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REPORT ON UK IMMIGRATION AND NATIONALITY DIRECTORATE FACT FINDING
MISSION TO TURKEY

1. SCOPE OF THE DOCUMENT

1.1 This assessment has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, from information obtained from a wide variety of recognised sources. The document does not contain any Home Office opinion or policy.

1.2 The assessment has been prepared for background purposes for those involved in the asylum/ human rights

determination process. The information it contains is not exhaustive. It concentrates on the issues most commonly raised in asylum/ human rights claims made in the United Kingdom.

1.3 The assessment is sourced throughout. It is intended to be used by caseworkers as a signpost to the source material, which has been made available to them. The vast majority of the source material is readily available in the public domain.

1.4 It is intended to revise the assessment on a six-monthly basis while the country remains within the top 35 asylum-seeker producing countries in the United Kingdom.

2. GEOGRAPHY

2.1 The Republic of Turkey (to use Turkey's official title) covers an area of 780,000 square kilometres (301,000 square miles), with a population, as recorded in the year 2000 census, of 67.8 million. 3% of Turkey's area is in Europe, 97% in Asia. [1a][30t] Turkey has 81 provinces; hard copy source 68 is a map of the provinces. [2a][68] Turkey is a passage land between Europe and Asia, boasting land frontiers with Greece, Bulgaria, Armenia, Georgia, the Nakhichevan autonomous enclave of Azerbaijan, Iran, Iraq and Syria. The west, the richest and most densely populated part of Turkey, looks towards the Aegean and Mediterranean Seas and is very conscious of its links with Europe. However, in culture, racial origins and ways of life, there are frequent reminders of Turkey's geographical situation primarily as a part of Asia. [1a]

2.2 The only official language is Turkish, which is a member of the Altaic family (i.e. not Indo-European). Turkish was originally written in the Arabic script, which was poorly suited to the language. In 1928 Atatürk decreed the introduction of a slightly modified version of the Roman alphabet. The letters "q", "w" and "x" are absent, while the letter "c" is pronounced like the English "j", "j" like the French "j", "ç" is pronounced "ch", and "p" is pronounced "sh". The letter "ö" is not pronounced in itself, but it serves to lengthen slightly the preceding vowel. The plural of a noun is formed with the suffix "ler" or "lar". As an agglutinative language, Turkish frequently adds on suffix after suffix, thus producing words which may be the equivalent of a whole phrase or sentence in English. Examples of English words which are of Turkish origin are caviar, yogurt, shish kebab, tulip and meander. [33]

2.3 Several Indo-European languages are spoken, including Kurdish (the Kurmanji and Zaza dialects). Kurdish is a member of the Iranian branch of the Indo-Iranian subgroup, and other languages of that branch include Persian and Pashto (the latter is spoken in Afghanistan and northwest Pakistan). [33]

2.4 More than 99% of the Turkish people are Muslims, although Turkey is a secular state (which in practice has a state-controlled Islam). [1a][2a][4]

(For further information on geography refer, refer to Europa Publications "The Middle East and North Africa 2003", source 1a).

3. ECONOMY

3.1 Turkey has suffered from unstable economic conditions for much of the last twenty years. Since the early 1980s the previously centrally planned economy has been gradually liberalised. There have been periods of rapid growth interspersed with sudden, mostly short-lived crises, against a background of high inflation (usually in the range of 50-100% annually). Inflation has damaged the public's trust in the local currency, causing interest rates to rise. As a result of high interest rates, as well as the increasing borrowing requirement of the public sector, the public sector debt stock has risen sharply in recent years. In order to roll-over the debt stock, the government has had to borrow at very high interest rates. This vicious circle has also contributed to distortions in income distribution, helped create a banking sector based largely on trading in government securities, and deterred foreign investment. Some parts of the private sector have been dynamic (the active "unregistered" economy has also contributed to growth). However, structural problems have held back Turkey's development. [82]

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3.2 In the light of these economic problems the current government began a three year US\$4 billion Standby Agreement programme with IMF financing in January 2000. The primary objective was to reduce inflation to single-digit levels. The main tool of the programme was a "crawling peg" exchange rate policy, under which the rate of devaluation of the Turkish lira (TL) against a foreign currency basket was pre-announced. The initial results of the programme included a sudden fall in interest rates, which led to a sharp increase in domestic demand and a huge rise in imports, stemming from the appreciation of the TL in real terms under the exchange rate policy. Considerable progress was made in reducing inflation, which fell from 63% to 33% during 2000. But delays in the implementation of structural reforms, endemic problems in the banking sector, and the widening foreign trade deficit all contributed to a financial crisis at the end of November 2000. The IMF moved quickly to bail Turkey out with a US \$7500 million Supplementary Reserve Facility in December 2000. Despite relative stability in the markets in January 2001, the TL came under pressure again in February. A further crisis was triggered by a political disagreement between President Sezer and Prime Minister Ecevit on 19 February 2001. This led to the TL being allowed to float on 22 February, and to the end of the Standby Agreement in its original form. [82]

3.3 In order to restore confidence in the financial markets, the Government appointed Kemal Derviş, a Turkish Vice President of the World Bank, as the State Minister responsible for the economy. Mr Derviş prepared a new economic programme and restarted negotiations with the IMF. On 15 May 2001 the IMF Board approved a new economic programme, and agreed additional financial assistance for Turkey of US \$8000 million. The main purpose of the programme is to sustain financial stability in the short term in order to enable the Treasury to roll-over its huge debt stock. It will also tackle the structural problems of the banking sector by restructuring debt-ridden state-owned banks and forcing the closure of former private sector banks which have been taken over by the Government. [82]

3.4 In February 2002 the IMF approved an extra US \$12,000 million to Turkey, raising Turkey's debt to the organisation to \$31,000 million; Turkey's foreign debt increased to 78% of GDP by the end of 2001. As a result of the financial crisis, GDP declined by 8.5% in 2001, although the Turkish Government envisaged renewed growth, at 4%, in 2002. In 2001 the GDP per head was \$2226 on a conventional exchange-rate basis, and \$6419 on a "purchasing-power parity" basis. (For comparison, the figures for UK GNP per head in 2000 were around \$24,500 and \$23,550 respectively). [1a]

3.5 The exchange rate, as of 21 April 2003, was 2.55 million Turkish liras (TL) to £1 sterling. [41e] The average exchange rate in 1999 was roughly 600,000TL to £1, in 2000 900,000, and in 2001 1.9 million. [1a]

3.6 The Financial Times has noted that a Byzantine bureaucracy and a reputation for corruption have won Turkey the dubious privilege of being ranked the fourth least transparent economy in the world - after China, Russia and Indonesia. PricewaterhouseCoopers measures the impact of the level of transparency on investment, and finds that Turkey's opacity figure of 74 (with 0 representing complete transparency, and 100 complete opacity) is very high. Transparency International's "Corruption Perceptions Index 2002" records that Turkey is 64th in a list of 102 countries which are ranked according to perceptions of the degree of corruption, as seen by business people, academics and risk analysts; Turkey's score is 3.2 (the range being 10 (highly clean) to 0 (highly corrupt)). (For comparison, UK is ranked 10th in the list, with a score of 8.7). [95] Turkey is understood to have a very large black economy that underpins the real economy. The comment has been made that only a small proportion of Turkish businesses (e.g. those linked to international companies) appear to operate fully above board and to pay all taxes. [82] The October 2002 EC "Regular Report on Turkey's Progress Towards Accession" notes that several steps have been taken to prevent corruption and corrupt practices. It praises the Government's adoption in January 2002 of an Action Plan on Enhancing Transparency and Good Governance in the Public Sector (which has implications for preventing corrupt practices), and says that due attention should now be given to its implementation. [76]

4. HISTORY

Part I

Part II

4. HISTORY

See also "The Kurds" (chapter 6b) for Kurdish history.

4.1 Turkey was formerly part of an empire ruled by a Sultan, with its capital in Istanbul and his territories stretching from the Persian Gulf to Morocco, including most Arab regions and much of south-eastern Europe. However, following the collapse of the Ottoman Empire after the First World War, the National Assembly declared Turkey a Republic and elected Mustafa Kemal (later known as Atatürk, "Father Turk") President in October 1923. [1a]

4.2 Modern Turkey is largely the creation of that one man, Atatürk. His achievement was to salvage the Turkish State from the wreckage of the Ottoman Empire and to define it as a modern secular nation. The omnipresent public statues and portraits in Turkey are not merely symbols of the personality cult that has been built around him; they reflect the widely held conviction that without him Turkey in its present form simply would not exist. Atatürk vigorously pursued a radical campaign of far-reaching reform and modernisation, including the secularisation of the state, the abolition of Islamic courts, the emancipation of women, the adoption of Roman script, and the encouragement of European culture and technology. The intense nationalism and pride of the Turks are part of Atatürk's legacy. His most famous quotation "Ne mutlu Türküm diyene" ("Happy is he who says: I am a Turk") is inscribed everywhere in Turkey and beyond; it taunts Kurdish nationalists in Diyarbakır (the chief city of the Kurdish area of the southeast), and it has been incised in huge letters on the Kyrenia range in Cyprus for the eyes of Greek Cypriots. [1a]

4.3 The defeat of the occupying entente powers in 1920-2 gave the Turkish army a heroic stature as defender of the nation, but once victory was secured the armed forces were left in an ambiguous position. On the one hand, Atatürk was determined to keep the army out of the political system, to make sure that the army itself was not divided by politics, and that ambitious officers could not challenge his leadership. On the other hand, he continued to look to the army as the ultimate guardian of his achievements. The six principles of Atatürkism (republican, nationalist, populist, étatist, secularist, and revolutionary) continue to be instilled almost as a religion among army officers. However, Atatürkism's exact implications - whether, for instance, the concept of guardianship takes precedence over that of non-involvement in politics - raise questions which today's officers still find it hard to answer. [57]

4.4 Atatürk died in 1938, and was succeeded as President by İsmet İnönü who, after World War II, took steps to liberalise Atatürk's autocratic regime. In 1950 the newly founded Democratic Party, led by Adnan Menderes, won Turkey's first free election. However, the Menderes government was overthrown by a military coup in May 1960 on the grounds that it had betrayed Atatürk's principle of secularism, and Menderes was subsequently executed. A new Constitution was adopted in October 1961 and this lasted until March 1971, when widespread unrest caused the armed forces to demand and obtain the resignation of the government led by Süleyman Demirel. The return to democracy in 1973 coincided with the oil crisis, which hit Turkey hard. In July 1974 Turkey invaded Cyprus, in order (in its perception) to protect the Turkish Cypriot minority after a Greek Cypriot extremist coup, and Turkish troops occupied the northern third of the island. In Turkey several inconclusive elections in the 1970s resulted in a series of unstable coalitions which attempted to govern in circumstances of pressing economic difficulties and rising political violence between right and left-wing groups. This violence came to a climax in December 1978 in the southeastern town of Kahramanmaraş in the most serious outbreak of ethnic fighting since the 1920s. Historic enmity between the orthodox Sunni majority and the Alevi minority was exacerbated by the activities of right and left-wing agitators, and 100 people were killed and 1,000 injured during three days of rioting and violence. The government responded by imposing martial law in thirteen provinces. [1a]

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

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4.6 Four years after the 12 September 1980 coup, which crushed the activities of urban insurgents and fundamentalists, Turkey faced a different threat from a similar source - rural insurgency, initially concentrated in the southeast region along the borders with Iran, Iraq and Syria. Almost all the rural insurgent groups had their origins in the student groups based in the cities, one particular case in point being Abdullah Öcalan's PKK (Kurdistan Workers' Party). The separatist activities soon spread to the cities. [1a]

4.7 In December 1985 a case brought before the Human Rights Commission of the Council of Europe by five European countries, alleging that Turkey had violated the European Convention for the Protection of Human Rights and Fundamental Freedoms, was settled out of court. Turkey agreed to rescind all martial law decrees within 18 months, to introduce an amnesty for political prisoners, and to allow independent observers from the Council of Europe to monitor progress. In 1987 all martial law decrees in Turkey were repealed. [1a]

4.8 In July 1987, ten provinces in the southeast were placed under **emergency rule** due to an increased level of fighting; these were Van, Bitlis, Tunceli, Diyarbakır, Siirt, Bingöl, Batman, Hakkâri, Şırnak, and Mardin. [9a] The **state of emergency** lasted in Mardin until November 1996, in Batman, Bingöl and Bitlis until October 1997, in Siirt until November 1999, in Van until July 2000, and in Hakkâri and Tunceli until July 2002. [5b][30m][30q][63b][63c] The state of emergency in the provinces of Diyarbakır and Şırnak ended on 30 November 2002. These were the last two provinces in Turkey to be under emergency rule. The emergency period in the two provinces (Şırnak formed part of Siirt province until 1990) had lasted since 1979 (martial law in 1979-87, and emergency rule since 1987). [63o] Under emergency rule, the state of emergency region's governor had authority over the provincial governors in the emergency rule provinces, and other adjacent ones including Van, for security matters. Under the state of emergency, this regional governor could exercise certain quasi-martial law powers, including imposing restrictions on the press, removing from the area persons whose activities were deemed detrimental to public order, and ordering village evacuations. Only limited judicial review of the state of emergency governor's administrative decisions was permitted. [5d]

Province	Martial law	State of emergency
Adana	26.12.78 - 19.11.85	19.11.85 - 19.3.87
Adıyaman	26.4.79 - 19.11.85	19.11.85 - 19.3.86
Afyon	12.9.80 - 19.7.84	-
Ağrı	20.4.80 - 19.11.85	19.11.85 - 19.3.87
Aksaray	Established 15.6.89, previously part of Niğde	-
Amasya	12.9.80 - 19.7.84	19.7.84 - 19.3.85
Ankara	26.12.78 - 19.7.85	19.7.85 - 19.11.86
Antalya	12.9.80 - 19.3.85	19.3.85 - 19.7.87
Ardahan	Established 27.5.92, previously part of Kars	-
Artvin	12.9.80 - 19.7.85	19.7.85 - 19.3.86
Aydın	12.9.80 - 19.7.84	19.7.84 - 19.11.84
Balıkesir	12.9.80 - 19.7.84	19.7.84 - 19.11.84
Bartın	Established 28.8.91, previously part of Zonguldak	-
Batman	Established 16.5.90, previously part of Siirt	16.5.90 - 2.10.97
Bayburt	Established 15.6.89, previously part of Gümüşhane	-
Bilecik	12.9.80 - 19.3.84	19.3.86 - 2.10.97
Bingöl	26.12.78 - 19.3.86	19.3.84 - 19.7.84
Bitlis	12.9.80 - 19.3.84	19.3.93 - 2.10.97
Bolu	12.9.80 - 19.7.84	-
Burdur	12.9.80 - 19.3.84	-
Bursa	12.9.80 - 19.3.85	19.3.85 - 19.3.86
Çanakkale	12.9.80 - 19.3.84	19.3.84 - 19.7.84
Çankırı	12.9.80 - 19.3.84	19.3.84 - 19.11.84
Çorum	12.9.80 - 19.7.84	19.7.84 - 19.7.85
Denizli	12.9.80 - 19.11.84	19.11.84 - 19.3.85
Diyarbakır	26.4.79 - 19.7.87	19.7.87 - 30.11.02
Düzce	Established 1999, previously part of Bolu	-
Edirne	12.9.80 - 19.7.85	19.7.85 - 19.11.85
Elâzığ	26.12.78 - 19.3.86	19.3.86 - 19.3.93
Erzincan	26.12.78 - 20.4.80 and 12.9.80 - 19.7.85	19.7.85 - 19.11.85
Erzurum	26.12.78 - 19.11.85	19.11.85 - 19.3.86

Eskişehir	12.9.80 - 19.11.84	19.11.84 - 19.3.85
Gaziantep	26.12.78 - 19.11.85	19.11.85 - 19.3.86
Giresun	12.9.80 - 19.11.84	19.11.84 - 19.3.85
Gümüşhane	12.9.80 - 19.3.84	19.3.84 - 19.11.84
Hakkâri	26.4.79 - 19.7.87	19.7.87 - 30.7.02
Hatay	20.2.80 - 19.11.85	19.11.85 - 19.3.87
Içel	12.9.80 - 19.3.85	19.3.85 - 19.7.86
Iğdır	Established 27.5.92, previously part of Kars	
Isparta		
Istanbul	26.12.78 - 19.11.85	19.11.85 - 19.11.88
Izmir	20.2.80 - 19.7.85	19.7.85 - 19.11.86
Karabük	Established 6.6.95, previously part of Zonguldak	
K. Maraş	26.12.78 - 19.3.85	19.3.85 19.11.85
Karaman	Established 15.6.89, previously part of Konya	
Kars	26.12.78 - 19.11.85	19.11.85 - 19.11.86
Kastamonu	12.9.80 - 19.3.84	19.3.84 - 19.7.84
Kayseri	12.9.80 - 19.11.84	-
Kilis	Established 6.6.95, previously part of Gaziantep	
Kırıkkale	Established 15.6.89, previously part of Ankara	
Kırklareli	12.9.80 - 19.3.84	-
Kırşehir	12.9.80 - 19.3.84	19.3.84 - 19.11.84
Kocaeli	12.9.80 - 19.3.85	19.3.85 - 19.11.85
Konya	12.9.80 - 19.11.84	-
Kütahya	12.9.80 - 19.3.84	-
Malatya	26.12.78 - 19.3.85	19.3.85 - 19.3.86
Manisa	12.9.80 - 19.11.84	19.11.84 - 19.3.85
Maraş	See K. Maraş	
Mardin	26.4.79 - 19.7.87	19.7.87 - 29.11.96
Muğla	12.9.80 - 19.7.84	-
Muş	12.9.80 - 19.3.84	-
Nevşehir	12.9.80 - 19.7.84	-
Niğde	12.9.80 - 19.7.84	19.7.84 - 19.11.84
Ordu	12.9.80 - 19.7.85	19.7.85 - 19.7.86
Osmaniye	Established 1997, previously part of Adana	
Rize	12.9.80 - 19.7.84	19.7.84 - 19.3.85
Ş. Urfa	26.12.78 - 19.3.86	19.3.86 - 19.3.87
Sakarya	12.9.80 - 19.7.84	19.7.84 - 19.3.85
Samsun	12.9.80 - 19.3.85	19.3.85 - 19.7.85
Siirt	26.4.79 - 19.7.87	19.7.87 - 30.11.99
Sinop	12.9.80 - 19.3.84	19.3.84 - 19.7.84
Şirnak	Established 16.5.90, from Siirt	
Sivas	26.12.78 - 26.2.80 and 12.9.80 - 19.3.85	16.5.90 - 30.11.02
		19.3.85 - 19.7.86
Tekirdağ	12.9.80 - 19.7.84	-
Tokat	12.9.80 - 19.3.85	19.3.85 - 19.7.85
Trabzon	12.9.80 - 19.3.85	19.3.85 - 19.7.85
Tunceli	26.4.79 - 19.3.86	19.3.86 - 30.7.02
Uşak	12.9.80 - 19.11.84	19.11.84 - 19.3.85
Van	12.9.80 - 19.3.87	19.3.87 - 30.7.00
Yalova	Established 6.6.95, previously part of Istanbul	
Yozgat	12.9.80 - 19.7.84	-
Zonguldak	12.9.80 - 19.3.85	19.3.85 - 19.7.85

[102]

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

4.10 ANAP's popularity declined during 1990 and 1991 and there were a number of ministerial resignations. The

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general election of 20 October 1991 was won by the veteran politician and Prime Minister, Suleyman Demirel, and the DYP. Having failed to win an absolute majority he was obliged to seek a coalition with the SHP, which had itself emerged from the election in third place behind ANAP. [1a]

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

4.12 In foreign affairs Çiller sought the creation of a United Nations peace-keeping force in Azerbaijan and a role for Turkey in the UN effort in the former Yugoslavia. In July 1994 around 1,455 Turkish troops were deployed in Bosnia and Herzegovina, but well away from Serb lines. In October 1993 Turkey reluctantly agreed to the extension of UN sanctions against Iraq, but continued to advocate a removal of the embargo. [1a]

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

4.14 The general election was held on 24 December 1995. It left three parties - Refah (pro-Islamic Welfare Party), DYP and ANAP - with vote shares on or around 20%. Over two months of discussions followed as the leaders of these three parties in turn tried to reach agreement on the terms for a coalition government. On 6 March 1996, ANAP and DYP announced formation of a minority coalition. But the traditional tensions between the two centre-right coalition parties, made worse by the intense antagonism between their respective leaders, effectively resulted in a paralysed government by late April. The coalition ended on 6 June. [1a][4b]

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

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

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

4.18 The Yilmaz coalition with the DSP (Democratic Left Party) was never on secure ground. Yilmaz's government was forced to resign after losing a vote of confidence in Parliament on 25 November 1998 over allegations of corruption in the sale of the state owned Türkbank. [4b][23e][43a] On 2 December 1998 President Demirel appointed Bülent Ecevit [leader of the DSP (Democratic Left Party)] Prime Minister designate, and asked him to form a government. Ecevit failed to form a government and handed the mandate back a few weeks later. [31a] Demirel next chose Yalim Erez, the trade minister, to form a government, but he was also unsuccessful, returning the mandate in early January. [40e] Bülent Ecevit then returned and created a minority government of the DSP with the support of the DYP and ANAP. The government won a vote of confidence on 17 January 1999 and governed until the elections in April 1999. [63f][63g]

4.19 The ten year old state of emergency in the provinces of Batman, Bingöl and Bitlis, was lifted on 2 October 1997 when the ANAP-led coalition government proposal was approved by the Turkish Parliament. An improvement in the security situation was cited as the reason for the lifting of the state of emergency. Earlier, in September 1997, the then Prime Minister Mesut Yilmaz and his Deputy Bülent Ecevit visited the southeast and pledged development for the region. Meeting in Siirt for the first time in 16 months, the GAP (Southeastern

Anatolia Project) high council under the chairmanship of the Prime Minister approved various measures that would provide incentives for reviving and strengthening the economy in eastern and southeastern provinces. These measures included the building of a university in Siirt. [60a][63b][63c]

4.20 Refah (Welfare Party), an Islamist party and a partner in the previous coalition government, was closed by a Constitutional Court ruling on 16 January 1998. The case against Refah was that it had become the focal point of anti-secular activity. Most former members of Refah, including some 100 former Refah Assembly deputies, joined a new Islamist grouping, Fazilet (Virtue Party), which was formed in December 1997 by Ismail Alptekin and which became the largest party in parliament. [1a] In October 1998, an appeals court upheld a State Security Court decision to sentence the Refah Party's Mayor of Istanbul, Tayyip Erdoğan, to 10 months in prison for reading a religious poem at a rally in December 1997. The sentence also prevented Erdoğan from holding an elective office for at least two years. Erdoğan had been seen as a future leader of Turkey's Islamic movement. [5a][27][28b][56]

4.21 The Virtue Party contested the April 1999 national and local elections, and, while not doing as well as anticipated, still polled 15% of the vote (see below). However, at the opening session of parliament a Virtue Party deputy, Merve Kavakci, tried to wear a headscarf, contrary to the code of conduct for public servants. Even some Virtue deputies viewed this as an unwise and unnecessarily confrontational act. Kavakci was subsequently stripped of her Turkish citizenship for applying for US citizenship without permission from the Turkish government, and did not take her seat in parliament. Kavakci's actions became part of the evidence quoted by the Chief State Prosecutor in June 1999 when he applied to the Constitutional Court to have the Virtue Party banned on the basis that it was anti-secular and merely a continuation of the banned Refah Party. The Constitutional Court's decision, announced on 22 June 2001, was to ban Virtue. [30h][32i] (See "Freedom of religion" and "Freedom of assembly and association" (chapter 6a) for further details on Virtue and the headscarf issue).

