

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	402
Land:	Tyrkiet
Kilde:	British Home Office
Titel:	Country Information and Guidance. Turkey: Membership of, or association with, the PKK
Udgivet:	26. februar 2016
Optaget på baggrundsmaterialet:	8. august 2016



Home Office

Country Information and Guidance

Turkey: Membership of, or association with, the PKK

Version 1.0

February 2016

Preface

This document provides country of origin information (COI) and guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained within this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

IAGCI may be contacted at:

Independent Chief Inspector of Borders and Immigration,
5th Floor, Globe House, 89 Eccleston Square, London, SW1V 1PN.

Email: chiefinspectorukba@icinspector.gsi.gov.uk

Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

Contents

Preface	2
Contents.....	3
Guidance.....	4
1. Introduction	4
1.1 Basis of Claim	4
2. Consideration of Issues	4
2.1 Credibility.....	4
2.2 Exclusion	4
2.3 Assessment of risk	4
2.3 Protection	6
2.4 Internal relocation.....	6
2.5 Certification	6
3. Policy summary	6
Country Information.....	8
4. Background	8
4.1 Kurds in Turkey	8
4.2 The Partiya Karkerên Kurdistanê or Kurdistan Workers' Party (PKK)	8
4.3 Recruitment of child soldiers	11
4.4 Journalists	12
5. Prosecutions under the Anti-Terror Law	13
5.1 Anti-Terror Law.....	13
5.2 Reforms of Anti-Terror Law	15
5.3 Numbers of arrests and prosecutions.....	17
5.4 Conditions in Anti-Terror Departments	19
Version Control and Contacts.....	21

Guidance

Updated: 26 February 2016

1. Introduction

1.1 Basis of Claim

- 1.1.1 Fear of persecution or serious harm by the state because of the person's actual or perceived membership of, or association with, the Partiya Karkerên Kurdistanê or Kurdistan Workers' Party (PKK), or its members.
- 1.1.2 For claims based on Kurdish ethnicity alone see [country information and guidance on Turkey: Kurds](#).

[Back to Contents](#)

2. Consideration of Issues

2.1 Credibility

- 2.1.1 For guidance on assessing credibility, see sections 4 and 5 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision-makers must also check whether there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision-makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

[Back to Contents](#)

2.2 Exclusion

- 2.2.1 The PKK have been responsible for numerous serious human rights abuses. It has been proscribed in the UK since March 2001 under the Terrorism Act 2000 and is also on the EU list of terrorist organisations.
- 2.2.2 If it is accepted that the person has been involved with the group then the decision-maker must consider whether one of the Exclusion clauses is applicable.
- 2.2.3 For further guidance on the exclusion clauses, discretionary leave and restricted leave, see [the Asylum Instruction on Exclusion: Article 1F of the Refugee Convention](#), the [Asylum Instruction on Discretionary Leave and the Asylum Instruction on Restricted Leave](#).

[Back to Contents](#)

2.3 Assessment of risk

- 2.3.1 The PKK is banned in Turkey. The Turkish government has the right to prevent and react to any form of terrorism, including by the PKK. It is legitimate for the authorities to prosecute those who belong, or professes to belong to, or invite support for, the organisation.

- 2.3.2 Sources had expressed concern that Turkey's Anti-Terror Law is excessive in scope (see [Anti-Terror Law](#)). However, recent reforms of the law have narrowed the definition of terror crimes, abolished special courts for terrorist cases, reduced the amount of time defendants facing terrorism charges could be held in pretrial detention and enabled suspects charged with terror crimes to be represented by more than three lawyers in courts, allowing human rights interest groups and bar associations greater participation in the legal defence of these cases, although access to an attorney is reported to vary across the country (see [Reforms of Anti-Terror Law](#)).
- 2.3.3 In July 2015 a ceasefire with the PKK collapsed after the killing of two police officers by the PKK. There followed renewed clashes in south-eastern Turkey, with the government launching air strikes against IS [so-called Islamic State] positions in Syria and against the PKK in Iraq, killing or wounding hundreds of PKK militants (see [The Partiya Karkerên Kurdistanê or Kurdistan Workers' Party \(PKK\)](#)).
- 2.3.4 Prior to recent events there had in recent years been a decrease in the number of reported instances of mistreatment by the security forces. The European Commission reported that the Turkish government continues its work to ensure compliance with legal safeguards for the prevention of torture and ill-treatment, although reports of human rights abuses at the hands of the authorities continue to exist (see [country information and guidance on Turkey: Background information including actors of protection and internal relocation](#)).
- 2.3.5 There are similarly continuing reports of complaints of inhuman treatment by prison guards towards prisoners - not specifically those convicted of terrorist offences - although the number of such complaints has declined in recent years. In the course of visits to prisons by the Council of Europe's Committee for the Prevention of Torture scores of persons in the prisons were interviewed and the great majority stated that they had been treated by prison officers in a correct manner (see [country information and guidance on Turkey Prison Conditions](#)).
- 2.3.6 Despite the reforms of the Anti-terror laws, which includes narrowing the definition of terror crimes, concerns exist. The laws still do not distinguish between persons who incited violence, those who are alleged to have supported the use of violence but did not use it themselves, and those who rejected violence but sympathized with some or all of the philosophical goals of various political movements (see [Reforms of Anti-Terror Law](#)).
- 2.3.7 Authorities have used the anti-terror legislation to prosecute thousands of Kurdish political activists and demonstrators charged with links to the PKK and or the KCK (an umbrella group which includes the PKK) and many have been imprisoned. Reports suggest that many are prosecuted on the charge of 'membership of an armed organization' for activities amounting to nonviolent political association (see [Prosecutions under the Anti-Terror Law](#)).
- 2.3.8 Members and those associated with the PKK are likely to face prosecution, rather than persecution, on return to Turkey, although anti-terrorism trials have been criticised by the Council of Europe and human rights groups who point to the vague definition of terrorism in the Anti-Terror Law used to make

