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Extract from the IHF report

Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004)

Turkey¹

IHF FOCUS: national human rights protection; freedom of expression and free media; peaceful assembly; torture, ill-treatment and police misconduct; conditions in prisons; right to life; national and ethnic minorities; migrants, asylum seekers, refugees and IDPs.

Turkey is party to most important UN and European human rights instruments. However, it has made substantial reservations to these instruments and declarations to the effect that its obligations under several key articles have been interpreted in accordance with its national law. Most of these provisions deal with minority rights. In addition, Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities, which would provide significant improvements to the protection of minority rights in Turkey.

According to an amendment to the Constitution in May 2004, in the event of a conflict regarding rights and freedoms between national law and international obligations (article 90), international agreements shall have precedence over national legislation. While some courts applied this constitutional principle to their judgments, the judiciary was generally inconsistent in respecting international human rights law.

In an amendment to the Constitution in May, all references to the death penalty were eliminated. In order to align its legislation with the EU *acquis*, Turkey adopted a new Press Law in June 2004, a new Law of Associations in July, and a new Penal Code in September, which entered into force in April 2005.

In 2003, the government declared a “zero tolerance” policy against torture and ill-treatment. The measures against torture and ill-treatment included eliminating obstacles to the prosecution of officers charged with such offences and measures to reduce or suspend penalties decided for such officers. New safeguards were put in place to ensure the right of detainees to access medical and legal assistance. The Regulation on Apprehension, Detention and Statement Taking was amended in January with a view to reinforce the protection of the rights of detainees. In March, a new Regulation on Legal Aid was passed, extending the scope of legal aid to cover court costs.

Despite the legislative improvements, Turkey's laws and practices in 2004 still fell short of international standards for the protection of human rights. The main concerns were institutionalised impunity for human rights violations, extra-judicial killings, the situation of more than one million internally displaced persons (IDPs), torture and ill-treatment, violence against women and children, child labour, the situation of asylum seekers and refugees, inhumane prison conditions, restrictions on minority rights and restrictions on freedom of expression and freedom of peaceful assembly.²

¹ This chapter was written by an independent human rights researcher, Yahya Berman, for the IHF.

² See also the following documents on human rights in Turkey: Human Rights Watch, *A Crossroads for Human Rights? Human Rights Watch's key concerns on Turkey for 2005*, 15 December 2004,

According to a Human Rights Association (HRA) report on human rights violations in Turkey in 2004,³ over 40 persons were killed extra-judicially, over 30 in prisons and five in police custody under suspicious conditions. A large number of civilians were killed in alleged clashes with or during military operations against armed organizations, mainly the former PKK (Kongra-Gel). Furthermore, 61 persons were killed by unidentified perpetrators or under suspicious circumstances suggesting political motives.

The government took some measures to improve protection of women against violence, mainly against so-called "honor killings." Nevertheless, 43 women fell victim to "honor killings," and 82 women and at least 42 children were killed as a result of domestic violence. The HRA received 843 complaints of torture and information on 197 cases of abductions of persons by security forces. Furthermore, over two hundred people were injured as a result of police violence during peaceful demonstrations. HRA also reported at least 9,711 arbitrary detentions.

In 2004, according to the HRA report, 31 cultural or political events were prohibited, and the police raided 20 editorial offices or associations. Despite reducing several restrictions on freedom of expression, the government launched prosecutions against 2,488 persons in 2004 and 693 persons were sentenced to prison terms and a larger number to fines. The government also launched investigations against at least 1,181 trade unionists in the public sector for protesting against the government, imposing administrative sanctions on at least 158 of them.

At least 134 persons were sentenced to prison terms for participating in peaceful demonstrations. The government also started closure cases for 23 human rights related, community-based, Kurdish or left-wing NGOs and political parties. Most of the measures aimed at closing the NGOs were initiated by the military or the police.

National Human Rights Protection

Turkey made major modifications to its legislation with a view to protecting human rights and democratizing the country in connection with the EU accession process. A paragraph was added to article 90 of the Turkish Constitution, recognizing the supremacy of "international agreements in the area of fundamental rights and freedoms duly put into effect" over national law. A new Penal Code was also enacted, which came into force in April 2005, amending key provisions that had led to the prosecution of peaceful speech and introducing provisions against "honor killings" and the trafficking of women.

