey, published in January 2005, the UN Special Representative for Human Rights Defenders 'expresses grave concern with the large number of prosecutions filed against human rights defenders and their organizations'. A new article in the Code of Criminal Procedure, preventing human rights lawyers from representing defendants accused of certain crimes if they are themselves being investigated under particular articles of the Turkish Penal Code, is of particular concern in this regard." **[71e] (p28)**

6.429 As noted in the Amnesty International Turkey Memorandum of 1 August 2005:

"Amnesty International welcomes numerous measures taken to lessen pressure on human rights defenders. For example, the new Law on Associations which is less restrictive than its predecessor should offer a significant boost to the development of civil society in Turkey if it is implemented fully. However, human rights defenders in Turkey are still subjected to unnecessary pressures. These range from unsubstantiated allegations by figures in authority which may result in death threats, through to difficulty in carrying out their legitimate campaigning activities as well as the opening of a large number of cases against them for often minor transgressions of administrative regulations. While these cases rarely result in imprisonment, more usually in acquittal, a suspended sentence, or a fine, Amnesty International considers that the opening of such cases

constitutes a form of 'judicial harassment' and also an apparent misuse by prosecutors of the criminal justice system." **[12s] (Section on Human rights defenders)**

6.430 The AI memorandum of August 2005 continued:

"Amnesty International has also documented a pattern in which – in response to amended laws – prosecutors have used alternative charges to seek conviction of individuals and criminalization of acts by applying other legislation in place of the laws that have changed. Therefore, while the legal changes are welcome, such reform may not prevent the continued harassment of human rights defenders… Given this pattern of harassment, Amnesty International is especially concerned about a provision introduced in the new CPC… Amnesty International therefore notes with concern that Article 151 of the new CPC stipulates that lawyers representing defendants accused of certain crimes may be forbidden from representing their clients or visiting them in jail if the lawyers are being investigated or prosecuted under certain articles of the TPC." **[12s] (Section on Human rights defenders)**

6.431 The USSD 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." **[5c] (Section 4)**

6.432 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 IHD). 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 Vakfi) 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)**

6.433 The Freedom House report 'Countries at the Crossroads 2005 – Turkey, published in December 2004 noted that "Regulation of the activities and membership of nongovernmental organizations (NGOs) has relaxed with recent reforms, but limitations remain. NGOs are often fined, thus making their work difficult and at times financially unfeasible, although imprisonment of members has decreased. Demonstrators and human rights defenders who refer to Kurdish rights or Abdullah Ocalan are particular targets." **[62c] (p11)**

6.434 As noted by Kirsty Hughes in her paper dated December 2004 "A growing range of NGOs is beginning to flourish in Turkey, and for many civil society actors, the EU goal supports them in their attempts to build a genuine civic space and pluralist democracy, without facing charges that their actions and

goals are undermining national security or the integrity of the state (or at least facing fewer such charges)." **[77] (p4)**

6.435 Kirsty Hughes paper continued:

"In the run up to the 17th December EU summit decision, human rights NGOs were criticised by politicians including Erdogan himself (including suggestions of connections to terrorist groups) for making public their criticisms of the current human rights situation i.e. for doing their job… At the same time, the NGO sector has developed rapidly in recent years, and NGOs do report positive interaction with and consultation by government: embedding this into a more widely spread understanding and support for organised civil society is the challenge over time." **[77] (p29-30)**

6.436 The USSD 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." **[5c] (Section 4)**

6.437 The USSD 2004 noted that:

"Amnesty International maintained a headquarters in Istanbul and reported good cooperation with the Government during the year. The Government also cooperated with international governmental organizations such as the CPT, UNHCR, and the International Organization for Migration. In October, the Government permitted the visit of and met with the U.N. Special Representative for Human Rights Defenders. In October, the Interior Ministry issued a circular directing local authorities to comply with U.N. and EU guidelines for protecting the rights of human rights defenders." **[5c] (Section 4)**

6.438 The USSD 2004 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." **[5c] (Section 4)**

6.439 As noted in the joint press statement of Human Rights Association (IHD) and Mazlum-Der 'We are Deeply Concerned With the Latest Developments and Practices' published on the IHD website on 6 September 2005:

"Things are not going well in Turkey with respect to issue of human rights and freedoms. Optimistic expectations for the long-awaited improvements regarding rights and freedoms have been given its place to pessimism. The death penalty was lifted; however extrajudicial executions have become common practice in the country. The principle of 'rule of law' couldn't be implemented and another lynching attempt occurs in each coming day. Discrimination and enmity having been stirred up and ethnical clashes are trying to be brought to the agenda, Human rights organizations are selected as the target of the discourse of 'anti-

terror struggle'. Intellectuals that express their demand and work for the establishment of a perpetual peace in Turkey are being blackened or people are incited to take aim at them, The optimism arisen following the prime minister's words has given its place to a very serious tension, It is so easy to notice the uneasiness of some circles towards the works of different groups that have been trying to decrease the tension, or trying to find democratic solutions for the problems. In the wake of the discourses and implementations during the recent times, the approaches that aim to solve problems through the use of arms seem to have gained power. These developments are causes for serious concern for those who take side with human rights, freedoms and democracy. However, those official and non-official circles taking side with status quo and feeding themselves and strengthening their power from violence, have regarded the developments as a means for themselves to transform Turkey into a police-state. Therefore, they have been arranging the environment for lynching attempts against people exercising their democratic rights, and labeling any particular exercising of democratic rights as a 'Kurdistan Workers' Party (PKK) action' and every 'Kurdish' citizen as a 'PKK member.' They also try to marginalize and to intimidate the human rights organizations and intellectuals that brought the concept and culture of human rights to this country by labeling them as 'PKK supporters'." **[73i]**

HUMAN RIGHTS ASSOCIATION (HRA)/INSAN HAKLARI DERNEGI (IHD)

6.440 According to the Netherlands Ministry of Foreign Affairs report 2002:

"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…Within the IHD there is a strong Kurdish current which maintains close ties to the Turkish-Kurdish opposition." **[2a] (p69)**

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

6.442 As stated on the organisation's website (accessed on 23 March 2005), the HRA has set up local branches in Ankara, Istanbul, Izmir, Adana, Izmit, Bursa, Kayseri, Diyarbakir, Hatay, Trabzon, Mersin, Gaziantep, Mugla, Kirsehir, Corum, Konya, Aydin, Van, Urfa, Balikesir, Canakkale, Malatya, Rize, Adiyaman, Siirt, Sakarya, Batman, Bingol, Mus, Duzce, Mardin, Karadeniz Eregli, Iskenderun. **[73h] (p5)**

6.443 The HRA website further stated that the HRA is a non-governmental and voluntary organization, not a body of any political parties or of a single political tendency. "The HRA stands up for the oppressed individual, people, nation, sex and class…The HRA is against torture regardless of the individual, the geographical location and circumstance. The HRA defends the right to fair trail [sic] everywhere, for everyone and in any circumstances…The HRA defends unconditionally and without any restriction the right to freedom of expression. The HRA, similarly, defends the right to freedom of religion." **[73h] (p5)**

6.444 Amnesty International reported in its Urgent Action note UA 94/05, published on 20 April 2005 that:

"Three members of the Human Rights Association (IHD) have received death threats, and Amnesty International believes they are in grave danger… All three received threatening letters at their home and work addresses on 19 April [2005], from an ultra-nationalist group called the Turkish Revenge Brigade (Türk Intikam Tugayi). This group claimed responsibility for an armed attack in 1998 on the then IHD president, Akin Birdal, in which he was critically wounded… The IHD, founded in 1986, is Turkey's largest human rights organization. It has been outspoken in its condemnation of human rights violations and abuses by both the government and armed opposition groups, and has therefore found itself repeatedly targeted for attack. Its officials have been threatened, arrested, prosecuted, tortured, abducted and killed; its offices have been ransacked, closed and bombed. At least 12 IHD representatives have been killed since 1991. In most cases the killers have never been identified, and members of the Turkish security forces have been strongly implicated in some of the killings. Several branches have been closed on various pretexts." **[12y]**

6.445 On 2 August 2005 AI reported ('Further information UA 94/05') that those three members of the Human Rights Association (IHD), had not received any further death threats following the threatening letters sent on 19 April by the ultra-nationalist group Türk Intikam Tugayi (Turkish Revenge Brigade).

