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Antal bilag Aktnr. 109

CIREA 73

NOTE

From: The Netherlands delegation

To: CIREA

Subject Turkish asylum seekers

Delegations will find herewith copy of the report, transmitted by the Dutch Ministry of Foreign Affairs to the Dutch State Secretary for Justice, relating to the situation in Turkey.

This document will not be translated.

TYRKIET (SS)

(170)

3 September 1997

To the State Secretary for Justice
Immigration and Naturalisation Service

Movement of Persons, Migration and Consular Affairs Department

Re: general situation in Turkey

Dear Ms Schmitz,

Further to my letter ref. DAZBA/no.66920 of 2 July 1996, I should now like to inform you of the developments in Turkey that we consider to be of relevance in assessing requests for asylum and in deciding whether Turkish asylum seekers whose applications have been rejected can be returned to Turkey.

The information given below is largely based on reports submitted by the Netherlands Embassy in Ankara, which maintains an extensive network of contacts for this purpose. These contacts include Turkish human rights organisations, representatives of the Syrian Orthodox Community and the embassies of other western countries.

In addition to the Embassy's report, use was also made of the confidential official report issued by Germany on 18 July 1997, and publications such as reports drafted by authoritative human rights organisations (Amnesty International, Human Rights Watch), UNHCR and the U.S. State Department.

1. General situation

1.1. Background

After some 700 years as a Sultanate, Turkey became a Western-style republic in 1923 under the regime of Mustafa Kemal, also known as Atatürk. The Treaty of Lausanne, agreed with the Western powers and signed on 24 July 1923, recognised and guaranteed the independence, integrity and sovereignty of the Turkish republic. The Treaty, which established the present-day borders of Turkey, also included guarantees for a number of ethnic and religious minorities living in Turkey, such as the Armenians, the Greeks and the Jews.

The leaders of the day made a radical break with the Muslim traditions of the country and implemented sweeping reforms with a view to westernising Turkish society. The division between church and state was officially introduced, the Arabic alphabet was abandoned in favour of a specially modified Roman script and Islamic laws were replaced by European ones. All garments regarded as religious (including the fez⁽¹⁾) were banned and replaced by western-style dress. Middle-Eastern or Central Asian music had to some extent to give way to European classical music⁽²⁾. In addition, women were forbidden to wear islamic headscarves in places such as government buildings.

Even today, the army - which may be regarded as the guardian of the secular nature of the Turkish state - takes strict action to enforce full observance of the principles introduced under Mustafa Kemal⁽³⁾.

From the early days of the republic, vigorous efforts were made to suppress Kurdish nationalism. During the 1980s, the Kurdish desire for independence increased and led in 1984 to armed struggle between the Kurdish Workers' Party (PKK) and the Turkish state. This struggle still continues unabated, since the aspirations of the Kurdish population - or at least some proportion of it - are viewed by the government as a threat to the unity and integrity of the Turkish state.

(1) The fez is a form of male headdress.

(2) For example, the annual opening of the Turkish parliament is accompanied by a performance of a Beethoven symphony.

(3) Since 1960 there have been three military coups (in 1960, 1971 and 1980), principally in opposition to the course being pursued by governments dominated by left-wing parties. The army was also involved in the recent events leading to the fall of the Erbakan government (see under 1.3).

1.2. Features of national government

In practice, the government exercises its authority over the entire country. In nine provinces in the south-east of Turkey, the state of emergency is still in force⁽⁴⁾. This measure is a response to systematic attacks on civilian and military targets by Kurdish rebels, including members of the PKK. Under the state of emergency, the provinces concerned are administered by ordinary governors headed by a special governor possessing wide statutory powers, including the power to detain people suspected of certain offences for up to ten days without charge⁽⁵⁾.

At regional level, the country is administered by eighty governors and a large number of assistant governors, who act as heads of districts. Governors and assistant governors are nominated by the Ministry of the Interior and appointed by the council of ministers. In addition, communities numbering over two thousand are governed in a number of respects by elected mayors.