the arrests, extended pre-trial detention periods ranging from six months to a few years, and lack of credible evidence for the arrests (see [Prosecutions under the Anti-Terror Law](#)).

- 2.3.9 Although relatives of members or supporters of the PKK are likely to face questioning and possibly some police harassment or discrimination, this will not in general reach the level of persecution or serious harm. However, each case must be considered on its individual facts.
- 2.3.10 For further guidance on assessing risk, see section 6 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#). See the [Prison conditions](#) CIG for information on prisons in Turkey.

[Back to Contents](#)

2.4 Protection

- 2.4.1 As the person's fear is of ill-treatment/persecution at the hands of the state they will not be able to avail themselves of the protection of the authorities.
- 2.4.2 For further guidance on assessing the availability or otherwise of state protection, see section 8.1 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

2.5 Internal relocation

- 2.5.1 As the person's fear is of ill-treatment/persecution at the hands of the state they will not be able to relocate to escape that risk.
- 2.5.2 See also country information and guidance on [Turkey: Background including actors of protection and internal relocation](#).
- 2.5.3 For further guidance on internal relocation, see section 8.2 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

2.6 Certification

- 2.6.1 Where a claim falls to be refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.6.2 For further information on certification, see the [Appeals Instruction on Certification of Protection and Human Rights claims under Section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

[Back to Contents](#)

3. Policy summary

- 3.1.1 The PKK have been responsible for numerous serious human rights abuses and is proscribed in the UK under the Terrorism Act 2000. If it is accepted that the person belongs, or professes to belong, or invites support for, the organisation then the Exclusion clauses are likely to be applicable.

- 3.1.2 Members and those associated with the PKK and the KCK umbrella group are likely to face prosecution, rather than persecution, on return to Turkey on the grounds of membership of an armed terrorist organisation.
- 3.1.3 Although relatives of members or supporters of the PKK are likely to face questioning and possibly some police harassment or discrimination, this will not in general reach the level of persecution or serious harm. However, each case must be considered on its individual facts.

[Back to Contents](#)

Country Information

Updated: 26 February 2016

4. Background

4.1 Kurds in Turkey

- 4.1.1 For general background on Kurds in Turkey see [country information and guidance on Turkey: Kurds](#).

[Back to Contents](#)

4.2 The Partiya Karkerên Kurdistanê or Kurdistan Workers' Party (PKK)

- 4.2.1 The US Department of State, in its 2014 Country Report on Terrorism dated 19 June 2015, described the PKK as follows: 'Founded by Abdullah Ocalan in 1978 as a Marxist-Leninist separatist organization, the Kurdistan Workers' Party (PKK) was designated as a Foreign Terrorist Organization on October 8, 1997. The group, composed primarily of Turkish Kurds, launched a campaign of violence in 1984.

'The PKK's original goal was to establish an independent Kurdish state in southeastern Turkey, but in recent years it has spoken more often about autonomy within a Turkish state that guarantees Kurdish cultural and linguistic rights'.¹

- 4.2.2 A BBC profile of the PKK published on 27 July 2015 stated: 'Since...[1984] , more than 40,000 people have died. During the conflict, which reached a peak in the mid-1990s, thousands of villages were destroyed in the largely Kurdish south-east and east of Turkey, and hundreds of thousands of Kurds fled to cities in other parts of the country.

'In the 1990s, the organisation rolled back on its demands for an independent Kurdish state, calling instead for more autonomy for the Kurds.

'It suffered a major blow in 1999 when its leader, Abdullah Ocalan, was arrested and jailed for treason.

'In March 2013, he called a ceasefire and urged PKK forces to withdraw from Turkey, in an announcement he said was "historic". Correspondents said it was potentially an important step towards ending the conflict, but the real test would be in its implementation.

'Shortly after Ocalan's arrest, the PKK introduced a five-year unilateral ceasefire and took a number of steps to try to change its image and widen its appeal, changing its name several times before deciding it again wanted to be known as the PKK.'

¹ United States Department of State. 'Country Reports on Terrorism 2014; Foreign Terrorist Organizations.' Kurdistan Workers' Party (Chapter 6), dated 19 June 2015. <http://www.state.gov/j/ct/rls/crt/2014/239413.htm> Date accessed: 29 August 2015.