4.22 An assassination attempt was made against Akin Birdal, the president of the Human Rights Association (IHD) on 12 May 1998. He survived being shot six times in the chest and leg. The shooting came after the media reported accusations by a captured PKK commander linking him to the outlawed terrorist organisation. [12e][28c][40d] In December 1999 the Ankara State Security Court sentenced 10 people and acquitted six others for the attempted murder of Birdal. A former Jandarma sergeant, the presumed ringleader, and one other man accused of ordering and organising the attack both received 19 year sentences. The two men who fired at Birdal received sentences of 19 and 12 years respectively, and two others received 19 and 10 year sentences for establishing a gang (the "Turkish Vengeance Brigade") to commit the crime. [5b][29] In October 1998, an appeals court upheld a one-year jail sentence for Birdal, who had been charged with "openly inciting public enmity and hatred" by making a distinction between Turkish people and Kurdish people in a 1996 speech. His sentence was confirmed by the General Council of the Appeal Court. He was imprisoned on 3 June 1999, to serve 10 months and 3 days. He was released in September 1999 on medical grounds, but on 28 March 2000 he was sent back to prison in Ankara for the remaining six months of his sentence after a State medical institute rejected a report that he was unfit to spend more time in jail. As a legal consequence of his imprisonment he resigned as both leader and member of the IHD. [5a][5b][62a] In another case against Birdal the Court of Appeals annulled a one year sentence passed against him centred around a speech he made in 1995. However, the Adana State Security Court re-adopted the one year imprisonment verdict in December 1998. [12e]

4.23 Following heightened military tension between Syria and Turkey, there was a meeting of Turkish and Syrian officials in late October 1998, and an agreement was signed under which Syria would not allow the PKK to operate on its territory. The PKK's leader, Abdullah Öcalan, was forced to leave Syria. Following his expulsion he unsuccessfully attempted to claim asylum in several European countries before being captured in Kenya and flown to Turkey. Öcalan initially sought, after his expulsion, to distance himself from the actions of the PKK, while a power struggle was reported to replace him as leader of the PKK. [1a][21a][24a][55a]

4.24 The forcible return of Abdullah Öcalan to Turkey in mid-February 1999 was marked by public protests by his supporters across Europe and isolated protests in Turkey, many of which became violent. The unrest initially led to another round of arrests of HADEP members and a series of bombings by the PKK across Turkey. A celebration of the Kurdish New Year in the Gazi district of Istanbul ended in violence after a large group opened banners and began shouting slogans. Four police officers and one demonstrator were shot when the police tried to intervene. 725 people were detained. [30a][40f]

4.25 Following the arrest of Öcalan a small chairmanship council began running the PKK, although Öcalan was

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confirmed as leader despite his detention. [24a][46d] At the start of March 1999 divergent views were expressed by the political and military wings of the PKK, with the former announcing that actions would take place in a democratic framework while the latter called for "total war" and an escalation of military actions. [46b][46c][65a] However, throughout June 1999 the PKK began to fall in line behind the calls for peace which Öcalan had made during his trial which began on 30 April 1999. [63h] The PKK's manifesto would henceforth be to work towards a peaceful and democratic solution to the "Kurdish problem", although "active defensive positions" would be maintained. In mid-July 1999 the ARGK (military wing of the PKK) announced that guerrilla actions would halt until further orders were received. [62c][62d]

4.26 Öcalan was convicted of treason and on 29 June 1999 sentenced to death. [63j] On 2 August 1999 Öcalan, through his lawyers, made a statement calling on the PKK to "end the armed struggle as of 1 September 1999, and withdraw its forces outside the borders for the sake of peace". [30j] Two days later the PKK presidential council answered his appeal and confirmed that PKK combatants would indeed cease operations against Turkey. The statement was supported the following day by the People's Liberation Army of Kurdistan (ARGK), the armed wing of the PKK, which confirmed that it would abide by Öcalan's decision, although it claimed the right to fight in self-defence if attacked. [32b] The armed conflict between the Government and the PKK effectively came to an end in 1999, and only a few clashes between the Turkish army and dissident PKK groups were reported. In October 2000 the Turkish armed forces announced that they had successfully completed their struggle against the PKK; the struggle had reduced to a level which could be taken over by the police and the Jandarma. The PKK was almost completely inactive during 2000, and in 2001 there were, according to the military, only about 45 armed clashes. There was a near absence of PKK violence in 2002, but the State maintained a heavy security presence (including numerous road checkpoints) in the southeast. [5d][5g][12m][19] [21a][24a][40f][46d][55a] [63d]

4.27 On 12 January 2000 the Turkish Government agreed to respect an injunction from the European Court of Human Rights calling for the suspension of Öcalan's execution, pending his appeal to the Court. Analysts argued that the decision underlined the Government's determination to push forward with its plans to join the EU, and to pursue its economic and political and political objectives, and that it was ready to defy public sentiment to achieve them. In a written statement from prison, Öcalan said that the decision was a step towards democracy. He pledged that the PKK would not exploit the move, and said that the PKK's war for a Kurdish state was a "historic mistake". The PKK Presidential Council confirmed that they would pursue only democratic means to further their political objectives. [32e] In August 2002 Turkey abolished the death penalty except in times of war and imminent war, and on 3 October 2002 Öcalan's sentence was changed to a life sentence without conditional release; he will remain in jail until he dies. [30w]

4.28 On the 23 April 1999 the British Independent Television Commission served a notice on the satellite channel Med-TV, widely regarded as a mouthpiece of the PKK, revoking its licence. The revocation followed broadcasts which included inflammatory statements encouraging acts of violence in Turkey and elsewhere. [30d] Med-TV's broadcasts were suspended in March pending the ITC ruling. It appears that, pre-empting the ban, Med-TV secured satellite access as another channel, on which name it now broadcasts. [30b]

4.29 In December 1998 the Turkish Interior Minister expressed the view that terrorist incidents in eastern and south-eastern Anatolia had dropped to a minimum. [63d] Following the detention of Abdullah Öcalan in Italy in November 1998 some HADEP (pro-Kurdish People's Democracy Party) members went on hunger strike in sympathy with the PKK leader. Others held demonstrations that had not received prior approval from the authorities. This led to widespread arrests of HADEP members through the end of November and December, with further arrests being made at protests against police actions against HADEP. HADEP put the number of detainees at the end of November as 3,064, including its leader, Murat Bozlak. Most were reportedly freed after a brief detention, but one 18 year old party member died in police custody, allegedly from beatings during interrogation. HADEP leaders said that many of their party members were beaten and tortured during the crackdown. [5a] Following the hunger strikes in support of Öcalan and the issuing of a press release protesting against the request for his extradition, on 28 January 1999 the Ankara State Security Court Chief Prosecutor's Office filed a suit against 47 HADEP officials, including Bozlak. The indictment requested prison terms between four and half years to seven and a half years. [63e] On 29 January 1999 the Chief Prosecutor of High Court of Appeals filed a suit against HADEP in the Constitutional Court calling for its closure and alleging an "organic relationship" between HADEP and the PKK. Despite two legal challenges HADEP was permitted to take part in the April 1999 elections. [41a][46a] In mid-July 1999 Murat Bozlak and 16 other HADEP officials were released. [64a]

4.30 HADEP failed to gain enough votes in the April 1999 elections (10% national threshold) to return any representatives to parliament, but won control of several municipalities in the southeast, including Diyarbakır. [32a][88b] The HADEP Mayor elected for Lice was removed from office following a decision of the High Election Council on the grounds that he was involved in an incident involving injuries in 1989 and was subsequently banned from public service. The Mayor said that the decision was illegal as he had previously applied to the prosecutor and had his criminal record cancelled. [62b]

4.31 The general and municipal elections were held on 18 April 1999 and were contested by a wide range of parties. [30c] The Democratic Left Party (DSP) won the largest share of the vote (22%) and 136 parliamentary seats, followed by the Nationalist Action Party (MHP) with 18% and 130 seats, the Virtue Party (FP) with 15% and 110 seats, the Motherland Party (ANAP) with 13% and 86 seats, and the True Path Party (DYP) with 12% and 85 seats. [32a] The number of valid votes was 31,184,496. [60c] In late May a coalition government of the DSP, ANAP and MHP, with the DSP's Bülent Ecevit as Prime Minister, was approved by President Demirel. Cabinet posts were split between the parties. Although ANAP entered the government, its leader, Mesut Yılmaz, did not initially take up a position in the cabinet. In July 2000 he joined the Cabinet as Deputy Prime Minister, and assumed responsibility for EU affairs. [32f]

4.32 Turkey was hit by two severe earthquakes in August and November 1999, causing at least 18,577 deaths. Widespread public anger focused on the slow response of state institutions, particularly the armed forces, to the disasters, and on the endemic corruption which had allowed many sub-standard apartment blocks to be built in a region known to be vulnerable to earthquakes. [1a] One junior minister frankly admitted that "laying under the rubble is the Turkish political and administrative system". [86] International assistance on the wake of the earthquakes included considerable help from Greece, and there was a marked improvement in Turkish-Greek relations. [1a]

4.33 In May 2000 Parliament elected as the new President of Turkey Ahmet Necdet Sezer, the respected chief of Turkey's Constitutional Court. He is the first President in Turkey's history who is neither an active politician nor a senior military official. Many Turks saw as a breath of fresh air his reputation for personal integrity, his distance from the country's much despised political parties, and his deeply ingrained respect for the rule of law. One commentator observed "(He) is a man of law who will not allow violations of the law or tolerate corruption." In 1999 Mr Sezer had criticised Turkey's Constitution for restricting democratic freedoms. He had also argued that legal decisions in the south-eastern provinces still under emergency rule should be open to appeal. [1a][41b] In his statement on his election to the Presidency, Mr Sezer said "I perceive this supreme duty as a responsibility which the Turkish Parliament has bestowed on me to ensure and preserve the supremacy of law and its sovereignty in every aspect.... A proper understanding of democracy has not developed in social and political life, and a democratic tradition has not yet been crystallised. ... Democracy and democratic values should be installed in our legal system along the lines of the principles of a state of law." Mr Sezer went on to say that, in addition to safeguarding the principle of secularism that was, he considered, essential in democracy, it was also necessary that great care be shown in public expenses, to lowering the rate of inflation, and to eliminate injustices in income. [63a]

4.34 Tension between President Sezer and Prime Minister Ecevit came to a head on 19 February 2001 at the monthly meeting of the National Security Council, from which Mr Ecevit walked out after the President had accused him of protecting ministers against whom corruption allegations had been made. A massive flight of capital, and stock market slump, resulted, and the Turkish Government was forced to float the Turkish lira, which was effectively devalued by a third. Consequential price increases of a third or more triggered protest demonstrations in Ankara and other cities, notably by civil servants. [32h] One observer said "What the Prime Minister did is, I think, inexcusable. He must have known the markets were nervous." Another commentator thundered "You tell me, for God's sake. Is this the way to rule Turkey?". [44b]

4.35 In June 2001 the Constitutional Court reached a decision in a case launched in May 1999, and banned the Virtue Party (Fazilet) for undermining Turkey's secular order. The decision fell short of the expected mass expulsions of party members from Parliament. The judges voted to expel only two Virtue deputies, and most of the 100 remaining deputies joined two new successor parties - the Felicity Party (Saadet Partisi) and the Justice and Development Party (Adalet ve Kalkınma Partisi). The banning of Virtue was opposed by most legislators, including Prime Minister Ecevit, who contended that dissolution of Virtue would contribute to greater political instability at a time of financial crisis. [32i] Recai Kutan said that the Felicity Party would seek to protect religious rights, but would not challenge the secular basis of the Turkish State. [3]

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

4.37 In April 1987 Turkey made a formal application to become a full member of the European Community [1a], and in December 1999 Turkey was given official status as a candidate for **European Union** membership. This was hailed by the Turkish media as a historic step, and the Greek Prime Minister said that it marked "a historic shift towards peace, security and development in our region". The candidacy offer went a long way towards meeting Turkey's demand to be treated on equal terms with other applicants, although there was a careful formulation in the Helsinki conclusions in order to make the offer acceptable to Greece. The Helsinki conclusions called for a settlement to the divided island of Cyprus, but made it clear that Turkey could not block Cyprus's joining the EU if it remained split between Turkish and Greek communities. On the political and economic programme which Turkey would have to adopt as an EU candidate, the EU leaders made specific mention of the need for Turkey to improve its record on human rights. [32d]

4.38 In March 2001 the Turkish Government published its "National Programme for the Adoption of the Acquis", which set out the steps which are planned to enable Turkey to meet the criteria for membership of the EU. The Programme will entail the Turkish Parliament's enacting 89 new laws, and agreeing changes to 94 existing laws by 2004. These changes are in a wide variety of areas: freedom of thought and expression, freedom of association and peaceful assembly, combating torture, pre-trial detention, strengthening opportunities to seek redress for human rights violations, training of law enforcement personnel and civil servants on human rights, improving the functioning and effectiveness of the judiciary, banning of capital punishment, detention conditions, cultural, life and individual freedoms, mitigating regional differences to increase citizens' economic, social and cultural capabilities, freedoms of thought, religion and conscience, harmonisation of the Constitution and other relevant legislation with EU political criteria, and lifting the state of emergency. [82b]

4.39 On 3 October 2001 Turkey completed its biggest legislative overhaul in two decades, when Parliament approved a package of 34 amendments to the Constitution designed to pave the way for EU membership. Law No. 4709 came into force on 17 October 2001. The amendments, ranging from easing restrictions on using the Kurdish language, reducing maximum detention periods for suspects before they are charged, and making it harder to ban political parties, to reshaping the powerful National Security Council to give more weight to civilian politicians, are the first major shake-up of Turkey's Constitution since it was drafted after the 1980 military coup. Implementation in many cases required changes, which were already in the pipeline, to the Penal Code, or other pieces of enabling legislation whose imminence varies. The reforms sparked excitement in Turkey, and the "Hürriyet" newspaper enthused "The new Turk will not be searched, will not be wire-tapped, will not disappear, (and) will be open to speak freely and to criticise." One EU official said "This is the most important development we have been able to report on in years and we would be saddened if it were not registered as such by the EU as a whole, especially the European Parliament." [12i][41c] [44c]

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

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

4.42 The health of 77 year-old Prime Minister Ecevit deteriorated seriously in late spring and summer 2002. He refused to step down, and on 31 July Parliament voted overwhelmingly for an early election on 3 November 2002. [44d] Meanwhile, the state of emergency in the provinces of Hakkâri and Tunceli ended on 30 July 2002, when emergency in the remaining two provinces of Diyarbakır and Bîrnak was renewed for what was intended to be the final four months, until 30 November 2002. [30q]

4.43 On 3 August 2002 the Turkish Parliament formally approved a package of key democratic reforms, designed to improve Turkey's chances of EU membership. The package consisted of the following measures:

- i. An end to the death penalty in peacetime and its replacement with life imprisonment without the possibility of parole. Capital punishment will, however, remain on the statute books for wartime.
- ii. TV and radio broadcasts allowed in languages other than Turkish but not in contravention of principles of national sovereignty laid out in the Constitution. This change allows broadcasts in Kurdish. The Turkish Radio and Television Supreme Council will act as regulator.
- iii. Kurdish dialects to be taught in special courses at private schools, under the regulation of the Ministry of Education.
- iv. An end to penalties for written, vocal or pictorial criticism of state institutions, including the armed forces.
- v. The easing of restrictions on public demonstrations and association, allowing 48 hour notification to the authorities.
- vi. The easing of restrictions on both foreign and local non-governmental organisations working in Turkey.
- vii. Tougher penalties for people- and organ-smugglers, and those who help them, especially if the lives of immigrants are endangered.
- viii. Greater freedom for non-Muslim minority religions.
- ix. Revision of press laws and regulations.
- x. Changes to laws and regulations defining the duties of the police.
- xi. Prison sentences of up to 10 years for persons found to be profiting from forced labour. [66a]

4.44 The European Commission welcomed the package as an important signal of the determination of the majority of Turkey's political leaders to align Turkey further with the values and standards of the European Union. The EC's statement said that these reforms were significant steps towards better protection of human rights and the rights of minorities in Turkey. Stressing that the overall reform package needed to be carefully analysed in order to assess fully its impact, the EC said that this would be done in the regular report to be presented in the autumn. It added that much would depend on the package's practical implementation, which would be closely monitored in the months to come. Commissioner Günter Verheugen, responsible for EU enlargement, said "I welcome the courageous decision of the Turkish Parliament. This decision would not have been possible without a clear European perspective that the EU has developed for Turkey since the European Council of Helsinki in 1999. The Turkish decision also shows that the EU is right in being firm as regards human rights and the protection of minorities... Not to give in on these issues makes our partners better understand why we so strongly defend our values, and that they are precious to us." [30r]

4.45 One Turkish human rights activist described the reforms as "the most positive changes made during the history of the Turkish Republic". Another, Osman Baydemir, who leads the Diyarbakır branch of Turkey's Human Rights Association, said, in referring to the Kurdish role in Turkey, "For the first time the differences were accepted - a denial has stopped - they actually acknowledged that cultural differences exist." [37a] (See para. 6.124 below). Human Rights Watch commented "During the past year we have seen more substantial human rights improvements than any year since the 1980 coup. Instead of the previous tiny grudging steps, we have seen two major strides and the promise of further improvements." HRW added, however, that there were two areas in particular where Turkey must still act in order to demonstrate that it has broken with its history of human rights abuses: torture and freedom of expression. [9a]

4.46 The European Commission's October 2002 "Regular Report on Turkey's Progress Towards Accession" welcomed the fundamental reforms which Turkey has introduced since the decision in 1999 on candidate status for European Union membership. (The political criteria for membership are that countries must have achieved "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.") The report noted the major constitutional reform of October 2001, which strengthened guarantees in

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the field of human rights and fundamental freedoms, and restricted the grounds for capital punishment. A new Civil Code was adopted in November 2001. Three sets of reform packages were adopted in February, March and August 2002. The death penalty had been lifted in peacetime. The state of emergency had been lifted in two provinces on the southeast, and the decision had been taken to lift it by the end of 2002 in the two provinces where it still applied. The building of political consensus around these major changes (which were adopted under difficult political and economic circumstances) was prepared by an intensive public debate about EYU accession, a debate which took place with the participation of political parties, civil society, business as well as academic circles. The report concluded that, overall, Turkey had made noticeable progress towards meeting the political criteria for EU membership since 1998, and in particular in the course of the year ending October 2002. The August 2002 reforms were particularly far-reaching. Taken together, the reforms provide much of the groundwork for strengthening democracy and the protection of human rights in Turkey. They open the way for further changes which should enable Turks progressively to enjoy rights and freedoms commensurate with those prevailing in the EU. [76]

4.47 Nonetheless, the Commission concluded that Turkey does not fully meet the political criteria for EU membership for the following reasons:

- (i) The reforms contain a number of significant limitations on the full enjoyment of fundamental rights and freedoms. Important restrictions remain, notably to freedom of expression, including in particular the written press and broadcasting, freedom of peaceful assembly, freedom of association, freedom of religion and the right to legal redress.
- (ii) Many of the reforms require the adoption of regulations or other administrative measures, which should be in line with European standards. Some of these measures have already been introduced and others are being drawn up. To be effective, the reforms will need to be implemented in practice by executive and judicial bodies at different levels throughout the country. The Commission considers that the decision of the High Electoral Board to prevent Mr Erdoğan, the leader of a major political party, from participating in the November 3 general election did not reflect the spirit of the reforms.
- (iii) A number of important issues arising under the political criteria have yet to be adequately addressed. These include the fight against torture and ill-treatment, civilian control of the military, the situation of persons imprisoned for expressing non-violent opinions, and compliance with the decisions of the European Court of Human Rights. [76]

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

4.49 It emerged in late October 2002 that Europe's leaders might make, at the Copenhagen summit in December 2002, a firm pledge on membership talks with Turkey. Many EU states had come under pressure from USA to make concessions to Turkey, which the USA sees as a reliable NATO ally and a friend in the campaign against terrorism. Plans to give new encouragement to the Turks were urged by Greece and the UK; the British Foreign Secretary said that UK was "extremely positive about helping Turkey's accession to the EU". [44e]