"The Turkish authorities have informed Amnesty International that the Ministry of the Interior is investigating the threats against the three and that they have warned all the provincial governors in Turkey to take 'the necessary security precautions' to protect the branches of IHD and other non-governmental organizations in case of possible attacks. Members of the IHD confirmed that they had given statements to police as part of the investigation into the threats." **[12z]**

6.446 The USSD 2004 reported that:

"In January [2004], prosecutors opened a case against Vetha Aydin, chairman of the HRA Siirt branch, for distributing posters featuring slogans in both Turkish and Kurdish. Aydin was charged with hanging posters without permission and was later acquitted…In August [2004], a Van court acquitted Selahattin Demirtas, president of the HRA Diyarbakir branch, on charges of making terrorist propaganda, reportedly basing its ruling on the European Convention on Human Rights. **[5c] (Section 2a)** In June [2004], a prosecutor in Van indicted local DEHAP Chairman Hasan Ozgunes, HRA official Zuleyha Cinarli, and 11 others on terrorism charges stemming from their participation in a press conference on the Kurdish problem and the prison conditions of jailed PKK leader Abdullah Ocalan. A court acquitted them in August [2004]." **[5c] (Section 3)**

6.447 The USSD 2004 also outlined that the HRA had reported that prosecutors opened 98 court cases and investigations against the organization between October 2003 and August 2004, and that 58 cases remained ongoing at the end of 2004. The USSD 2004 further reported that "There were no developments in the Government's investigation of the HRA headquarters and Ankara branch office. The investigation was opened following the May 2003 police raid of the facilities." **[5c] (Section 4)**

6.448 As noted in the Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)':

"According to Mr. Selahattin Demirtaş the head of the Human Rights Association (HRA) in Diyarbakýr, the relation between the state authorities in the province of Diyarbakýr and the local HRA-branch had become more 'relaxed' in recent years. Much of the credit for this should be given to the new province-governor who appeared to be more open-minded and willing to support democratic reforms. The local head of the police and the Public Prosecutor, however, appeared to be more 'old-fashioned' and reluctant to implement the new laws and regulations." **[16] (p8)**

6.449 The Norwegian report continued:

"Both NGOs and lawyers continue to be subjected to judicial harassment – however, acquittal-rates seem to be much higher than in the past. Mr. Demirtaş mentioned that the Public Prosecutor in Diyarbakýr had filed numerous charges against him with 60 cases still pending at the time we were talking. Some of these charges were based on the Law on Meetings and Demonstrations (No. 2911) and on the Law on Associations (No. 2908), the latter containing provisions restricting NGOs' cooperation with organisations outside Turkey. Although this law (and its crucial article 43) was amended in August 2002, the state prosecutor still has the option to file charges against NGOs dealing with foreign institutions – and appears to have done so in various cases." **[16] (p8)**

6.450 The European Commission 2005 report recorded that since August 2004, 50 court cases and 3 investigations have been launched against the Human Rights Association. **[71e] (p28)**

TURKISH HUMAN RIGHTS FOUNDATION (HRF)/ HUMAN RIGHTS FOUNDATION OF TURKEY (HRFT)/ TÜRKIYE INSAN HAKLARI VAKFI (TIHV)

6.451 As stated on the HRFT website (accessed on 23 March 2005):

"The Human Rights Foundation of Turkey (HRFT) is a non-governmental, non-profit organization established in 1990…The HRFT has established five treatment and rehabilitation centers for torture survivors in the provinces of Ankara, Istanbul, Izmir, Adana and Diyarbakir. In these centers, teams consisting of physicians, psychiatrists, social workers and medical secretaries offer medical services to torture survivors. In addition, volunteer physicians from various branches of the medical field lend professional support to the work of the HRFT…Besides the five Treatment and Rehabilitation Centers, the HRFT has established the Documentation Center, which records, on a daily basis, human rights violations, problems and issues in Turkey and store the information on computers…The HRFT carries out professional work both in documentation of human rights violations and in treatment and rehabilitation of torture survivors." **[83a] (p1)**

6.452 The Netherlands 2002 report noted that:

"Because it [TIHV] 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)**

6.453 In its February 2004 report:

"Amnesty International was concerned to hear of the sentencing to prison on 13 February 2004 of 31 people including members of the Izmir branch of the Human Rights Foundation of Turkey (HRFT), the Izmir 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." **[12f] (p1)**

6.454 As noted in the USSD 2004 "The HRF, established by the HRA, operated torture rehabilitation centers in Ankara, Izmir, Istanbul, Diyarbakir, and Adana and served as a clearinghouse for human rights information." **[5c] (Section 4)**

6.455 The USSD 2004 further reported that "In March [2004], prosecutors dropped a case against the members of the HRF Executive Board on charges of translating HRF reports into English and distributing them without permission, soliciting donations on the Internet, and encouraging protestors to engage in hunger strikes by providing treatment to ill strikers. If convicted, the board members would have been forced to resign." **[5c] (Section 4)**

MAZLUM-DER

6.456 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." **[12c] (p1)**

6.457 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)**

6.458 Amnesty International (December 2003) reported that:

"On 1 May 2003 a court in Turkey confirmed that [Ozkan Hophanly 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." **[12c] (p1-2)**

6.459 As stated in the general information section of Mazlum-Der website (accessed on 23 March 2005) "Mazlum-Der is not a politic organization but an organization defending freedom expression for all kind of politic [sic] views and thoughts. Mazlumder supports all activities by anyone as long as they respect human rights. Mazlum-Der opposites [sic] all kind of human right violations committed by anyone." **[82b]**

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STATE OF EMERGENCY

6.460 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. **[43]** **(See detailed list with dates in Annex D)**

6.461 According to the European Commission 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. 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." **[71b] (p38-39)**

6.462 The European Commission 2003 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." **[71b] (p39)**

6.463 The European Commission 2005 report recorded that "Although the state of emergency rule has been lifted, a number of security measures, such as road blocks and checkpoints, have been reinstated in some provinces of the Southeast." **[71e] (p28)**

See also Section 4 on Conflict with PKK and Section 6B on PKK/KADEK/Kongra-Gel and the conflict in the Southeast

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BLOOD FEUDS

6.464 According to research conducted by the Immigration and Refugee Board in Canada in July 2000 "'Kan davası' or blood feuds are an extinct, or nearly extinct, practice in Turkey. However, the IRB also reported the Turkish Ministry of Foreign Affairs assertion that "Murders among the people of the region are often committed for personal reasons, blood feuds or other reasons". **[7a]**

6.465 The Netherlands Ministry of Foreign Affairs 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)**

6.466 In comments submitted to the Advisory Panel on Country Information in September 2004 UNHCR stated that, blood feuds may occur in other non-conservative, conservative areas or in urban areas amongst people who are not integrated into urban life but there is no report on this issue. **[18a] (p8)**

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Annex A: Chronology of Events

1980 **September:** Military Coup **[1d] (p1160)**

1982 **November:** New Constitution was approved by a referendum with a 91% majority. **[1d] (p1160)**

1983 **May:** New law on political parties. Political parties could now be formed under strict rules, but all political parties disbanded in October 1981 remained proscribed. **(p1161)**
November: Parliamentary rule was restored with the 6 November General Election. **[1d] (p1161)**

1984 **August:** The PKK, led by Abdullah Öcalan, launched a violent guerrilla campaign against the Turkish authorities in the south-eastern provinces.

1987 **November:** The first free elections since the 1980 military coup. Turgut Özal became Prime Minister. **[1d] (p1162)**

1989 **November:** Turgut Özal succeeded General Kenan Evren as President. **[1d] (p1162)**

1993 **March:** The PKK declared a unilateral cease-fire **[1d] (p1164)**
May: Suleyman Demirel elected as President. PKK cease-fire ended. **[1d] (p1164)**

1995 **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.
October: The Turkish Parliament accepted changes to the Anti-Terror Law, in order to permit greater freedom of expression. **[1d] (p1164)**
December: General Election to an enlarged 550 member parliament. **[1d] (p1165)**

1996 **June:** The Refah (Welfare) Party leader Necmettin Erbakan became Prime Minister in a coalition with the DYP. **[1d] (p1165)**

1997 **February:** The military-dominated National Security Council demanded a government crackdown on religious extremism. **[1d] (p1166)**
June: Erbakan announced resignation. President Demirel appointed Mesut Yilmaz, leader of the main opposition ANAP to set up government. Demirel approved the government with Yilmaz as Prime Minister. **[1d] (p1166)**

1998 **January:** Constitutional Court issued verdict resulting in the closure of the Refah (Welfare) Party. **[1b]**
March: The newly formed Virtue Party became the largest political group in parliament, with 140 MPs, after most former Refah MPs join Virtue. **[1d] (p1167)**

1999 **January:** A motion was filled for the dissolution of HADEP owing to its alleged links with PKK. **[1d] (p1168)**

February: Abdullah Öcalan was captured by Turkish Special Forces and returned to Turkey where he was detained. **[1d] (p1168)**
April: In the General Election the Democratic Left Party (DSP) won the largest number of seats, closely followed by the Nationalist Action Party (MHP). **[1d] (p1168)**
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. **[1d] (p1168)**
September: PKK announce unilateral ceasefire. **[18c]**

2000 **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. **[1d] (p1168)**
May: The president of the Costitutional Court Ahmet Necdet Sezer was elected President. **[1d] (p1168)**
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 were killed. **[1d] (p1169)**

2001 **June:** The Constitutional Court banned the main opposition party Fazilet (Virtue Party) for undermining Turkey's secular order. **[1d] (p1169)**
October: The Turkish Parliament approved several amendments to the Constitution, notably to articles concerning the use of the Kurdish language. The amendments were intended to facilitate Turkey's accession to the EU. **[44a]**

2002 **February:** Law No. 4744 adjusting some Turkish laws to the October 2001 constitutional amendments, was adopted by the Turkish Parliament. **[71a] (p25)**
March: Law No. 4748: further reform package. **[71a] (p25)**
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. **[71a] (p25)**
November: General election the AKP won two-thirds of the seats. President Sezer subsequently appointed AKP Deputy Leader Abdullah Gül as Prime Minister. **[1d] (p1171)**
December: The Turkish Government passes the fourth reform package which changes the law on political parties allowing Tayyip Erdogan to become Prime minister. **[1d] (p1171) [36a] (p1-4)**

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. **[1d] (p1171)**
March: The Constitutional Court banned HADEP. Following his entering Parliament after his victory in a by-election, AKP leader Recep Tayyip Erdoğan was appointed Prime Minister. **[1d] (p1171)**
July: The Turkish Parliament passes the sixth reform package aimed at improving human rights. **[36c] (p1-3)**
August: The Turkish parliament passes the seventh reform package, which among other things limits the influence and power of the military. **[36d] (p1-2)**
September: The PKK/KADEK announced an end to their four year cease-fire with the Turkish Government. **[1d] (p1171)**