The army plays an important role in Turkish society. The General Staff is not part of the Ministry of Defence, but answers directly to the Prime Minister. Military policy is decided by the General Staff, while the Ministry of Defence is responsible only for the welfare of the armed forces (food, clothing etc.).

The top government advisory body is the National Security Council⁽⁶⁾, established by the Constitution. The Council meets once a month under the chairmanship of the President. Advice from the Council relating to national unity and the integrity of the Turkish state is generally given precedence. The military have the ability directly to influence political decision-making via the Council, since it is usual for the government and parliament to follow the Council's advice to the letter.

⁽⁴⁾ The state of emergency is currently in force in the following provinces: Batman, Bingöl, Bitlis, Diyarbakir, Hakkari, Siirt, Sırnak, Tunceli and Van. In the province of Mardin, the state of emergency was raised on 28 November 1996.

⁽⁵⁾ The statutory amendments concerning the reduction of the period of pre-trial detention were published in the Turkish Government Gazette on 12 March 1997. In the south-eastern areas where a state of emergency is in force, the maximum period of pre-trial detention is now ten days and in the rest of the country seven days.

⁽⁶⁾ Under Article 118 of the Constitution, the members of the Council must include the Prime Minister and the Chief of General Staff, the Ministers of Defence, the Interior and Foreign Affairs, the commanders of the army, navy, air force and gendarmerie, and possibly - depending on the subject under consideration - another relevant minister or specialist.

1.2.1. Separation of legislative, executive and judicial powers

An amendment to the Constitution made on 27 July 1995 increased the number of seats in the Turkish parliament (Grand National Assembly) from 450 to 550. The parliament's main powers are to pass, amend or repeal legislation, to scrutinise the actions of government, to approve international treaties, to declare amnesties and to ratify death sentences.

The President is elected by parliament for a term of seven years and may not serve a second term of office. Suleyman Demirel has been President of the Republic of Turkey since 16 May 1993.

The Prime Minister is appointed by the President. The other ministers are likewise appointed by the President, following nomination by the Prime Minister. They should enjoy the confidence of parliament and bear political responsibility for the drafting of legislation and the implementation of existing statutes. Legislation is passed by parliament and subsequently ratified by the President. Under Article 148 of the Constitution, it is the responsibility of the Constitutional Court to check that new legislation accords with the Constitution and to refer it back to parliament if it does not.

Executive power is in the hand of the government, central government departments and a large number of ministries/ministers of state linked to the office of the Prime Minister.

Judicial power is exercised by an independent body under the umbrella of the Supreme Council of Public Prosecutors and Judges. Four members of this Council are appointed by the President following nomination by the Turkish Court of Cassation and Council of State. The Council is chaired by the Minister of Justice and the secretary-general of that ministry is a permanent member. Appointments and transfers of public prosecutors and judges are two important aspects of the Council's duties.

1.2.2. Conduct of police and security forces

The conduct of the police and members of the security forces leaves a great deal to be desired. The police regularly display intolerance towards demonstrations and meetings held by organisations and trade unions which openly oppose the Turkish state. There tend to be substantial numbers of arrests on such occasions. For example, during demonstrations in Ankara and Istanbul on 6 November 1996, members of the security forces took random violent action against large numbers of student demonstrators. This led to many casualties and hundreds of arrests in both cities, although almost all the students arrested were subsequently freed within 48 hours.

1.2.3. Freedom of speech

Despite the fact that the freedom of the press is guaranteed in the Constitution, freedom of speech continues to be subject to strict limitations. Additional evidence for this comes from the findings of the UN's Special Rapporteur on freedom of speech, Mr Abid Hussain, who visited Turkey between 20 and 25 September 1996⁽⁷⁾. Prosecutions are still being brought under Section 8 of the Anti-Terrorism Act, or under Section 312 of the Criminal Code, which makes the incitement of racial or religious hatred a punishable offence.

In the last year, lengthy prison sentences have been imposed on writers, journalists, trade unionists, parliamentarians and others who actively support Kurdish independence (see also under 2.3.1).