The main agency of the central government concerned with human rights was the Human Rights Presidency, tasked to monitor human rights legislation and implementation in Turkey alongside the government's Reform Monitoring Group. Eighty-one provincial and 832 district human rights boards also operated under the Human Rights Presidency. Provincial governors or district sub-governors headed the local boards of human rights, which were comprised of public officials, representatives of NGOs and of universities who were invited by administrative officials to sit on the boards. Human rights NGOs generally avoided participating in the boards, arguing that they were not independent or effective.

A Human Rights Advisory Board was intended to provide a platform for consultations with academics and the relevant NGOs. In February 2004, 25 NGO and university members of the board released a public letter to the state minister responsible for human rights, criticising the minister and the Human Rights Presidency

<http://hrw.org/english/docs/2004/12/15/turkey9865.htm>; a joint press statement by Amnesty International, Human Rights Watch, the International Federation for Human Rights (FIDH), the Human Rights Association (IHD), the Human Rights Foundation of Turkey (TIHV) and Mazlum Der, 10 June 2004, <http://web.amnesty.org/library/Index/ENGEUR440282004?open&of=ENG-TUR>; European Commission, *2004 Regular Report on Turkey's progress towards accession*, 6 October 2004, p. 33, http://europa.eu.int/comm/enlargement/report_2004/pdf/r_r_2004_en.pdf; and the US Department of State, Turkey, *Country Reports on Human Rights Practices – 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41713.htm>;

³ HRA, *Report on Human Rights Violations in Turkey – 2004* (in Turkish), 18 March 2005, available at <http://www.ihd.org.tr/>.

for not consulting the board on any issues relating to the reform process and the affairs of the board itself. The government displayed contempt for the Human Rights Advisory Board after the adoption of a report on minority rights that admitted the existence of official discrimination against minorities. Fourteen academics and NGO representatives were notified that they were dismissed from the board as of February 2005.

The major civil society actors in the field of human rights were the Human Rights Association (HRA), the Turkish Human Rights Foundation (HRFT), the Organisation for Human Rights and Solidarity with Oppressed People (Mazlum-Der), the Helsinki Citizens' Association (HCA) and the Amnesty International Branch of Turkey. Several women's and children's rights groups and platforms were also active. Human rights organisations, especially the HRA, faced judicial harassment with about 500 prosecutions against HRA and its officials.⁴

Freedom of Expression and Free Media

Human rights organizations reported a significant decrease in prosecutions under legislation restricting freedom of expression. While the government amended several provisions under the Penal Code or other laws, persons expressing their views publicly on controversial issues such as minorities, the Kurdish question, Islam and other religions, and human rights violations were still under threat of prosecution and conviction.

Whereas the state security courts were abolished in May 2004, the new regional aggravated penal courts replaced them. Article 8 of the Anti-Terrorist Legislation that criminalized propaganda against the unity of the state was repealed and sentences under article 159 of the Penal Code were decreased. By April 2004, over 2,200 persons were acquitted under these provisions. The number of cases under other provisions – article 7 of the Anti-Terrorist Legislation criminalizing propaganda in connection with outlawed organizations, article 169 of the Penal Code criminalizing assistance to outlawed organizations and article 312 criminalizing expression considered to be inciting to hatred based on racial, religious or ethnic enmity – also decreased.

Prosecutions against persons expressing their opinions or reporting on controversial issues, including on minorities or Armenian or Kurdish issues and human rights violations, remained a state policy. According to HRA, 693 persons were sentenced to prison terms and fines for expressing their views, compared to 454 in 2003, while new cases were launched against 467 persons out of 2,488 persons subject to investigations for the same reason in 2004, compared to 1,706 persons in 2003. The government prohibited or confiscated nine books or publications in 2004, compared to 285 in 2003.

The government enacted a new Press Law. The new law replaces prison terms with fines for those who violate the law. However, human rights organizations and journalists noted that journalists will face prosecution under 25 articles of the new law for legitimate reporting.