November: 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. **[66m]** 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. **[66n] [66o]**

2004 **March:** Local elections were held and were won overwhelmingly by the ruling AKP. **[36i]**
May: Passage of constitutional reform package. **[23o]**
June: Four Kurdish deputies (Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Dogan) released from prison. **[44c]** First official broadcasts in Kurdish language take place. **[4h] (p106)**
September: The Turkish parliament had approved reforms to the penal code. **[71c]**
October: European Commission report gives the go ahead for talks to begin on Turkey's accession to the European Union. **[66ak]**
December: The EU offers to begin membership talks with Turkey with 3 October 2005 given as a start date. **[66al]**

2005 **1 April:** The introduction of the new Turkish Penal Code (due to come into force on that date) is postponed. **[66ba]**
1 June: a revised version of the new Turkish Penal Code comes into force. **[23aa]**
2 June: cabinet mini-reshuffle **[23ag]**

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Annex B: Main Parties

(See also Section 4 on General Election 2002)
Further information on political parties in Turkey can be found on
http://www.byegm.gov.tr/REFERENCES/Structure.htm **[36i]**
http://www.electionworld.org/turkey.htm **[79]**
http://news.bbc.co.uk/1/hi/world/europe/2165837.stm#top **[66ar]**

Adalet ve Kalkinma Partisi (AKP) (Justice and Development Party)
www.akparti.org.tr
Founded 2001 by former members of the banned Fazilet (Virtue Party). Islamist-orientated. Current Govt after victory in November 2002 elections. 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 and democratic. **[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. Chairman: Erkan Mumcu. **[1a] [36i] [41]**

Aydinlik Türkiye Partisi (ATP) (Enlightened Turkey Party)
www.atp.org.tr
Centre-right. Leader Tugrul Turkes. On 8 September 2002 formed an alliance with the DYP for the forthcoming general election. Chairman: Ahmet Bican Ercilasun. **[36h] [36i]**

Bağimsiz Türkiye Partisi (BTP) (Independent Turkey Party). **[30c]**

Bizim Partimiz (Our Party)
Founded August 2004. Chairman: Ahmet Yilmaz. **[36i]**

Büyük Adalet Partisi (BAP)
Founded April 1995. Chairman: Sabit Batumlu. **[36i]**

Büyük Birlik Partisi (BBP) (Great Unity Party).
www.bbp.org.tr
Founded 1993. Chair. Muhsin Yazicioğlu. **[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 Halkçi Parti (Social Democratic Populist Party) in February 1995. Left-wing. Leader Deniz Baykal. Sec.-Gen. Tarhan Erdem. **[1a]**

Değisen Türkiye Partisi (DEPAR) (Changing Turkey Party)
Founded 1998. Chair. Gökhan Çapoğlu. **[1a]**

Democratic Society Movement (DHT)
Founded in October 2004 by a group of 14 activists, including four former Democracy Party (DEP) deputies Leyla Zana, Orhan Dogan, Selim Sadak and Hatip Dicle. **[36g] [42]**
(See also section 6.B on Pro-Kurdish political parties)

Demokrasi ve Bariş Partisi (DBP) (Democracy and Peace Party)

Founded 1996 to advocate Kurdish autonomy. Pro-Kurdish. Chairman: Yilmaz Çamlibel **[1a] [36i]**

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

Demokrat Türkiye Partisi (DTP) (Democratic Turkey Party).
www.dtp.org.tr
Founded January. 1997. Chairman: Yaşar Okuyan **[1a] [36i]**

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. **[31]** Chairman Tuncer Bakirhan, re-elected in January 2005. **[69]** In August 2005 the party announced that it was dissolving to join the Democratic Society Movement (DHT). **[93a]** **(See also section 6.B on Pro-Kurdish political parties)**

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] [41]**

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 Dünyasi". 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. Chairman Abdullah Levent Tuzel **[1a] [31] [36i] [52a]**

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] [71a]**

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

Komünist Parti (Communist Party)
Founded July 2000. Chairman: Yalçın Cerit. **[36i]**

Kurtuluş Huzur Partisi (Liberation Tranquillity Party)
Founded February 1999. Chairman: Hacer Söğütdelen. **[36i]**

Liberal Demokratik Parti (LDP) (Liberal Democratic Party)
Founded 1994. Observer member of Liberal International. Chairman: Emin Sirin **[1a] [36i]**

Millet Partisi (MP) (Nation Party). 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 who was re-elected at the October 2003 general congress. **[1a] [41] [49c]**

Özgürlük ve Dayanisma Partisi (ÖDP) (Freedom and Solidarity Party)
www.odp.org.tr
Founded 1996. Radical left. Environmentalist. Chairman: Hayri Kozanoglu. **[1a] [36i]**

Ozgur Toplum Partisi (OTP) (Free Society Party).
Founded June 2003. Leader Ahmet Turan Demir. **[1d]**

Saadet Partisi (SP) (Felicity/Happiness/Contentment Party)
www.saadetpartisi.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. In February 2004, the Constitutional Court ordered the Felicity Party to stop using the abbreviation “SP”, which was the abbreviation used by the banned Socialist Party. Acting chairman: Recai Kutan **[1a] [3] [5c] [36i]**

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 Iktidar 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. **[1a] [30a]**

Türkiyem Partisi (My Turkey Party)
Founded May 1998. Chairman: Durmuş Ali Eker. **[36i]**

Ulusal Birlik Partisi (UBP) (National Unity Party)
Founded October 1998. Chairman: Fehmi Kural. **[36i]**

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

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

Yeni Türkiye (YTP) (New Turkey)
Founded July 2002 by Ismail Cem, and comprised of former DSP politicians. Based on social democratic principles. YTP merged with CHP in October 2004. **[1a] [38b] [49b]**

Yurt Partisi (YP) (Homeland Party).
Founded 2002. Leader Saadettin Tantan. **[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]**

Halkin Demokrasi Partisi (HADEP) (People's Democracy Party)
Founded 1994. Pro-Kurdish nationalist party. Chairman Murat Bozlak. **[1a]** On 20 September 2002 Mr Bozlak was barred from running in the November 2002 general election because of his conviction in the past for sedition. **[66b]** In March 2003 HADEP was banned by the Constitutional Court on the grounds that it aided and abetted the PKK. **[63c]**

Refah Partisi (RP) (Welfare Party)
Founded 1983, closed by a Constitutional Court ruling in January 1998 that it had become the focal point of anti-secular activity. Islamic fundamentalist. Chair Prof. Necmettin Erbakan. **[1b]**

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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 is not possible to have a fully comprehensive list of illegal parties, because of their constantly changing and clandestine nature.

Information on the current situation regarding leftist Parties in Turkey can be found on www.broadleft.org/tr.htm **[52a]**
http://www.electionworld.org/turkey.htm **[79]**

For general information on terrorist organisations in Turkey:
http://www.teror.gen.tr/english/turkey/islamic/organisations/ibdac.html **[65]**

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]**

ARGK. See **PKK**.

Ateş Hirsizi (Fire Thief).
Formed in 1993. Anarchist. Publication - "Ateş Hirsizi". **[52a]**

BCH (Independent Republic Movement) (Bağimsiz Cumhuriyet Hareketi). **[52b]**

BDGP (United Revolutionary Forces Platform)
(Birleşik Devrimci Güçler Platformu) (Turkish)

(Platforma Hezen Soresgeren Yekgirti) (Kurdish)
Founded 1998. Radical left. **[52b]**

BP/KK-T (Bolshevik Party/North Kurdistan - Turkey) (Bolşevik Partisi/Küzey Kürdistan - Türkiye)
Illegal. Formed 1981 as TKP/ML (Bolsevik). Ex-Maoist, Stalinist. Publications - "Bolsevik Partizan", "Roja Bolsevîk". **[52b]**

Ceyshullah (Army of Allah).
Founded in Istanbul in 1995. Its aim is to bring about a theocratic regime in Turkey by "holy war". Between 1994 and 1999 the Turkish police conducted six operations against Ceyshullah, and apprehended 33 members, as well as guns, pistols, bombs and other munitions. The members stated that they had been trained in Saudi Arabia and Afghanistan. **[65]**

Dev Sol See **DHKP-C**

Dev Yol (Revolutionary Path) (Devrimci Yol). See **THKP/C**
Founded 1975. Radical left. Part of ÖDP (see Annex B). Publications – "Bir Adim" (One Step), "Hareket" (Movement), "Devrimci Hareket" (Revolutionary Movement). **[48] [18c]**

Devrim Partisi-Kawa. See **PS-Kawa**

Devrimci Gençlik See **DHKP-C**

Devrimci Halk Hareketi (Revolutionary People's Movement).
Split of TKIP in 1999. Radical left. Publication - "Devrimci Halk" (Revolutionary People). **[52a]**

Devrimci Hareket (Revolutionary Movement). **[52b]**

Devrimci Işçi Partisi - Insa Örgütü (Revolutionary Workers Party - Build up Organisation).
Trotskyist. Publication - "Enternasyonal Bülten". **[52a]**

Devrimci Mücadele (Revolutionary Struggle).
Founded 1977 as Devrimci Derleniş. Radical left. Publication - "Devrimci Mücadele". **[52a]**

Devrimci Sosyalist Yön (Revolutionary Socialist Direction) **[52b]**

DHKP-C / DHKP/C now known as the DHKC (Revolutionary People's Liberation Party - Front) (Devrimci Halk Kurtulus Partisi - Cephesi)
http://www.dhkc.net **[54]**
Illegal. Radical left. It was formed in 1993 as a splinter faction of **Dev Sol** (Devrimci-Sol, Revolutionary Left), which was founded in 1978 and which went out of existence following the split. The other splinter faction, known as THKP/C Devrimci Sol, is on hostile terms with DHKP/C, but constitutes a far smaller group in scale and significance. Although DHKP/C has long had a difficult relationship with the PKK, it has repeatedly expressed is 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 - "Yaşadiğimiz Vatan", "Devrimci Sol", "Kurtuluş" (Liberation). **[52a]** In UK the DHKP-C has since 29 March 2001 been proscribed under the Terrorism Act 2000.