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

Party	Provisional percentage of votes cast	Number of parliamentary seats
AKP	34.3	363
CHP	19.4	178
DYP	9.5	-
MHP	8.3	-
GP	7.3	-
DEHAP	6.2	-
ANAP	5.1	-
SP	2.5	-

DSP	1.2	-
YTP	1.2	-
BBP	1.0	-
Independents	8.6	9

For a country not known to rise up in revolt, the electoral slaughter of a whole generation of old-style leaders was the closest Turkey is likely to come to a revolution; one newspaper trumpeted an "Anatolian revolution". The Law on the Election of Deputies, which requires a party to obtain at least 10% of total valid votes cast nationally before it can be assigned any parliamentary seats, has led to only two parties being represented in the new Parliament; with large swathes of the electorate unrepresented, this raises questions about the legitimacy of the Parliament. Leaders of defeated parties fell like dominoes after the election, with the resignations of Mr Bahçeli from leadership of the MHP, Mrs Çiller from that of the DYP, and Mr Yılmaz from that of ANAP. Perhaps the most tragic victim of all was ailing Prime Minister Ecevit, whose party slipped from biggest winner in the 1999 general election to (provisionally) 1.2% of the vote in 2002. [41d]

4.51 Mr Erdoğan, the AKP leader, was (on the basis of then current law) unable to become Prime Minister, nor even an MP, because of a previous conviction for inciting hatred on religious grounds. Article 109 of the Constitution states that the Prime Minister shall be selected by the President from members of Parliament, and the unwritten implication is that the President would appoint a member who can win a vote of confidence there. [63m] Immediately after the election victory, Mr Erdoğan left little doubt that he was in charge of the team that would form Turkey's first single-party government after a decade of weak coalitions. He planned to travel around European capitals to drum up support for Turkey's attempt to secure a timetable for starting negotiations to join the EU. [41d] Mr Erdoğan emphasised that, with regard to the EU adaption laws, his party's government would eliminate the shortcomings, particularly in areas such as torture, community foundations, mother tongue broadcasts, and mother tongue education, and would implement the necessary measures. He added that his party's government would demonstrate its sincerity in this regard. [61b] Asked whether he would attempt to make Turkey more Islamic, Mr Erdoğan shook his head in exasperation, and replied "The best answer to that question will come from our future actions". [40g]

4.52 The new Government was appointed in mid-November 2002. The Prime Minister was Mr Abdullah Gül (see Annex G for brief details). The Deputy Prime Ministers were Mehmet Ali Şahin, Ertuğrul Yalçınbayır, and Dr. Abdullatif Sener. The Finance Minister was Kemal Unakitan, Foreign Minister Yasar Yakis, and Interior Minister Abdülkadir Aksu. The total number of Ministers, including the Prime Minister, was 25, compared with 36 in the previous government. The Cabinet had seven jurists, six engineers, five economists, four graduates of political science, one theologian, one doctor and a literary person. The Cabinet had three professors, and two associate professors. There was one woman minister (Tourism Minister Güldal Aksit). [30x]

4.53 In an interview with the "Hürriyet" newspaper on 17 November, Mr Gül said "We are going to take steps that will amaze the European leaders. We will match our words with deeds and do our bit...We want to demonstrate that a Muslim country can be a part of a democratic, transparent and modern world...An EU-member Turkey would set a shining example to all the other Muslim countries...It would enrich Europe as much as it helped Turkey prosper." [21b]

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

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

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4.55 The AKP's policy in relation to the east and southeast of Turkey is set out in its programme. The party pledges to follow a policy guarding the happiness, welfare, rights and freedoms of the regional population. The party regards the cultural diversity of the region as a richness. On condition that Turkish remains the official and instruction language, the party regards cultural activities, including broadcasting, in languages other than Turkish as an asset which reinforces and supports, rather than weakens, the unity and integrity of Turkey. Terror and oppression feed one another. The way to end terror requires a State approach which is respectful of basic rights and freedoms, and a way of thinking which sees economic development and security as parts of the same whole. [98]

4.56 Prime Minister Gül read the 64-page Government programme to Parliament on 23 November 2002, and emphasised that his Government aimed to create a promising future with a leadership of honest, well-educated and experienced personnel, and with a comprehensive programme. Turkey had reached stability with a two-party Parliament, and with the Government formed by one party. He said "We are resolved to carry out our mission in a responsible way." He announced that a more pluralist and liberal Constitution would be prepared, and certain basic laws amended. He added that all the Government's policies would focus on the individual, and said "We want to take under guarantee all the civil and political freedoms, particularly the right to freedom of thought, belief, education, organisation and enterprise." He went on to say that Government policies would be based on all international democratic standards, and stressed that Turkey would put ECHR and Universal Declaration of Human Rights values into practice. He said that the Government is resolved to reach universal standards in the field of basic rights and freedoms. The State would not make any discrimination in society and among people with respect to race, colour, gender, political thought, philosophical belief, and religion in the supremacy of law in accordance with their understanding of law and justice. Stating that they would prepare a new participatory Constitution, Mr Gül said that the Constitution would have a powerful social legitimacy and would conform with international norms. He added that the Constitution, which would depend on participatory democracy, would carry the understanding of a democratic legal State. [30y]

4.57 The European Union summit in Copenhagen on 12 and 13 December 2002 decided that Turkey would have to wait until December 2004 before a review that could lead to negotiations for Turkey to join the EU. The review would decide whether Turkey met human rights criteria. Mr Gül initially expressed great disappointment, and said the decision meant "our efforts are not appreciated and there is a prejudice against us". However, British Prime Minister Tony Blair said that "This is a huge demonstration of our confidence in the new Turkey that is taking shape and will eventually take its place in the family of the EU." Mr Erdoğan described the outcome as a success won in the face of European "double standards". [44f]

4.58 The Turkish Parliament voted in December 2002 in favour of a package of amendments to the Constitution that would allow Mr Erdoğan to stand in a forthcoming by-election. [32j] The by-election took place in March 2003, and Mr Erdoğan was elected. Mr Gül stepped down from the premiership, and President Sezer invited Mr Erdoğan to form a government.

4.59 The leading members of the new cabinet, as announced on 14 March 2003, included:

Prime Minister: Recep Tayyip Erdoğan

Deputy Prime Minister and Foreign Minister: Abdullah Gül

Deputy Prime Ministers and Ministers of State: Abdullatif Sener and Mehmet Ali Şahin

Minister of Finance: Kemal Unakitan

Minister of Interior: Abdülkadir Aksu [63q]

4.60 Speaking in Parliament on 18 March 2003, Mr Erdoğan said that his government's programme was based on the political identity of his "conservative democratic party". The government "would meet the nation's demand for full democracy, complete order of basic rights and freedoms, active foreign policy and a production structure able to reach competition strength in international markets". On internal affairs, the government would concentrate on "bringing to life the democratic, respected and dynamic will of people, it would provide economic stability,....distribute justly the opportunities of economic prosperity, and struggle against poverty and corruption". In order to increase "human rights to a universal level", the programme envisaged "a new pluralist and liberal

constitution" which will have "a sound social legitimacy, conform to all international norms, including those of the European Union, and give priority to rights and freedoms of individuals". The programme stipulated that Turkey's "basic strategic and political reality is the relationship with USA. The programme also stipulated that "EU full membership is one of the most important targets". [30aa]

4.61 There were lengthy talks in the early months of 2003 between Turkey and USA on deployment of US forces on Turkish territory in preparation for the possible opening of a northern front in the expected US-led war to eliminate the suspected weapons of mass destruction in Iraq. However, Turkish public opinion was overwhelmingly opposed to war with Iraq. The Turkish Parliament refused to give the go-ahead to a deal which would have allowed the deployment in exchange for a major US aid package, although it did subsequently allow US planes to use Turkish air space in the war against Iraq. Despite strong international opposition, MPs also voted to authorise the despatch of Turkish forces into northern Iraq, explaining the move by the need to prevent Kurdish refugees from flooding across the border. Analysts suggest that the real reason is Turkish apprehension at the prospect of an independent Kurdish state being declared by Iraqi Kurds, whom the USA regards as allies against the forces of Saddam Hussain. Iraqi Kurds have pledged to resist any intervention by Turkish forces. [66g]

5. STATE STRUCTURES

Part I

Part II

Part III

5. STATE STRUCTURES

THE CONSTITUTION

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

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

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

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members, and particularly on their will to live together under a common government. [78]

5.4 The 1982 Constitution retains Atatürk's (or the Kemalist) conception of secularism. In Western countries, secularism has meant complete separation of religion and the state. Atatürk's conception, however, has allowed for some measure of state control over religion. Article 136 keeps the Directorate of Religious Affairs as part of the administrative apparatus. Article 174 accords special protection to the eight principal reform laws (establishing secular education and civil marriage, adopting the Turkish alphabet and international numerals, introducing the hat (in place of the fez), closing dervish convents, abolishing certain titles, and prohibiting the wearing of certain garments) which were passed during the Atatürk era and which embody the principles of Kemalist secularism. Under Article 174, no provision of the Constitution shall be construed (by the Constitutional Court) in such a way as to render unconstitutional the reform laws which safeguard the secular character of the Republic. Another constitutional provision protecting the secular character of the state is the ban on the use of religion for political purposes. Article 24 of the Constitution prohibits the exploitation of religion or religious feelings for the purpose of political or personal benefit, and forbids even partial establishment of the fundamental social, economic, political, and legal order of the state upon religious principles. [78]

5.5 The Constitution provides citizens with the right to change their government peacefully, and this is observed in practice. Legislative power is vested in the unicameral Grand National Assembly (Parliament), which is elected by universal adult suffrage for a five year term. Executive power is vested in the President, who is elected by the Grand National Assembly for a seven year term and is empowered to appoint a Prime Minister and senior members of the judiciary, the Central Bank and broadcasting organisations, to dissolve the National Assembly, and to declare a state of emergency entailing rule by decree. Strict controls on the powers of trade unions, the press and political parties were also included. In 1987 the number of deputies in the National Assembly was increased from 400 to 450, and in July 1995 was further increased to 550. [1a]

NATIONALITY LAW

5.6 Nationality by birth. Turkish nationality is mainly acquired through the relation to the father or mother. Thus a legitimate or illegitimate, but legally recognised, child of a Turkish father or mother is Turkish. Legitimate children born to a Turkish mother, and not acquiring the nationality of the father by birth, as well as all illegitimate children born to Turkish mothers, are Turkish. Children born of non-Turkish parents do not acquire Turkish nationality by reason of birth on Turkish soil. An exception is the case of children born in Turkey and not acquiring at the time of birth the nationality of either their father or mother; they are Turkish at birth. [26a][26][78]

5.7 Acquisition of nationality other than by birth. A foreign woman acquires Turkish nationality at the time of marriage to a Turkish man, if she makes a declaration of intention to this effect to the marriage officer. Any foreigner may acquire Turkish nationality by means of naturalisation. Persons who have lived in Turkey more than five years and have all the qualifications required by the law may apply to the Ministry of Interior, and, upon the recommendation of this Ministry, the Council of Ministers may grant Turkish nationality. [26a][26b][78]

5.8 Articles 25 et seq. of Turkish Nationality Law No. 403 deal with loss of nationality. The acquisition of another nationality is not listed in Article 26 as a reason for denaturalisation; Turkey therefore accepts dual nationality. [26a][26b] Para 5.88 of the military service section of the present chapter deals with deprivation of nationality for evasion of military service.

POLITICAL SYSTEM

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

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

5.11 The military exercises substantial, but indirect, influence over government policy and actions and politics in the belief (shared, according to the opinion polls, by much of the population) that it is the constitutional protector of the State. The Government neither coerces nor forbids membership in any political organisation, although the Constitutional Court may close down political parties for unconstitutional activities. [5d] In January 1998 the Islamist Refah Party was banned, in June 2001 its successor, Fazilet (the Virtue Party), was banned, and in March 2003 pro-Kurdish HADEP was banned. Other pro-Kurdish parties have also been banned in the past. [1a] [18g][63p][77]

5.12 On three occasions - 1960, 1971 and 1980 - Turkish military leaders have intervened to uphold the principles on which the Constitution is based, and to preserve internal law and order. On each occasion the armed forces emphasised their commitment to democratic principles and Turkey soon returned to civilian rule. But, in accordance with the Constitution, all important foreign policy and national security questions are still discussed by the **National Security Council** (Milli Güvenlik Kurulu, often abbreviated to MGK), a very powerful body which was until October 2001 made up equally of military (the five most senior military officers) and civilians (the President, the Prime Minister, and three other Ministers). The former very broad wording of Article 118 of the Constitution empowered the NSC to extend its advisory role to almost all affairs of state. In practice, the NSC made very extensive use of its legal scope, and thus had a say in almost all issues which arose. From the wording arose the practice that, when the Council of Ministers first met after a NSC meeting, Government members considered the subjects discussed at that meeting. It has also been normal practice for the NSC's opinions to be endorsed in full by the Government. Where a vote in Parliament is required on an issue, the NSC's opinion has almost always resulted in the passing of an appropriate motion. [1a][2a] In October 2001 constitutional amendments increased the number of civilian members in the NSC to nine, while the number of military representatives remained at five. In addition, the new text of Article 118 of the Constitution puts emphasis on the advisory nature of the NSC, stressing that its role is limited to recommendations. The Government is now required to "evaluate" them instead of giving them "priority consideration". These changes do not appear to have changed the way the NSC operates in practice. Although decisions are taken by majority, opinions of its military members continue to carry great weight. [44c][76]

5.13 Civilian governments have never directly tried to challenge the recommendations emanating from the monthly National Security Council meetings. Writers have noted that the military apparently have never considered that one reason why politicians have become so irresponsible is that military commanders, like overbearing parents, have refused to allow them ultimate responsibility for their actions. Hilmi Özkök is not a name with which any but the keenest observers of Turkish politics will be familiar. But, as chief of the general staff, in charge of the armed forces, he is one of the most powerful men in Turkey. [1a][81]

5.14 Para 4.16 records the NSC's action in 1997.

5.15 The military is reported to enjoy widespread support as guarantors of Turkey's secular, western-oriented society, and it is the institution most trusted by the Turk in the street. [28a] But two authors have made the point that the military is blind to its one great weakness: It is an institution as ideologically trained and puritanical as the Islamic Revolutionary Guards in Iran. The only difference is that in the case of the Turkish military the ideology is a fierce secularism that is identified exclusively with what it calls democracy. As the then chief of general staff said to a reporter in 1996, "If you lose Atatürk and his principles, you will lose the country, the regime, democracy, in short everything. That's why you have to hold tighter to them than ever." [81]

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

LOCAL GOVERNMENT

5.17 Turkey is divided into 81 provinces (il), each headed by a provincial governor (vali). Hard copy source 68 is a map of the provinces. Provinces are subdivided into districts (ilçe), administered by a district governor (kaymakam). Districts may be further broken down into subdistricts (bucak). Governors are appointed for a number of years by the central authorities in Ankara, to which they are directly accountable via a chain of responsibility extending from district governor to provincial governor and on to the central authorities in Ankara. The role of governors is to represent the central authorities in the provinces. For the provinces in the state-of-emergency (OHAL) region as a whole, there is also a "super-governor" with very sweeping powers in that region (see "State of emergency" in Chapter 6c). [2a][68]

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

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

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

5.21 In the local elections of April 1999 (the most recent), HADEP won the municipalities of the major centres of Diyarbakır, Ađri, Batman, Bingöl, Hakkâri, Siirt and Van, as well as some 20 districts and nine towns. Source [88b] has more detail on this.

THE JUDICIARY

See also Annex E "Administration of justice"

5.22 Until the foundation of the Turkish Republic, a large part of the Turkish civil law - the laws affecting the family, inheritance, property, obligations, etc - was based on the Koran, and this holy law was administered by special religious (Shari'a) courts. The legal reform of 1926 was not only a process of secularization, but also a radical change of the legal system. The Swiss Civil Code and the Code of Obligation, the Italian Penal Code and the Neuchâtel Code of Civil Procedure were adopted and modified to fit Turkish customs and traditions. According to Turkish law, the power of the judiciary is exercised by judicial (criminal), military and administrative courts. These courts render their verdicts in the first instance, while superior courts examine the verdict for subsequent rulings. The Constitution provides for an independent judiciary, and in practice the general law courts generally act independently of the executive and legislative branches. [1a][5g][23c] However, Amnesty International has expressed concerns over the make up of the ruling body of the judiciary, the Supreme Council of Judges and Prosecutors, which appoints, transfers, promotes, disciplines and dismisses judges. The Council is chaired by the Minister of Justice, a Ministry of Justice Under-Secretary and five judges selected by the President, thereby failing to separate the judiciary from the executive. Decisions of the Council are not open to judicial review. Discussion within the Turkish government about possible changes to the Supreme Council suggests that the government is aware that it is not satisfactory. [12g] Problems with the legal system relating to the investigation of torture allegations are covered in chapter 6a ("Human Rights: Overview"). The legal system is reported not to discriminate against minorities. However, as legal proceedings are conducted solely in Turkish with some interpreting available, some defendants whose native language is not Turkish may be seriously disadvantaged. [5g]

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

Criminal Courts

5.24 Criminal courts of original jurisdiction are Justice of the Peace Courts (Sulh Ceza Mahkemeleri), Courts of General Criminal Jurisdiction (or Courts of First Instance) (Asliye Ceza Mahkemeleri), and Aggravated Felony Courts (Ađır Ceza Mahkemeleri). Justice of the Peace Courts and Courts of General Criminal Jurisdiction have one judge, and generally speaking they are located in the capitals of sub-provinces (ilçe). Aggravated Felony Courts are composed of three judges, one of whom is the head, and are located in the provincial capitals (il). [78]

Military Courts

5.25 These have responsibility over military personnel but additionally have jurisdiction over civilians in exceptional cases prescribed by special laws (Article 145 of the Constitution). It should also be noted that Turkish law still allows civilians to be tried in military courts under military law for offences against military institutions. [1a] [78] In 2001 176 cases involving 358 civilians were dealt with by military courts, mostly in relation to charges of fraud in avoiding military service or obstructing, intimidating and insulting soldiers on duty. [76]

Supreme Court of Appeals or Court of Cessation (Yargıtay)

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

State Security Courts

5.27 Article 143 of the Constitution provides for the establishment of State Security Courts (Devlet Güvenlik Mahkemesi, or DGM), to deal with "offences against the indivisible integrity of the State with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offences directly involving the internal and external security of the state." [9a] State Security Courts predominantly handle cases under the Anti-Terror Law and Section 312 of the Turkish Criminal/Penal Code (incitement to racial or ethnic enmity). [5c] They also deal with prosecutions under Articles 125-139, 146-157, 161, 168, 169, 171, 172, and 174 of the Penal Code. [9a] Annex F is a summary of political criminal law.

5.28 State Security Courts began to operate in May 1984, under Law No.2845 of 1983. They had previously been established in 1973 after the 1971 military coup, but in 1976 they were declared unconstitutional by the Constitutional Court. There are eighteen security court panels in eight different cities. Each panel, which presides over the hearings of a State Security Court, consists of three civilian judges and two prosecutors; until June 1999 there were two civilian judges and one military judge rather than three civilian judges. [1a][5b][9a]

5.29 A heavy caseload means that State Security Court trials can last years. Hearings may be closed and testimony gathered during police interrogation in the absence of legal counsel may be admitted. [5d][9a] No immediate access to a lawyer is provided under the law for persons whose cases fall under the jurisdiction of the State Security Courts. In March 1997, Parliament passed legislation which allowed access to a lawyer after four days for those charged under the Anti-Terror Law. Implementation was reported to have been uneven. [5c] Independent commentators concur that lack of early access to a lawyer by those detained is of great importance in allowing torture to be inflicted. The regulation to reduce periods spent in incommunicado detention was not universally complied with. Lawyers in Batman and Diyarbakır reported that access to suspects was still difficult. There was concern that some police were falsifying the date of detention to record a briefer period of detention than was actually the case in order to suggest compliance with the new law. However, Amnesty International has suggested that the reduction in incommunicado detention times may be having some effect. [5a][12f][13a][34d] Under Law No. 4744, adopted by the Turkish Parliament on 6 February 2002, the four-day incommunicado detention period for security detainees has been reduced to 48 hours. [12i] The provision requiring the presence

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of a third person, normally a public official, at meetings between the detainee and his lawyer has been abolished. [76]

5.30 The European Court of Human Rights ruled, in a twelve votes to eight verdict in October 1998 in the case of *Incal v Turkey* (41/1997/825/1031), that the presence of a military justice on the SSCs was inconsistent with relevant European conventions. While the Government continues to comply with the Court's decisions, including payment of all fines and penalties, some attorneys working on human rights issues announced that they would boycott SSC trials. At the end of November 1998 the Justice Minister called for structural changes in the SSCs, stating that it would be harmful for Turkey if the SSCs were not changed and that many cases heard in the European Court of Human Rights would result against Turkey. [5a][71a] In June 1999 a constitutional amendment was passed by the Turkish Parliament removing military judges from the State Security Courts. The military judge who was sitting on the trial of Abdullah Öcalan at the time was replaced by a civilian judge who had been observing the proceedings. [5b]

European Court of Human Rights

See paragraphs 6.202ff.

LEGAL RIGHTS / DETENTION

See also Annex E "Administration of justice"

Turkish Penal (or Criminal) Code

5.31 The bulk of the criminal law may be found in the Turkish Penal (or Criminal) Code. Annex F of this assessment lists the most common crimes to which reference is made in documentation in asylum applications.