1.2.4. Village militia

The village militia system still plays a role in the south-east. There are currently some 60,000 members of the village militias. The village militia system forms part of the system of defence against Kurdish rebels in south-eastern Turkey. Members of village militias wear a state uniform and their main responsibility is to protect their fellow-villagers against attacks by the PKK. They are armed and receive a monthly salary. For many villagers, the job represents a source of income in an area of heavy unemployment. In theory appointments are voluntary, but in practice individuals are frequently pressurised into accepting the post or remaining in it.

⁽⁷⁾ Report dated 11 February 1997 (E/CN.4/1997/31/Add.1) by UN Special Rapporteur on freedom of speech, Mr Abid Hussain.

Those who refuse must expect to be suspected by the authorities of harbouring sympathies with the PKK, while those who accept run the risk of becoming targets for the PKK.

Cases are known of past or present members of village militias who have been prosecuted for abusing their position (e.g. vendettas). However, no cases are known to us in which ex-members who have moved away from south-eastern Turkey after refusing to continue in the militia have been subsequently persecuted or murdered. This suggests that there is generally a safe domestic alternative to emigration for individuals who claim to have reason to fear persecution in south-eastern Turkey purely on the grounds that they are or have been members of village militias.

1.3. Recent political developments

The domestic political situation in Turkey has not been very stable over the last year. In September 1995, the then Prime Minister, Tansu Çiller, leader of the Justice party (DYP), was forced to resign from her centre-left coalition government with Deniz Baykal's Republican People's Party (CHP). The reason was the discontent felt by her social-democratic coalition partner over stringent economic policies and the human rights situation. On 24 December 1995, elections were held during which the Welfare Party (Refah Party - RP) gained the largest proportion of the votes (21%), closely followed by Tansu Çiller's Justice Party (DYP) and the centre-right Motherland Party (ANAP), each with over 19%. This led to lengthy coalition talks. In March 1996, a DYP/ANAP centre-right coalition was agreed on the understanding that the office of Prime Minister would be occupied by ANAP leader Mesut Yilmaz until 1 January 1997 and for the next two years by Tansu Çiller. However, in the course of April and May 1996, Tansu Çiller's position in her own party came into question because of rumours of corruption. When it became clear that Yilmaz intended to drop her, Tansu Çiller announced that her party would not support the government in a forthcoming debate on a no-confidence motion. This led to the resignation of Yilmaz on 6 June 1996. New coalition negotiations followed and in early July 1996, Necmettin Erbakan, leader of the Muslim-oriented Welfare Party, became Prime Minister with Tansu Çiller as vice-premier and Minister of Foreign Affairs. Once again it was agreed that the premiership would change after two years. This arrangement made Erbakan the first Muslim premier since the creation of the republic. Despite Erbakan's anti-Western and anti-Israeli attitude, he agreed - albeit only to a limited extent - to operation Provide Comfort in northern Iraq and to continued cooperation

between the Israeli and Turkish armed forces. He also agreed to the extension of the state of emergency in the south-east of Turkey.

His desire to create closer ties with Muslim countries was demonstrated by his visits to Iran, Pakistan, Malaysia, Indonesia, Egypt, Libya and Nigeria. During a meeting in Istanbul on 15 and 16 June 1997, an association of Muslim countries - the D-8 - was set up on Turkey's initiative.

The following political parties are currently represented in parliament:

- Welfare Party (RP): religious Muslim
- Motherland Party (ANAP): liberal right
- Justice Party (DYP): liberal right
- Democratic Turkey Party (DTP): a breakaway party from the DYP
- Republican People's Party (CHP): social democrat
- Social Democrats (DSP): social democrat with a nationalist bias
- Party for National Unity (BBP): extreme nationalist/fundamentalist. The BBP entered parliament via a combined list with the welfare party.

Because of the requirement that parties obtain 10% of the vote in order to enter parliament, the extreme nationalist movement MHP (known as the grey wolves) and the pro-Kurdish party HADEP are not represented in the national assembly.

Since coming to power, the Erbakan government has been under heavy pressure from the army. The armed forces' greatest fear is that the government may undermine the essence of the Turkish state as laid down in the Constitution, i.e. the secular (lay) nature of the state and Kemalism (Arts. 1-4), general freedoms (Art. 14) and the freedom of religion and conscience (Art. 24).