DHP (Revolutionary People's Party) (Devrimci Halk Partisi)
Founded 1994. Close to the PKK. Publication - "Alternatif" (Alternative). **[52a]**

Direniş Hareketi (Resistance Movement)
Founded 1978 as THKP/C - Üçüncü Yol. Radical left. Publication - "Odak". **[52a]**

Dördüncü Sol - Insa Örgütü (Fourth Left - Construction Organisation)
Trotskyist. Publication - "Son Kavga" (Last Fight). **[52a]**

DPG (Revolutionary Party Forces) (Devrimci Parti Güçleri)
Radical left. Publications - "Maya" (Ferment), "Parti Yolunda". Illegal. **[52a]**

DSIH (Revolutionary Socialist Workers Movement) (Devrimci Sosyalist Işçi Hareketi)
Illegal. Radical left. Publication - "Kaldiraç" (Lever); Isçi Gazetesi **[52a] [52a]**

DSIP (Revolutionary Socialist Workers Party) (Devrimci Sosyalist Işçi Partisi).
Founded 1997. Legal. Trotskyist. Publication - "Sosyalist Işçi" (Socialist Worker); Enternasyonal Sosyalism. **[52a]**

EMEP See **Annex B**

ERNK. See **PKK**

Gerçek (Truth)
Publication – Gerçek. **[52b] [52a]**

Hareket (Movement) **[52b]**

HDÖ (People's Revolutionary Leaders) (Halkin Devrimci Öncüleri)

Illegal. **[48] [18c]**

Hevgirtin Welatparez (Patriotic Union) **[52a]**

Hizb-I Kuran. See **Med-Zehra**

Hizbullah/Ilim Gruhu 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 Ilim publishing house and known as the Ilim group, thought the time was ripe for armed revenge on the PKK. Its idea was as far as possible to let the Turkish State do the dirty work for it in combating the PKK. The Ilim group bore particular responsibility for the atrocities committed by Hizbullah. The group had an ideological aversion to Iran, which adhered to Shia Islam; the Ilim group was striving for a Sunni Islam state. When the Ilim group managed to kill some of the Menzil group's main leaders in 1996, the Menzil group disintegrated and faded away. Some former Menzil members then joined the Ilim group, and, from 1996, Hizbullah become synonymous with the violent Ilim faction. Rumours were rife that Hizbullah was at least tolerated by the security forces because it was fighting against a common enemy, and it has been held responsible for a large number of disappearances and killings. Its victims included a former DEP member of parliament, Mehmet Sincar, and an Islamic feminist writer, Konca Kuris. President Demirel denied allegations that there were links between Hizbullah and Turkish officialdom, while the general staff of the armed forces issued an angry statement condemning such allegations as slander.

From 1997 onwards the Turkish authorities began to take tougher action against Hizbullah, with a reported 130 supporters arrested in 1998, 250 in 1999 and 3300 in 2000. In a raid on a home in the Üsküdar area of Istanbul on 17 January 2000 Hüseyin Velioğlu, Hizbullah's founder and leader, was killed, and two other people arrested. On the basis of evidence found in the home, many other premises were searched, revealing the bodies of thirteen missing businessmen. With many more corpses being uncovered in the following months, the public prosecutor was able to press charges against 21 people on 156 counts of murder in the major Hizbullah trial which opened on 10 July 2000. During an interrogation, a Hizbullah suspect reportedly confessed to killing moderate Islamic scholar Konca Kuris in the early 1990s. In November 2002 an appeals court acquitted five defendants and sentenced the others to prison terms ranging from life to 45 months. The security forces' many operations against Hizbullah have inflicted heavy setbacks on it, and the number of bombings carried out by the group has fallen from 302 in the first eight months of 1999 to 94 in the corresponding period of 2000. However, the provincial governor of Diyarbakır stated in October 2000 that, in spite of those serious setbacks, Hizbullah could certainly not yet be considered to have been eliminated. There are said to be many teachers and religious officials involved in the organisation. As of February 2000, Hizbullah was said to have had in Turkey some 20,000 members, who were organised in tight cells and knew a few of their fellow members because they were sworn to strict secrecy. They were said to operate in teams of two or three people, who "would stalk their victim before one member of the group carried out the execution by shooting the target in the neck with a single bullet, while the other kept a watch. A third militant may have assumed the duty

of protecting the executioner." Up to the time of the security forces' major action in January 2000, there were no known instances of Hizbullah's having targeted the authorities in its operations. Since then, however, armed incidents have taken place. On 11 October 2000 in Diyarbakır a policeman was killed in a gunfight with Hizbullah, which has also been linked with the shooting dead of the province's chief of police, Gaffar Okkan, and five of his officers in January 2001. In April 2001 a Hizbullah member was arrested on suspicion of involvement in that attack. The USSD 2004 reported that the Government continued to detain persons, particularly in the southeastern province of Batman, on suspicion of links to Hizballahan that 1,500 political prisoners were alleged members of Hizballah or other radical Islamist political organizations. On 5 February 2005 *Turkish Daily News* reported that, acting upon intelligence that the group was trying to regroup the security forces had arrested 22 suspected Hizbullah militants in 18 provinces.
[2a] [5a] [5c] [7b] [23r] [32b] [48] [65]

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]**

HÖP See **DHKP-C**

IBDA-C (Islamic Great East Raiders - Front) (Islami Büyük Doğu Akincilar Cephesinia)
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 Kişlali, who was best known as a journalist for the Cumhuriyet newspaper. In December 1999 and February 2000 IBDA/C members sparked off bloody clashes in Metris prison when they attempted, by armed force, to prevent guards from entering their cell. In the December riot, 54 soldiers were injured and 100 hostages taken by IBDA/C, which also laid claim to the fatal attack on two police officers in Istanbul on 1 April 2001. Proceedings were brought against IBDA/C's leader, Salih Izzet Erdiş, known by the nom de guerre Salih Mirzabeyoğlu, before Istanbul State Security Court in February 2000, seeking to have the death penalty imposed on him for leadership of an illegal organisation working for the establishment of an Islamic state. On 3 April 2001 he was sentenced to death by that court. **[2a][48][34][65]**

IHÖ (Islamic Movement Organisation) (Islami Hareket Örgütü)
Illegal. **[48]**

Ilerici Gençlik (Progressive Youth) **[52b]**

IMO (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. Irfan Cagrici, the director of the operations team, was caught by police in Istanbul in 1996. After the command and control of IMO had been weakened, IMO collapsed, and today most of its members are in prison. **[65]**

Işçi Demokrasisi (Workers Democracy)
Founded 1998; split of DSIP. Trotskyist. Publication - "Işçi Demokrasisi". **[52a]**

Jerusalem Fighters See **Kudüs Savaşçilari**

KADEK See **PKK**

Kaplancilar /Sözde Hilafet Devleti.
Illegal. **[48]**

KDB (Communist Revolutionary Union) (Komünist Devrimci Birlik)
Illegal. **[48]**

KDH (Communist Revolutionary Movement) (Komünist Devrim Hareketi)
Illegal. **[48] [52a]**

KDH/L (Communist Revolutionary Movement/Leninist) (Komünist Devrim Hareketi/Leninist)
Illegal. Publication – "Köz". **[52b] [52a] [48]**

KHK See **PKK**

Kongra-Gel See **PKK**

KKP (Kurdistan Communist Party) (Kürdistan Komünist Partisi)
Illegal. **[48]**

Kongreya Azadî û Demokrasiya (Kurdistan Freedom and democracy Congress) **[52b]**

KP(IÖ) (Communist Party (Build Up Organisation)) (Komünist Partisi (Inşa Örgütü))
Illegal. Ex-Maoist, Stalinist. Split of MLKP in 1995. Publication - "Halkin Birliği". **[52a] [48]**

KSB (Communist Fighters Union) (Komünist Savaşçilar Birliği)
Publication – "Işçi Davasi". **[52a]**

Kudüs Savaşçilari (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 Kurtulusculari)
Marxist-Leninist. Established 1978. Its initial aim is to establish an independent Kurdistan in east and southeast Turkey, and then to unite t his republic with territories in which Kurds live in Iran, Iraq and Syria. KUK-MK leaders are Dasraf Bilek (General Secretary), Sait Özsoy, Vasfi Özdemir, Mahfuz Yetmen, Şevket Kaçmaz, Lütfi Baksi. KUK-SE leaders are K. Başibüyük, Yalçin Büyük (Gen. Sec.), Abdurrahman Bayram,

Abdurrahman Esmer, Yasemin Çubuk, Zeynel Abidin Özalp, and Yusuf Ahmet Bartan. **[65]**

M-18 See **MLKP**

Malatyalilar (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. 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 Malatyalilar 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 "Değisim" (Metamorphosis) periodical. In addition, it has founded a legal trust named "Islamic Solidarity Trust", which is active in Istanbul. The group calls itself "Şafak" (Down Group), and in university circles they use the signature of "Muslim Youth". **[65]**