5.32 Day to day practice shows differences in the interpretation of the law in practical cases. As a result, there is a lack of clarity, transparency and legal certainty. There is evidence that in some cases the judge, invoking the same law provisions, decided to grant an acquittal while in other cases the opposite decision was taken. Although there have been some acquittals in cases connected to Article 312 (Kutlular, Koru and Freedom of Thought cases), in other cases the application of the same Article has led to convictions (five journalists of "Yeni Asya" were convicted on 10 March by the Istanbul State Security Court). The same trend has been observed in the application of Article 159 of the Penal Code where several acquittals (Baþlangıç, Bayramođlu, Özkoray cases) were in contrast with a number of convictions and postponement of sentences (Bekdil and Cevik cases, for example). This in turn raises the question of the predictability of interpretation of the law. [76]

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

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

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

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

5.36 Article 8 deals with propaganda against the indivisibility of the State and is used to prosecute and imprison people for peacefully expressing their opinions. The Article has most frequently been used to prosecute writers, journalists, pro-Kurdish politicians and intellectuals. [7a][18g] In October 1995, a number of amendments reduced the length of prison sentences under Article 8 to one to three years (from two to five years) and introduced the possibility of converting prison terms into fines and suspending future prison terms. [9a] In February 2002 the so-called "Mini-Democracy Package" (Law No. 4744) broadened Article 8's scope and increased penalties. In addition to "written and oral propaganda with the aim of violating the indivisible integrity of the state with its territory and nation", visual propaganda will now also be punishable by one to three years' imprisonment if "the act does not require a heavier penalty" (the last quote is new under Law No. 4744). A further addition to the legislation is "If this act is committed in a form that encourages the use of terrorist methods the sentence will be increased by a third." [12i]

Detention for questioning prior to formal arrest

5.37 It is important to realise that there is a distinction in Turkey between "detain" (gozaltini almak) and "arrest" (tutuklamak). There is a similar distinction in jurisdictions in other countries. [4c]

5.38 The Turkish Code of Criminal Procedure (CMUK), as amended in March 1997 and in 2002, sets out the **maximum periods for which a suspect may be detained in police custody** for questioning prior to formal arrest. The Code maintains two legal standards, giving different rights to criminal (i.e. non-security) and to security detainees. (Security detainees are suspected of crimes under the jurisdiction of State Security Courts (see paragraphs 5.27-5.30)).

Criminal (i.e. non-security) detainees

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

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

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

Security detainees

Individual crimes - 48 hours

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

A security detainee has the right of access to a lawyer only after 48 hours. [9a][12i]

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

5.40 Private lawyers and human rights monitors continue to report uneven implementation of the regulations, particularly right of access to a lawyer. [5g] The Council of Europe Committee for the Prevention of Torture found on its visit to Turkey in March 2002 that the issue of access to lawyers for people detained by the police has been, and apparently remains, a significant problem in Diyarbakır. The Turkish authorities highlighted measures taken to address the point. [13c] The majority of investigations by police and prosecutors are still geared towards obtaining a confession from the suspect, often without the presence of a lawyer, and confessions are still accepted in courts without further supporting evidence. [76]

5.41 Statistics, which are not comprehensive and which merely record cases which have come to the notice of various human rights organisations, indicate that over 95% of people detained by the police in 1998 and 1999 were **released without charge**. It is only once a defendant has been formally charged that he is able to get access to documents relating to his case. Anyone who has been detained and released without charge will be

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unable to prove it with any form of documentary evidence. [16e]

The Repentance Law

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

Amnesty Law

5.43 On 8 December 2000 the Turkish Parliament adopted an Amnesty Law (Law Number 4616 on the conditional release and the suspension of trials and sentences for offences committed up until 23 April 1999). On 15 December 2000 President Sezer returned the law to be debated again in Parliament; his legal objections to the measure were set out in a six-page explanation. Parliament again adopted the law, and on 21 December the President accepted the constitutional requirement to approve it. [82]

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

5.45 The scope of the law also includes Article 169 of the Turkish Penal/Criminal Code, affording assistance and support to an illegal organisation. This led to the release of 1,660 people convicted on the basis of that Article for support to the PKK prior to 23 April 1999 or to the dropping of charges on that basis. The Chief of Staff declared that this resulted in letting terrorists out on the streets, to which Prime Minister Ecevit responded that these were people who had often lent assistance or shelter under pressure or duress. The offences of "evasion of registration", "evasion of examination", "fraudulent evasion of military service" and "desertion" (Articles 63 to 68 and 70 to 75 of Law No. 1632 on the Military Criminal Code) also fall under the law, provided they were committed before 23 April 1999. Infringements of the Anti-Terror Law are not covered by the Amnesty Law because the constitution lays down that no amnesty is possible for such offences. [2a]

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

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

5.48 In response to a question about whether the Amnesty Law would be extended to cover crimes committed after 23 April 1999, a senior official at the Ministry of Justice informed the IND fact-finding mission that that he had no information on this and made the point that this was for Parliament to decide. He added that approximately 30,000 people had been released from the penal system under the existing amnesty. (The US State Dept. report for 2001 states that 23,600 prisoners were released). [5d][82]

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

rape, financial crimes, embezzlement, prevention of competition in state tenders by threat and violence, manufacture and export of drugs, and fraudulent bankruptcy. It also declined to extend the timeframe to cover crimes committed after 23 April 1999. The ruling, by refusing to allow those convicted of financial crimes, and violence against the person, to benefit from the amnesty, sends an important signal to many, including those in the banking sector and involved in organised crime. [82]

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

Death Penalty

5.51 There have been no executions in Turkey since 1984, although the courts continued to pass death sentences until August 2002. [12m] In November 1990, the number of cases in which the death penalty could be pronounced was reduced from 29 to 16 offences listed in the Turkish Penal Code. The Anti-Terror Law commuted all 25 outstanding death penalties before 8 April 1991 to between 10 or 20 years imprisonment, depending on the offence committed. [77] The constitutional amendments of October 2001 narrowed the use of capital punishment to cases of terrorism and in times of war or threat of war. [44c] The exception for terrorist crimes was not in line with Protocol 6 to the European Convention on Human Rights (which does not permit any reservations), whereas the exception in the case of war crimes is permitted under Protocol 6. [76] On 3 August 2002 the Turkish Parliament, as part of a package of key democratic reforms, designed to improve Turkey's chances of EU membership, approved an end to the death penalty in peacetime and its replacement with life imprisonment without the possibility of parole. Capital punishment will, however, remain on the statute books for wartime. [66a] The process of converting death sentences into life imprisonment began in September 2002. [76] The sentences of 87 prisoners (including Abdullah Öcalan) on death row were commuted to life imprisonment. [9f]

INTERNAL SECURITY, INCLUDING POLICE AND VILLAGE GUARD

5.52 Civilian police come in a variety of subdivisions. The blue-clad officers, both men and women, are part of a national force designated by the words "Polis" (Police) or "Emniyet" (Security). Polis are the everyday security force in cities and towns with populations over 2000. [87] They come under the Ministry of the Interior. For all cases involving political offences, with or without violence, each local police force has a special anti-terrorist section (Terörle Mücadele Büyesi). There are also mobile units, known in Turkish as Çevik Kuvvet (flying squad), to deal with demonstrations and disturbances of public order. [2a]

5.53 In most rural areas where villages do not exceed 2000 in population (i.e. 93.5% of the area of Turkey), law enforcement is in the hands of the **Jandarma** or gendarmerie, a division of the regular army charged with law enforcement duties. There are 150,000 Jandarma, and conscripts make up over 90% of their strength. They wear red armbands bearing the word "Jandarma", and are often kitted out not in fatigues but in well-tailored gear, modelled on the French pattern, to make them appear less threatening. Jandarma take their orders from more than one source. They fall under the General Staff for training and special or military duties, the land forces for arms and equipment, and the Ministry of the Interior for security and public order. The Jandarma have their own intelligence service, the JITEM. [1a][2a][2b][87] Another branch of the army much in evidence is the **military police** or Askeri İnzibat. They wear white helmets bearing the letters "As Yz", white holsters, and lanyards. Their task is to keep order among the large numbers of conscripts on the streets of many Turkish towns. [87]

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

5.55 For the purposes of combating the PKK, the armed forces have some 200,000 troops stationed in the south-east, including highly trained commandos. There are also special teams (Özel Tim, plural: Özel Timler), coming under the army, police or jandarma, involved in combating the PKK. Some 15,000 to 20,000 members of such teams, all of whom have volunteered upon completion of their national service, are heavily armed and specially trained in anti-guerrilla warfare. According to the Turkish military authorities and international observers, the Özel Timler have been completely withdrawn from the south-east since 2000, a claim contradicted by the Human

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Rights Association. Attempts are currently being made to reintegrate those teams into society, partly by assigning them posts in the police. This is said to be a very laborious process. [2a]

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

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

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

5.59 According to representatives of the Turkish human rights organisations the Human Rights Foundation (HRF) and the Human Rights Association (HRA), as well as international observers, no more new village guards are being recruited to the existing ranks of approximately 70,000. However, according to an HRA spokesman, existing village guards who wish to end their activities sometimes meet with opposition from the (local) authorities. Those concerned are allegedly pressurised to continue their activities. [2a]

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

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

5.62 Turkey has a **central information system**, known as the Genel Bilgi Toplama Sistemi (**General Information Gathering System**), usually abbreviated as GBTS. The system stores various personal data. For instance, it contains information on outstanding arrest warrants, previous arrests, restrictions on travel abroad, possible draft evasion or refusal to perform military service and tax arrears. Sentences which have been served are in principle removed from the system and entered into the nationally accessible Judicial Records (Adli Sicil). [2b]

PRISONS

5.63 According to the Minister for Justice, as at 23 May 2001 Turkey had 554 prisons: 513 closed institutions, 36 open prisons, one closed institution for women and children, one closed institution for young offenders and three "educational institutions" for juveniles. Prior to the amnesty in December 2001, the prisons had a population of 72,000, some 11,000 of them held for political offences and 3,000 of them minors. Around 40 people were in prison for offences of torture or maltreatment. As at 1 January 2002, the prison population included 8461 convicted of "terrorist offences". [2a] In May 2002 there were 60,327 people in prison: 29,514 convicted prisoners, and 30,813 detainees. [76] Six cellular F-type prisons have been brought into operation: Sincan (Ankara), Edirne, Kocaeli, Tekirdağ (all established on 19 December 2000), and Bolu and Izmir (established 3 July 2001). [60d] Five more such prisons, including one in Diyarbakır, were due to come on stream in mid-2002. In September 2001 the Turkish Minister for Justice announced that another fifty prisons would be converted into cellular ones, as well as new F-type prisons being built. [2a]

5.64 Prison conditions remain poor, despite several improvements. Underfunding and poor administration of penal facilities remained problems. Most prisons lacked adequate medical care for routine treatment or even medical emergencies. Inmates' families often had to supplement the poor quality food. In December 2000 and January 2001 the Government released 23,600 prisoners under the new Amnesty Law, resulting in less overcrowding of prisons. [5d][5g]

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

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

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

5.68 Human rights observers estimate that at any given time, at least a quarter of those in prison are awaiting trial or the outcome of their trial. Men and women are held separately. Despite the existence of separate juvenile facilities, at times juveniles and adults are held together. Pretrial detainees are not usually held separately from convicted prisoners. [5g]

5.69 The Ministry of Justice, the General Directorate of Prisons, and the Parliamentary Human Rights Committee regularly inspect prisons and issue reports. Prison Monitoring Boards (five-person visiting committees composed of nongovernmental experts such as doctors and lawyers) also conduct inspections. During 2002 the Government reached its target of creating 130 Monitoring Boards, and the boards conducted 516 visits, prepared 1,336

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reports, and made 5,853 recommendations to the Ministry of Justice for improvements. The number of special prison judges reached 140. In the period January to July 2002 these judges received 4,527 petitions relating to prison conditions and sentences; they admitted 1,308 petitions, partially admitted 140, and rejected 3,079. Human rights groups criticized the Government's selection of Monitoring Board representatives. Turkish Medical Association officials said the Government did not consult them on Board membership and selected only state-employed doctors for the bodies. Bar associations also said that their preferred candidates were not selected. Doctors and lawyers in Konya and Izmir prepared to form "alternative" boards with members not selected by the Government. [5g]

5.70 The Government permits prison visits by representatives of some international organizations, such as the Council of Europe's Committee to Prevent Torture (CPT) and the U.N. Special Rapporteur on Torture. The CPT visited in March and September 2002, and conducted ongoing consultations with the Government. Requests by the CPT to visit prisons are routinely granted; however, domestic NGOs do not have access to prisons. [5g]

MILITARY SERVICE

(See also "Treatment of returned asylum seekers" section (paras 6.89ff))

5.71 The armed forces, which regard themselves as the guardians of the principles of Atatürk, play an important role within Turkish society, and are held in high regard by a large section of the population. In a survey in March 2001 in which the population was asked to give marks to various public bodies, the army scored 7 and the President (an office which has risen enormously in public esteem since Mr. Sezer took over) scored 7.9, while the government and political parties scored 1.9 and 1.8 respectively. The army's popularity stems partly from the fact that public opinion is convinced that it is more or less immune from the corruption which is widespread in Turkey. The performance of military service is regarded by a large part of the population as a rite of passage "to become a man". There are parents who will not allow their daughters to marry someone who has not yet performed his military service, and companies often prefer to employ someone who has discharged his military obligations. [2b]

5.72 As at 1 August 2001 the armed forces totalled 515,100 people (including 391,000 conscripts). The size of the army was 402,000 men, the navy 53,000 men, and the air force 60,100 men. There was a Jandarma numbering 150,000 and a coast guard of 2,200. Reserve forces totalled 378,700 in the armed forces and 50,000 in the Jandarma. [1a]

5.73 Mehmet Ali Birand, a Turkish writer, produced a unique study entitled "Shirts of Steel. An Anatomy of the Turkish Armed Forces" (published in Turkish in 1986, and in English in 1991). It is full of revealing detail on the working of the armed forces. Birand quotes the oath which begins a student's year at Military Academy (the Turkish equivalent of Sandhurst, Cranwell or Dartmouth Naval College). "I swear on my honour that I shall serve my nation and republic at all times with loyalty and devotion, in peace and in war, on land, at sea and in the air, that I shall obey the law, regulations and my superiors, and that I shall hold the honour of the military profession and the glory of the Turkish flag dearer than my own life which I shall willingly sacrifice, if necessary, for the country, the republic, and my duty...." [57]

5.74 Birand cites a Turkish expression, the counterpart of which he has never heard in other countries: "our glorious army sprung from our nation, from our own flesh and blood". Birand was also struck by the adjectives used in all the speeches, official statements, declarations, and even newspaper reports that referred to the Turkish army: heroic, glorious, peerless, great, outstanding and so forth. He found that western European countries also praised their armies, but they chose more modest adjectives like powerful, well-organised, capable: what is at least as important, they used them less frequently. [57]

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

5.76 Every male Turk is obliged under the Military Act No. 1111 to carry out military service. The obligation commences on 1 January of the year in which he becomes 19 years old, and ends on 1 January of the year in which he reaches the age of 40. (The Turkish way of counting age differs from that in western Europe, and this accounts for the fact that the Military Act refers to the 20th and 41st years). The length of military service is 18 months. [25][48a]

5.77 Persons of call-up age are not usually issued with passports, and cannot have passports renewed. In a small number of cases, and with the consent of the military authorities, a passport with a short period of validity is issued. The entry "yapmıdır" (done) or "yapmamıdır" (not done) in the passport indicates whether the holder has completed military service or not. [2b]

5.78 The Dutch Ministry of Foreign Affairs "Turkey / military service" report (July 2001) [2b] has detailed and carefully researched information on military service.

5.79 In November 1999 the Government, in a bid to boost revenues after the August earthquake, adopted a proposal allowing men to **shorten their compulsory military service** in return for a cash payment. The law allowed men born before 1 January 1973 to perform just 32 days of military service in return for around US\$8000. Men over 40 years old were able to pay some US\$10,500 to avoid the call-up altogether. [32c] Applications had to be made by 4 May 2000, and upwards of 70,000 men applied. [2b]

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

5.81 In cases where the number of those eligible for military service exceeds the needs of the armed forces, certain university-educated professional groups such as doctors and teachers have the option of completing their service by exercising their profession in the service of a government body. However, they do first have to complete basic training of one month and ten days. [2b]

5.82 As regards **evasion of military service**, Turkish law distinguishes between evasion of registration/examination (sakli/yoklama kaçakçılığı), evasion of enlistment (bakaya) and desertion (fırar). [2b]

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

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

The Dutch Ministry of Foreign Affairs reports that military judges in general impose minimum sentences. The sentences for desertion are higher than those for evasion of registration/examination or enlistment. As a general rule, normal prison sentences of less than one year can be commuted into a fine. In an individual case the judge determines in his judgment whether or not the prison sentence will be commuted into a fine. Prison sentences for

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evasion of registration/examination or enlistment or for desertion are generally commuted into fines which must be paid after the end of military service. Heavy prison sentences handed down for evasion lasting longer than three months without giving oneself up may not, however, be commuted into fines. Under Article 47 of the Military Law Code, suspended sentences may not be imposed for evasion of registration/examination or enlistment or for desertion. Any sentence which may be passed does not imply a dispensation from further military service. It may therefore happen that repeat offenders are sentenced again because of a further attempt to evade military service. In the case of repeat offences it is less likely that a fine will be imposed. Ethnic origin plays no role in determining the sentence for evasion of military service. [2b][48a][53a][53c]

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

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

5.86 The right to **conscientious objection** or to perform alternative service does not exist in Turkey, despite Turkish membership of various international fora which expressly recognise this right. Persons refusing to perform military service on grounds of conscience are therefore viewed as routine cases of evasion of military service and punished accordingly. From the legal viewpoint, a conscientious objector may fall into any of the categories of evasion (para 5.82 above). A conscientious objector who attracts media attention or publishes articles calling on people to refuse to serve faces additional punishment on the grounds of "alienating the people from the armed forces" (Article 155 of the Penal Code). While there have so far been a few convictions involving both members of the public and servicemen, there have also been acquittals and cases which were not prosecuted. For example, on 15 May 1999 at the Istanbul office of the Human Rights Association three people read out and signed a press statement calling on people to refuse to perform military service, but on 5 December 2000 the military criminal court acquitted them because their actions did not constitute the offence referred to in Article 155. Three people who on 15 May 2000 stated before the press that they were refusing to perform military service were not prosecuted. A spokesman for Izmir Anti-War Association (ISKD) stated that this might have been due to the fact that the authorities wanted as far as possible to avoid attracting public attention to the issue of refusal to perform military service on grounds of conscientious objection. [2b]

5.87 Since 1995 organised associations of military service objectors have been in existence. The two most important are Izmir Anti-War Association (Izmir Savap Karpitlari Derneği) (ISKD) and Istanbul Antimilitarist Initiative (Istanbul Antimilitarist Inisiyatifi) (IAMI). The associations have a few dozen members. The secretary of ISKD is Turkey's best-known military service objector, Osman Murat Ülke. [2b]

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

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

5.90 According to sources within military jurisprudence and the Turkish Ministry of the Interior and the Ministry of Foreign Affairs, it was decided in the second half of 2001 that Turkish citizenship would no longer be withdrawn from Turks living abroad before the age of 38. This would allow conscripts the opportunity to report to the Turkish Embassy in their country of residence before reaching this age to apply for an extension with retroactive effect.

Withdrawal of citizenship may only be applied in the case of individuals who indicate to the Turkish Embassy in the country in question their point blank refusal to perform military service. This is because in such cases it is unlikely that the individuals concerned would apply for an extension before the age of 38. [2c]

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

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

5.93 Para 6.103 of the section entitled "Treatment of returned asylum seekers" of this assessment deals with the treatment on arrival back in Turkey of **returning draft evaders**.