Early this year, the military demanded a number of government measures to prevent religious extremism. For example, they called for the duration of compulsory elementary education to be extended from five to eight years, a measure which would have the result of automatically abolishing the Koran schools and imam-hatip schools for children aged 12-15. These schools were originally intended exclusively for the training of imams (religious leaders). But over the years they have increasingly been treated as alternative secondary schools by pupils who

have no intention of becoming imams. In addition, the army also expected the government to take measures to suppress the activities of religious sects, which have recently become active again.

On 28 February 1997, demands for these measures were formally presented to the government by the National Security Council in a twenty-point declaration. This constituted an overt command to Prime Minister Erbakan and his party to desist from any attempt to translate the Islamic goals of the welfare party into practical political decisions. On 21 May 1997, prompted by various fundamentalist actions and exhortations made by leaders of the welfare party, the Chief Public Prosecutor at the Turkish Court of Cassation started proceedings in the Constitutional Court to obtain a ban on the party. This procedure is not yet concluded.

Ceding to pressure from the President and the army, and with an eye to an early general election, Prime Minister Necmettin Erbakan tendered to the President his cabinet's resignation on 18 June 1997. On 20 June 1997, despite the coalition partners' agreements on arrangements for a rotating premiership, responsibility for forming a new cabinet was given by President Demirel to Mesut Yilmaz, leader of the ANAP. On 30 June 1997, Yilmaz succeeded in forming a new minority government together with the DSP and the DTP. One of the first actions of the new government was to respond to the army's demands by drafting legislation extending the duration of secular elementary education from five to eight years. This law was passed by the Turkish parliament in August.

1.4. Security situation

Turkey is experiencing terrorist actions by communist groups, supporters of the PKK and fundamentalist extremists (Acmendiler, see also section 3).

The situation in south-eastern Turkey is still dominated by violent conflict between the forces of law and order on the one hand and armed Kurdish rebels (mainly supporters of the PKK) on the other. This is threatening the safety of the general population.

1.5. Socio-economic situation

Partly as a result of the struggle between the army and the PKK and allied groups in the south-east of the country, the economic situation in Turkey is poor. There is high inflation. The official rate of unemployment is 6%, but hidden unemployment is estimated at around 15%. As a rule, only those in work have any form of medical insurance. The unemployed and workers in the "black" economy receive no assistance to meet the costs of health care.

Every Turkish national has access to such forms of social provision as health care and elementary and secondary education.

1.6. Procedures for entering and leaving the country

Under the Turkish Constitution, every Turkish national has the right to a passport. Individuals must apply for their passports in person and then sign them on the spot and receive them personally. Third parties, e.g. travel agents, are not permitted to apply for or receive passports on behalf of others.

Holders of Turkish passports do not generally experience problems on entering or leaving the country. There are passport and baggage checks.

2. Human rights violations

2.1. General

Despite the fact that Turkey is party to many human rights conventions, including the European Convention on Human Rights (ECHR), the Convention for the Prevention of Torture and the Convention relating to the Status of Refugees, the country still displays clear shortcomings as regards the proper observance of human rights. Disappearances and extrajudicial executions still occur. The victims are mainly people who openly support the Kurdish cause (journalists, intellectuals etc.), as well as members of Kurdish organisations and human rights organisations. Cases of abuse and torture are still frequent, especially during pre-trial detention. Equally, there are still considerable shortcomings in the field of freedom of speech.

Although some progress has been achieved in recent years, especially as regards legislation, the Turkish government has still not succeeded in making many practical improvements to the human rights situation despite its initially promising declarations. The measures taken in 1995 to improve the situation, such as the amendment to Section 8 of the Anti-Terrorism Act and the amendments made to the Constitution in July 1995, have had only a very partial effect⁽⁸⁾.

On 3 July 1996, the Turkish government launched a programme designed to improve the human rights situation. A Missing Persons bureau was set up and there were plans to speed up procedures and repeal certain pieces of legislation. In addition, the then Minister for Foreign Affairs, Tansu Çiller, announced on 17 October 1996 that concrete proposals would be made with a view to reducing the maximum period of pre-trial detention, streamlining judicial procedures and achieving a geographical redistribution of the State Security Courts.