'It also further watered down its demands, calling on Ankara to involve it in the country's political process, allow more cultural rights for the country's estimated 15 million Kurds and release imprisoned PKK members.'²

4.2.3 According to a Jane's Sentinel Security Assessment of July 2015:

'...in June 2013, Öcalan complained to visiting [pro-Kurdish Peace and Democracy Party] BDP delegates that, although he had submitted numerous detailed proposals for a resolution to the Kurdish issue, he had received no suggestions from the AKP [governing Justice and Development Party] in return. Kurdish nationalist frustrations continued to mount in July and August 2013 amid growing suspicions that the AKP had initiated the dialogue to force the PKK to declare a ceasefire and did not intend to address the underlying issues. In September 2013, the PKK announced that it was halting the withdrawal of its units from Turkey and would resume its insurgency unless the AKP demonstrated a willingness to engage in substantive peace negotiations. Tensions began to rise again in early 2014 and some of the PKK units that had been withdrawn in 2013 returned to Turkey in preparation for a resumption of the insurgency. However, the advances of the Islamic State in Syria and Iraq forced the PKK to readjust its priorities. It deployed some of its units to fight alongside Kurds in Syria and Iraq against the Islamic State.'³

4.2.4 In its 2014 Progress Report on Turkey (which covers the period from October 2013 to September 2014), the European Commission reported that:

'On 11 June [2014], the Turkish parliament adopted a law to "bring a stronger legal foundation to the settlement process" aiming at a solution of the Kurdish issue. The law was adopted with broad support across political parties. It encompasses measures to eliminate terrorism, strengthen social inclusion, reintegrate those who leave the Kurdistan Workers' Party (PKK) and lay down their arms, and prepare public opinion for the return of former fighters. It also provides guarantees that those taking part in the settlement process would not be prosecuted for carrying out their duties assigned within the scope of this law. The law entered into force on 1 October 2014. The EU extended its full support to this process and encouraged further engagement by all parties. The law strengthened the basis for the settlement process and makes a positive contribution to stability and protection of human rights in Turkey.' Abdullah Öcalan and the pro-Kurdish BDP and HDP parties welcomed the law.⁴

4.2.5 The European Commission further reported that:

'Sporadic violent incidents occurred, leading to some casualties, in particular in regions where military security installations were constructed or strengthened. The PKK kidnapped several persons throughout the year,

² BBC News. 'Profile: Kurdistan Workers' Party (PKK),' dated 27 July 2015.

<http://www.bbc.co.uk/news/world-europe-20971100> Date accessed: 6 August 2015.

³ IHS Jane's. Jane's Sentinel Security Assessment; Turkey (Internal Affairs), dated 29 July 2015. Subscription source. Date accessed: 6 August 2015.

⁴ European Commission. '2014 Progress Report on Turkey (covering the period October 2013 to September 2014),' dated 8 October 2014 (pages 5 – 6 and 17).
http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf
Date accessed: 29 August 2015.

including civil servants and soldiers. All kidnapped persons were released after intervention from Kurdish MPs. The PKK withdrawal from Turkey slowed and in January [2014] it was announced that it had stopped. Öcalan's Newroz message did nevertheless express hope for the process. The government-initiated committee of wise persons finalised its reports, containing recommendations for the settlement process. These were not published.'⁵

- 4.2.6 According to the BBC's profile of the PKK: 'In July 2015, a suicide bombing blamed on IS killed 32 people in the mainly Kurdish town of Suruc, just inside Turkey's border from the war-torn Syrian town of Kobane.

'Kurdish groups blamed the Turkish government for not doing enough to thwart IS operations and days after the bombing the PKK claimed responsibility for killing two policemen in the Kurdish majority city of Sanliurfa.

'In a show of strength, Turkey launched air strikes against IS [so called Islamic State] positions in Syria and against the PKK in Iraq. In a statement, the PKK said the strikes spelled the end of the peace process.'⁶

- 4.2.7 Integrated Regional Information Networks noted in a report dated 11 August 2015: 'Turkey launched airstrikes on the so-called Islamic State (ISIS) in what the United States welcomed as a major moment in developing a joint strategy to tackle the Islamist militants.

'But one day later [in July 2015], Ankara also renewed its military campaign against the Kurdish Workers' Party (PKK), mostly by bombing rebel bases across the border in the mountains of northern Iraq. Turkey fought a bloody 30-year civil war with the PKK separatists until an historic ceasefire in 2013.

'The United States considers the PKK a terrorist group, but its sister organisation in Syria has been a key US ally in the fight against ISIS. US President Barack Obama warned Turkey not to use ISIS as an excuse to bomb the Kurdish rebels, but the PKK leadership says this is exactly what it is doing.'⁷

- 4.2.8 Today's Zaman reported on 17 August 2015:

'Turkey began a campaign of air strikes on Kurdish militants in northern Iraq, the PKK and Islamic State of Iraq and Levant (ISIL) terrorists in Syria on July 24 in what interim Prime Minister Ahmet Davutoğlu has called a "synchronized fight against terror." Over 260 PKK militants have reportedly been killed and 400 wounded since the air campaign began, Turkish media have reported.

⁵ European Commission. '2014 Progress Report on Turkey (covering the period October 2013 to September 2014),' dated 8 October 2014 (page 17).
http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf
Date accessed: 6 August 2015

⁶ BBC News. 'Profile: Kurdistan Workers' Party (PKK),' dated 27 July 2015.
<http://www.bbc.co.uk/news/world-europe-20971100> Date accessed: 6 August 2015.