5.94 Every conscript's unit for **posting after his basic training** is determined by computer by the Directorate for the Recruitment of Conscripts in the Ministry of Defence. The place of subsequent posting depends on the basic training undergone, the place of registration and possible criminal record. As a rule, conscripts are posted to units that have the specialisation for which they were trained. It has been a long-standing rule for conscripts to be posted preferably to units outside the region (sometimes only outside the province) where they are registered, although this practice has gradually lost significance in recent years on account of, inter alia, internal migration. In the period leading up to the ceasefire at the end of 1999, during which time the conflict between the PKK and the Turkish armed forces was waged with full intensity, extra care was taken, in addition to applying the above rule, to ensure that conscripts from provinces in south-eastern Turkey were not posted to units in that region on account of the fairly general uncertainty felt in the Turkish armed forces regarding their loyalty. The cessation of the armed struggle at the end of 1999 meant that this practice, which was aimed at preventing persons from the south-east from being posted to units in that region, has been gradually abandoned. [2b]

5.95 A criminal record plays a role in the place of subsequent posting to the extent that a person with such a record is not usually deployed in sensitive posts e.g. a person convicted of theft is very unlikely to be placed in a unit responsible for managing an arms depot. Spokesmen for the Human Rights Association and various military sources say that they do not believe that a record of past criminal offences, whether or not of a political nature, results in an extra-harsh posting by way of additional punishment. [2b]

5.96 As armed confrontations in south-eastern Turkey have virtually ceased since the end of 1999, the possibility of a conscript being deployed in combat there is extremely slight, especially since the sporadic military operations that still take place are carried out mainly by regular troops. The same applies as regards the possibility of a conscript being deployed in northern Iraq. Here too, the forces deployed consist mainly of regular troops. [2b]

5.97 Thousands of military officers are of Kurdish origin and thousands of other Kurds complete their military service routinely. [6][44a][48a] In addition, the overall share of Kurds in all army ranks should reflect that of the population, which is approximately one-fifth. [48a]

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

5.99 Systematic discrimination against Kurdish conscripts and left-wing activists can be ruled out. At the level of

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the unit in which conscripts serve, the situation is very often dependent on the individual commander. In the armed forces the focus is not so much on the question of whether or not a particular person is a Kurd, but much more on whether a person has any separatist sympathies. [2b]

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

5.101 Homosexual conscripts who state that they engage in passive sexual acts are declared unfit for military service. Homosexuals who engage only in active sexual acts are not rejected for service. [2b]

MEDICAL SERVICES

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

5.103 In 2000 there were 1226 hospitals, and a bed capacity of 172,449. Source 83 lists the different types of hospital. 744 of the hospitals (bed capacity 86,117) were run by the Ministry of Health, 234 were private, 118 were social insurance institutions, and the remainder were run by other organisations, including other Ministries and universities. There were in 1999 81,988 physicians, of whom 36,854 were specialists, and 45,134 non-specialists. [83] There were 121 physicians per 100,000 population. (The number for UK in 1993 (the most recent year available) is 164 per 100,000 population). [84b] In 1993 about one third of total expenditure on health care in Turkey was financed from taxation, 17% by social insurance funds, and the remaining 50% by direct out of pocket payments (user charges). [84a] Of total expenditure by central government in 1997, about 4.1% was for health services. [1a] If the patient has contributed to a social security scheme (SSK, BAG KUR, EMEKLI SANDIGI), his or her cost of treatment will be met. A person who has not made social security contributions, and who does not have his/her own financial means and can show that he/she is penniless, is provided with free treatment by the State [4d]

5.104 Treatment for **psychiatric problems**, including depression, is available in Turkey. There are 1.3 psychiatric beds per 10,000 population, and one psychiatrist, one neurosurgeon, one neurologist, one psychologist and one social worker per 100,000 population. [84c] Of the 26 million in-patient days spent in hospitals in Turkey in 1999, 1,067,099 were to treat psychoses, and 266,965 were to treat neuroses, personality disorders and other non-psychotic mental disorders. There were 24,788 discharges of patients who had suffered from psychoses, and 19,575 discharges of patients who had suffered from neuroses etc. [83] Hacettepe University Hospital Psychiatric Dept. confirms that antipsychotic and antidepressant medication is available in Turkey. [4e] The following therapeutic drugs are generally available at the primary health care level: carbamazepine, ethosuximide, phenobarbital, phenytoin sodium, sodium valproate, amitriptyline, chlorpromazine, diazepam, fluphenazine, haloperidol, lithium, biperiden, carbidopa, and levodopa. [84c]

5.105 The mental health department was established within the Ministry of Health in 1983 with the primary tasks of improving mental health services, development and dissemination of preventive mental health services, integration of mental health with primary care, community education and protection of the community from harmful behaviours. The means of achieving these aims were through determination of standards, training programmes, data collection, research, creation of counselling and guiding units, creation of psychiatric clinics in state hospitals, assigning proper tasks to personnel, developing rehabilitation facilities, carrying out public education through the help of media, educating the public on harmful behaviour, and taking care of those who succumb to those behaviours. [84c]

5.106 Hacettepe University, Ankara, which provides world-standard treatment for HIV and AIDS, confirms that such drugs such as thyroxine, sequinavir, D4T, 3TC, acyclovir, zirtek, diflucon and metoclopramide, or their substitutes, are available in Turkey. [4d]

5.107 According to both the Human Rights Association and the Federation of Associations for Disabled People, there is no direct, specific discrimination against **people with disabilities**, although they did suffer from a lack of economic opportunity. People with disabilities have some special privileges, such as the right to purchase products of the State Economic Enterprises at a discounted rate, or acquire them at no cost. The Government briefly revoked this privilege during 2002, but the Federation lobbied successfully to have it restored. The law does not make compulsory accessibility to buildings and public transportation for people with disabilities. According to a 2000 UNICEF report, welfare institutions provided "limited financial, employment and educational support to the handicapped." According to the report, the number of persons with disabilities was unknown. The Ministry of Education reports that there are 1.1 million children with disabilities in Turkey. Although there were many government institutions for persons with disabilities, most attention to persons with disabilities remains at the individual and family level. The Government established an "Administration of Disabilities" office under the Prime Ministry in 1997, with the mandate to develop cooperation and coordination among national and international institutions and to conduct research into issues such as delivery of services. Companies with more than 50 employees are required to hire persons with disabilities as 2% of their employee pool, although there is no penalty for failure to comply. [5g]

EDUCATION

5.108 In 1995, according to UNESCO, the rate of adult illiteracy was 18% (males 8.3%, females 27.8%). Legislation that took effect in September 1997 increased the duration of compulsory primary education from five to eight years, for children between six and 14 years of age. All state education up to university or higher institute levels is co-educational and provided free of charge. The number of primary schools reached 45,112 in 1998, and about 9.6 million children were enrolled at primary schools. In 1996 enrolment at primary schools included 99% of children in the relevant age-group. Secondary education, which lasts for at least three years, may be undertaken in general high schools/lycées, in open high schools or in vocational and technical high schools. In 1996 enrolment at secondary schools included 51% of children in the relevant age-group (males 59%, females 43%). A state examination must be passed by high school students wishing to proceed to a university or to an institute of higher education. In 1998 there were 1222 institutes of higher education (including universities, teacher-training colleges and other technical and vocational institutions), attended by 1.5 million students. In 2001 estimated government expenditure on education was about 9.4% of total spending. [1a] See also paras 6.174 and 6.177 of this assessment.

5.109 Schoolchildren are taught to respect above all the ideal of the "indivisible unity" of the Turkish nation. According to the Basic Law of National Education (1973, amended 1989) "The overall objective of the Turkish national education system is to train all members of the Turkish nation: 1. As citizens who believe in Atatürk's reform and principles and Atatürk's concept of nationalism as expressed in the Constitution; who endorse, protect and develop the national, moral, humanitarian, spiritual and cultural values of the Turkish nation, who care for and tirelessly promote their families, country and nation." The text at the front of every school textbook in Turkey manifests the essential ethos: "I am Turkish. I am upright. I am industrious. My aim is to protect little ones and to respect adults, to respect my Motherland and my Nation, to love my Nation with all my heart. I will advance the State and move it forward. You are the great Atatürk. We will continue to walk in the way you have shown us. I promise I will do this. I will sacrifice myself for the existence of Turkey. How happy is he who calls himself a Turk." [16e]

6. HUMAN RIGHTS

6A. HUMAN RIGHTS ISSUES

Part I

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Part II

Part III

6. HUMAN RIGHTS

6A. HUMAN RIGHTS ISSUES

OVERVIEW

6.1 There have been numerous reports by human rights organisations of systematic use of torture by security forces, deaths in police custody, disappearances and extrajudicial executions. Details of commonly reported types of torture can be found in the US Department of State reports, the Helsinki Human Rights Watch report "Torture and Mistreatment in Pre-Trial Detention by Anti-Terror Police", the International Helsinki Federation for Human Rights annual report, Amnesty International reports, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment report, and the Medical Foundation's report "Staying Alive by Accident: Torture Survivors from Turkey in the UK". [5][8][9a][9c][10][12i] [12j][12m][13a] The United Nations Economic and Social Council Commission on Human Rights Special Rapporteur, following a visit to Turkey in November 1998, reported that there had been a substantial reduction in the brutality of the methods used in some places. Allegations of the use of falaka (beating on the soles of the feet), "Palestinian hanging", electric shocks and rape have abated substantially in some parts of the country, notably Ankara and Diyarbakır. On the other hand, blindfolding, the use of hosing with cold water, "straight hanging", rough physical treatment, sexual abuse and threats of rape, the use of grossly insulting language and the making of threats to the life and physical integrity of detainees or their families still seem rife in many parts of the country. [12f][34d]

6.2 The Special Rapporteur, following his visit to Turkey in November 1998, did not consider that torture was systematic in the sense that it was approved of and tolerated at the highest political level. He did, however, find that the practice of torture may well, in numerous places around the country, deserve the categorisation of systematic in the sense of being a pervasive technique of law enforcement agencies for the purpose of investigation, securing confessions and intimidation. This was especially true if the less extreme, but still serious, forms of torture or ill-treatment referred to above are taken into consideration. [34d]

6.3 Article 17 of the Turkish Constitution prohibits the use of torture, stating that "no-one shall be subjected to torture or ill-treatment; no-one shall be subjected to penalty or treatment incompatible with human dignity". This Article is applied to the Criminal Code, which provides penalties for torturers. Turkey has also subscribed to a number of international treaties prohibiting the use of torture. There are, in addition, ministerial instructions to the police that torture cannot be tolerated. [13a]

6.4 An investigation into allegations of torture in police custody was one of the key purposes of the visit to Turkey in July 1991 of a delegation from the Council of Europe's Committee on Legal Affairs and Human Rights. Their report stated: "Torture has very deep emotional and traditional roots in Turkey. It is used as a measure of discipline, to intimidate detainees and as an interrogation method. It forms part of a mentality of the way in which a civil servant respects his fellow citizens. No doubt many Turks consider it as part of the criminal sanction. In many Turkish families it is common that a husband beats his wife, a father his children. Why shouldn't the police do the same with criminals?" [14]

6.5 In a letter to the Turkish Government dated 21 May 1997, the UN Special Rapporteur on Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment advised that he had continued to receive information concerning the widespread use of torture in Turkey, including that inflicted upon a significant number of children. A report by the Special Rapporteur in December 1997 stated: "According to the information, torture was practised against most persons interrogated by the Anti-Terror Branch of the police and the Jandarma, as well as against many persons detained by the police in ordinary criminal cases. Torture was reportedly administered to extract 'confessions', to obtain information, to intimidate detainees into becoming police informants, or as informal or summary punishment for petty offences or suspected sympathy for illegal organisations." [34a]

6.6 In March 1997 the Turkish Parliament agreed to reduce significantly detention lengths, allow detainees greater access to lawyers and remove certain articles on public order from the jurisdiction of the State Security Court. These reforms were intended to reduce the existence of torture in detention. [34d]

6.7 The information gathered by the European Committee for the Prevention of Torture and Degrading Treatment or Punishment during its visit to Turkey in October 1997 indicated that the new maximum police custody periods were being complied with in the parts of Turkey which it visited. However, there were allegations that police officers had arrested suspects' family members in order to activate the longer detention periods for collective crimes, or had released and re-arrested suspects in order to start a new detention period. [13b]

6.8 Detainees charged with ordinary crimes may have access to a lawyer at any time after they are taken into custody. However, for crimes falling under the scope of the State Security Courts, the detainee could meet his or her lawyer only upon extension of the custody period by order of the judge, in other words, four days. (In February 2002 Law No. 4744 reduced the length of incommunicado detention to 48 hours). [12i] Both the European Committee for the Prevention of Torture and the UN Special Rapporteur have in their reports criticised the Turkish Government for permitting such incommunicado detention. The Special Rapporteur in particular identified a strong link between this and the likelihood of torture or mistreatment. [13b][34d] The Turkish Human Rights Association, in their public statement of March 1999, similarly emphasise the important role which access to legal advice plays. [73a] Amnesty International, in commenting on the February 2002 reduction to 48 hours, stated that the amendment was insufficient to combat torture effectively because, in the majority of reported cases, torture apparently occurs within the first 24 hours of detention. [12i]

6.9 The effective incommunicado detention following the arrest of individuals for crimes falling under the jurisdiction of the State Security Courts (see paragraphs 5.27-5.30) means that torture is more likely, whilst in the cases of individuals arrested for ordinary criminality, where there is immediate access to legal advice and a 24 hour period before judicial intervention, the extent and seriousness of allegations decrease substantially. The practice involved here could not be characterised as systematic, nor does the information available suggest that it is anything like as widespread as is the case where the longer custody periods apply. However, it should be recalled that the range of crimes susceptible to the longer periods of incommunicado detention is sufficiently elastic to permit law enforcement agencies and complaisant prosecutors to avail themselves of such periods in most of the cases they would consider high priority. [34d]

6.10 Detainees who claim to have been tortured seldom have their injuries properly documented by doctors working for the state. Former detainees have asserted that some medical examinations take place too long after the event to reveal any definitive findings of torture. Members of the security and police forces often stay in the examination room when physicians are examining detainees, resulting in intimidation of both the detainee and the physician. Physicians responded to the coercion by refraining from examining detainees, performing cursory examinations and not reporting findings, or reporting findings but not drawing reasonable medical inferences that torture occurred. The Turkish Medical Foundation has reported that some police officers have torn up reports that documented torture, and insisted on fresh ones that do not refer to torture. [13a][18g]

6.11 It has been reported that the judicial authorities investigate very few of the formal complaints involving torture, and prosecute only a fraction of those. [5g][18g]

6.12 Prosecutors are required to initiate an investigation to determine whether there are grounds for prosecution when he or she receives a complaint of torture. If the investigation supports the allegations of torture the prosecutor is supposed to charge those responsible. There are practical problems with this system, in that the prosecutor relies on the police to conduct the preliminary investigation. Police officers are also rarely suspended while the investigation continues and are even less frequently placed on remand when an indictment is brought. [34d] Prosecutors sometimes charge officers with the lesser offence of ill-treatment rather than torture. [12g]

6.13 The US Department of State Report for 2002 states that the rarity of convictions and the light sentences imposed on police and other security officials for killings and torture continue to foster a climate of impunity that encourage the abuse of detainees. [5g] The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment stated in December 1996 that "On countless occasions over the last seven years - most recently in September 1996 - the Committee has received allegations that detained persons did complain about treatment received at the hands of the police when brought before the public prosecutor, but the latter displayed no interest in the matter." [13a]

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6.14 Government officials admit that torture occurs, but deny that it is systematic. [5g][63a] Although there has been an increase in the prosecution of abusive police, numbers are still low. [5d][12f] In the period January to November 2002 prosecutors received 980 cases alleging torture by police and Jandarma. Of these, 456 cases were processed, resulting in 147 (32% of 456) indictments and 309 case dismissals. According to the Ministry of Justice, the remaining 524 cases were still under investigation at the end of 2002. [5g]

6.15 A total of 147 torture cases involving police and Jandarma were brought to court during 2002. Of these, 91 cases were completed, resulting in 16 (18% of 91) convictions, 49 (54%) acquittals, 15 (16%) suspended sentences, and 11 (12%) case dismissals. During 2002, court proceedings were taken against 21 military personnel accused of torture. The case against two officers was dismissed; the other cases were ongoing at the end of 2002. 87 police officers received administrative punishments (e.g. short suspensions) in 2002 for torture or mistreatment. [5g]

6.16 The case of the murder of Metin Goktepe, a journalist who died during police detention in January 1996, concluded on 19 March 1998 with the conviction of five policemen with sentences of seven-and-a-half years. This case had been widely regarded as a test of Turkey's commitment to the issue of human rights abuses by members of the security forces. [39a] However, in August 1998 the Appeals Court overturned the verdict and ordered a retrial, because of what it said was an insufficient investigation. In December 1998 the court released the five officers from custody pending their re-trial. [5a][63n] One officer who was the subject of an outstanding arrest warrant for the Metin Goktepe killing, reportedly turned himself in to the Bitlis prosecutor and was arrested. [5a] On 6 May 1999 six of the eleven policemen who were tried on charges of killing Goktepe were imprisoned for seven-and-a-half years. The five other suspects were acquitted due to lack of evidence proving their involvement. In January 2000 a final Appeals Court upheld the sentences, and ruled that the police superintendent on duty should be tried for misuse of power rather than murder. In April 2000 he was sentenced to one year's imprisonment, and fined the equivalent of one dollar. He was released for time served during the trial. [5c]

6.17 In another case viewed as a test of the government's commitment to prosecuting security force members accused of human rights abuses, nine policemen were acquitted in March 1998 of torturing 16 teenagers in Manisa. [40b] In October 1998 the Court of Appeals overturned the acquittal and sent the case back for re-trial, ruling that the students had exhibited evidence of physical and psychological torture while under detention. The officers accused remained free pending re-trial. [5a] Manisa High Criminal Court acquitted the officers, but in June 1999 the Supreme Court of Appeals General Criminal Council rescinded the acquittal verdict by 17 votes to 7. In November 2000 the Manisa court sentenced the officers to between five and ten years' imprisonment. [5c] [63i] The case was then reopened because the defendants' lawyer resigned during the final court session. [5d] In October 2002 the Manisa court convicted the officers yet again, and sentenced them to prison terms ranging from five years' to ten years' imprisonment. [5g] On 4 April 2003 the Court of Appeals rejected the officers' appeal against sentence; they still have the right to appeal against conviction, but correspondents say it is highly unlikely they will. A lawyer for the victims said "We are so relieved. Turkey has cleansed this stain from its record." Justice Minister Cemil Çiçek said "This is a very appropriate decision. From this moment on, those who may intend to torture somebody should think twice." [66f]

6.18 In April 1998, a court found six police officers guilty of causing the death in 1993 by torture of a university student, Baki Erdoğan, and sentenced them to five years' imprisonment. [5a] In December 1998 an appellate court overturned the original convictions, but in June 1999 the six officers were convicted of torturing Erdoğan to death, were given five and a half year prison sentences, and were barred from public service for life. [5b]

6.19 In January 1998, the Commission on Human Rights reported to the UN Working Group on Enforced or Involuntary Disappearances that 153 cases of disappearance had been transmitted to the Turkish Government since 1990. The majority of these occurred in the southeast, in areas where a state of emergency is in force. In February 1999 Amnesty International reported that of these 153 cases, 83 remained unresolved. [12f]

6.20 The United Nations Working Group on Enforced or Involuntary Disappearances (UNWGEID) visited Turkey in September 1998, and reported their findings at the end of December 1998. Since its creation, 166 cases of enforced disappearance have been reported to the UNWGEID, of which 79 have been clarified, most of them by the Turkish government. The highest number of cases occurred in 1994 (72 cases). The numbers dropped to 17 in 1995, to 12 in 1996 and to 9 in 1997. During 1998, 13 cases were reported. The victims included members of political opposition parties, journalists working for newspapers opposed to the government, trade unionists or villagers suspected of supporting subversive organizations. The UNWGEID also received allegations of disappearances imputed to the PKK and other armed groups. However, these cases do not fall within the

mandate of the UNWGEID. [34c]

6.21 Most of the disappearances concerned persons of Kurdish ethnic origin and occurred in the provinces of Diyarbakır and Siirt in south-east Anatolia. There were some disappearances in Antalya, Izmir and Istanbul. Most of the cases followed the same pattern: the missing persons had allegedly been arrested at their homes on charges of belonging to the PKK and taken to the police station, but their detention was later denied by the authorities, in most cases police officers or state prosecutors. In many cases, torture or ill-treatment at the hands of the security forces was reported or feared. Some of the disappearances occurred during raids conducted by Jandarma accompanied, at times, by village guards. [34c]

6.22 It has been reported by some Turkish human rights groups that some Turkish law enforcement officials do not register suspects when they are initially taken into detention, the allegation being that if the suspect should die during questioning then there will be no record of them having been detained. There is also the problem concerning the effective incommunicado detention available to the authorities in relation to suspects held for crimes covered by the State Security Courts. The Turkish government sought to remedy these problems by introducing new detention procedures in August 1998. A suspect thereafter had the ability to notify his family of his detention, even in cases covered by the State Security Courts, provided there was no harm to the outcome of the investigation. (This restriction of there being no harm to the investigation was lifted in October 2001). [12k] Full detention registers are to be kept and suspects are to be medically examined before they are taken into detention as well as after. Turkish NGOs have complained that the provisions are frequently ignored. [34c]

6.23 The UNWGEID was of the opinion that, comparatively speaking and taking into account the number of outstanding cases of disappeared persons, as well as the decrease of allegations in the past few years, mainly since 1994, enforced disappearances in Turkey should not be evaluated as a massive or systematic practice of governmental agencies. Such an assessment does not exclude the existence of such a practice. [34c]

6.24 Another facet to the "disappearance" issue in Turkey is the Saturday Mothers. From 1995 the Saturday Mothers, relatives of those who have "disappeared", held a weekly vigil in central Istanbul, demanding that the authorities account for the whereabouts of those missing. The vigil was held every Saturday, hence the name. Each time they met a press announcement was read out detailing one case of "disappearance", but otherwise the meet was in silence. A press release was read out because such a public announcement does not need official approval; a demonstration would require such approval. While expressions of solidarity were welcomed by the Mothers and their supporters in the Turkish Human Rights Association (IHD), unfortunately outside groups and organisations with a different and often militantly political agenda frequently attempted to take advantage of the credibility of the Mothers' action by turning up to shout slogans. The activities of such groups irritated the police and introduced an extra hazard for the Mothers. From May 1998 the Turkish police clamped down on the gatherings in an often heavy handed manner. In September 1998 some of the Mothers were shut in a police bus which then had pepper gas sprayed into it. Those in the bus were later charged with "resisting the police", "destroying public property" and "acting in breach of the Law of Assembly and Demonstrations". [12c] In March 1999 the Mothers decided to discontinue the weekly gatherings because of police harassment and abuse. [5b]

6.25 In February 2001 the U.N. Special Rapporteur for Missing and Disappeared Persons, Asma Jhangir, visited Turkey and met with government officials and nongovernmental contacts. She expressed her view that the security forces appeared to be responsible for the disappearances of two HADEP officials (see para. 6.127), but she did not have sufficient information to comment on other alleged cases. She stated publicly that conditions regarding disappearances had improved greatly, but that security force impunity continued. [5d]

6.26 Although members of the security forces are said to be responsible for most cases of enforced disappearances, they are rarely brought to trial or prosecuted for these acts. Although arrests of police and other law enforcement personnel increased in cases of extrajudicial killings, the number of arrests remained low, and punishment for those persons convicted remained insufficient. The PKK's practice of kidnapping young men or threatening their families as part of its recruiting effort, and of abductions by PKK terrorists of local villagers and state officials, has virtually ended, due to reduced PKK capabilities in the southeast and calls by its captured leader Öcalan for the PKK to withdraw from its former operating areas in the country. [5c][7a][18g][34b]