The press was largely monopolized by holding companies, which had economic and financial dealings with various state agencies, including the military. Most Turkish media outlets imposed self-censorship and displayed a pro-government, especially pro-military, attitude, criticizing even the elected government and NGOs when they challenged "state policies" guarded by the military.

- Former Democracy Party (DEP) parliamentarians Leyla Zana, Hatip Dicle, Orhan Dogan and Selim Sadak were released upon an order of the 9th Chamber of the Supreme Court of Appeals on 9 June on the basis of a law allowing retrials according to European Court of Human Rights (ECtHR) judgments. The retrial continued at the year's end. Upon a statement by the military criticizing their release, the Ministry of Interior filed a series of complaints against the former deputies for their speeches after they were released.

⁴ On restrictions on human rights defenders, see Amnesty International, *Turkey: Restrictive laws, arbitrary application – the pressure on human rights defenders*, 18 November 2004, [http://web.amnesty.org/library/pdf/EUR440022004ENGLISH/\\$File/EUR4400204.pdf](http://web.amnesty.org/library/pdf/EUR440022004ENGLISH/$File/EUR4400204.pdf).

- In a case against Turkey's largest teacher's union, Egitim-Sen, initiated upon a complaint by the chief of general staff for closure of the union for defending the right to education in children's mother tongues, the Ankara Labor Court decided against the indictment on the basis of the case-law of the ECtHR regarding freedom of expression and of association. However, the Supreme Court of Appeals overturned the court's decision in November, arguing that freedom of association could be restricted by considerations of territorial integrity and national security. The case was pending at the year's end. The union's leaders and several unionists were prosecuted for protesting the case.

Peaceful Assembly

The Law on Assemblies, Meetings and Demonstrations was amended in August 2003. According to the new law, governors were no longer allowed to ban demonstrations and the previous authority of governors or the Interior Ministry to postpone demonstrations and meetings for 30 days was reduced to ten days. In addition, the maximum period for the postponement or ban of a meeting was brought down from three months to one month. Organizers still needed to notify the security authorities before demonstrations or meetings, which the police often took as an authorization process.

Police often intervened in demonstrations and open-air meetings organized by Kurdish activists, students, unionists, human rights groups or left-wing groups. Excessive security measures and the negative attitudes of the police toward demonstrators led to tensions.

In August, the Interior Ministry instructed the police to avoid excessive force in intervening in demonstrations and meetings, and requested the authorities to punish the police when they used excessive force. However, the government often protected the police when criticized for excessive force and harassment of persons, especially Kurdish activists, left-wing unionists and students, involved in peaceful assembly.

According to HRA, eight demonstrations and meetings were banned and the security forces used excessive force in 124 demonstrations and meetings. More than 500 demonstrators, including political and minority activists, human rights activists, students and journalists, were wounded during intervention in these actions.

Prosecutions and punishment of activists, including Kurdish and human rights activists, for peaceful assembly continued in 2004. At least 134 persons were sentenced to prison terms for participating in peaceful demonstrations or meetings, according to HRA. A large number of unionists were arrested and prosecuted for participating in protest demonstrations and meetings on charges including "stopping work illegally."

- May Day celebrations were cancelled in Diyarbakir because the governorate allocated a distant location for the meeting. Security forces used force against persons making press statements in protest in several locations. Authorities stated that 41 unionists were detained for preparing for a demonstration in Diyarbakir on May Day.
- On 20 May, police and gendarmerie intervened in Spring Festival activities at Thrace University in Edirne on charges that the PKK leader Abdullah Öcalan's poster had been seen on the premises. Using pepper gas and tear gas, police arrested some 87 students. Twenty of the students were detained on 24 May while the other students were released. Their lawyers organized a press conference in the office of the HRA Istanbul branch on 29 May, stating that the 20 students had been arrested arbitrarily. It was reported that the students had been taken to Edirne Closed Prison, forced to strip naked, searched in a degrading manner, put in single cells and their hair had been forcibly cut off. Police officers intervened in the students' activities without the permission of Edirne Governorate.