Some statutory amendments relating to the reduction of the period of pre-trial detention and the right of suspects to speak to their lawyers have now come into force. A large proportion of the human rights violations reported by international organisations in respect of detainees occur during this period of pre-trial detention.

In 1987, Turkey recognised the right of individual recourse contained in the European Convention on Human Rights (Art. 25 ECHR). This means that any Turkish national who believes that there has been any violation of his rights under the ECHR can submit a complaint against the Turkish state to the European Commission of Human Rights in Strasbourg. To date, some 800 Turkish nationals have taken advantage of this right of complaint. In most cases, their complaints related directly to human rights violations resulting from the continuing conflict between government forces and the PKK in the south-east of Turkey. However, many victims - especially those from south-eastern Turkey - are still wary of submitting complaints to the Commission, fearing severe retaliation on the part of the Turkish authorities. A number of complaints therefore related directly to violations of the right of individual recourse.

Two independent non-governmental organisations are active in the human rights field in Turkey: the Human Rights Association (IHD) and the Human Rights Foundation (IHV). The

⁽⁸⁾ I would refer the reader in this respect to the official report of 2 July 1996, ref. DAZBA/no.66920.

IHD concentrates mainly on the collection and verification of information concerning human rights violations. In its monthly reports, it lists arrests, cases of torture, disappearances during pre-trial detention, violations of the freedom of speech, political trials etc. In addition, the IHD has also received financial assistance from the EU to organise a number of courses on human rights both for primary and secondary school teachers and for lawyers. The courses for the latter group were intended in particular to clarify the procedure surrounding the right of individual recourse.

The IHD and its 54 departments frequently find themselves in conflict with the Turkish authorities. Committee members are regularly summoned to court to answer for reports they have issued or public statements they have made concerning human rights violations. Although the national umbrella organisation has not so far been banned, the regional departments regularly face temporary prohibitions imposed by governors. The departments in south-eastern Turkey and those in Izmir and Konya are all closed at present due to pressure on the part of the authorities.

The IHV runs four rehabilitation centres in Ankara, Istanbul, Izmir and Adana, where torture victims can go for medical treatment. In addition, it also maintains a documentation centre on human rights violations and publishes an annual report in Turkish and English. The IHV receives financial support from the EU Permanent Representation, the Voluntary Fund managed by the UN Centre for Human Rights, Amnesty International and the Swedish Red Cross.

In addition to the two human rights organisations cited above, the Muslim Mazlum-Der association has also been active in the field of human rights for some years. However, little is known about this organisation.

2.2. Inviolability of the person

2.2.1. Torture

Turkey is party to the Convention against Torture⁽⁹⁾, and though the Constitution forbids the use of torture, it nonetheless occurs on a regular basis. To gain confessions from suspects held in pre-trial detention, members of the security forces regularly resort to violent methods. Cases are known of people who have died in detention, apparently as a result of torture.

On 6 December 1996, the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment (CPT) published the results of visits to Turkey in 1994 and 1996. It encountered compelling evidence of the use of torture and abuse by the Turkish police. The CPT is of the opinion that most legislation and regulations needed to prevent the use of torture are in place but that these are widely ignored.

A parliamentary human rights committee was established in 1990 to investigate infringements of human rights. This committee, which comprises 24 members of parliament, mainly investigates complaints relating to violations of physical integrity. The following parties are represented in the committee: the Welfare Party (RP), the Justice Party (DYP), the Motherland Party (ANAP), the Republican People's Party (CHP), the Social Democrats (DSP), and the Party for National Unity (BBP). In the first nine months of 1996, seven complaints relating to the use of torture were brought before the committee. In January 1996, partly at the instigation of the committee and also because of the great interest shown by the media, a complaint was submitted against 48 police and security officers after Metin Goktepe, a journalist working for the newspaper Evrensel, died in pre-trial detention allegedly as a result of torture. The Provincial Council of Istanbul⁽¹⁰⁾ recently completed the preliminary investigation and reached the conclusion that the 48 officers concerned should be prosecuted on the grounds that they had indeed assaulted Metin Goktepe. The trial, which has recently begun, has aroused considerable interest throughout Turkey. For security reasons, it is being held in a "travelling" court. No verdict has yet been reached.