Marksist Tutum (Marxist Attitude). **[52b]**

Mezhepsizler Grubu. Illegal. **[48]**

Med-Zehra, also called **Hizb-i Kuran** (The Party of Q'uran)
A radical Islamist group, named after the university, Medresetu'z-Zehra, which Said Nursi (who was the originator of the Nurcu movement (probably the most important religious movement in Turkish Kurdistan), and who died in 1969) wished to establish in Kurdistan. Med-Zehra is an important representative of Kurdish Islamic movements. It opposes the Turkish Government, and refuses to employ constitutional methods. **[7c]**

MIB (Marxist Workers League). (Marksist Isçi Birligi)
Trotskyist. **[52a] [52a]**

MLKP (Marxist Leninist Communist Party) (Marksist Leninist Komünist Partisi)
Illegal. Founded 1995; merger of TKP/ML - Hareketi, TKIH, TKP/ML(YIÖ). Stalinist. It seeks the armed overthrow of Turkey's present political system. It also sees itself as representing the Kurdish community, and wants to throw off the "fascist colonial yoke" by means of armed struggle, having its own armed wing, known as M-18. In May 1998 MLKP abducted Tacettin Asci, treasurer of the Bursa branch of the Turkish Human Rights Association, and Ahmet Aydin, and on 7 June 1998 it issued a statement saying that the two had been "executed" as police informers. Amnesty International said that it was appalled to learn of the killings, and added that the fact that the bodies had not been recovered suggested that the victims may have been interrogated under torture by their captors. Amnesty urged that the bodies be surrendered, and also that those responsible for the murders be brought to justice. Publications - "Partinin Sesi", "Atilim" (Progress); Teori'de; Dogrultu. **[2a][12a] [48] [52a] [52b] [52a]**

MLSPB (Marxist-Leninist Armed Propaganda Unit) (Marksist Leninist Silahli Propaganda Birliği)
Illegal. Founded 1975 as split from THKP/C; political military. Radical left. Publication - "Barikat" (Barricade). **[48]**

Müslüman Gençlik Grubu (Muslim Youth Group)

Illegal. **[48]**

PADEK (Freedom and Democracy Party of Kurdistan)
(Partiya Azadî û Demokrasî ya Kurdistanê) (Kurdish)
(Kürdistan Özgürlük ve Demokrasi Partisi) (Turkish)
Founded 2000 by faction of PYSK (Kurdistan Sosyalist Birlik Partisi). Left, Kurdish nationalist. **[52b] [52a] [79]**

PDK (Kürdistan Demokrat Partisi)
Illegal. **[48]**

PDK/Bakur (Democratic Party of Kurdistan/North)
(Partî Demokratî Kurdistan/Bakur) (Kurdish)
(Kürdistan Demokrat Partisi/Küzey) (Turkish)
Illegal. Founded 1992 as PDK/Hevgirtin. Left, Kurdish nationalist. It aims to unite Kurds living in Iran, Iraq, Syria and Turkey under the flag of an independent Socialist Kurdistan Republic. Publication - "Dênge Bakur". **[52a] [48] [65] [79]**

PDK(T) (Democratic Party of Kurdistan (Turkey)
(Kürdistan Demokrat Partisi (Türkiye) (Turkish)
(Partîya Demokrat a Kurdistan (Türkiyê) (Kurdish)
Left, Kurdish nationalist. Publication - "Xebat". **[52a]**

PIK (Islamic Kurdistan Party) (Partiya Islamiya Kurdistan)
Founded 1979. PIK's main aim is to establish an Islamic state, and its members see this as a holy mission. Its strategy is allegedly to create chaos in Turkey, to destabilise government institutions, to start a nationwide revolt, and to establish an Islamic Kurdistan. It is active in eastern and southeastern Turkey, especially in Malatya. It has branches in Ankara and Istanbul. Leaders of the party include Prof. Dr, Muhammad Salih Mustafa (Party President and General Emir/Governor), Osman Caner (Emir of Students and Youth) and Sukuti Evcim (Director of Youth. **[65] [79]**

PKK also known as **KADEK** and more recently **KHK or Kongra-Gel** (Kurdistan Workers' Party)
http://www.kongra-gel.org/index.php?newlang=english
(Partîya Karkerên Kurdistan) (Kurdish)
(Kürdistan Işçi Partisi) (Turkish)
www.pkk.org and www.kurdstruggle.org/pkk
Illegal. Founded on 27 November 1978. It advocates armed struggle both at home and abroad, to achieve an independent Kurdish state slicing through Turkey, Syria, Iraq and Iran, and launched the struggle in 1984. 57-member directorate. Its components include ERNK (the National Liberation Front of Kurdistan), the PKK's "popular front and propaganda division", and ARGK (the Kurdistan National Liberation Army), the PKK's "popular army". Leadership: Abdullah "Apo" Öcalan. The PKK's armed operations in south-eastern Turkey, starting in 1984 and peaking from 1990 to 1994, involved attacks on civilians (in many cases Kurdish) and military targets, causing very many deaths. The PKK was guilty of human rights violations, including murders, especially in rural parts of the south-east, but also in other areas. The victims were mainly Jandarma officers, mayors, teachers, imams, village guards and their families, reluctant recruits, young villagers, refusing to fight for the PKK, and (former) PKK members acting as informants for the Turkish authorities. From the outset, the Turkish army took tough action against the PKK. The PKK attempted to make the south-east ungovernable, by systematically destroying economic and social infrastructure etc., and by deliberately polarising the local population. Many village schools were closed

down, not least as a result of the PKK's policy, up until 1996, of killing schoolteachers. According to information from the Turkish authorities, a total of just over 23,000 PKK fighters and around 5000 members of the armed forces and security forces have been killed since 1987 in the conflict with the PKK. Just over 4400 civilians are reported to have been killed. The Injured number just over 11,000 armed forces and security forces members, and around 5400 civilians. No figures are given for injured PKK fighters. On 3 August 1999 Abdullah Öcalan called on PKK fighters to end their armed struggle and withdraw by 1 September to beyond Turkey's borders. On 1 September his brother Osman, a member of PKK's command council, announced that the PKK would do this with immediate effect. The extent to which Öcalan's call has been followed by PKK fighters can be seen from figures from the Turkish army high command in May 2000, showing only 500 out of 5500 PKK fighters still to be in Turkey. In the first five months of 2000, the number of clashes between the army and guerrillas had fallen to 18, as against 3300 at its peak in 1994 and 48 in 1999. There were few armed clashes in 2001, and a near absence of PKK violence in 2002. 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). The change of name did not affect the policy of the Turkish State towards members of the PKK/KADEK. Publication - "Serxwebûn" (written in Turkish). In UK the PKK has since 29 March 2001 been proscribed under the Terrorism Act 2000. **[1a] [2a] [5a] [18c] [61a] [63a] [67] [52a] [48]**

On the 29 May 2004 the BBC reported that Kongra-Gel declared that its five-year unilateral cease-fire would end in three days time (on the 1 June 2004) and that it would start to target Turkish security forces. **[66z]** In January 2005 the *Turkish Daily News* reported that, according to a report released by the Diyarbakir Human Rights Associations, the number of armed conflict between security forces and the Kurdistan's Workers Party (PKK/Kongra-Gel) increased. While in 104 people died and 31 were wounded in armed clashes in 2003, 219 people died and 126 were wounded in 2004. **[23q]**

See also section 4 on Conflict with the PKK (Partiya Karkeren Kurdistan - Kurdistan Workers' Party) and section 6.B on PKK/KADEK/Kongra-Gel and the conflict in the south-east.

PKK-DCS (PKK – Devrimci Çizgi Savasçilari) (PKK – Revolutionary Line Fighters). **[52b] [52a]**

PKK/KKP (Communist Party of Kurdistan)
(Partiya Komunistê Kurdistan) (Kurdish)
(Kürdistan Komünist Partisi) (Turkish)
Founded 1990 by Kurdish section of TKEP. Communist. Publication – "Dengê Kurdistan". **[52a]**

PKK Vejin (Resurgence)
As noted in the website Terror Organisation in Turkey:
"After the Fourth [KADEK] Congress, three opposing members Sari Baran, Mehmet Sener and Faik (K) have formed another organisation called Vejin (Resurgence). This organisation was in the same direction with KADEK but it was giving its members more social rights, [such] as marriage and the right to resign from the organisation in [sic] every time the member wished. The leaders of Vejin have stated that their objective is to establish a Federal Kurdistan in the Turkish territories. Mehmet Sener was killed in Syria with A. Ocalan's command. After Mehmet Sener's death, Vejin and KADEK began to fight against each other." **[65]**

PNBK (National Platform of North Kurdistan)
(Platforma Neteweyî ya Bakûrê Kurdistanê) (Kurdish)
(Kuzey Kurdistan Ulusal Platformu) (Turkish)
Founded 1999. Left, Kurdish nationalist. Illegal. **[52a]**

PRK/Rizgari (Liberation Party of Kurdistan)
Partîya Rizgariya Kurdistan (Kurdish)
Kürdistan Kurtulus Partisi (Turkish)
Illegal. Founded 1976. Radical left, Kurdish nationalist. The party's aim is to establish an independent Kurdistan, and extend this to an independent United Socialist Kurdistan with territory which is at present part of Iran, Iraq, Syria and Turkey. Publications - "Rizgari", "Stêrka Rizgarî". **[52a][48][65] [52a]**

PRNK (National Liberation Party of Kurdistan) (Kürdistan Ulusal Özgürlük Partisi)
Illegal. Probably disbanded. **[48]**

PS-Kawa (Revolutionary Party) (Partîya Sores)
Illegal. Founded 1998 as split of PYSK (Kurdistan Sosyalist Birlik Partisi). **[48] [52a]**