Torture, Ill-Treatment and Police Misconduct

In 2004, the government further improved the legislation and regulations concerning detention conditions and the rights of detainees, in connection with the EU accession process. While the Turkish government and the European Commission asserted that torture was not systematic in Turkey anymore, it was still widespread and the government extended immunity to the police and gendarmerie accused of torture.⁵

Turkish human rights organizations stated that the safeguards provided by the government were not always respected in practice by the security forces. Torture and ill-treatment occurred particularly in the southeast, but disadvantaged groups including the Roma and children in the poorer sections of bigger cities, including IDP children, were particularly vulnerable to torture and ill-treatment. Political detainees still risked torture and ill-treatment.

In 2004, over 5,800 persons were detained for “terrorist” crimes. The government declared a “zero-tolerance” policy on torture, but rejected any debate with human rights organizations on the issue, and reacted negatively to arguments and initiatives by these organizations.

Neither government nor NGO statistics are adequate to determine the frequency of torture in Turkey. While increased activity and visibility by the HRA and HRFT as well as better public awareness has resulted in better reporting of torture in recent years, it is believed that the most vulnerable groups are often discouraged from reporting torture, including by fear of retaliation. The HRA recorded 1,040 torture and ill-treatment complaints under detention, compared to 1,202 in 2003, while according to the government, the prosecutors launched cases against 2,395 security officers charged with torture and ill-treatment. In at least ten cases, prosecutors did not launch cases against the officers despite HRA efforts.

The new Penal Code increased the sentences for torture and ill-treatment, and the new regulations reinforced the safeguards against incommunicado detention. However, the HRA observed that most detainees were not able to access attorneys during pre-trial detention, and that the system of forensic examination of detainees before and after detention was not adequately working. The HRA observations were supported in a report by the European Committee for the Prevention of Torture (CPT) published in June 2004.⁶ In addition, prosecutors and judges were still generally protective of the officers accused of torture and ill-treatment. While confessions extracted under torture still led to indictment and even conviction, torture allegations did not always lead to effective action by the judiciary.

- Aydın Ay complained that he was tortured at Trabzon Security Directorate on 27 October. He said that the police officers inflicted electric shocks on him, squeezed his testicles, and his arm was broken as a result of the treatment. His allegations were certified by a physician after two prior examinations as a result of which the attending physicians reported that he had no health problems. When a HRA delegation visited Trabzon, the public prosecutor said that Ay was not detained, while the Trabzon security director admitted that Ay was detained. When the lawyers in the delegation requested to examine the file of investigation, their request was not granted by the public prosecutor on the grounds of secrecy of investigation. The preliminary investigation on the case continued as of early 2005.

⁵ Amnesty International, *Turkey: Insufficient and inadequate – judicial remedies against torturers and killers*, 16 November 2004, <http://web.amnesty.org/library/Index/ENGEUR440372004?open&of=ENG-TUR>; and Human Rights Watch, *Eradicating Torture in Turkey's Police Stations: Analysis and Recommendations*, September 2004, http://www.hrw.org/backgrounder/eca/turkey/2004/torture/eradicate_torture.pdf.

⁶ CPT, *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 7 to 15 September 2003*, June 2004, <http://www.cpt.coe.int/documents/tur/2004-16-inf-eng.pdf>.

- In the case of 125 persons who reported that they were tortured when they were arrested by the police for opening a “Stand for Peace” in Bingöl, the public prosecutor decided not to investigate the case due to lack of evidence.
- The Diyarbakir public prosecutor launched a case against Zülfü Dündar, the attorney of two children who reported torture in Hani district of Diyarbakir in 2003. He was charged with abusing his duty as a lawyer when he objected to the decision of the public prosecutor not to investigate the case.
- The case opened against four police officers for torturing two young girls, Fatma Deniz Polattas and Nazime Ceren Samanoglu, in Iskenderun in 1999 was not concluded in 2004. While the officers remained in their duties and received promotions, Polattas and Samanoglu were convicted on the basis of their confessions reportedly extracted under torture. The two girls were released in December 2004 due to an amendment to the law.
- Serif Dasdemir (Hulya), a transvestite sex worker, was beaten up and arrested in November for resisting the police. The police broke his arm when they intervened in a fight Hulya was having with his client, who allegedly forced him to carry out acts he did not want to. When Hulya resisted, the client reportedly said he was the police and would get Hulya beaten up if he resisted. When the police intervened, Hulya said that he requested the police to lodge a complaint against the client. At year’s end, the case against Hulya was continuing.