⁽⁹⁾ Turkey ratified the Convention against Torture of 10 December 1984 on 2 August 1988.
⁽¹⁰⁾ The Provincial Council is responsible for the prosecution of government officials.

In October 1996, a policeman was found guilty of torturing a thirteen-year-old child. His custodial sentence was converted into a fine equivalent to twelve guilders. Most cases do not come to trial, since the Public Prosecutor has to await the decision of the Provincial Council before taking steps. The Council generally rejects all allegations of torture from "lack of evidence".

2.2.2. The situation in Turkish prisons

Most Turkish prisons are overcrowded. There are separate wings for political prisoners. Inmates are on the whole deprived of the rights normally enjoyed by prisoners, such as access to a lawyer, visits by relatives and medical care. In mid-1996, prisoners in some Turkish jails went on hunger strike to protest against the conditions in which they were detained. Last year, a number of hunger strikers died in Diyarbakir and Istanbul prisons.

2.2.3. The death penalty

The death penalty is still imposed in Turkey, but no one has actually been executed since 1984. Provisional article 1 of the amended Anti-Terrorism Act, which entered into force on 12 April 1991, commuted all death sentences (more than 200) to ten year prison sentences. Since that date, fourteen death sentences have been imposed, all of which are awaiting confirmation by parliament. The death penalty can be imposed for contraventions of the following articles of the Criminal Code (TCK):

- art. 125: treason and separatism
- art. 126: armed resistance to the state or entering into the service of an enemy state
- art. 127: successfully inciting war against Turkey
- art. 129: assisting or trading with the enemy
- art. 131: destroying military installations
- art. 133: espionage
- art. 136/
137: making state secrets public; ditto after prior warning
- art. 146: disturbing the constitutional and fundamental order of the state (terrorism)
- art. 147: dismissing/deposing the council of ministers
- art. 149: incitement to rioting and murder (terrorism)
- art. 156: assault on the president
- art. 150: murder

2.2.4. The right to a fair and public hearing

Under the law, everyone is entitled to a fair and public hearing. In practice, however, the procedures adopted during a number of political trials may be regarded as dubious, despite the fact that they were held in public. In these cases, the reliability of both the defence and the evidence was questionable. Reference can be made here to the trial of the former DEP members of parliament by Ankara State Security Court⁽¹¹⁾, a trial of lawyers accused of spying for the PKK by Diyarbakir State Security Court, a trial of lawyers from Erzurum who were accused of running a courier service for the PKK, and the trial of members of the HADEP executive by Ankara State Security Court.

2.3. Civil rights

2.3.1. Freedom of expression

The Constitution provides for freedom of expression and freedom of the press. The government has, however, introduced a number of laws restricting these freedoms⁽¹²⁾. The situation with regard to freedom of expression continues to give rise to concern. Editions of daily and weekly newspapers are regularly seized by the authorities and chief editors charged with incitement to separatism and sentenced to substantial fines or terms of imprisonment. An estimated 150 people are now in detention as a result of the opinions they expressed. Most of them are journalists, trade union leaders, writers, artists and members of parliament. The most harrowing case is that of writer/sociologist Ismail Besikci who has now received sentences amounting to more than a hundred years' imprisonment, as well as considerable fines because of his publications⁽¹³⁾.

Members of the executive of HADEP (the new party formed when the pro-Kurd HEP and DEP merged) were recently sentenced to 4½ and 6 years' imprisonment for assisting an illegal organisation. In the charges, HADEP was referred to as the political wing of the PKK.

(11) For more information, see the official report of 2 July 1996, ref. DAZBA/No.66920.

(12) See U.S. Department of State Turkey Country Report on Human Rights Practices, section 2a.

(13) In this connection, UN Rapporteur Hussain expressed criticism at the lack of clarity with which courts use existing laws and rules of evidence to restrict the right to freedom of expression. For the record, Besikci's publisher was also prosecuted, but PEN international, the writers' organisation, successfully intervened with financial aid in March 1997.