⁷ Integrated Regional Information Networks (IRIN). 'Fact check: Is Turkey using ISIS as an excuse to fight the Kurds?' dated 11 August 2015. <http://www.irinnews.org/report/101846/fact-check-is-turkey-using-isis-as-an-excuse-to-fight-the-kurds> Date accessed: 29 August 2015.

'The Daily Telegraph reported Bayik as saying that the PKK rejected "any idea of a unilateral ceasefire in the recent fight with Ankara" since it ended in July, when the PKK attacked and killed two police officers.

'Bayik [a leader and founding member of PKK] said the group would accept a cease-fire under US guarantees. "Of course there are messages, there are meetings, letters and they are likely to develop more," Bayik said in the interview. "I repeat my call that the US mediate in this situation between us and Turkey, and if they give us a guarantee we accept that role. Unless there are guarantees we cannot make unilateral steps."

'Ankara has been criticized for launching more air raids against the PKK than ISIL while trying to set up a "safe zone" in northern Syria to be policed by Turkey-backed moderate Islamist rebels, in between two areas controlled by Kurdish fighters, in effect separating the two Kurdish enclaves in northern Syria controlled by the People's Protection Units (YPG), the local PKK affiliate.

'According to the daily, Bayik accused President Recep Tayyip Erdoğan of "deliberately engineering the breakdown of the two-year ceasefire for electoral reasons."⁸

- 4.2.9 A report by the Integrated Regional Information Networks also noted that: 'While there is little doubt that the Turkish government would like ISIS to disappear, Seckin [Turkey analyst at the IHS think tank] said its absolute priority is the Kurdistan Worker's Party (PKK), the separatist group it has been fighting for decades.

'It is telling that in the first days of Turkey's bombing campaign this past week, just three of the 51 targets its warplanes struck were ISIS, the other 48 were PKK.'⁹

[Back to Contents](#)

4.3 Recruitment of child soldiers

- 4.3.1 The US Department of State 2015 report on Trafficking in Persons, dated 27 July 2015, noted that: 'Reports indicate youth participate in Kurdistan Workers' Party (PKK) forces, a group designated as a terrorist organization by the U.S. and Turkish governments; uncorroborated reports suggest Kurdish children are sometimes kidnapped and forced to participate in PKK forces.'¹⁰

- 4.3.2 The US Department of State, in its 2014 Country Report on Terrorism dated 19 June 2015, stated:

'The terrorist group PKK regularly recruited children in the past, although the number of PKK child soldiers during the year was unknown. The PKK

⁸ Today's Zaman. 'PKK leader says group ready for cease-fire under US guarantees,' dated 17 August 2015. http://www.todayszaman.com/national_pkk-leader-says-group-ready-for-cease-fire-under-us-guarantees_396744.html Date accessed: 21 August 2015

⁹ Integrated Regional Information Networks (IRIN). 'Four reasons Syrian "safe zone" unlikely to work,' dated 29 July 2015. <http://www.irinnews.org/report/101799/four-reasons-syrian-safe-zone-unlikely-to-work> Date accessed: 29 August 2015.

¹⁰ United States Department of State. '2015 Trafficking in Persons Report,' Turkey, dated 27 July 2015. <http://www.state.gov/j/tip/rls/tiprpt/2015/> Date accessed: 29 August 2015.

continued occasional abduction and conscription of youths, but it was often not clear whether youths joined voluntarily or due to coercion. Families of allegedly abducted children conducted several protests during the year demanding the PKK return their children. On June 21, the PKK released Yusuf Aslan, a 15-year-old boy, following rising criticism over its recruitment of children.¹¹

[Back to Contents](#)

4.4 Journalists

4.4.1 Freedom House in its 2015 Freedom of the Press report, published 28 April 2015, stated that: 'The government in 2014 continued to prosecute individuals suspected of having links to the Union of Communities in Kurdistan (KCK), the alleged urban branch of the separatist Kurdistan Workers' Party (PKK) militant group.'¹²

4.4.2 The Committee to Protect Journalists noted in their report dated 23 December 2014 that:

'Zeynel Bulut, an editor at Azadiya Welat, told CPJ that the newspaper frequently receives threats via phone and email. Authorities publicly claim that the pro-Kurdish media are aligned with the banned Kurdistan Workers Party, or PKK, and the KCK, an umbrella group of pro-Kurdish organizations that includes the PKK, according to CPJ research. The government says the journalists produce propaganda in favor of the banned organizations.

'...CPJ research shows that dozens of Kurdish journalists have faced charges and prison time in recent years for allegedly participating in anti-government plots. Kurdish individuals who distribute Kurdish newspapers have often been targeted alongside journalists, according to news reports.