Conditions in Prisons

Prisons were criticized by human rights organizations and international mechanisms for poor conditions, restricted access to basic services and unjustified punitive measures against defendants and convicts. While the government expanded and improved the system of prison monitoring boards, these boards excluded from their mandate the issues of ill-treatment and prolonged isolation of detainees. As of May 2004, the boards had received nearly 12,000 complaints and accepted less than 4,000 of them.

In the reporting period, the ECtHR requested as an interim measure suspension of the imprisonment of several political prisoners who were suffering progressive brain damage as a result of a prolonged “death fast” in prisons. Human rights organizations protested the conditions imposed in prisons, mainly maximum-security facilities (E-Type and F-Type prisons for persons tried or convicted at former State Security Courts).

The HRA reported that eleven inmates committed suicide in prisons, and six persons killed themselves by setting fire to themselves, a common form of protest. Another person died due to the so-called “death fast,” another form of protest by political prisoners. Nine prisoners died reportedly due to the prevention or neglect of medical treatment, and five others were killed by other inmates. The prevention of the treatment of prisoners with fatal or serious medical condition was a common problem.

- Sitki Bektas, a political prisoner, was taken from a hospital to Izmir Kiriklar F Type Prison despite a hospital report that stated he needed treatment at the hospital for leukaemia.
- The Tekirdag Medical Association launched an investigation against a prison doctor, Adnan Ozer, on the basis of allegations from inmates at F Type Prison that he had been involved in torture and mistreatment of prisoners there. Dr. Ozer continued to hold his post at the year’s end.

A survey by the Association of Solidarity with Children Deprived of Their Freedom (Ozge-Der) in prisons throughout Turkey revealed a high prevalence of torture and ill-treatment among minor detainees, both before and after imprisonment.

Right to Life

Turkey eliminated all references to the death penalty in its legislation in 2004. However, the HRA reported 47 deaths, including five in police custody, which may fall into the category of extra-judicial executions, compared to 44 in 2003.

According to the HRA report on human rights violations in Turkey in 2004, at least 42 persons were killed extra-judicially, while 32 persons were killed in prisons and five in police custody under suspicious conditions. Two hundred and forty persons, including a large number of civilians, were killed in alleged clashes with or military operations against armed organisations, mainly the former PKK (Kongra-Gel), and 61 persons were killed by unidentified perpetrators or under suspicious circumstances suggesting a political connection. Fifty-nine civilians were killed by landmines.

Impunity remained a major problem in cases regarding extra-judicial killings and disappearances.

- Van Aggravated Penal Court concluded the case against the soldiers Abdullah Demirtas and Ilhan Kayıkçı in connection with the killing of Çetin Karaman in the Baskale district of Van on 26 April 2003. The court acquitted the defendants under article 49 of the Criminal Code on the grounds that the crime was committed while performing an order.
- Ahmet Kaymaz and his 12-year-old son Ugur Kaymaz were killed in front of their home in Kiziltepe, Mardin, by police officers on 21 November. The police and the governor alleged that they were Kongra-Gel militants who were killed in a clash. However, the eye witnesses stated that they had no guns but the police put guns on the spot after they were killed. After the spokesperson of the parliamentary Human Rights Inquiry Commission investigated the case, the Ministry of Interior suspended four officers from duty. On 28 November, the police beat up a number of protestors in front of the Court Hall of Kiziltepe, two protesters were later remanded. The Ministry of Interior inspectors reported after their investigation that the two were "terrorists" and were killed when they disobeyed the order to surrender in an operation overseen by the prosecutor. The prosecutor launched a case against the wife of the deceased on charges of "membership in an outlaw organization."
- One of the police officers accused of killing trade unionist Suleyman Yeter in March 1999 was convicted. The Supreme Court of Appeals upheld the court judgment committing the officer to 20 months imprisonment and suspension from duty for three years. The other defendant was acquitted for insufficient evidence while another had not been located by the police.
- In the case against the seven police officers charged in connection with the death of Özgür Ünal at Edremit police station in Balıkesir in August 2001, the court acquitted five defendants in a judgment in November. Two officers were sentenced to suspended prison terms of three months and a fine of less than one Euro. Lawyer Nalan Erkmen complained that the investigation had been insufficient and, therefore, the necessary evidence did not exist. Some officers involved in this case had been promoted, others had been appointed elsewhere and those, who remained in their posts, had only received warnings.