2.3.2. Freedom of peaceful assembly and association, including trade union rights, is recognised in the Constitution. Every person over the age of eighteen has the right to establish an association or society. Exceptions to this rule are members of the judiciary and the armed forces, teachers and certain categories of former offenders. Under the law, meetings or demonstrations may be held only if they fall within the objectives of the organisation.

2.3.3. Freedom of religion/the position of Christians

The Turkish Constitution provides for freedom of religion and conscience. In practice this means that members of religious minorities may, without restrictions, practise their religion and hold religious ceremonies in premises designated for that purpose. This also applies to members of the Syrian Orthodox Community (SOCs). Nonetheless, religious minorities may encounter administrative problems in maintaining their church buildings or other property used for religious purposes. People with different beliefs may be discriminated by the local Muslim population and/or government officials. Where such problems arise, they may seek the protection of the authorities.

The number of Christians traditionally residing in and around the cities of Mardin and Midyat in south-east Turkey has dropped considerably mainly as a result of the continued migration of SOCs to Western Europe. Generally speaking, the areas outside the south-east of Turkey can be regarded as alternative places of settlement for this population group. The city of Istanbul is particularly suitable, since they can attend their own church services in their own language there. The economic situation of the SOCs in Istanbul is no different from that of other Turkish population groups. Education is compulsory throughout Turkey, and SOCs can therefore be taught the Turkish language, and receive instruction in their own religion.

2.3.4. Military Service/Conscientious objection/Desertion

All Turkish males over the age of twenty are required to perform military service. There is no possibility under the law for them to refuse to do so, either on the basis of conscientious objection or for religious reasons. For many years, however, there has been a system under which Turkish nationals residing abroad legally may buy off their obligation to perform military service. It is, in addition, possible to gain a deferment, in order, for example, to

complete a course of study, while certain professional groups (such as doctors, teachers and government officials) may perform special duties.

Turkish nationals residing abroad illegally are not eligible for deferment of military service. Under article 63 of the Military Penal Code any Turkish national must respond to the summons to report for military service within three months, or must submit a valid reason for not doing so. He may otherwise be liable to a penalty of between six months' and three years' imprisonment, after which he is still obliged to complete his military service. Under this article, the severity of the penalty is determined as follows:

- a maximum of one month's imprisonment for persons who report within a week of the date of the summons;
- a maximum of three months' imprisonment for persons who are arrested within a week of the date of the summons;
- three to twelve months' imprisonment for persons who report within a period of between seven days and three months of the date of the summons;
- four to eighteen months' imprisonment for persons who are arrested within a period of between seven days and three months of the date of the summons;
- four months' to two years' imprisonment for persons who report more than three months after the date of the summons;
- six months' to three years' imprisonment for persons who are arrested more than three months after the date of the summons.

Under section 25c of Act number 403 (on nationality), people who fail to report for military service also run the risk of losing their Turkish nationality. The cabinet decides on this matter, and administrative appeal can be lodged against this decision with the cabinet itself. Persons who lose their Turkish nationality under this article for refusal to perform military service may regain it under article 8 of the same Act. It is important to note that appeal may be lodged with the Supreme Council, a judicial body, against all decisions reached by the competent Turkish authorities in matters relating to nationality. All decisions relating to the loss and restitution of Turkish nationality are published in the Turkish Government Gazette, complete with all personal details of the individuals concerned. Our investigations show that the Turkish Government Gazette has indeed published the names of a number of Turkish nationals resident abroad who, having lost their nationality for evading military service, have since regained it. Of course, the individuals involved are then required to complete their military service.

Turkish asylum seekers of Kurdish origin regularly put forward the argument that they will be obliged to participate in the fight against the PKK in south-east Turkey. The chance of this occurring is however very slim, since it is government policy not to deploy conscripted soldiers from south-east Turkey in their own region.

2.4. Political rights

The right to establish political parties is enshrined in the constitution. They must, however, embrace the principle of the unity of the Turkish state and people. It is up to the chief public prosecutor to ensure that parties meet this condition. Members of the judiciary, government officials and soldiers are excluded from membership of political parties.