6.27 Security forces are responsible for extrajudicial and political killings, particularly deaths in police custody and deaths of suspected criminals in house raids. Most of the reports pertain to the southeast. The principal victims of extrajudicial killings and "mystery killings" which security forces are suspected of having carried out include "suspected PKK sympathisers, HADEP and DEP organizers, journalists especially of pro-Kurdish publications,

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and trade union activists" as well as "prominent members of the Kurdish community, physicians, human rights monitors, [and] local politicians". The government blames many of the "mystery killings" on Hizbullah/ Hezbollah, an Islamist Turkish terrorist group. [5a][7a]

6.28 In November 1996 a fatal car crash - known as the Susurluk incident - exposed links between the Turkish intelligence agencies and right-wing mafia gangs. A report into the affair commissioned by Prime Minister Mesut Yilmaz found that the gangs had been responsible for the elimination of political enemies. Several police officers were put on trial in connection with the affair, and a former interior minister and another deputy had their parliamentary immunity lifted and faced charges that carry prison sentences of up to 12 years. Their trials began in April 1998, and in February 2001, in the first convictions, a former deputy police chief and a former intelligence officer were found guilty of running a criminal gang with the aim of "creating panic in society"; they were both sentenced to six years' imprisonment. Twelve other defendants received four year sentences for "forming an organisation with the aim of committing crimes". [5a][17][32h]

6.29 The Government as well as the PKK continue to commit a few human rights abuses against noncombatants in the southeast. According to the military, seven civilians, nine members of the security forces, and 25 terrorists died in 2002 as a result of armed clashes. [5g]

6.30 The Turkish Human Rights Foundation reports that in 2001 there were 24 political killings by unidentified assailants, 33 deaths in extra-judicial executions (house raids, not obeying stop warning, random shooting), and, amongst its clients, 641 persons who were victims of torture, ill-treatment and/or inhuman conduct (excluding thousands who were ill-treated during demonstrations). [72c] On 21 February 2003 the Turkish Human Rights Association (IHD) released its human rights report covering 2002. It summarised the major legislative changes of 2002, but found that, despite the legal changes, it was not possible to say that there had been radical changes in human rights practices. According to its data, 594 people in 1999, 594 people in 2000, 862 people in 2001 and 876 people in 2002 were subject to torture and ill-treatment. As far as freedom of expression was concerned, according to HRA data court cases were launched against 166 individuals in 1999 for expressing their thoughts. The numbers were 468 in 2000, 3473 in 2001, and 2498 in 2002. HRA saw a need to change mentality as well as legislation. HRA's summary table of human rights violations in 2002 counted 75 individuals murdered by unidentified assailants, 40 extrajudicial executions, and two forced disappearances. It noted 21,612 individuals who were detained (presumably not arrested), and 9605 asylum seekers and migrants detained (presumably for questioning on return to Turkey). 108 radio and TV channels were suspended from broadcasting by the RTUK (High (or Supreme) Council for Radio and TV) for a total of 3220 days. Two radio channels were permanently suspended, ten newspapers and magazines were closed for a total of 78 days, and seven NGOs were closed. 83 organisations (including 41 HADEP provincial and district offices) were raided by the security forces. 169 publications (23 books, 61 journals/magazines, 80 newspapers, and 5 posters, brochures and data books) were confiscated and banned. [73b]

6.31 Turkey recognises the jurisdiction of the European Court of Human Rights. In 2000 Turkey lost 23 cases in which it was a party; most of these pertained to free expression, deaths, past disappearances, and torture. It was fined about £800,000. In 11 additional cases, mostly relating to failure to ensure due process of law, Turkey accepted a friendly settlement, and paid £11,000. The court dismissed a further five cases. In 2001 the court ruled against Turkey on 8 cases in which 18 people had been killed in detention or taken into custody and then disappeared. The court noted that most domestic legal remedies were insufficient; citizens may pursue a case in the court before all domestic legal remedies have been exhausted. In 2002 ECtHR ruled against the Government in 54 cases, including 22 cases involving the right to a fair trial and 21 involving dispossession of property from villages in the southeast, and in favour of the Government in two cases. The Government accepted a friendly settlement in 43 cases, and the court dismissed one case. [5c][5d][5g] (See paras 6.202ff below for more about ECtHR).

6.32 Turkey signed up to two UN covenants during 2000 - the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. Signature does not impose legal obligations, but indicates the intention by Turkey to become party to the Covenants in due course. [33] Source [5e] (Annex C of the US State Dept. country reports on human rights practices in 2001) lists parties and signatories to international human rights conventions.

6.33 The process of Turkey's accession to the European Union remains the most important catalyst of reform. [9f]. Paras 4.46-4.48 above summarise the October 2002 regular report on Turkey's progress towards accession; the report pointed to the need for further progress in protecting freedom of expression, and combating torture.

6.34 Turkey is assessed as "partly free" in the 2002 evaluation by Freedom House (a non-partisan broad-based organisation) of political rights and civil liberties. On a scale of 1 (the most free) to 7 (the least free), Freedom House assesses Turkey's political rights (i.e. the rights which enable people to participate freely in the political process) as 4, and civil liberties (i.e. the freedoms to develop views, institutions and personal autonomy apart from the state) as 5. Turkey received an upward trend arrow for passing a package of constitutional reforms. [93]

FREEDOM OF SPEECH AND THE MEDIA

6.35 A very detailed examination of this issue is made in the Human Rights Watch paper "Turkey: Violations of Free Expression in Turkey" of February 1999. [9b] The Europa World Year Book and Middle East Regional Survey have an informative list of daily and weekly newspapers and of periodicals. "Cumhuriyet" (Republic) is the oldest surviving top-end newspaper. Three titles, "Sabah" (Morning), "Hürriyet" (Freedom) and "Milliyet" (Nationality), dominate the middle market. The long-running "Turkish Daily News" (www.turkishdailynews.com), in the English language, is a good resource for foreigners interested in Turkish politics, although its failure to contextualise has been criticised. [1a]

6.36 There are numerous provincial newspapers with limited circulation. It is known that local newspapers sometimes print articles which have been "ordered" in return for payment. These are sometimes submitted in connection with asylum applications. [1a][2a]

6.37 Article 28 of the 1982 Constitution provides that the Press is free and shall not be censored. Other articles of the Constitution and a large number of related laws, however, impose considerable restrictions on press freedoms, directly or indirectly, although in practice these restrictions have tended to affect the major newspapers less than the smaller, more politically extreme journals. While prosecutors bring dozens of cases under these laws to court each year (and this constitutes a form of harassment against writers, journalists and political figures), judges dismiss many charges. [5g] Political comment on the behaviour of the government and the leading politicians is unprohibited, with corruption allegations providing a favoured topic. [5c][5d]

6.38 Freedom of expression is restricted in the two areas regarded by the political and military establishment as the greatest threat to the State, namely Kurdish separatism and Islamic fundamentalism. [2a] A significant number of journalists have been convicted of press-related offences, normally in connection with the Kurdish question. Article 8 of the Anti-Terror Law has been used extensively in these cases. There have been cases of journalists being imprisoned or, less frequently, killed, by the security forces, not just in the southeast. The Committee to Protect Journalists (CPJ) reported that at the end of 2001 13 journalists were in prison, compared with 14 at the end of 2000, and 18 at the end of 1999. [5c][5d][58] In June 2002 the Paris-based international press defence organisation Reporters Without Borders (RSF) published for the first time a blacklist of countries where journalists are abducted, tortured and murdered with complete impunity. Turkey was not one of those 21 countries, but it was one of the nine countries "under surveillance", in which impunity has not disappeared, but where authorities "are showing political will to put an end to it". [11] Turkish press coverage of the situation in the southeast has tended to be unreliable. Major papers largely relied on the official reports issued by the Office of the Governor of the State of Emergency Region. Government decree No. 430 required self-censorship of all news reporting from and about the State of Emergency Region and gave the power to ban any news regarded as misrepresenting events in the region. In addition to these pressures, journalists operating in the southeast have faced "bans" imposed at various times by the PKK which have stated that any journalists defying the bans will be regarded as legitimate targets. Several journalists were kidnapped by the PKK in the 1990s. [4a][9a]

6.39 Article 26 of the 1982 Constitution formerly prohibited the use of any language "prohibited by law" in the expression and dissemination of thought. Legislation passed in April 1991 repealed the law effectively outlawing the use of Kurdish, but the wording of that legislation meant that it still remained illegal to publish or educate in Kurdish, or to use Kurdish in official business. The Constitutional reforms of October 2001 abolished Article 26(3) on freedom of expression and Article 28(2) on freedom of the press. [12k] Kurdish language papers are now openly sold in Turkey although the first Kurdish language newspaper, "Rojname", was forced to close due to persistent police harassment. [4a] Despite these difficulties, Human Rights Watch reported in February 1999 that Kurds spoke their native tongue throughout the country and Kurdish music and videos were widely available and played openly, including in the conflict region in southeastern Turkey. The so-called "Kurdish question" was discussed in the press and some limited radio broadcasting in Kurdish were taking place, and there appeared to be some plans to allow some sort of Kurdish language television. [9b]

6.40 The reform package of 3 August 2002 allowed TV and radio broadcasts to be made in languages other than

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Turkish, thereby allowing broadcasts in Kurdish. [66a] The High Audio-Visual Board (RTÜK) Law was amended to allow for "broadcasts in the different languages and dialects used traditionally by Turkish citizens in their daily lives". The amendment was put into practice in November 2002 by new regulations, which were supposed to allow broadcasts in Kurdish and other non-Turkish languages traditionally used by Turkish nationals. Non-Turkish programmes were allowed only on state-owned radio and TV outlets. They were limited to 45 minutes per day, four hours per week, on radio, and 30 minutes per day, two hours per week, on TV. Regulations require that non-Turkish radio programmes be followed by the same programme in Turkish, and that non-Turkish TV programmes have Turkish subtitles. By the end of 2002 there were no programmes broadcast in Kurdish or other traditional non-Turkish languages. [5g][76]

6.41 Political parties are still banned for "inciting hatred on the grounds of religious or ethnic difference" if they demand linguistic and cultural rights for the Kurds. An attempt by a private foundation to teach Kurdish "ran into a legal brick wall". The head of the unregistered Kurdish Institute was unable to register the Institute or put up a sign saying Kurdish Institute, even though police calling at the Institute would refer to it as the Kurdish Institute. Seraffettin Elçi, an ethnic Kurd and former public works minister, who was famously imprisoned for declaring he was a Kurd, summed up the situation by stating in August 1997: "When I was a minister and said in public I was a Kurd, the whole society was shaken. It was treated as a manifesto. The whole state was in turmoil, and I was punished under Article 142. Now when someone says he is a Kurd there is no reaction. Things have changed, but this doesn't mean that "Kurdishness" has a legal status." [9b]

6.42 The August 2002 reform package also included an end to penalties for written, vocal or pictorial criticism of state institutions, including the armed forces. [66a]

6.43 As far as the Islamist press is concerned, Turkey has a broad spectrum of Islamist publications, ranging from independent to pro-Iranian. Major Islamist dailies include "Zaman", "Yeni Pafak", and "Milli Gazete". Islamist television stations include Samanyolu and Channel 7, among others. Prosecutions have been brought against some Islamist politicians, intellectuals and writers under the Turkish Penal Code which prohibits "openly inciting people to enmity and hatred by pointing to class, racial, religious, confessional, or regional differences" or under provisions concerning publicly insulting or cursing the memory of Atatürk (Mustafa Kemal). [9b]

6.44 Broadcasting media reach almost every adult, and their influence, particularly that of television, is great. There are 226 local, 15 regional, and 16 national officially registered TV stations, and 959 local, 104 regional and 36 national radio stations. Other TV and radio stations broadcast without an official licence. The wide availability of satellite dishes and cable TV allows access to foreign broadcasts, including several Turkish-language private channels. The State owns and operates the Turkish Radio and Television Corporation (TRT). [5g]

6.45 A Radio and Television Law was passed in April 1994 in an attempt to establish some control over the broadcasting sector. The law set up a Supreme Broadcasting Board or Radio and Television Supreme Council (RTÜK) composed of nine members, five appointed by the government and four by the opposition, to oversee and regulate the broadcasting sector. National TV stations largely mirror the major newspapers in their approach to the reporting of human rights stories and the south-east. Little coverage is given in general and what is broadcast mainly derives from official sources. The national private stations have mainly concentrated on broadcasting sport, films, entertainment and sensational real life crime programmes. [1a][4a]

6.46 In June 2001 the Turkish Parliament adopted a law amending the status of the RTÜK. Although this law clarified ownership matters, legalised retransmission and established some ethical standards, it could have further limited freedom of expression and plurality of ownership. One member of the RTÜK was to be nominated by the National Security Council. At the end of June 2001 President Sezer vetoed the law on the grounds that it would breach several principles of the Turkish Constitution. In May 2002 Parliament re-adopted unchanged the RTÜK Law. This law imposed tighter restrictions on freedom of expression. It prohibited broadcasts which "violate the existence and independence of the Turkish Republic, the territorial and national integrity of the State, the reforms and principles of Atatürk", or "instigate the community to violence, terror, or ethnic discrimination" and introduced very high penalties. The RTÜK Law also introduced strict censorship of Internet content, as web pages have to be submitted to the authorities for approval before being published. The RTÜK Law penalises private radio and television stations for the use of "offensive language, libel, obscenity, incitement to separatism, or for the broadcasting of programmes in Kurdish". In March 2002, RTÜK imposed a record number of bans on radio and television stations, and on 17 April 2002 CNN-Türk was closed down for a day. In February 2002, Mr Nevzat Bingöl, owner of the local TV station "Gün TV" in Diyarbakır, was indicted for having broadcast a Kurdish song, and charged under Article 8 of the Anti-Terror Law ("disseminating separatist propaganda"). On 12 February

2002, without waiting for the outcome of the trial, RTÜK imposed a year-long broadcasting ban on the TV station. The ban was lifted in March 2002, and the final court decision is pending. [76]

6.47 Following a request by President Sezer for the law to be annulled, the Constitutional Court issued in June 2002 a suspension order on two Articles. These relate to the composition of the RTÜK Board and the ownership of shares. However, the main provisions of the law remain in force pending further deliberations by the Constitutional Court. [76]

6.48 As part of the August 2002 amendment to the RTÜK law, re-transmission of foreign broadcasting became legal. The implementation of this provision is, however, subject to the adoption of a regulation no later than by August 2003. In practice, as from May 2002 the ban on the re-broadcasting of the BBC World Service and Deutsche Welle programmes, imposed in August 2001, had been lifted. [76]

6.49 Implementation of the existing law on broadcasting remains a matter of concern. The RTÜK continues to ban temporarily certain radio/TV stations. In August 2001, for example, ten stations received penalties for closures from one to 365 days, mainly for unacceptable comments on current events. Moreover, on 26 September 2001 the RTÜK took a final decision to prohibit broadcasting in Turkish from the BBC and Deutsche Welle on the basis of Article 26 of the RTÜK law (prohibition of retransmission). The RTÜK President expressed his opposition to this decision, and launched legal proceedings before an administrative tribunal. This Tribunal rejected the appeal. [76]

6.50 Internet use grows. In May Parliament passed legislation authorizing RTÜK to monitor Internet speech. Under the legislation, RTÜK can require Internet service providers to submit advance copies of pages to be posted online. According to Reporters Without Borders, in February RTÜK fined Coskun Ak, the moderator of an Internet forum, \$5,000 (8 billion TL) for "insulting the armed forces." Under an amendment passed in August, Internet cafes were added to the list of places that police are authorized to search and confiscate materials from in order to protect "national security, public order, health, and decency" and to prevent a crime. Police were required to attain authorization from a judge or, in emergencies, the highest administrative authority before taking such action. [5g]

FREEDOM OF RELIGION

(See also "Freedom of assembly and association" section for religion in politics, and "Freedom of speech and the media" section for religion in the press)

6.51 Turkey is a secular state, with Article 24 of the Constitution providing for freedom of belief and freedom of worship. The US State Dept. report on religious freedom in Turkey 2002 notes that these provisions are generally observed. 98-99% of the population is Muslim; the majority is Sunni, but there are possibly 12 million Alevis (Alevism is an offshoot of Shi'a Islam). Although Islam was stated to be the official religion in the Constitution of 1924, an amendment in 1928 removed this privilege. Atatürk decided that religion should have no say at all in government. The Republic declared its independence from Islam, while continuing to control it. There were attempts to revive this link between religion and state affairs by successive governments, but secularism was protected by the revolution of 1960, the coup of 1980 and the 1982 Constitution. While Turkey is legally a secular state, Sunni Islam enjoys a privileged position that can infringe the rights of adherents of other groups and faiths freely to practise their religion. Religious services can be held only in designated places, and Sunni Muslim religious instruction in schools is compulsory except for Lausanne Treaty minorities (Greek, Armenian and Jewish minorities recognised under the Treaty of Lausanne as requiring special consideration). Adherents of the Alevi sect complain of discrimination in this and other respects. Groups of soldiers have been dismissed for prohibited religious and political activities, some religious activities of Lausanne Treaty minorities have been restricted, and the ban on headscarf wearing has been more rigorously enforced, leading some women to lose their jobs or not be able to register for university. [1a][5c][5f][77]

6.52 There is a ban on the wearing of headscarves in public workplaces, a ban which the Refah Party, during its time in government, unsuccessfully tried to remove. The ban is attributable to a desire to protect the secular nature of Turkey. The issue of the wearing of headscarves has entered into the political arena in recent years, with demonstrations continuing to be held against the ban, some of which have descended into violence. In May 1999 the university rectors committee agreed to maintain the ban on headscarves in their institutions. [69a]

6.53 Following the elections in April 1999 a Virtue (Fazilet) Party deputy, Merve Kavakci, tried to wear a headscarf in the opening session of the new parliament, contrary to the code of conduct for public servants. After vociferous protests by the Democratic Left Party (DSP) deputies, a recess was called and Kavakci left the parliament without being sworn in. [30e] The objections were not, however, limited to the DSP, and some deputies, including the deputy leader of the Virtue Party, resigned their membership of the FP over what they saw as an insensitive and confrontational act which only increased tensions over the issue. [30f][30g] Merve Kavakci was subsequently stripped of her Turkish citizenship on the grounds that she had previously applied for and been granted US citizenship without requesting permission from the Turkish government. Although the Turkish government did have the power in the circumstances to strip Kavakci of her citizenship, the leader of the Virtue Party condemned it as a political act. The incident was one of the factors which led the chief state prosecutor to begin proceedings against the Virtue Party for being anti-secular and a continuation of the Refah Party, contrary to the Turkish Constitution. In June 2001 the Constitutional Court banned the Virtue Party. [1a][5f] (See "Freedom of assembly and association" section) Some of the millions who voted for AKP, the winning party in the 2002 general election, did so in the hope that the AKP would end the ban on the headscarf worn by, among others, Emine, the wife of party leader Mr Erdoğan. [40g] AKP leaders say they will not ignore the headscarf issue, but will try to solve it during their term in office by achieving a public consensus. Mr Erdoğan has indicated that the government may try to lift the ban on university students first, but he has warned that he will not allow the issue to be exploited by either the religious extremists or the staunch secularists. [66d]

6.54 Some Christians and Baha'is have faced social and government harassment, including detentions for alleged proselytising or unauthorised meetings. [5f] The reform package of 3 August 2002 included a measure giving greater freedom to non-Muslim minority religions. [66a] "Community foundations" are now allowed to acquire and dispose of property, "regardless of whether or not they have the statute of foundations", and are entitled to register the property they actually use as long as they can prove ownership. Although the scope of these new provisions is as yet unclear, it would appear that they exclude all religious communities that do not have the status of foundations. [76]

6.55 The Dutch Ministry of Foreign Affairs "Official general report on Turkey" notes that the State's secular character (often referred to as secularism in the context of Turkey), which was laid down as one of the cornerstones of the State structure, means that government policy may not be based on religious considerations. The authorities are very much on the alert with regard to anyone who advocates a role for Islam in the state. So as to short-circuit people who entertain such notions, the Turkish State provides for a sort of state-controlled Islam. Secularism in Turkey does not mean a strict division of "church" and State, but rather state control of the official form of Islam. The State body set up for that purpose is the Directorate for Religious Affairs (Diyanet İşleri Müdürlüğü, often abbreviated to Diyanet), which answers directly to the Office of the Prime Minister. [2a] A separate State agency, the Office of Foundations (Vakıflar Genel Müdürlüğü), regulates some activities of non-Muslim religious groups and their affiliated churches, monasteries, religious schools and related property, as well as Muslim charitable religious foundations, including schools and hospitals. [5f] Anyone arguing in favour of a greater role for Islam in the Turkish State structure can expect a reaction from the authorities. Criminal charges are often brought in such cases, even if no force was involved. [2a]

6.56 The United Nations Interim Report (Addendum 1 - Turkey) (August 2000) of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of intolerance and of discrimination based on religion or belief observes that the policy of the Turkish State in matters of religion and belief is exceedingly complex and stands in sharp contrast to the categorical assertion by certain authorities that such policy is a model of tolerance and non-discrimination. The report states that politics is the determining element with respect to religion. On the one hand, the State, the guardian of secularism and defender of nationalism, has taken over responsibility for the majority religion of Islam, both within its ranks and among the population, while on the other hand the political parties, including those of Islamist persuasion, use religion as a route to power. This situation not only affects strictly religious affairs, but also has an impact on secularism and on healthy nationalism, and hence on all religious communities. The Special Rapporteur believes that the active role played by the State in religious affairs constitutes excessive interference not only in the way people manifest their belief but also against the very concept of freedom of religion and belief. This situation, he considers, weighs most heavily upon the minority Muslim communities, including the Alevi, in the sense that State intrusion into Muslim religious affairs, and promotion of a Hanafi conception of Sunni Islam, leave no room for the specific needs of the Alevis, particularly in terms of places of worship and religious education. Moreover, Turkization policies, he notes reinforce the discriminatory treatment of Alevis within Turkish society and even within the State; Alevis have, for example, no representation in the Department of Religious Affairs. [82b]