While the government took some measures to protect women against violence, mainly against so-called "honor killings," by the year's end, at least 82 women and 42 children were killed as a result of domestic violence, and 43 women were killed in "honor killings."⁷

⁷ See Amnesty International, *Turkey: Women confronting family violence*, 2 June 2004, <http://web.amnesty.org/library/Index/ENGEUR440132004?open&of=ENG-TUR>; see also, Women for Women's Human Rights (WWHR), *Shadow NGO Report on Turkey's Fourth and Fifth combined Periodic Report to the Committee on the Elimination of Discrimination against Women for submission to the CEDAW Pre-session July 2004*, <http://www.wwhr.org/images/shadowreport.pdf>.

National and Ethnic Minorities

The Turkish government considers only Greeks, Armenians and Jews as minorities, and “creating a minority” by discussing minority problems is criminalized in various laws. The European Commission against Racism and Intolerance (ECRI) of the Council of Europe and international minority rights groups stated that there was a need for much progress in eliminating discrimination in Turkey.⁸

Turkish legislation falls short of its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination in failing to institute mechanisms to eliminate discrimination against minorities, including non-citizens. Regular confidential intelligence circulars by the Turkish Armed Forces to military and civilian security authorities maintained their instructions on the surveillance of minorities, particularly Kurds, other minority members and minority rights activists.

However, the government took positive steps with regard to the situation of Roma in 2004 by eliminating pejorative references to the members of this group in school text-books and state publications.⁹

According to the Law on the Movement and Residence of Aliens, the Ministry of Interior is authorized to expel stateless and non-Turkish Roma as well as aliens “not bound by Turkish culture” (article 21). A regulation by the Ministry of Interior in October 2003 required the authorities to investigate whether an applicant for Turkish citizenship had any connection with “beggars or Gypsies.”

An important step towards eliminating discrimination against the three of the non-Muslim minorities Turkey recognises under 1923 Lausanne Treaty was a regulation in January 2003 granting the right of the Armenian, Greek and Jewish foundations to register their properties in reversing a series of property confiscations since 1936. However, the regulation covered only a specified list of foundations and their properties, which were not taken from them by a court decision and registered for public institutions or private persons between 1974-2002. For instance, only one third of the Universal Greek Patriarchate foundations’ properties were registered and the foundations were requested to evacuate the rest.

While linguistic rights of the persons belonging to minorities were further extended by the government in 2003, two pro-Kurdish politicians were sentenced to prison terms in January 2004 for making their election speeches in Kurdish in 2002.

ECRI expressed concern that non-Turkish speaking minorities were discriminated in terms of access to public services. In a submission to the Turkish government and the European Union, the Minority Rights Group suggested that discriminatory treatment of Kurdish citizens, especially the internally displaced persons, remained a problem in western parts of the country.

Kurdish activists continued facing harassment and prosecution, including for their demands regarding linguistic rights, by the authorities who connected such activism to PKK and “terrorism.” While considerable numbers of Kurdish people cannot speak Turkish, it is prohibited to speak languages other than Turkish in election campaigns and in meetings. The Ministry of Interior stated that several new prosecutions were launched against Kurdish political activists Leyla Zana and her colleagues for speaking in Kurdish in the public meetings after they were released.