PSK (Socialist Party of Kurdistan)
(Partîya Sosyalist a Kurdistan) (Kurdish)
Kürdistan Sosyalist Partisi (Turkish)
Illegal. Founded 1974. Left, Kurdish nationalist. Its legal wing is the DBP (see Annex B). Publications - "Roja Nû", "psk-bulten". Leader Kemel Burkay. **[48]**

PSK- (Kurdistan Revolutionary Party)
(Devrimci Kürdistan Partisi) (Turkish)
(Partîya Soreşa Kürdistan) (Kurdish)
Illegal. **[48]**

Revolutionary Marxist League
Trotskyist. **[52a]**

RNK/KUK (Kürdistan Ulusal Kurtuluşçular)
Illegal. **[48]**

RSDK (Socialist Democratic Organisation of Kurdistan)
(Rêxistina Sosyalîst a Demokratîk a Kurdistanê) (Kurdish)
(Kürdistan Demokratik ve Sosyalist Örgütü) (Turkish)
Split of PYSK (Kurdistan Sosyalist Birlik Partisi). **[52a]**

Şafak-Değişim See **Malatyalilar**

SED (Social Ecological Transformation) (Sosial Ekolijist Dönüsüm)
Green. Publication – Kara Toprak. **[52a]**

SEH (Socialist Labour Movement) (Sosyalist Emek Hareketi)
Publication – "Siyasi Gazete" (Political Gazette). **[52b] [52a]**

Selam Grubu.
Illegal. **[48]**

Selefi (from the Arabic "Salafi", referring to an Islamic revivalist movement which seeks to emulate the lives of the earliest Muslims).
The organisation, which was established in 1993 by an imam, supports religious law. In raids in 1999, the Turkish authorities seized eight rocket rifles, one Kalashnikov, and 650 rounds of ammunition. The Turkish State considers the organisation to be terrorist. **[22] [30d]**

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

Sosyalist Alternatif (Socialist Alternative).
Part of ÖDP (**see Annex B**). Trotskyist. Publication - "Sosyalist Alternatif". **[52a]**

Sosyalist Iktidar Partisi - Komünist Parti (Party for Socialist Power – Communist Party)
Founded 1993, Communist, legal, gained 0.12% of the national vote in the April 1999 general election. Changed its name in November 2001 to TKP (Türkiye Komünist Partisi) (Turkish Communist Party); it is unclear whether this is different from, or identical to, the TKP which is listed later in this annex. Gained 0.19% of the national vote in the November 2002 general election. Publications – "Sosyalist Iktidar" (Socialist Power), "Sol" (Left). **[30a] [52a]**

Sosyalist Politika (Socialist Politics)
Part of ÖDP (**see Annex B**). Publication - "Sosyalist Politika". **[52a]**

Sosyalizm Icin Kurtulus (Liberation for Socialism)
Publication - "Kurtuluş". **[52b]**

Spartaküs
Illegal. **[48]**

TAYAD (the Solidarity Association of Prisoners' Families) (Tutuklu ve Hükümlü Aileleri Yardimlasma Dernegi)
In January 2001 the headquarters and various branches in Istanbul of the TAYAD were closed after it had held weekly demonstrations over a period of months against the introduction of the new cell system in prisons. Various executive members were arrested. The authorities regard TAYAD as a cover for the revolutionary DHKP/C. The organisation was consequently proscribed for a few years in the early 1990s. **[2a]**

TDKP (Revolutionary Communist Party of Turkey) (Türkiye Devrimci Komünist Partisi).
Illegal. Founded 1980. Ex-Maoist, Stalinist. Its legal wing is Emep (Labourers Party) (**see Annex B**). Publication - "Devrimin Sesi". **[47] [52a]**

TDP (Revolution Party of Turkey) (Türkiye Devrim Partisi)
Illegal. Founded 1978, formerly TKP (Birlik). Radical left. Publication - "Hedef" (Target). **[52a] [48] [52a]**

Tehvid-Selam
Islamic splinter group said to have links with Iran. The group adopts 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. **[52a] [48]**

THKP/C- Dev Sol (People's Liberation Party/Front of Turkey - Revolutionary Left) (Türkiye Halk Kurtuluş Partisi/Cephesi - Devrimci Sol)
Illegal. Founded 1993 as split of Dev Sol. Political military. Radical left. Publication - "Devrimci Çözüm" (Revolutionary Solution). **[52a] [48] [52b] [52a]**

THKP/C- Dev Yol.
Illegal. **[48]**

THKP-C/HDÖ (People's Liberation Party/Front of Turkey - People's Revolutionary Vanguards) (Türkiye Halk Kurtulus Partisi ve Cephesi - Halkin Devrimci Öncüleri)
Founded 1977. Political military. Radical left. Publications - "Cephe" (Front, Façade), "Kurtuluş" (Liberation), "Kurtulus Cephesi" (Liberation Front). **[52a] [52b] [52a]**

THKP/C-MLSPB (People's Liberation Party/Front of Turkey – Marxist Leninist Armed Propaganda Unit) (Türkiye Halk Kurtulus Partisi ve Cephesi – Marksist Leninist Silahli Propaganda Birligi)
Publication – "Barikat" (Barricade). **[52b] [52a]**

TIKB (Revolutionary Communists Union of Turkey) (Türkiye Ihtilalci Komünistler Birliği)
Illegal. Founded 1977. Political military. Ex-Maoist, Stalinist. Publications - "Ihtilalci Komünist", "Orak-Çekiç", "Devrimci Proletarya", "Alinterimiz". **[48] [52a]**

TIKB - B (Revolutionary Communists Union of Turkey - Bolshevik) (Türkiye Ihtilalci Komünistler Birliği - Bolşevik)
Illegal. Split of TIKB. Radical left. Publication - "Devrimci Duruş" (Revolutionary Attitude). **[48] [52a]**

TIKKO (Turkish Workers' and Peasants' Liberation Army) (Türkiye Işçi Köylu Kurtuluş Ordusu or Türk Işçiler Köylüler Kurtuluş Ordusu).
Illegal armed resistance movement, which was set up in 1972 by TKP/ML. It advocates the violent overthrow of the Turkish government and abolition of the entire Turkish political system. Members (a maximum of several thousand people) are scattered in small cells throughout Turkey. The armed guerrilla units are used by both TKP/ML and TKP(ML) in common for their terrorist operations. Amnesty International notes that in the early 1990s TIKKO and other organisations would frequently announce, that this journalist, or that Kurdish villager, had been "punished". Since then, the numbers of such killings have fallen notably. In September 2000 a police operation against TIKKO in Istanbul brought the arrest of the head of its local section. On 6 October 2000 a suicide squad attacked the military training college in the Harbiye district of Istanbul. TKP/ML also claimed responsibility for an attack on a police car on 11 December 2000, in which two policemen were killed. February 2001 saw two armed clashes between TIKKO and the security forces. The attack on a Jandarma general in Çorum on 22 March 2001 was said by the authorities to have been carried out by TIKKO, which reportedly itself on 28 March 2001 laid claim to the attack. **[2a][12a]** In June 2002 TIKKO reportedly abducted and killed Muharrem Hız from Sırçalı village, Tokat province. **[9a]** There used to be a division of labour between PKK and TIKKO guerrillas, with the PKK carrying on the combat in south-eastern Turkey and TIKKO in the Black Sea region. In October 1999 TKP/ML announced its complete disagreement with Öcalan's call to end the armed struggle. **[2a] [12a]**

TIP (Workers Party of Turkey) (Türkiye Isci Partisi) **[52a]**

TKEP (Communist Labour Party of Turkey) (Türkiye Komünist Emek Partisi)
Illegal. Founded 1980, part of ÖDP (Özgürlük ve Dayanisme Partisi - see Annex B). Communist. **[48] [52a]**

TKEP- Leninist (Communist Labour Party of Turkey - Leninist) (Türkiye Komünist Emek Partisi - Leninist)
Illegal. Split of TKEP in 1990. Political military. Communist. Publications - "Devrimci Emek" (Revolutionary Labour), "Devrim Iscin Mücadele Birligi. **[48] [52b] [52a]**

TKIP (Communist Workers Party of Turkey) (Türkiye Komünist Işçi Partisi)
Illegal. Founded 1998. Ex-Maoist, radical left. Publications - "Ekim" (Sowing, Planting), "Kizil Bayrak" (Red Flag) **[52a] [48] [52a] [72]**

TKKKÖ (Turkey and North Kurdistan Liberation Organisation) (Türkiye ve Kuzey Kürdistan Kurtuluş Örgütü)
Illegal. **[48]**

TKP (Communist Party of Turkey) (Türkiye Komünist Partisi)
Founded 1980 as TKP - Iscinin Sesi. Communist. Publication - "Iscinin Sesi" (Workers' Voice). **[52a]**

TKP/IS (Communist Party of Turkey/Workers Voice) (Türkiye Komünist Partisi/Işçinin Sesi).
Illegal. **[48] [52a]**

TKP- Kivilcim (Communist Party of Turkey - Spark) (Türkiye Komünist Partisi - Kivilcim). Illegal. Founded 1989 by Socialist Homeland Party (SVP). Communist. Publications - "Kivilcim" (Spark), "Zafere Kadar Direnis", "Yol" (The Way), "Widerstand". **[48] [52b]**