FREEDOM OF ASSEMBLY AND ASSOCIATION

6.57 The Constitution provides for freedom of **assembly**. Under Law No. 2911 of 6 June 1983 on Assembly and Demonstrations, no authorisation need be applied for in order to hold a demonstration, but written notice of a meeting must be submitted to the governor of the relevant province or district at least 72 hours in advance if it is to be held outside the headquarters of an organisation. [2a] (The reform package of 3 August 2002 reduces the 72 hours to 48 hours). [66a] The same rule applies to the distribution of pamphlets, giving of press statements and issuing of publications. The governor issues the organisers with an acknowledgement of receipt, which is sufficient for the demonstration to take place. A refusal to issue a receipt is confirmed in writing by a notary, and the notarial instrument is regarded as acknowledgement of receipt. [2a]

6.58 However, planned demonstrations are often stopped from going ahead. The governor must inform the organisers of the ban at least 24 hours before the scheduled beginning of the demonstration. The Turkish authorities may also order that certain meetings be held at designated sites only. A ban on demonstrations for up to a maximum of three months may also be imposed on an entire region. The governor of Ankara province used this power on 11 April 2001 to ban demonstrations for a month. Mass demonstrations had been held shortly before following the economic crisis in Turkey. [2a]

6.59 Reasons for banning demonstrations are laid down by Law No. 2911. They include disrupting public order, national security, activities against the character of the republic, potential use of force, threatening the indivisible unity of the Turkish State. Associations and trades unions may not organise demonstrations concerning subjects which do not fall within their objectives. These provisions leave considerable leeway for banning demonstrations. [2a]

6.60 Meetings which are held despite a ban are dispersed by the security forces. In the past they have often used force to this end. According to the 2000 report by the US State Department, the use of force by security forces in breaking up demonstrations has fallen considerably since 1999, and by 2000 there were only a few cases in which force was used. The staging of unauthorised demonstrations may also lead to prosecution. [2a]

6.61 During 2002 Parliament passed reform legislation implementing an October 2001 constitutional amendment expanding the rights of free assembly and association and placing emphasis on citizens' rights and reducing the number of restrictions on their activities. Restrictions on participation by foreigners in demonstrations were relaxed. [5g]

6.62 The Constitution provides for freedom of **association**; however, there are some restrictions on this right. Associations and foundations must submit their charters for government approval, which is a lengthy and cumbersome process. The Government has closed some opposition political parties, alleging that they were centres for illegal activity. In an October 2001 amendment to the Constitution, Parliament removed the ban on challenging the constitutionality of the highly restrictive Law on Associations (Law No. 2908 of 6 October 1983); no court cases had been brought under the law by the end of 2001. In June 2001 Prime Minister Ecevit called on civil servants to treat civil society and NGOs with tolerance rather than restrictions and prohibitions, stressing the need to comply with EU standards. [5d] There were several detailed amendments, as part of the 2002 reform packages, to the Law on Associations, but its generally restrictive character has been maintained. [76]

6.63 All activities by political parties were banned by the National Security Council (NSC) on 12 September 1980, and all parties were dissolved on 16 October 1981, prior to the formation of a Consultative Assembly. From May 1983 new parties were allowed to form, but their participation in the general election was subject to strict rules: each had to have 30 party founders approved by the NSC and party organisations in at least 34 of the provinces, while candidates for the election were also subject to veto by the military rulers. Legislation enacted in March 1986 stipulated that a party must have organisations in at least 45 provinces, and in two-thirds of the districts in each of these provinces, in order to take part in an election. Parties can take seats in the National Assembly only if they win at least 10% of the national vote. [1a]

6.64 In June 1992, the True Path and Social Democratic Populist parties sent proposals for the first "instalment" of constitutional changes to all Turkey's opposition parties, whether represented in Parliament or not. The changes proposed were generally in the direction of greater democracy. However, they were opposed by the Welfare Party (Refah), and debates and votes in June 1995 showed that other religious and conservative hard-liners in ANAP and DYP were voting with the Welfare Party. At the eleventh hour a slimmed down version was passed with all of the major parties voting for the package and only the Welfare Party voting against. The main

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elements were removal of language praising the 1980 coup from the Constitution, lowering the voting age and age at which people can join parties to 18 from 21 and allowing greater political participation by trade unions and civil associations. [1a]

6.65 The use of languages other than Turkish in political campaigns is forbidden by law. Additionally, a general prohibition exists against parties that claim that there are minorities based "on national, religious, confessional, racial or language differences". Article 81 of the 1983 Political Parties Law (No. 2820) states that political parties: (a) cannot put forward that minorities based on national, religious, confessional, racial or language differences exist in Turkey, (b) cannot advocate the goal of destroying national unity or be engaged in activities to this end by means of protecting, developing, or disseminating language or cultures other than the Turkish language and culture and thus create minorities in Turkey, and (c) cannot use a language other than Turkish. Party names which contain words such as communist, anarchist, fascist or the name of a religion, region or ethnic group are, under Article 96 of Law No. 2820, forbidden. Parties which violate this law come into conflict with the authorities and are proscribed by them. The Turkish Communist Party was compelled to change its name for that reason. Members of the armed forces and public servants are not allowed to join political parties. [2a][9b]

6.66 The Kurdish People's Labour Party (HEP) and the Democratic Mass Party (DKP) fell victim to the law forbidding the use of any language other than Turkish in election campaigns. The indictment against the DKP illustrates the position of the government. The prosecutor did not argue that Kurds or other minorities do not exist, and in fact stated that such groups enrich society as a whole. However, the activities must be kept at the level of the individual and not demand group rights. Some parliamentary candidates have been prosecuted and convicted for using Kurdish at election rallies. [9b]

6.67 Another party which was banned for contravening the secular nature of the Turkish Republic was the Welfare Party (Refah), although the issue in this case was religion. In February 1998 the Constitutional Court's decision on the case was published, in which the Welfare Party was adjudged to be using democracy to establish a state based on Shari'a following statements made by its leaders in speeches. In a judgement delivered on 31 July 2001, the European Court of Human Rights ruled that the dissolution of the Welfare Party did not violate the principle of freedom of association under Article 11 of the European Convention on Human Rights. The Court considered that the dissolution of the party "could reasonably be considered to meet a pressing social need for the protection of democratic society". [76]

6.68 Following the disbanding of the Welfare Party most of its parliamentary deputies joined the Virtue Party (Fazilet). Although it initially steered a more cautious course than the Welfare Party, it appeared to diverge from this course when one of its female deputies entered the Turkish Parliament wearing a headscarf, a public show which even some Virtue Party deputies saw as an unnecessarily confrontational move. In June 1999 the chief prosecutor sent an application to the Constitutional Court claiming not only that the Virtue Party was a centre of anti-secular activities, but that it was also a continuation of the Welfare Party, contrary to provisions of the Constitution which forbids permanently closed parties to reopen under another name. In June 2001 the Court reached a decision, and banned Virtue for undermining Turkey's secular order. In a more limited sanction than was demanded by the public prosecutor, the judges voted to expel only two Virtue deputies. Most of the 100 remaining Virtue deputies joined two successor parties which were formed - the Felicity Party (Saadet) and the Justice and Development Party (Adalet ve Kalkinma), and in November 2002 the latter (AKP) won the general election and formed the new government. [1a][30h][30x][32i][41d]

6.69 In March 2002, the reform package amended Article 101 of the Political Parties Law, in line with the amendment made to Article 68 of the Constitution. Under the new law, the Constitutional Court may decide to deprive a political party of financial assistance, rather than dissolving it. While leaving the grounds for sanctioning political parties unchanged, it makes it more difficult to close down a political party. [76]

EMPLOYMENT RIGHTS

6.70 The Turkish labour movement began in the 1930s, but it was not until the multi-party system of government came into being in the 1950s that the labour movement really began to establish itself. [4a] Just over 13% of the total labour force (about 24 million people) is unionised. [5g] Trade unions are subject to restrictions concerning freedom of association and the right to strike. Their activities continue to be impeded by the requirement of a 10% threshold for a trade union to be eligible for collective bargaining at company level. Public sector employees are deprived of the right to strike. However, some steps have been taken concerning the social protection of unemployed people. In April 2002 payments of unemployment benefit were made for the first time. [76]

Major Trade Union Confederations

6.71 TÜRK-İP (Confederation of Turkish Labour Unions) President: Bayram Meral.
DISK (Confederation of Progressive Labour Unions) President: Süleyman Çelebi. [1a]

Employers' Confederation

6.72 TUSIAD (Turkish Industrialists' and Businessmen's Association) Pres.: Erkut Yücaodlu. Sec.-Gen.: Dr Haluk R. Tükel. [1a]

PEOPLE TRAFFICKING

6.73 Section 6f of the US State Dept. Turkey human rights practices in 2002 report deals in some detail in trafficking in persons. Trafficking, particularly of women and girls, remains a problem. [5g] The European Commission's 2002 regular report on Turkey's progress towards accession notes that Turkey is an important transit and destination country for illegal immigration flows, which have continued steadily in 2002. The authorities acknowledged having apprehended 92,364 illegal immigrants in 2001, as compared with 94,514 in 2000. In the first six months of 2002, 40,006 illegal migrants were apprehended. The authorities arrested 1155 members of organised trafficking gangs in 2001. 134 of those arrested were foreign nationals. [76]

6.74 The reform package of 3 August 2002 (see para 4.43 above) established, inter alia, tougher penalties for people- and organ-smugglers, and those who help them, especially if the lives of immigrants are endangered. [66a] Despite this, the European Commission judges that Turkey does not meet the minimum standards for the elimination of trafficking in human beings. [76]

FREEDOM OF MOVEMENT / INTERNAL FLIGHT

6.75 Turkish citizens generally enjoy the freedom of movement domestically and the freedom to travel abroad, although at times the Government limits some of these rights. It is the constitutional right of a Turkish citizen to obtain a **passport**. This right is denied only in the case of a national emergency, or criminal investigation or prosecution. Within Turkey, travel outside the state of emergency provinces is not restricted. As the security situation continued to improve in the southeast, security officials decreased the use of roadblocks and vehicle and passenger searches. [5g][7a][77]

6.76 A Turk who wishes to have a **passport** must apply in person at the passport office at the main police headquarters in the city or area where he lives; an application cannot be made through an agent. The regional passport office makes checks to verify his or her identity. These checks include establishing whether the applicant has criminal convictions and/or is wanted by the authorities. The applicant is always asked why the passport is wanted. The IND fact-finding mission was advised by an interlocutor that the issue of a passport would not be withheld if the applicant had not completed his military service; this is because there are provisions in law to defer military service. [82b] However, the Netherlands Ministry of Foreign Affairs' "Turkey/military service" report records that persons of call-up age are not usually issued with passports, and cannot have passports renewed. In a small number of cases, and with the consent of the military authorities, a passport with a short period of validity is issued. The entry "yapmıdır" (done) or "yapmamıdır" (not done) in the passport indicates whether the holder has completed military service or not. [2b]

6.77 There are four different types of passport:

- i. Red (diplomatic)
- ii. Grey (service). Issued to lower rank government officials who are being sent abroad for a short time on official duty.

iii. Green (officials). Issued to government officials and civil servants, including teachers, who have reached a certain level, and their wives, sons (until age 18) and daughters (until they marry). The qualification for these passports is based on hierarchy and length of service in government. Holders of green passports do not, unlike holders of blue passports, require visas for travel to some European countries, and find it easier to obtain visas for travel to such other countries as USA. The "Turkish Daily News" reported on 15 March 2000 that the European Union was expressing unease over the increase in the number of green passports issued; the figures quoted were 40,000 in Istanbul alone, compared with 10,000 blue (over which period is unclear).

iv. Blue. Issued to ordinary citizens. [7d][7j][82b]

6.78 External frontier controls are carried out effectively with a computerised network at nearly all of the national frontiers. The names of all individuals exiting Turkey at Istanbul airport are automatically run through a computer to see whether they appear on the list of people to be prevented from leaving the country for reasons of, for example, tax evasion or committing a crime. [7b][77]

6.79 The conflict between the Turkish armed forces and the PKK guerrillas, and the poor economic situation in the southeast, have caused considerable migration away from the rural areas in the southeast. Many have remained in the southeast and moved to cities such as Diyarbakır, Siirt, Tunceli and Cizre, whose populations have doubled or trebled as a result of the migration. The large cities in the west have also been major recipients of this migration. It is estimated that as many as 3.5 million Kurds have left southeast Turkey since 1984. Istanbul, Izmir and Ankara have received the most migrants, with Istanbul accommodating almost 1.5 million new immigrants. Between one-half and almost two-thirds of the Kurdish population now live in peaceful assimilation in western Turkey and on the southern coast (3 million in the Istanbul conurbation, 2 - 3 million on the southern coast, 1 million on the Aegean coast, 1 million in central Anatolia and the remaining 6 million in east and southeast Turkey). [7a][77]

6.80 UNHCR advised in March 1999 that, in general, Kurds fleeing southeast Turkey have a possibility to relocate within Turkey. According to UNHCR's information, the large number of internally displaced persons in Turkey do not normally face serious security problems. However, the conflict between the Turkish State and the PKK had increased tensions between Turks and Kurds, in particular in big cities where there has been a large influx of Kurds fleeing conflict zones. These tensions had been exacerbated by the arrest, trial and conviction of PKK leader, Abdullah Öcalan. Obviously, the group most likely to be exposed to harassment/ prosecution/ persecution were Kurds suspected of being connected to or being sympathisers with the PKK. In view of the above, UNHCR advised that it was essential to find out if Turkish asylum seekers, if returned, would be at risk of being suspected of connection to or sympathy with the PKK, or have otherwise a political profile. If this was the case, UNHCR continued, they should not be considered as having been able to avail themselves of the option to relocate in a region outside the southeast of the country. [18b]

Nüfus card/ identity card

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

6.82 The population registry also has responsibility for issue of identity cards (nüfus cüzdanı). This is the only valid domestic identity document, and everyone is required to carry it at all times; failure to do so renders one liable to three days' detention. [2][16e] Births have to be registered to the population registry for the place of birth without delay, so that a nüfus card can be issued straight away. [2a]

6.83 The nüfus card is blue for men and pink/orange/yellow for women. It is covered with plastic laminate, and is 9.5 cm. long by 7 cm. wide. The card states the holder's date of birth, place of birth, father's and mother's names, religion and marital status. The card also states where the holder is registered in the population register. The card

does not need to bear a passport-sized photo until the holder is 15 years old. From the age of 15, the holder has to have the card renewed every 10 years. In the event of marriage, divorce or transfer to the population register for another locality, a new card has to be applied for, although in practice (particular in the case of transfer to another population register) this is not always done. There is a proposal for a new, credit-card-format identity document, to include the personal identity number introduced in October 2000. [2a][7c] Para 2.4.5 of the IND fact-finding mission to Turkey report records that the mission in March 2001 saw at first hand fake identity cards being sold openly on the streets of Istanbul within sight of the police. [82]

TREATMENT OF FOREIGNERS SEEKING ASYLUM IN TURKEY

6.84 Although Turkey has ratified the 1951 Convention relating to the Status of Refugees (Refugee Convention) and its 1967 Protocol, it operates the Refugee Convention with a geographical restriction, applying the terms of the Convention only to refugees from Europe. The European Commission has called on Turkey to lift its geographical reservation on the 1951 Convention. [76] In November 1994 the Turkish Government published a new regulation regarding refugees, entitled "Regulation on the Procedures and the Principles related to Mass Influx and the Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to seek Asylum from Turkey or Requesting Residence Permits with the Intention of Seeking Asylum From a Third Country". Under this regulation, non-Europeans as well as Europeans are required to submit their application to the Turkish authorities. If a European is recognised as a refugee, the Turkish Government affords them protection under the terms of the Convention. If a non-European is recognised by the Turkish authorities to have a valid claim to protection, he/she is classified as an "asylum-seeker" and his/her case is submitted to the UNHCR for resettlement in a third country. The "asylum-seeker" does not have the option of remaining in Turkey, although they generally will be allowed to stay in the country pending re-settlement. [12b] In the five years 1997-2001 Turkey received 29,223 asylum applications. Of this total, 14,721 were made by Iranians and 13,049 were by Iraqis. [18h] According to UNHCR there were 2658 cases of asylum seekers during 2001, representing 5041 people. In 2001 UNHCR rejected the asylum applications of 969, and accepted 1287. [5d] The recognition rate in Turkey in 2001 was 57.6%, compared with a total first instance recognition rate (asylum + exceptional leave to remain) of 32% in UK in 2001. [18h]

6.85 Foreign nationals arriving in Turkey to seek asylum must submit their application to the police within 10 days of their arrival in the country. Those who have entered illegally (for example without proper documentation or authorisation) are required to submit their application to the authorities in the governorate closest to their point of entry. UNHCR is present in border areas to monitor refugees and counsel asylum seekers about Turkish asylum regulations. Those who enter the country legally may submit their application in any city in the country, but are still required to do so within 10 days. The claim is considered by the Ministry of the Interior. If a negative decision is reached, a deportation order is issued, which may be appealed against within 15 days. The UNHCR office in Ankara still conducts refugee determination of non-European asylum-seekers in Turkey, independent of the Turkish Government, and undertakes to resettle those it recognises as needing of protection. [5d][12b][18e]

6.86 The 10 day time limit for registration in the Government's asylum programme is implemented strictly, and remains an obstacle to the full access of asylum seekers to refugee status determination procedures. [5g] UNHCR note that working relations between UNHCR and the Turkish Government are excellent, although there have been discrepancies between status determination decisions taken by UNHCR and those of the Turkish authorities. UNHCR advocate a more flexible application of the asylum procedure in Turkey. [18e]

6.87 A Ministry of the Interior administrative regulation also requires all asylum seekers to present a valid identification document when submitting their application. Amnesty International report that asylum seekers who have been unable to provide such a document have been unable to register their claims and have been subsequently deported. Amnesty have also expressed concerns over large scale roundups and expulsions of non-Europeans present illegally in Turkey, some of whom have been recognised as refugees by the UNHCR. [12b]

6.88 UNHCR, in co-operation with the Ministry of Foreign Affairs and the Ministry of the Interior, has launched a comprehensive programme to support training on asylum and refugee issues for Turkish authorities. Those who have taken part in the programme have included senior police officers dealing with refugees and asylum seekers, while further initiatives will target the judiciary and Bar Associations. [18e]

TREATMENT OF RETURNED ASYLUM SEEKERS

6.89 There is no organisation or government that consistently and formally monitors the treatment of returnees to Turkey. The only way incidents of mistreatment are brought to notice is if the person him or herself notifies human rights organisations, press, embassies and so on. [49a][73a]

6.90 There are no indications that Turkish nationals are persecuted in Turkey purely because they applied for asylum abroad. The Turkish authorities are aware that many citizens leave the country for economic reasons and apply for asylum elsewhere. However, people who have engaged in activities abroad which the Turkish authorities regard as separatist are at risk of persecution if the Turkish authorities find out. [2a]

6.91 The criminal records of Turkish-Kurdish asylum seekers who are returned to Turkey are checked on entry just like those of other Turkish nationals. The records may concern criminal convictions by a Turkish court, but can also be related to official judicial preliminary inquiries or investigations by the police or Jandarma. Draft evaders and deserters are also on record at the border posts. [2a]

6.92 If a person is found to have a criminal record or incorrect border-crossing documents, to have left Turkey illegally in the past or been expelled from another country, the Turkish border authorities often interrogate the person concerned. Questioning is often intended to establish or check personal particulars, reasons for and time of departure from Turkey, grounds for seeking asylum, reasons why the application was rejected, any criminal records at home and abroad, including (drug-related) offences, and possible contacts with illegal organisations abroad. If, however, there is no definite suspicion, as a rule the person is released after an average six to nine hours' detention. [2a]

6.93 Anyone suspected of having committed criminal offences is transferred to the relevant investigative authority. In Istanbul this is generally the Police Headquarters, which is located in Bakırköy, not far from the airport. Persons suspected of membership of the PKK, left-wing radical organisations such as the DHKP/C or TKP/ML, militant Islamic groups, or anyone suspected of giving support or shelter to one of those organisations is handed over to the Anti-Terror Branch, which is housed in the Police HQ mentioned above. Torture or ill-treatment of suspects at the Police Anti-Terror Branch cannot be ruled out. [2a]

6.94 From time to time, asylum seekers rejected from western Europe claim to have been maltreated or tortured after their arrival in Turkey. A limited number of the claims of ill-treatment or torture after expulsion to Turkey from western European countries (in 1999 and 2000) have been investigated by the relevant western European authorities. On the basis of a medical examination in Turkey in one of those cases - which involved a person being sent back from Germany - it was concluded that the complaints and symptoms pointed to torture. In the remaining cases in which investigations into claims have been completed either there are doubts as to the veracity of the claims asserting ill-treatment or torture, or such declarations were found incorrect or implausible. [2a]

6.95 The media in the Netherlands also contained reports on similar claims. There were the "Tilburg eight", who were staying in Tilburg, Netherlands, who were removed to Turkey, whose lawyer claimed that they were apprehended and arrested on their return to Turkey, and who were named in a press report on 12 August 1999. Three of the four people under investigation were able to travel freely within Turkey and one was apparently in detention in Albania. Investigations into an asylum seeker (named in the media on 8 October 1999), who turned up again in the Netherlands bearing signs of torture on his back a few months after expulsion to Turkey, were completed in March 2001. The investigation was unable to establish clearly who was responsible for the torture. Since that incident, there have been no new known instances of the Turkish authorities torturing or mistreating asylum seekers removed from the Netherlands. [2a]

6.96 Amnesty International in Germany reported in February 1999 that, while it was still true that most asylum seekers or returnees are released after the routine interview, there had been an increasing number of cases where returned asylum seekers were picked up later by "unknown men" and beaten up or arrested by the police and taken into police custody. The report went on to say that this mistreatment was carried out in order to obtain confessions from suspected persons. [12d][49a]

6.97 The German immigration authorities reported in July 1999 that in general rejected asylum seekers returning to Turkey do not risk persecution. A rejected asylum seeker returning voluntarily can pass through entry control unhindered, provided that he/she is in possession of a valid Turkish travel document. The fact that the returnee is a failed asylum seeker does not lead to different treatment. The Turkish authorities are well aware of the fact that many Turkish nationals apply for asylum only for the purpose of getting temporary authorisation to remain in Germany. [48b]

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

6.99 Turkey does not at present accept the removal to Turkey of Turks using EU letters (which are standard format travel/identity documents adopted by the General Secretariat of the Council of the EU in its recommendation of 30 November 1994), and Turks who are without passports are therefore returned on one-way emergency travel documents which are issued by the Turkish Consul General in London.