Activities and speech concerning minority rights for Kurds were usually regarded highly sensitive and controversial by the authorities. The military and police authorities made several public statements condemning demands for minority rights as divisive of the country and as national security threats. One such sensitive issue, which was highlighted by the authorities and the mass media in a language inciting the public against the Kurdish minority, was the use of Kurdish alphabet letters “q, x and w” which do not exist in the Turkish alphabet. These letters, which were freely used in writing in western languages, led to prosecutions and other sanctions when used in writing in Kurdish.

⁸ ECRI, *Third Report on Turkey*, adopted on 23 June 2004, published on 15 February 2005, http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Turkey/Turkey%20third%20report%20-%20cri05-5.asp#TopOfPage.

⁹ Minority Rights Group International, *Minorities in Turkey: Submission to the European Union and the Government of Turkey*, July 2004, <http://www.minorityrights.org/admin/download/pdf/MRG-TurkeySub.pdf>.

Several Kurdish activists have been punished for mentioning the imprisoned PKK Leader Abdullah Ocalan as "Sayin" (Mr.) Ocalan, which authorities regard as an expression of respect. At least one million Kurds remained internally displaced (see below). The police and gendarmerie particularly targeted Kurdish activists, including the leaders and members of the Democratic Popular Party (DEHAP), which includes pro-Kurdish minority demands in its platform and is organised largely among the Kurdish minority, in intervening in demonstrations and meetings such as press conferences. The police and gendarmerie often conducted raids of party offices and homes of party members, arresting a large number of party leaders and members.

Migrants, Asylum Seekers, Refugees and IDPs

Turkey remained a major country of destination for irregular migrants seeking to reach European countries. According to the Turkish Interior Ministry, 481,000 persons were arrested from 1995 through 2004, most of whom were deported, on the grounds that they were "illegal migrants." The ministry stated that the police and gendarmes arrested 39,000 "illegal migrants" in 2004, while they also deported 22,000 foreigners for other ordinary crimes. Turkey deported asylum seekers among these groups on the grounds that they should have sought asylum before they were arrested.

In connection with the EU accession process, Turkey started preliminary work on building an asylum system, including the lifting of a geographical restriction on the 1951 Geneva Convention relating to the Status of Refugees, excluding asylum seekers from non-European countries. In 2004, Turkey maintained its policy of excluding Chechens from asylum procedures and temporary protection. Some 1,200 Iranian Kurdish refugees who fled from Northern Iraq due to deteriorating security conditions were left stranded in Turkey, with the Turkish government rejecting their resettlement to a third country.¹⁰

- Behmen Kemali (aged 14), an Iranian citizen, was arrested on 31 August on the Iran-Turkey border, and was later allegedly killed by soldiers. Soldiers reportedly wanted to stop Behmen Kemali and Abdullah Kemali, his father, who were entering Turkey illegally. Abdullah Kemali managed to escape. Three days after the incident, soldiers reportedly went to a village near the place of the incident. Soldiers alleged that they found a corpse in the border region and took the headman and some other villagers to the place of the incident. The imam of the village stated that there were cigarette burns on Kemali's body and his head had been hit by a club.

A large number of IDPs remained deprived of safeguards to protect their fundamental rights.¹¹ While the government finally expressed intention to cooperate with relevant international organisations in helping IDPs, no concrete steps were actually taken in this regard.

According to the Turkish government's various figures, at least 350,000 to 400,000 persons were displaced in the context of the activity of PKK and other armed opposition groups in the eastern and southeastern regions of Turkey. Human rights groups estimated that the number of IDPs, including those who felt compelled to leave their homes to protect their safety and the children born to IDP families, to be over three million. The issue remained largely under the authority of the military-dominated National Security Council, and the government, especially security forces, considered the IDPs as a security threat. The security situation remained the major obstacle to the return of IDPs and their reintegration in a framework that would be coherent with Turkey's human rights obligations under UN, Council of Europe and OSCE arrangements.

While the government argued that nearly one third of approximately 350,000 IDPs had returned with support from government assistance schemes, local HRA activists reported that government figures were inflated.¹²

¹⁰ UN OCHA Integrated Regional Information Network, "Turkey: Special report on Iranian refugees from Iraq," 19 May 2004, http://www.irinnews.org/S_report.asp?ReportID=41142&SelectRegion=Middle_East.