Political parties frequently conflict with the authorities on issues relating to the Kurds. In the past few years, six political parties were banned, the most notable cases being the pro-Kurd HEP (August 1993) and DEP (June 1994). These parties' successor, HADEP, is now at risk of being banned. The court recently advised the chief public prosecutor at the Court of Cassation to initiate the procedure for a ban on HADEP by the Constitutional Court.

2.5. Violation of the human rights of specific groups

The population of south-east Turkey, which includes Kurds and Syrian Orthodox Christians, suffers considerable hardship as a result of the ongoing struggle between the army and the PKK, the Kurd separatist movement. The often forcible evacuation and destruction of entire villages, not only by government troops but also by the PKK, give rise to violations of the fundamental rights and freedoms of the people involved, many of whom are Kurds.

Kurds as such are not subject to persecution, although Turkey does not recognise them as an ethnic minority in accordance with the Treaty of Lausanne of 1923. People of Kurdish origin are to be found in all ranks of Turkish society. The use of the Kurd language has been permitted since April 1991, and there is no ban on Kurdish publications, provided they do not advocate separatism (see the section on freedom of expression).

3. Persecution

Turkish subjects are not persecuted by the authorities solely for their religious beliefs, ethnic origin or political convictions or because they belong to a specific social or political group. Left-wing, Kurdish or religious groups are, however, at risk if they engage in activities which, under Turkish law, are regarded as separatist or terrorist. In mid-October 1996, for example, 121 members of the extreme-fundamentalist organisation Acmendiler were arrested when they organised religious ceremonies in public. Anyone who openly supports the Kurdish cause and criticises the government or the army runs the risk of being prosecuted under criminal law, and of being sentenced to many years' imprisonment. Proceedings have been brought against lawyers accused of acting as couriers for the PKK in the towns of Diyarbakir, Erzurum, Tunceli and Izmir. Their trials are still under way.

4. Return

There are no indications that asylum seekers whose applications have been denied and who return to Turkey risk persecution by the Turkish authorities because they have sought asylum elsewhere. People who have engaged in activities elsewhere which the Turkish authorities regard as separatist are, however, at risk of persecution on their return.

According to the UNHCR, the general situation in Turkey gives no cause not to return people there. Account must, however, be taken of all the factors that might indicate refugee status (or exclusion from it) in each individual case, and/or other serious problems that may arise on the person's return.

The general situation in Turkey gives Germany, France, Switzerland, Belgium, Denmark, Norway and Sweden no cause not to deport either asylum seekers whose applications have been refused or other illegally resident Turkish nationals. Indeed, these countries now carry out deportations to Turkey. In 1996, Turkey was the main country of origin of people seeking asylum in Germany (more than 20% of applications for asylum were submitted by Turkish nationals). In the same year, 2,600 Turkish asylum seekers whose applications had been rejected were deported to Turkey. In the case of Kurds with PKK connections, Germany reached an agreement with the Turkish authorities in March 1995. Prior to the deportation of such individuals, the German authorities may now request the Turkish authorities to issue a binding statement specifying whether and if so which criminal law measures will be taken against them.

5. Conclusion

The human rights situation still gives cause for concern. People held in pre-trial detention in particular are still assaulted and tortured during police interrogations, and there are reports of illegal executions, disappearances and unsolved murders, especially in south-east Turkey.

The Turkish army is still waging a fierce campaign to eliminate the PKK, particularly in south-east Turkey, and the population in this area suffers severe hardship as a result.

Neither the Kurds nor the Turkish Christians are subjected to persecution within the meaning of the Convention relating to the Status of Refugees. Both Kurds and Christians who encounter problems as a result of the ongoing conflict between the Turkish army and the PKK in south-east Turkey may, if they wish, settle in other parts of the country. This is not, however, the case for people who have worked for the Kurdish cause, or who are suspected of having done so, and face criminal prosecution as a result.

From the general situation in Turkey it may, in principle, be concluded that there is no reason not to deport Turkish nationals whose application for either a residence permit or asylum has been rejected.

[signed]

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For the Minister for Foreign Affairs