'The Kurdish media have reported on recent events in the Syrian Kurdish cities of Rojova and Kobani, also known as Ayn Arab, from what is perceived to be an anti-Justice and Development Party (AKP) perspective as well as an anti-Islamic State perspective, Bulut told CPJ.'¹³

4.4.3 Human Rights Watch noted in their submission to the UN Universal Period Report on Turkey, published in December 2014 that:

'Turkey has prosecuted scores of journalists over the past four years, placing many in pre-trial detention for extended periods. For example, in one ongoing trial 44 mainly Kurdish journalists and media workers are charged for alleged links to or membership of the Union of Kurdistan Communities (KCK), a body connected with the PKK, and some spent more than two years in pretrial detention. Although the reduction of the maximum period of pretrial detention for terrorism crimes from ten years to five is a step in the

¹¹ United States Department of State. 'Country Reports on Terrorism 2014 - Foreign Terrorist Organizations:' Kurdistan Workers' Party, Chapter 6, dated 19 June 2015 (Section 6. Discrimination, Societal Abuse and Trafficking in Persons). <http://www.state.gov/j/ct/rls/crt/2014/239413.htm> Date accessed: 29 August 2015.

¹² Freedom House. 'Freedom of the Press 2015;' Turkey, dated 28 April 2015. <https://freedomhouse.org/report/freedom-press/2015/turkey#.VeL3VtOqqko> Date accessed: 29 August 2015.

¹³ Committee to Protect Journalists. 'Media Workers Killed in 2014:' Kadir Bağdu, dated 23 December 2014. <http://www.refworld.org/docid/54a3b2d015.html> Date accessed: 29 August 2015.

right direction, five years pretrial detention still exceeds acceptable human rights norms and moreover this measure has not been implemented consistently. A new law on the National Intelligence Agency includes prison sentences of up to nine years for journalists and editors who publish leaked intelligence, as well as other problematic provisions.¹⁴

[Back to Contents](#)

5. Prosecutions under the Anti-Terror Law

5.1 Anti-Terror Law

- 5.1.1 The January 2015 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), following a June 2013 visit to Turkey, noted that:

‘As indicated in the report on the 2009 visit, the CPT has serious misgivings about certain amendments which were made in 2006 to the 1991 Law on the Prevention of Terrorism (Law No.3713). According to Section 10 (b), persons who are suspected of having committed a terrorism related offence may be denied access to a lawyer during the initial 24 hours of custody (by order of a public prosecutor). Further, Section 10 (e) of the law stipulates that, if there is evidence that the defence lawyer might be “liaising” between the detainee and a terrorist organisation, at the request of the prosecutor and following a decision by a judge, an officer can be present during meetings between the suspect and his lawyer.’¹⁵

- 5.1.2 In its 2014 Progress Report on Turkey (which covers the period from October 2013 to September 2014), the European Commission reported that:

‘The Anti-Terror Law is excessive in scope and the extensive use of secret witnesses, particularly in cases related to state security, remained a source of concern. Bar Associations reported that courts did not usually allow defence attorneys to conduct questioning but instead asked them to submit questions for the court to ask. The failure of officials to submit statements promptly or attend trials, particularly in cases against security officials, resulted in delayed proceedings.

‘Generally, the Turkish rate of detention before final conviction continued to be high. Moreover, the duration of pre-trial detention is often excessive. Decisions relating to detention or continuation of detention were regularly not supported by adequate reasoning, referring to specific facts, evidence and grounds justifying the deprivation of liberty, as required by law. This was notably the case where accusations related to the security of the state, organised crime and terrorism.’¹⁶

¹⁴ Human Rights Watch. ‘Turkey: UPR Submission,’ dated 19 December 2014. <https://www.hrw.org/news/2014/12/19/turkey-upr-submission-2014> Date accessed: 30 August 2015.

¹⁵ Council of Europe. ‘Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 21 June 2013,’ dated 15 January 2015 (paragraph 27). <http://www.cpt.coe.int/documents/tur/2015-06-inf-eng.pdf> Date accessed: 6 August 2015.

¹⁶ European Commission. ‘2014 Progress Report on Turkey (covering the period October 2013 to September 2014),’ dated 8 October 2014 (page 46).

- 5.1.3 In its submission for the 2015 Universal Periodic Review of Turkey, the UN Country Team (UNCT) in Turkey stated: ‘With respect to counter-terrorism, there is continued concern about the long-standing, sweeping use of anti-terrorist clauses for the politically motivated prosecution of large numbers of persons including politicians, human rights defenders and journalists, in particular for alleged “membership of a terrorist organization”.

‘The UNCT expresses concern about the amendment to the Law on the National Intelligence Organization (MIT), which was enacted in April 2014 and extends the powers of MIT. Accordingly, MIT can collect and request all sorts of information and data from all individuals and organizations without a court order have connections with legal and illegal organizations and the Council of Ministers would be able to assign operational duties to MIT on issues related to external security, counter-terrorism and national security. It is recommended that Turkey acts in accordance with internationally accepted human rights norms in its counter-terrorism policies and their implementation.’¹⁷

- 5.1.4 See [Reforms of Anti-Terror Law](#) for further information on this subject.

- 5.1.5 In their annual report for 2014/15, published in February 2015, Amnesty International noted that: ‘In Turkey, broadly framed anti-terrorism legislation continued to be used to prosecute the legitimate exercise of freedom of expression, though new limits set on the maximum length of pre-trial detention resulted in the release of many.’¹⁸

- 5.1.6 The 2014 US State Department Human Rights report for Turkey published in June 2015 stated that:

‘Despite improvements made by the Fourth and Fifth Judicial Packages, the penal code and antiterror law still contain multiple articles that restrict freedom of speech and the press. International and domestic human rights organizations expressed particular concern over what they regarded as an overly broad definition of terrorism under the antiterror law and its disproportionate use by authorities against members of the press, academics, students, and members of the political opposition. Human rights monitors also emphasized that the penal code contains multiple articles that directly restrict press freedom and free speech, for example, through inclusion of provisions on praising a crime or criminal, inciting the population to enmity or hatred and denigration, and protecting public order.’¹⁹

[Back to Contents](#)

http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf

Date accessed: 6 August 2015.