¹¹ See Norwegian Refugee Council/Global IDP Project, *Profile of Internal Displacement: Turkey - Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council (as of 5 April, 2004)*, April 2004, [http://www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/wCountriesb/Turkey/\\$File/Turkey%20-%20April%202004.pdf?OpenElement](http://www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/wCountriesb/Turkey/$File/Turkey%20-%20April%202004.pdf?OpenElement).

Security forces banned return to several villages, even when civilian authorities granted permission, and a large number of others were not able to return due to threats by village guards, who occupied the evacuated properties. In one case, the government evacuated village guards from an Assyrian village in Sirnak in September 2004, after some of its original residents returned from European countries. The government maintained around 60,000 village guards in the region. IDPs reported that government assistance was either inadequate or not forthcoming.

In 2004, the ECtHR found in six cases that the Turkish security forces were responsible for evicting and destroying the applicants' properties.¹³ The court also concluded that, in the context of conflict in southeastern Turkey, the domestic remedies were not adequate or effective. While the government paid compensations to victims, they remained displaced. Legislation enacted in 2004 for compensation of harm done to property in the context of the Kurdish conflict fell short of the standards set by the court.

The HRA, Mazlum-Der and Goc-Der reported that village evacuations or other operations by the security forces compelling villagers to leave their homes restarted in 2003 in connection with a limited resurgence in the activities of the PKK. They reported two cases of internal displacement in 2004.¹⁴

- In August, it was reported that 343 villagers from a village in Beytussebap, Sirnak, were evicted and forced to live in tents and in destitution. The visiting human rights delegation observed that the IDPs had faced health and nutrition problems as well as daily harassment by the gendarmes.
- In December, a human rights delegation reported that returnees in a small village in Van were harassed and threatened by the gendarmerie with eviction if they did not join the ranks of village guards. The villagers alleged that they were kept under detention repeatedly, without any charges and for prolonged periods. The delegation also observed that, while the villagers were allowed by the authorities to return, they did not receive any assistance, they were living in indecent conditions and children were deprived of education.

The government still blocked humanitarian organisations from assisting IDPs.¹⁵ In 2004, both Diyarbakir Bar Association lawyers and Goc-Der Chairwoman were prosecuted for their lawful activities on behalf of IDPs.

¹² Human Rights Watch, *Last Chance for Turkey's Displaced*, 4 October 2004, <http://hrw.org/backgrounder/eca/turkey/2004/10/>.

¹³ See, for example, *Ayder and Others v. Turkey*, Application No. 23656/94, judgement of 8 January 2004, para. 18, <http://cmiskp.echr.coe.int/tkp197/viewhbk.asp?action=open&table=285953B33D3AF94893DC49EF6600CEBD49&key=35274&sessionId=731458&skin=hudoc-en&attachment=true>, and *Ipek v. Turkey*, Application No. 25760/94, judgement of 17 February 2004, <http://cmiskp.echr.coe.int/tkp197/viewhbk.asp?action=open&table=285953B33D3AF94893DC49EF6600CEBD49&key=35350&sessionId=731652&skin=hudoc-en&attachment=true>.

¹⁴ Press statement of 24 August 2004, available at <http://www.ihd.org.tr/>; and "Report of Investigation Concerning Allegations of Pressures on Villagers Living in Tasnacak (Xrabedar) Hamlet of Oguldami Village, Gulpinar District, Van, to Join Village Guards" (in Turkish), dated 16 December 2004, see <http://www.ihd.org.tr/rapozel/vangulpinar.html>.

¹⁵ See *Council of Europe Parliamentary Assembly Committee on the Honouring of Obligations and Commitments by the Member States of the Council of Europe (Monitoring Committee), Explanatory Memorandum by the Co-rapporteurs Mrs. Mady Delvaux-Stehres and Mr. Luc Van den Brande (Co-rapporteurs)*, March 2004, p.44, <http://assembly.coe.int/Communication/TemporaryDocs/ASmon/Turkey/TurkeymemorandumE.pdf>.