TKP/ML (Communist Party of Turkey/ Marxist Leninist) (Türkiye Komünist Partisi/ Marksist-Leninist).
Founded 1972. Political military. Based on Maoist ideology. The party has suffered several divisions, with each faction claiming to be "the real party". In 1994 it split into two wings: a partisan wing, retaining the old name TKP/ML, and an Eastern Anatolian regional committee, assuming the almost identical name TKP(ML). Talks have been under way since late 1999 concerning reunification of the two wings. In 1972 TKP/ML set up armed guerrilla units, known as TIKKO (Türk Işçiler 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", "Isci-Köylü Kurtuluşu", "Özgür Gelecek" (Free Future). **[2a] [67] [52a] [52b] [52a] [69]**

TKP(ML) (Communist Party of Turkey (Marxist-Leninist) (Türkiye Komünist Partisi (Marksist-Leninist).
Split of TKP/ML in 1994. Political military. Maoist. Publications - "Isçi Köylü Kurtuluşu", "Devrimci Demokrasi" (Revolutionary Democracy), "Öncü Partizan" (Pioneer Partisan). **[52a]**

TKP/(M-L) DABK (Communist Party of Turkey (Marxist-Leninist) East Anadolu Area Committee) (Türkiye Komünist Partisi (Marksist-Leninist) Doğu Anadolu Bölge Komitesi)
Illegal. **[48]**

TKP/M-L Kons. Kes (Communist Party of Turkey/ Marxist-Leninist Conferencing Body) (Türkiye Komünist Partisi/Marksist-Leninist Koferansçi Kesim).
Illegal. **[48]**

TKP/ML (Maoist Parti Merkezi) (Communist Party of Turkey/ Marxist-Leninist (Maoist Party Centre)) (Türkiye Komünist Partisi/ Marksist Leninist (Maoist Parti Merkezi))
Illegal. Split of TKP/ML in 1987. Political military. Maoist. Publication - "Iktidara". **[48] [52b]**

TODEF See **DHKP-C**

Toplumsal Özgürlük Platformu (Social Freedom Platform).
Part of ÖDP (**see Annex B**). **[52a]**

TSIP (Socialist Workers Party of Turkey) (Türkiye Sosyalist Isçi Partisi).
Founded 1993. Legal. Communist. Publication - "Kitle" (Mass, Crowd). **[52a] [52a]**

Türkiye'de Marksist-Leninist Parti (Marxist Leninist Party in Turkey).
Founded in 1980 as TKP/ML Spartakus. Stalinist. Publications - "Spartakus", "Bilimsel Komünizmin Sancağı Altinda". **[52b]**

UIC (Union of Islamic Communities)
Founded 1983. Its initial goal is to unite Muslims living in Europe under one roof. Its main goal is to establish a Federal Islamic State in Anatolia. Its founder Cemalettin Kaplan declared himself the "caliph" of all Muslims in 1994, and from then on UIC called itself the "Caliphate State". After he died in 1995, his son Metin Kaplan replaced him as "caliph". Some members of UIC have rejected Metin Kaplan's caliphate, and UIC has divided into three groups. UIC has 200-300 members in Turkey, largely in Istanbul, Konya, Adana, Sivas, Aydin, 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. He was extradited from Germany in 2004 after Turkey banned the death penalty. The Turkish police have conducted operations against UIC militants in Sivas, Sakarya, Erzurum, Bursa and Çanakkale. As reported by BBC News on 20 June 2005, Metin Kaplan was sentenced to life in prison for plotting to overthrow Turkey's secular system. **[65] [66bf]**

Vasat Grubu/Ehl-i Sünnet vel Cemaat.
Illegal. It claimed responsibility for throwing a grenade at a book fair in Gaziantep on 14 September 1997, killing one person and injuring 24. **[56]** Today Vasat is inactive. With series of police operations in the June of 1999, in Malatya and in Ankara all the action plans, structure, strategies, educational activities and financial resources of the organisation had been deciphered. **[65]**

Yeni Yol (New Way)
Part of ÖDP (**see Annex B**). Trotskyist. Publication - "Yeni Yol" (New Way). **[52a]**

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Annex D: Prominent People

Aksu, Abdulkadir
Minister of Interiors. **[60b]**

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.

Babacan, Ali
Chief negotiator for accession talks with the European Union. **[23z]**

Bahçeli, **Devle**t
Leader of MHP (Nationalist Action Party), and Deputy Prime Minister 1999-2002.

Bakirhan, Tuncer
Chairman of DEHAP. **[69]**

Baykal, **Deniz**
Leader of CHP (Republican People's Party).

Bozlak, **Murat**
Chairman of HADEP (People's Democracy Party) until it was banned in March 2003. He is banned from being a founder, member or administrator of another party for five years from March 2003.

Cem, **Ismail**
Foreign Minister 1997-2002, and founder of YTP.

Çiçek, Cemil
Minister of Justice. **[60b]**

Çiller, **Tansu**
Turkey's first woman Prime Minister 1993-96. Was Chairman of DYP (True Path Party).

Derviş Kemal
Formerly a Turkish Vice President of the World Bank. Appointed after the February 2001 crisis as the State Minister responsible for the economy; resigned August 2002.

Ecevit, **Bülent**
Former leader of DSP (Democratic Left Party), and Prime Minister 1999-2002. Was Prime Minister in 1974 (when Turkey invaded Cyprus, in order, in its perception, to protect the Turkish Cypriot minority), in 1977, and in 1978-79.

Erdoğan, **Recep Tayyip**
Prime Minister from March 2003 to present. 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). Leader of the Islamist-orientated AK Partisi (Justice and Development Party), which he led to victory in the November 2002 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. **[66c]**

Gül Abdullah
Foreign Minister and Deputy Prime Minister. Prime Minister from November 2002 to March 2003. **[60b] [63b]**

Öcalan, Abdullah (nickname "Apo")
Leader of the PKK. Born in 1949 in Urfa. He initiated, with six colleagues, a specifically Kurdish national liberation movement based on Marxism-Leninism. From 1978 the Apocular, or followers of Apo, called themselves the PKK. He was captured, forcibly returned to Turkey in February 1999, put on trial, convicted of treason and sentenced to death. With the abolition in 2002 of the death penalty for offences in peacetime, his sentence was commuted to life imprisonment without conditional release. **[30e] [58]**

Özcan, Hüsamattin
Deputy Prime Minister 1999-2002.

Özkök, General Hilmi
Born 1940, Chief of the General Staff for a four year term from August 2002.

Sezer, **Ahmet Necdet**
President of Turkey since May 2000. He is the first President in Turkey's history who is neither an active politician nor a senior military official. He was formerly Turkey's most senior judge, the Chairman of the Constitutional Court.

Yilmaz, Mesut
Prime Minister in 1991, 1996, and 1997-1999, and Deputy Prime Minister 1999-2002. Was Chairman of ANAP (Motherland Party).

Annex E: 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
Elāziğ	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
Içel	12.9.80 – 19.3.85	19.3.85 – 19.7.86
Iğdır (Established 27.5.92, previously part of Kars)		
Isparta		
Istanbul	26.12.78 – 19.11.85	19.11.85 – 19.11.88
Izmir	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)		16.5.90 – 30.11.02
Sivas	26.123.78 – 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 F: Administration of Justice

The European Commission Turkey 2005 Progress Report released on 9 November 2005 recorded that "The principle of legality of criminal offences is set out in Article 38 of the Constitution and in Article 2 of the [new] Penal Code. The non-retroactivity of penalties is established in Article 38 of the Constitution and in Article 7 of the Penal Code. Proportionality between the criminal offence and the penalty is guaranteed by Article 3 of the Penal Code.

The principle of ne bis in idem [the right of a person not to be prosecuted twice for the same offence] is established in Article 223 of the Code of Criminal Procedure." **[71e] (p106)**

Judges

1. The position of the judge (hakim, yargıç) is important, especially as there is no jury trial in Turkey. His role is substantially larger than that of a judge in UK or USA. He is actively responsible for the administration of justice. He takes the initiative in finding the law applicable to the facts submitted by the parties. The lawyers have the duty to assist the judge in establishing the facts and determining applicable legal provisions. The independence of judges is safeguarded by Articles 138 and following of the Constitution: "Judges shall be independent in the discharge of their duties. They shall pass judgements in accordance with the Constitution, law, justice and their personal convictions. No organ, office, agency or individual may give orders or instructions to courts or judges in connection with the discharge of their judicial duty, send them circulars, or make recommendations or suggestions. No questions may be raised, debates held, or statements issued in legislative bodies in connection with the discharge of judicial power concerning a case on trial." **[64]**

As recorded in Turkey's Statistical Yearbook 2004, published by the State Institute of Statistics, in 2003 there were 6,600 judges. **[89] (Section on Justice)**

Public Prosecutors

2. Offences are, in the great majority of cases, prosecuted in the name of the people by public prosecutors (savcılar), who are virtually representatives of the executive branch of the government within the judiciary. The duty of initiating public prosecution rests with the public prosecutor. As soon as he is informed of the occurrence of an offence, the public prosecutor should make the investigation necessary to decide whether public prosecution should be initiated. He investigates evidence both against the accused and in his favour, and helps to preserve proof which otherwise might be lost. If, at the end of his investigation, the public prosecutor decides not to prosecute, he will inform the accused if the accused has testified, or if a warrant of arrest has been issued against the accused. No one may be convicted under an indictment in which he is not named, nor may he be convicted of a crime not specified in the indictment. **[64]**

As noted in the European Commission 2005 report "The Code establishes the concept of plea bargaining. In order to reduce the number of unmeritorious prosecutions, the Code increases the discretion of prosecutors, who are now able to assess the strength of the evidence before preparing an indictment. Moreover, judges are given the power to return incomplete indictments. **[71e] (p15)** As regards legal guarantees including access to justice, so far as

the prohibition of arbitrary arrest is concerned, Article 90 of the Criminal Procedure Code provides that persons who are arrested by the police must be informed of the reason for their arrest." **[71e] (p15)**