¹⁷ United Nations. ‘Universal Periodic Review of Turkey 2015,’ UNCT Submission, 2015 (paragraphs 37 – 38). <http://www.refworld.org/docid/54c109084.html> Date accessed: 6 August 2015.

¹⁸ Amnesty International. ‘Amnesty International Report 2014/15; The State of the World’s Human Rights,’ dated 25 February 2015.

http://www.amnesty.eu/content/assets/Annual_Report/Annual_Report_-_English_-_AIR1415.pdf Date accessed: 30 August 2015.

¹⁹ United States Department of State. ‘Country Reports on Human Rights Practices for 2014,’ Turkey, dated 25 June 2015 (Section 2.a. Freedom of Speech and Press).

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236586> Date accessed: 6 August 2015.

5.2 Reforms of Anti-Terror Law

5.2.1 In its submission for the 2015 Universal Periodic Review of Turkey, the UN Country Team (UNCT) in Turkey noted:

‘Turkey has improved the framework on freedom of expression by amending the Turkish Penal Code and Anti-Terror Law. The definition of terror crimes was narrowed, particularly by the 4th Judicial Reform Package, which makes a distinction between the imparting of ideas through publications, statements, speeches and the use of threat or violence. However, the track record of implementation is mixed at best. Article 314 of the Turkish Criminal Code on membership of an armed organization still merits revision to further prevent restrictions on freedom of expression and prosecution of human rights activists, journalists, students and lawyers.’²⁰

5.2.2 The 2014 US State Department Human Rights report for Turkey published in June 2015 stated that:

‘The Fifth Judicial Reform Package abolished special criminal courts convened to prosecute anti-terror cases and reduced the amount of time defendants facing terrorism charges could be held in pretrial detention from 10 years to five. While human rights groups believed these changes improved the situation, they also alleged that authorities continued to abuse the antiterror law and that political expediency continued to compromise the right to fair trial.’²¹

5.2.3 Human Rights Watch noted in a report dated 29 September 2014 that:

‘Abolition of the special courts, which goes to the form of prosecution, will not in itself be enough to tackle the misuse of terrorism legislation. The government should completely overhaul the substance of the prosecutions, and revise the Anti-Terror Law and the articles in the Turkish Penal Code concerning the prosecution of terrorism and other “crimes against the state.” Narrowing the scope of these laws, whose application the courts have helped to expand hugely in recent years, is essential to prevent further misuse.’²²

5.2.4 The European Commission’s 2014 Progress Report, (which covers the period from October 2013 to September 2014), also reported that: ‘The lower statutory maximum limit of five years of detention on remand remains excessive if compared with practice of EU member states.’²³

²⁰ United Nations. ‘Universal Periodic Review of Turkey 2015,’ UNCT Submission, 2015 (paragraph 27). <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRTRUNCContributionsS21.aspx> Date accessed: 30 August 2015.

²¹ United States Department of State. ‘Country Reports on Human Rights Practices for 2014,’ Turkey, dated 25 June 2015 (Section 1e. Denial of Fair Public Trial). <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236586> Date accessed: 6 August 2015.

²² Human Rights Watch. ‘Turkey’s Human Rights Rollback: Recommendations for Reform,’ dated 29 September 2014. <https://www.hrw.org/report/2014/09/29/turkeys-human-rights-rollback/recommendations-reform> Date accessed: 29 August 2015.

²³ European Commission. ‘2014 Progress Report on Turkey (covering the period October 2013 to September 2014),’ dated 8 October 2014 (page 13). http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf Date accessed: 6 August 2015.

5.2.5 The European Commission's 2014 Progress Report, (which covers the period from October 2013 to September 2014), further stated:

'After the abolition of Article 10 of the Anti-Terror Law and the reduction of the maximum pre-trial detention period to five years, most defendants accused in cases relating to the Kurdish issue, including the KCK case, were released. Some remained in prison if they had been convicted on other charges, including under Article 314 of the Turkish Criminal Code on armed organisations.'²⁴

5.2.6 The 2014 US State Department Human Rights report for Turkey published in June 2015 stated that:

'The HRA [Human Rights Association, a domestic NGO] noted that after the annulment of antiterror law article 10, suspects charged with terror crimes could be represented by more than three lawyers in courts, allowing human rights interest groups and bar associations greater participation in the legal defense of these cases. According to the Judiciary Reform Package finalized into law on December 12 [2014], defense lawyers' access to their clients' court files for a specific catalog of crimes including crimes against state security, organized crime, and sexual assault against children is restricted until after the client is indicted.

'Private attorneys and human rights monitors reported irregular implementation of laws protecting the right to a fair trial, particularly with respect to attorney access. According to local bar associations, detainee access to an attorney continued to vary across the country. The HRF reported that suspects in organized crime cases continued to be restricted from access to a lawyer in the first 24 hours of detention. In terrorism-related cases, authorities frequently denied access to an attorney until after security forces had interrogated the suspect. As in previous years, the HRA and the bar associations claimed that police often intimidated detainees who asked for an attorney, for example, by telling them that a court would assume they were guilty if they consulted an attorney during detention.

'Authorities generally allowed detainees prompt access to family members, although human rights organizations alleged this principal was sometimes violated, particularly in the Southeast.'²⁵

5.2.7 In its submission for the 2015 Universal Periodic Review of Turkey, the UN Country Team (UNCT) in Turkey stated:

'The UNCT welcomed the 2014 abolition of Special Heavy Penal Courts, previously authorised to try cases involving organised crime, organised drug trafficking and cases brought by the Anti-Terrorism Law. Such cases are now handled by regular courts. Furthermore, Law No. 6110, adopted in 2011

²⁴ European Commission. '2014 Progress Report on Turkey (covering the period October 2013 to September 2014),' dated 8 October 2014 (2.1. Democracy and the rule of law, page 17). http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf Date accessed 6 August 2015.

²⁵ United States Department of State. 'Country Reports on Human Rights Practices for 2014,' Turkey, dated 25 June 2015 (Section 1d. Arrest Procedures and Treatment of Detainees). <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236586> Date accessed: 6 August 2015.

in an effort to address the main problem of the backlog in the judiciary in Turkey, increased the number of chambers and members of the Court of Cassation and the Council of State. The creation of district and regional courts of appeal as an intermediate tier in the structure of courts, foreseen even in 2005, was supposed to address this problem as well. However, there is still no progress in their establishment given the deficiencies in physical infrastructure and human resource capacities.

'Pre-trial detention has been an issue of concern. In July 2013, the provision which foresees a maximum of a ten-year pre-trial period for suspects of organised crime and terrorism-related offences was annulled by the CC. Through the judicial reform packages, a number of amendments were made to improve pre-trial detention practices, such as reducing the maximum period of detention from ten to five years and requiring the courts to justify the decision of detention with concrete evidence. Despite these positive developments, stronger measures should be implemented to ensure fair trial and easier access to justice for all in line with international principles.'²⁶

5.2.8 See also country information and guidance on [Turkey: Prison conditions](#).

[Back to Contents](#)

5.3 Numbers of arrests and prosecutions

5.3.1 Human Rights Watch, in a report dated 29 September 2014, noted that: 'Authorities have extensively used this article, [article 314 of the Penal Code criminalizing "membership of an armed organization"], together with related laws, over the past six years to criminalize and imprison thousands of Kurdish political activists and demonstrators (charged with links to the KCK/PKK) against whom there has been scant evidence of involvement in any violent activities that amount to terrorism.'²⁷

5.3.2 The Amnesty International Report 2014/15, published in February 2015, noted that 'Prosecutions targeting Kurdish political activists for alleged membership of the PKK-linked Kurdistan Communities Union carried on across the country, but many of the defendants were released from pre-trial detention.'²⁸

5.3.3 The BBC reported in July 2015 that hundreds of activists had been prosecuted under the country's anti-terror laws and many imprisoned. The report continued: 'Many of the activists jailed belong to the Kurdistan Communities Union (KCK), a Kurdish umbrella organisation which consists of both political and armed groups within the Kurdish movement, including the PKK.'

²⁶ United Nations. 'Universal Periodic Review of Turkey 2015,' UNCT Submission, 2015 (paragraphs 32 – 33). <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRTRUNContributionsS21.aspx> Date accessed: 30 August 2015

²⁷ Human Rights Watch. 'Turkey's Human Rights Rollback: Recommendations for Reform,' dated 29 September 2014. <https://www.hrw.org/report/2014/09/29/turkeys-human-rights-rollback/recommendations-reform> Date accessed: 29 August 2015.

²⁸ Amnesty International. 'Amnesty International Report 2014/15 - The State of the World's Human Rights,' Turkey, dated 25 February 2015. <https://www.amnesty.org/en/countries/europe-and-central-asia/turkey/report-turkey/> Date accessed: 6 August 2015.

'Those trials were widely criticised by the Council of Europe and human rights groups including Amnesty International. They point to the vague definition of terrorism in the Anti-Terror Law used to make the arrests, extended pre-trial detention periods ranging from six months to a few years, and lack of credible evidence for the arrests.'²⁹

5.3.4 Human Rights Watch noted in their submission to the UN Universal Periodic Review on Turkey, published in December 2014 that:

'Thousands of individuals have been prosecuted over the past five years on the charge of "membership of an armed organization" (article 314, Turkish Penal Code, and Anti-Terror Law) for activities amounting to nonviolent political association. Demonstrating the government's widespread misuse of terrorism laws to prosecute and incarcerate individuals, hundreds of Kurdish political activists, elected mayors, parliamentarians, officials of the Peace and Democracy Party, students, and lawyers have been in prison for long periods, in some cases for over five years, during their trials for association with the KCK. The human rights defender Muharrem Erbey spent over four years in prison on these charges, before being released in April 2014.'³⁰