3. In the case of some lesser offences specified by law, where the injury is deemed more private than public, the injured party may himself institute criminal proceedings by filing a private complaint (şahsi dava) without participation of the public prosecutor. In these exceptional cases, the private party enjoys all the rights given to the public prosecutor by law. Furthermore, the person injured by an offence may intervene in any public prosecution, and he becomes a party to the action by virtue of his intervention (Müdahale yolu ile dava). **[64]**

As recorded in Turkey's Statistical Yearbook 2004, published by the State Institute of Statistics, in 2003 there were 3,202 prosecutors. **[89] (Section on Justice)**

4. The European Commission 2005 report recored that "The number of judges and prosecutors has remained largely stable; there are currently 5 952 judges and 3 179 prosecutors in service and a further 1 053 judges and prosecutors in training. A law adopted in December 2004 provided for the recruitment of 4 000 additional judges and prosecutors, 100 judicial inspectors and 6 619 court administrative staff." **[71e] (p105)**

The defendant

5. The law is designed to protect innocent citizens. The accused is favoured in criminal proceedings by the presumption of innocence. The burden of proof rests on the public prosecutor or the private complainant, and the defendant is not held guilty until his guilt is established by final judgement. When the court is not satisfied by the evidence of the prosecution, or a reasonable doubt exists, the court must give a judgement of acquittal. **[64]**

The European Commission 2005 report noted that "The right of defence is enshrined in Article 36 of the Constitution. The Code of Criminal Procedure regulates the use of legal counsel and the rights of defence in criminal investigations and during trials. The new Code substantially improves the rights of the defence. Article 150 of the new Code of Criminal Procedure provides that all accused persons may have access to a lawyer and that representation by legal counsel is mandatory, both during the investigation and the trial, for offences punishable by more than five years' imprisonment …The new Criminal Code also introduces the principle of cross-examination, which strengthens the rights of the defence. Nevertheless, certain practices undermine equality of arms. The design of the courtroom, in which the prosecutor is seated on a raised platform next to the judges while defence counsel is seated at ground level, places the prosecution in a privileged position vis-à-vis the defence. Defence counsel experience difficulties in communicating with their clients both in the court house immediately before the trial (in part due to lack of suitable facilities) and in the court room during the course of the trial." **[71e] (p106)**

Evidence

The European Commission 2005 report recorded that "Under the new Code, criminal investigations must be carried out by a judicial police force under the authority of the public prosecutor." **[71e] (p15)**

7. The use of unlawful interrogation methods (such as maltreatment, torture, forcing drugs, causing fatigue, cheating, deceiving, violence, unlawful promises) which are may distort free will, is prohibited. Accordingly statements and depositions obtained by unlawful means are considered inadmissible, even if they are of free will (for example, if a person were deceived). **[64]**

The European Commission 2005 report recorded that "All detainees are entitled to access to justice (i.e a lawyer) and for juveniles the presence of a lawyer during interrogation is obligatory. Moreover, the new Regulation on Apprehension, Detention and Statement Taking [entered into force on 1 June 2005] makes the appointment of a defence lawyer obligatory in cases where the alleged crime carries a sentence of more than 5 years' imprisonment." **[71e] (p23)**

Commencement and conduct of proceedings

Preparatory investigation

8. The public prosecutor, upon being informed of the occurrence of an alleged offence, makes a preparatory investigation (hazırlık soruşturması) in order to ascertain the identity of the offender and to decide whether it is necessary to institute a public prosecution. If he concludes that a public action is necessary, he institutes a case by an indictment before the competent court. If a public action is unnecessary he decides not to prosecute. The Minister of Justice may, by order, direct the prosecutor to initiate a public prosecution. **[64]**

9. The public prosecutor may, for the purpose of his enquiry, demand any information from any public employee. He is authorised to make his investigation either directly or through police officers. The police are obliged to inform the public prosecutor immediately of events, detainees, and measures taken, and to execute orders of the prosecutor concerning legal procedures. **[64]**

10. In cases where a private complaint is submitted to the public prosecutor, and the prosecutor finds no reason for prosecution or decides not to prosecute after a preparatory investigation, he informs the petitioner of his decision. If the petitioner is, at the same time, the aggrieved party the petitioner may, within 15 days of notice, object to the Chief Justice of the nearest court which hears aggravated felony cases. If the court is convinced that the petition is well founded and rightful, it orders a public prosecution; the prosecutor in charge of the case executes this decision. Otherwise, the court refuses the petition, and after such action a public prosecution may be opened only upon production of newly discovered evidence. **[64]**

11. A public prosecution shall be dismissed when the perpetrator of an offence which is punishable by a fine or a maximum of three months' imprisonment deposits the minimum amount of the fine prescribed for the specific offence (or, in the case of imprisonment, the sum which is the amount prescribed by the Law of Execution of Penalties for one day of imprisonment) in the appropriate office before the court hearing. If this amount is paid by the offender before a public prosecution has been initiated, and within ten days of the date of the offence, the perpetrator shall not be prosecuted at all. **[64]**

12. The preparatory investigation is, in principle, secret, performed without the presence of the parties and in written form. **[64]**

Final investigation (trial)

13. The European Commission 2005 report noted that "Article 38 of the Constitution provides for the presumption of innocence to be applied in criminal trials. Article 36 and 141 of the Constitution guarantee the right to a fair and public trial. Article 182 of the Code of Criminal Procedure also provides for trials to be held publicly." **[71e] (p106)** The final investigation or trial (son soruşturma) begins when the indictment is sent by the public prosecutor to the court which will try the case. The final investigation has two stages: the preparation for trial (duruşma hazırlığı) and the trial itself (duruşma). Its object is to examine all evidence before the court, and to reach a judgement with respect to the guilt of the accused. **[64]**

14. All phases of final investigation are conducted in the presence of the defendant. At his own request, a defendant may be excused from attending trial, and may send a defence counsel in cases where his presence is not necessary. Trial may also be instituted against an absentee defendant when the offence is punishable by a fine, confiscation, or both. **[64]** 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.

15. In principal trials are open to the public. This includes cases relating to state security. In political cases the audience usually includes some representatives of human rights organisations, and diplomatic staff from various countries. **[2a]**

The European Commission 2005 report noted that The Code of Criminal Procedure introduces the requirement that certain trials are to be recorded on audio and videotape. **[71e] (p15)**

See also Section 5 on The Judiciary.

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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 Hakimliği)
This is the lowest civil court in Turkey with a single judge. There is at least one in every ilce. 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 Hakimliği)
This is the essential and basic court in Turkey. Its jurisdiction covers all civil cases other than those assigned to the civil Courts of the Peace. There is one in every il and ilce, 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 Hakimliği)
This is the lowest penal court with a bench of one judge. There is one in every ilce, 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 Hakimliği)
Among the penal courts, this Court with a single judge handles the essential local criminal work. Its jurisdiction covers all penal cases excluded from the jurisdiction of the Penal Court of the Peace and the Central Criminal Court. There is one in every il and in every 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 (Ağır Ceza Mahkemesi) (commonly referred to as '**Heavy Penal Courts**')
This court consists of a presiding judge and two members with a public prosecutor. Offenses and crimes involving a penalty of over five years of imprisonment, or capital punishment are under the jurisdiction of this Court of which there is one in every il. But it is sometimes divided into several branches according to the need and population. There are 172 Central criminal courts throughout Turkey. **[19]**

vii. State Security Courts (Develet Güvenlik Mahkernesi)/Regional Serious Felony Courts (sometimes referred to as '**Specialised Heavy Penal Courts**')
As noted in the European Commission Regular Report on Turkey's progress Towards Accession 2004, the State Security Courts have been abolished and replaced by Regional Serious Felony Courts (also referred to as Heavy Penal Courts). According to the previous law, State Security Courts used to handle the criminal offenses described in Article 9 of the said law which were about the security of the state. They consisted of a presiding judge and two members with a public prosecutor. There were 12 such Courts throughout Turkey. **[19]**

viii. Execution Investigation Authority (Icra Tetkik Hakimliği)
A court with a single judge which has jurisdiction over disputes arising during the execution of all civil sentences and judicial decrees; over all acts obstruction or rendering difficult the execution of all civil sentences and judicial decrees. There is one such Court in every 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]**

A letter from the British Embassy in Ankara dated 22 April 2005 noted that the Yargitay only confirms or cancels court verdicts and does not conduct retrials. **[4d]**

xi. Intermediate Courts of Appeal

As recorded in the European Commission 2005 report: "The Law Establishing the Intermediate Courts of Appeal came into force on 1 June 2005. The establishment of the Courts of Appeal will substantially reduce the case load of the Court of Cassation and enable it to concentrate on its function of providing guidance to lower courts on points of law of general public importance. The Law provides that the Courts are to be established within two years of its entry into force." **[71e] (p16)**

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 (Danıştay)

The highest court for controversies arising from governmental or public services and action, and for general administrative disputes, having judicial and administrative function, is the Council of State. It is the final court for cases under its own jurisdiction and a court of appeal for the decisions given by subordinate administrative courts. The Council of State has 10 judicial chambers. **[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 Yüksek Idare Mahkemesi)

The jurisdiction of the Supreme Military Administrative Court covers cases arising from administrative acts and actions made by military authorities and also cases arising from administrative acts and actions made by civilian authorities but involving military personnel and relation to military services. The Supreme Military Administrative Court is divided into 2 chambers. **[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 substitute members. All judges of the constitutional Court hold office until they retire at the age of 65 like all other judges in Turkey. **[19]**

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See also Section 5 on The Judiciary

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