5.3.5 The 2014 US State Department Human Rights report for Turkey published in June 2015 stated that:

'In 2010 the government began trying thousands of persons alleged to be members or supporters of the Kurdistan Communities Union (KCK), the umbrella political organization of the PKK terrorist group. As of October 15 [2014], the HRF [Human Rights Foundation, a non-governmental organisation] estimated that at some point during the year, authorities had detained 2,309 persons on KCK-related charges. Of these, authorities arrested 377 and released 627, mostly due to the Fifth Judicial Package's reduction in the maximum time authorities may hold detainees who have not been convicted. The Ministry of Justice reported that between January 6 and August 18 [2014], a total of 460 KCK detainees and convicts were released from prison while 219 remained in prison. Following the change in the law, the Ministry of Justice reported that authorities had released 114 persons being held on terrorism and organized crime charges pending trial. The trial system does not provide for access to speedy trial, however, and each hearing in a case may be months apart.'³¹

5.3.6 The same source continued:

'The HRA asserted there were hundreds of political prisoners from across the political spectrum, including journalists, political party officials, and academics. The government stated that those persons were charged with being members of, or assisting, terrorist organizations. Despite new limits on

²⁹ BBC News. 'Profile: Kurdistan Workers' Party (PKK),' dated 27 July 2015.

<http://www.bbc.co.uk/news/world-europe-20971100> Date accessed: 6 August 2015.

³⁰ Human Rights Watch. 'Turkey: UPR Submission,' dated 19 December 2014.

<https://www.hrw.org/news/2014/12/19/turkey-upr-submission-2014> Date accessed: 30 August 2015.

³¹ United States Department of State. 'Country Reports on Human Rights Practices for 2014,' Turkey, dated 25 June 2015 (Section 1d. Pre-trial detention).

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236586> Date accessed: 6 August 2015.

the use of the antiterror law provided by the Fourth and Fifth Judicial Packages, prosecutors continued to use a broad definition of terrorism and threats to national security. The law still does not distinguish between persons who incited violence, those who are alleged to have supported the use of violence but did not use it themselves, and those who rejected violence but sympathized with some or all of the philosophical goals of various political movements.

‘According to the Ministry of Justice, as of August 18 [2014], there were 930 persons in detention and 4,889 in prison on terrorism charges.’³²

[Back to Contents](#)

5.4 Conditions in Anti-Terror Departments

5.4.1 The January 2015 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), following a June 2013 visit to Turkey, noted that:

‘From the information received in the different [police] Anti-Terror Departments visited, it transpired that the practice varied from one establishment to another (as was the case at the time of the 2009 visit). In one anti-terror department, the delegation was told that all interviews of terror suspects were video- but not necessarily audio-recorded, while in another establishment, interviews were always carried out under video- and audio-recording. In another anti-terror department, the police officer on duty stated that audio-recording only took place when a formal statement was taken, but that it was planned to introduce systematic video- and audio-recording for all interviews of terror suspects in the near future.

‘...Material conditions in the detention facilities of the law enforcement establishments visited were on the whole adequate for short stays in terms of cell size, equipment and state of repair. However, with the notable exception of the Law and Order Department of Şanlıurfa Police Headquarters, the cells in the detention facilities of all the establishments visited – including various anti-terror departments where suspects may be held for up to four days – had very limited or no access at all to natural light, and were thus not suitable for periods of detention lasting longer than 24 hours. It should be recalled that, according to Section 25 of the Detention Regulation, custody cells are required to have sufficient access to natural light. Moreover, in several custody cells of the Anti-Terror and Law and Order Departments of Izmir Police Headquarters, artificial lighting was insufficient.’³³

5.4.2 The UN Human Rights Council’s Special Rapporteur noted in a report in May 2015 that:

³² United States Department of State. ‘Country Reports on Human Rights Practices for 2014,’ Turkey, dated 25 June 2015 (Section 1.e Political Prisoners and Detainees).

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236586> Date accessed: 6 August 2015.

³³ Council of Europe. ‘Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 21 June 2013,’ dated 15 January 2015 (paragraphs 33 – 34). <http://www.cpt.coe.int/documents/tur/2015-06-inf-eng.pdf> Date accessed: 23 February 2015

'In its response to that recommendation, the Government of Turkey indicated that personnel rendering service in anti-terrorism units received basic anti-terrorism training and training in police defence tactics and methods of arrest and detention, and that a course on human rights was also included in the curriculum.

'The Special Rapporteur was also informed that the personnel in charge of counter-terrorism units regularly participated in in-service courses to ensure that they protect rights and freedoms and respect human rights in the performance of their duties to prevent terrorist-related crimes.'³⁴

5.4.3 See also country information and guidance on [Turkey Prison Conditions](#).

[Back to Contents](#)

³⁴ UN Human Rights Council. 'Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions;' Addendum Follow-up to country recommendations: Turkey, dated 6 May 2015. A/HRC/29/37/Add.4. (B. Unlawful deaths in counter-terrorism operations, paragraph 19). http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A_HRC_29_37_Add_4_en.doc Date accessed: 5 August 2015.

Version Control and Contacts

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

Clearance

Below is information on when this version of the guidance was cleared:

- Version: **1.0**
- valid from: **26 February 2016**
- this version approved by: **Sally Weston, Deputy Director, IBPD**
- approved on: **21 January 2016**

[Back to Contents](#)