6.100 A returnee without a valid Turkish travel document is likely to be given an in-depth questioning by the Turkish border police, and this is to be distinguished from the routine identity check on arrival. The German authorities stated in July 1999 that, as a rule, the questions refer to personal data, date of and reasons for departing Turkey, possible criminal record in Germany and contacts with illegal Turkish organisations. In some cases further inquiries will be made via other offices (e.g. prosecutor's office, registrar's office at the last Turkish residence of the returnee) in order to find out if the returnee is liable to prosecution for a criminal offence. These enquiries can take from several hours to several days, during which time the returnee will be kept in custody. The German authorities observed that available information as of July 1999 indicated that undocumented returnees were generally not being maltreated while being kept in custody. However, ill-treatment could not be ruled out in cases where returnees are suspected separatists. [48b] (UNHCR's view, as noted previously in the "Freedom of movement / internal flight" section, is that any political profile (not simply PKK) creates risk). [18b] The Swiss authorities took the view in June 1999 that nothing can be completely excluded or assumed from the start; it depends on the individual case. [49a]

6.101 Amnesty International in Germany stated in February 1999, in relation to returns from Germany, that the Turkish authorities are more likely to be suspicious in cases where a person returning to Turkey is not carrying any valid personal documents in accordance with regulations or is carrying documents indicating asylum proceedings abroad. [12d]

6.102 Being of Kurdish origin does not in itself constitute a higher risk of inhuman treatment. [47][48b][49a] Everything depends on the individual and his activities in Turkey and abroad. [49a]

6.103 In relation to returnees who are military draft evaders, para 5.82ff of this assessment deal with draft evasion in general. Draft evasion is punishable by imprisonment according to the Military Penal Code. Hence a draft evader would be arrested when detected. [48b] The treatment of draft evaders in basic training or after posting to their unit is less clear. There is little information on the matter as serving soldiers come under the administration of the military authorities. The various EU authorities which were asked for their opinions have consequently not been able to advance any useful evaluation of the situation, with the French noting that they cannot exclude the possibility that draft evaders may be badly treated during their military service (although they note that this greatly depends on the unit which they are serving in), and the Swiss noting that there is no safe information on the subject, and that conditions can be harsher. [47][48b][49a] The Dutch authorities report that, if it is established that a returnee has evaded registration/examination or failed to report or has deserted, he is subjected to questioning and transferred to the military authorities within 48 hours at the latest. Persons who have evaded registration/examination or failed to report are regularly released after questioning and instructed to report to their military registration office within a few days. The direct superiors of the conscript concerned are not always aware that the latter has previously evaded military service. However, such facts are known to the most senior officers within the unit. In many cases, deserters are not returned to the unit from which they escaped but are posted to another unit in the same army. [2b]

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6.104 At the time of writing there are 70 reported cases which have been advanced as evidence of the mistreatment of returnees in Turkey. Some refugee groups and human rights organisations, including the IHD, have expressed grave concerns over the risk of torture run by returnees. Details of these cases are listed in source 82(a). [16c][42d][50a][51a][52a][72a][72b] [82a] The earliest cases date from 1989, the latest from 1999. The most in any one year was 17 in 1997. Only four of these cases relate to the United Kingdom, three of these dating from 1989, one from 1993. 60 relate to returnees from Germany, the rest are spread between Austria, France, Sweden and Switzerland. The solicitors acting for the three individuals whose cases dated from 1989 alleged that they had been victims of refoulement. The Home Office does not accept that refoulement occurred. The legal challenge was settled in an out of court settlement. The details of the 70 cases break down as follows. Two cases appear in two of the categories below:

4 - allegedly refouled

5 - not returnees (holidaymakers, voluntary returnees, etc)

15 - were either PKK sympathizers, or were returned to Turkey with material on them or in their luggage which would strongly indicate PKK sympathies

2 - family connections to the PKK

3 - outstanding legal actions against them in Turkey

4 - denounced as PKK supporters

5 - are reported as missing

2 - involved religion: one Alevi, one Yazidi

5 - inconclusive / no details of ill-treatment (only reported to be sent for military service, or imprisoned, or arrested, or failed to contact family outside Turkey after return)

27 - cases without explanation / other cases

6.105 In order for an assessment of risk to be made the reported cases of mistreatment of returnees must be set against the total number of returnees. The numbers of removals of Turkish nationals to Turkey by various countries are set out in the table at Annex D.

6.106 Few countries were able to give figures for the number of removals for the last 13 years, the period over which the reported cases of mistreatment occurred. Even with only 63% of the figures for returnees in 1989-2001 being available, and these relating to only nine countries, the numbers are still large, with 48,565 Turkish nationals being returned, of which 7520 are identified as being unsuccessful asylum seekers. The number 7520 does not include unsuccessful asylum seekers returned from Germany, the USA, Canada and Australia because those countries make no distinction in their statistics between asylum and non-asylum deportees. As can be seen from the table, Germany returns more Turkish nationals than the other countries which provided statistics, so the number of unsuccessful Turkish asylum applicants returned to Turkey would in reality be considerably larger than 7520.

6.107 As is stated earlier, there is no organisation that monitors returnees, so it should be accepted that there are more actual cases of mistreatment than those reported. As to what degree there is underreporting, this can only be a question for speculation. The position of the UNHCR in the matter is that they have no objection to the return of Turkish asylum seekers who after a fair and efficient asylum procedure have been found not to be refugees nor to be in need of international protection on other grounds. [18c][18d][18f]

6.108 Since 1996 UNHCR has, in agreement with the Turkish and Iraqi authorities, facilitated the voluntary return of Turkish nationals from northern Iraq, numbering some 2100 persons in total up to early 2001. UNHCR staff based in Iraq have accompanied each returning group, and UNHCR staff in Turkey have been present at the arrival point in Habur. Furthermore, UNHCR staff based in Turkey have paid frequent visits to the returnees in

various provinces in order to observe the results of voluntary repatriation. UNHCR has received full co-operation from the Iraqi and Turkish authorities in these actions, and is satisfied that **returnees as a category have not been subject to persecution or reprisals in Turkey**. At the same time, UNHCR notes that returnees are still liable under national law, in the same way as other Turkish nationals, for crimes committed before departure from Turkey or after return. UNHCR's information is that arrests or prosecutions of voluntary returnees from Iraq for such acts have been comparatively rare. [82b]

6B HUMAN RIGHTS - SPECIFIC GROUPS

Part I

Part II

6B. HUMAN RIGHTS: SPECIFIC GROUPS

6.109 One of the constitutional cornerstones of the Turkish State, set out in Article 2 of the Constitution, is the principle of Atatürk's nationalism. According to this form of nationalism the term "Turk" means an individual who is part of the national community into which individuals can be integrated regardless of their ethnic background. Every citizen living inside the borders of the Republic is regarded as a Turk. This is conveyed in the most familiar of all the quotations of Atatürk, a quotation which is inscribed everywhere in Turkey, "Ne mutlu Türküm diyene", which roughly translates as "Happy is he who says: I am a Turk". Saying that one is Turkish transcends the possibility that one is not actually of Turkish ethnic origin. Being Turkish can therefore mean that a person's ethnic origins take second place. [2a]

6.110 Atatürk was generous in granting Turkish nationality to anyone who wanted it but failed to foresee a solution for those who were not prepared to relinquish their original ethnic identity for the new national concept. Since the inception of the Republic an overwhelming majority of individuals who feel first and foremost a strong affinity with the Turkish identity despite their ethnic origins have come to live side by side - despite the fact that every ethnic group in Turkey has had its individuals who have attached primary importance to their own ethnicity. The only large group which - although there are individual exceptions - has not undergone this process is the Kurds. [2a]

THE KURDS

(See also "Freedom of speech and the media" for use of the Kurdish language)

Kurdish society and history

Source 16b contains maps of the distribution of Kurds, principal Kurdish tribes, and Kurdish dialects/ languages.

6.111 Estimates of the number of Kurds in Turkey vary considerably; there may be 12 - 15 million Kurds in Turkey out of a total population of 67.8 million, making Kurds the largest minority ethnic group in Turkey. The Kurdish birth rate is high and the proportion of Kurds in the national population of Turkey is likely to increase. [6][77]

6.112 In the 19th century most Kurds were tribal pastoralists, but a significant minority were peasantry. Religious feeling tended to be very strong among the Kurdish tribes, with devotion to particular local religious leaders who belonged to the brotherhoods of "folk-Islam". These leaders quite often became tribal chiefs in their own right, with secular as well as religious authority. At the end of the 19th century thinkers among the different ethnic groups within the Ottoman Empire began to think of themselves for the first time in ethnic terms. Both the Arabs

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and Turks evolved ideas of ethnic nationhood, but such ideas were slower to develop within Kurdish society, which remained fragmented and tribal. [16d]

6.113 Many Kurdish tribes supported Mustafa Kemal (Atatürk)'s war of independence in the expectation that they were repelling the infidel (Greeks, Armenians, and the Allies) to re-establish the Muslim Fatherland with its Sultan/Caliph. But Atatürk established an ethnic definition of the new Republic as "Turkish, secular and modern", and he set about suppressing all manifestations that contradicted that aim: tribal life, Kurdish language and culture, and the religious brotherhoods that were so strong in the Kurdish region. From 1925 to 1938 the Turkish Government ruthlessly suppressed Kurdish rebellions and resistance to the enforcement of this new ideology which denied their identity. Kurdish leaders tended to appeal to nationalist ideas, the rank and file probably simply wanted their old way of life back. Atatürk's measures involved mass killings, village destruction, and the forced deportation of hundreds of thousands of Kurds. [16d] (It is only fair to record that the Turkish State would dispute this).

6.11 By the 1950s it seemed as if the Kurds had finally been hammered into Turks. The end of one party politics in the 1940s led the new opposition to woo the old tribal chiefs and the new landlord class in the Kurdish region to deliver the peasant vote. This became a key feature of Turkish electoral politics. The landlord class benefited in material ways and obeyed the State ideology. It was young middle class intellectuals in the 1950s who reawakened nationalist ideas within Kurdish society, challenging the State's view that Kurds were mountain Turks. (Kurds have in origin (disregarding subsequent intermarriage) no ethnic connection with Turks. The Kurdish language is a member of the Iranian branch of the Indo-European family of languages, whereas the Turkish language is a member of the Altaic family). [16d]

6.115 During the 1970s many Kurds were attracted to the leftist revolutionary socialist groups which soon found themselves in armed conflict against right wing groups that frequently enjoyed the tacit support of the State. Counter insurgency operations routinely involved human rights violations against villagers in affected areas. With these disorders proliferating, the army intervened in September 1980. It is estimated that during the three years of military government probably over 100,000 Kurds were detained by the security forces. Many were tortured. [16d]

6.116 Many Kurds became disillusioned with Turkish leftist movements in the 1970s, and started to form specifically Kurdish nationalist groups to challenge State denial and repression. The most successful of these was the Kurdistan Workers' Party (PKK), which was given substantial help and facilities by Syria. The PKK matched Turkish Government ruthlessness, killing pro-government villagers and their families and also Turkish civil servants in rural areas, most notably teachers, who were suspected of being government informants. Thus both sides routinely violated the rules of war and other legal instruments for the protection of basic rights. [16d] (The Turkish State would challenge this as implying that the PKK had a legitimacy as a party to a conflict, and a set of responsibilities; the situation in the southeast in 1984-99 could be characterised as an "internal armed conflict").

6.117 During the 1980s the PKK steadily widened its sphere of influence. Most Kurds were initially hostile to the PKK and hated its methods. But they had little time for a government that denied their identity and rights. When government forces made them choose sides, large numbers started to support the PKK, despite misgivings over its methods. Many were not interested in, or did not know about, its atrocities. They saw government atrocities on a far more widespread scale, and saw the PKK as defending the Kurdish corner. [16d]

6.118 In order to defeat the PKK, the armed forces were granted exceptional powers under the State of Emergency Decree of July 1987, and embarked on forcibly evicting villagers who refused to join the supposedly voluntary **village guard** auxiliary (see paras 5.57ff). This force, which started in 1985, had rapidly acquired a reputation for corruption, criminality and brutality towards villagers who were deemed Kurdish nationalist. From 1990 village clearances, frequently conducted with great brutality and killings, became more systematic. In October 1994 Turkey's Human Rights Minister, Azimet Koyluoğlu, informed Parliament that two million villagers had already been rendered homeless. In July 1995 the governor of the Emergency Region confirmed a total of 2664 totally or partially evacuated villages and hamlets. From 1997 the rate of evacuation declined. By 1999 most human rights organisations reckoned there were in excess of 3500 villages evacuated and between 2.5 and 3 million people rendered homeless. These were not confined to the State of Emergency provinces; neighbouring provinces such as K. Maraş, Sivas, and Erzurum were also affected. [16d]

6.119 In 1999 Abdullah Öcalan, the PKK leader, was captured and brought to trial by a Turkish court. In June he was found guilty of treason, and was sentenced to death. In early August the PKK indicated its willingness to comply with Öcalan's request for a cease-fire in south-eastern Turkey. On 12 January 2000 the Turkish

Government agreed to respect an injunction from the European Court of Human Rights calling for the suspension of Öcalan's execution, pending his appeal to the Court. In a written statement from prison, Öcalan said that the Government's decision was a step towards democracy. He pledged that the PKK would not exploit the move, and said that he now believed that the PKK's war for a Kurdish state was a "historic mistake". [1a] In August 2002 Parliament approved an end to the death penalty in peacetime, and its replacement with life imprisonment without the possibility of parole; on 3 October 2002 Ankara State Security Court changed Öcalan's sentence to life imprisonment, without conditional release. [30w]

6.120 Kurds do not represent a cohesive ethnic minority, and range from persons tranquilly integrated in the larger society through political activists to committed terrorists. A significant number of historically ethnic Kurds have been completely assimilated into Turkish society and no longer even speak Kurdish. Much intermarriage has occurred over many generations. [5g][6][23a][77]

6.121 The Turkish Government does not persecute Kurds solely because they are Kurds. Such persecution would be incompatible with its previously described concept of the state, according to which a person's ethnic origins do not matter as long as they comply with the principles of the Turkish Republic (see paras 6.109-6.110 above). All Turkish citizens (including the Kurds) therefore have equal access to public institutions such as health care and authorities responsible for issuing official documents. A doctor in Ankara who on 16 April 2000 refused to treat a woman from Diyarbakır because she did not speak Turkish was immediately subjected to investigation by the authorities to ascertain whether he really had refused treatment for that reason. If the allegations proved true he would be prosecuted. The doctor allegedly claimed that he was not in a position to treat the patient because of language problems. [2a]

6.122 Outside southeast Turkey, Kurds do not usually suffer persecution, or even bureaucratic discrimination, provided that they do not publicly or politically assert their Kurdish ethnic identity (see also "Freedom of speech and the media" paras 6.35ff). [5g][18g] Kurds who publicly or politically assert their Kurdish ethnic identity run the risk of harassment, mistreatment or prosecution. (See chapter 6 "Human Rights: Overview") In urban areas Kurds are largely assimilated, may not publicly identify themselves as Kurds and generally do not endorse Kurdish separatism. Indeed they often intermarry with Turks, reach the highest levels of society, and are seldom discriminated against on ethnic grounds. Among many high-ranking Kurds who do not deny their ethnic origins are Hikmet Çetin, the former Deputy Prime Minister and CHP Chairman. It is estimated that 25% of deputies and other government officials claim an ethnic Kurdish background. The late President, Turgut Özal, admitted to having Kurdish blood. Seraffettin Elçi, an ethnic Kurd and former public works minister who was famously imprisoned from 1981 to 1984 after saying in a private meeting that he was a Kurd, acknowledged in 1997 that the situation by then was different from that which saw him imprisoned, although there was still no legal status to "Kurdishness". Kurds who are currently migrating westward (including those displaced by the conflict in the southeast) bring with them their culture and village identity, often have little education and few skills and are simply not prepared for urban life. While education in Kurdish takes place in informal settings and through tutors, such actions were, strictly speaking, illegal until the reforms of August 2002. One third of those living in the southeast cannot speak Turkish, a figure that rises to 50% among women. Inability to speak Turkish in rural areas is a legacy of underdevelopment and poverty, traditional family structure and more recently the conflict in the southeast, with the PKK assassinating teachers and many schools being abandoned as a result of the government's counterinsurgency campaign. The forced relocations of Kurds from villages into the urban centres of the southeast have also resulted in the schools there being overwhelmed. [5g][6][7a][9b][66a][77]

6.123 Of the four main Kurdish dialects only two are spoken in Turkey, Kurmanji and Zaza. All Kurdish dialects are related, but they are not always mutually intelligible. Most Turkish Kurds speak Kurmanji, but those in the north western Kurdish area, mainly in the provinces of Tunceli and Elazığ, but also in the province of Diyarbakır, Bingöl and Van, speak Zaza. Kurdish, which is an Indo-European language, is unrelated to Turkish, which is an Altaic language. [2a][45]

6.124 Until the reform package of August 2002 (see paras 4.43-4.45 above), the use of the Kurdish language was subject to wide-ranging restrictions. The reform introduced the possibility of broadcasting in Kurdish; implementation is subject to the adoption of a forthcoming regulation. There are signs that the spirit of the August 2002 reform is being implemented. On Turkey's Victory day (30 August 2002), a public concert took place in Ephesus where a famous Turkish singer performed in several languages, namely in Kurdish, Armenian, Greek and Turkish. The concert benefited from the support of the Minister of Culture and was followed by subsequent concerts in Aspendos (Antalya) and Istanbul. The reform package also amended the Law on Foreign Language Education and Teaching. It provided for the possibility of learning different languages and dialects traditionally

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used by Turkish citizens in their daily lives and of opening private courses for that purpose on the condition that this does not contradict the "indivisible integrity of the State". A regulation implementing this provision was adopted on 19 September 2002. Following the adoption of this amendment, a number of court cases against students who had petitioned for optional Kurdish courses at university level, were dropped. Public education in languages other than Turkish does not fall under the scope of the amended Law on Foreign Language Education and Teaching, as Article 42 of the Constitution ("no language other than Turkish shall be taught as a mother tongue to Turkish citizens at any institutions of training or education") remained unchanged. [76]

6.125 In February 1997, a UNHCR representative stated it was not possible to sustain a claim of persecution solely on the basis of being a Kurd per se. The High Administrative Court (VGH) of Baden-Württemberg, in a ruling made public on 6 May 1998, concluded that Turkish Kurds are not subject to group persecution. Two rulings made public on 22 December 1997 by the Administrative Court (VG) of Karlsruhe, Germany, also concluded that Turkish Kurds are not per se exposed to persecution for merely being Kurdish. This conclusion applied even in areas where there is serious military confrontation between State forces and the PKK. The September 2001 UNHCR Background Paper on Refugees and Asylum Seekers from Turkey does not state that Kurds are group persecuted. [18a][18g][42a][42b]

Pro-Kurdish political parties

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

6.126 The pro-Kurdish People's Democracy Party (HADEP), which was established in 1994 as a successor to HEP, DEP and ÖZDEP (each in turn banned), campaigned for greater cultural rights for Kurds and a peaceful solution to the Kurdish issue. It never resorted to violence. [2a] Despite HADEP's support being predominantly from Kurds, it did not label itself as a Kurdish party, and its party material emphasised that it aimed at democratic socialism and a democratic society in Turkey as a whole. It aimed to organise and increase members in every part of Turkey, and to find solutions to all problems experienced by the Turkish people. [88d][88e] HADEP participated in the parliamentary elections in December 1995 and April 1999, but failed to obtain the necessary 10% of the national vote in order to gain any seats in the National Assembly. In 1999 it attracted 4.73% of the vote, [1a] and was also successful in the local elections, taking control of some municipalities, including Diyarbakır (see para 4.30). In October 1998, a Virtue Party (FP) deputy stated "There is no political influence in the (southeast) region other than that of the FP and HADEP." [23d]

6.127 The Government harassed HADEP in various ways, as well as the closely related DEHAP, in various ways, including police raids and detentions. On 25 January 2001 the chairman and secretary of the HADEP branch in Silopi, in Bîrnik province, disappeared without trace. They had reported to the local Jandarma post that day, and have never been seen again since. Once the two officials' disappearance became known, the Jandarma leadership at first denied that they had ever been summoned to appear. Only after some days was it admitted that they had been questioned, but later released. They are feared dead. According to the Human Rights Association in Diyarbakır and statements by HADEP members and relatives, the individuals in question had long been subjected to threats by the local authorities. [2a]

6.128 In 1999 the Chief Public Prosecutor opened a case to close HADEP, alleging it was a centre of illegal activities. This case could not be resolved without the resolution of several other State Security Court cases against HADEP officials. The US State Department report covering the year 2002 records that HADEP/ DEHAP leaders said that Turkish State harassment of HADEP declined gradually for each of the years since 1999, and that HADEP was able to operate more freely in the November 2002 general election than in the previous election of 1999. However, throughout 2002 police raided dozens of HADEP offices, particularly in the southeast, and detained hundreds of HADEP officials and members. DEHAP and HADEP members were regularly harassed by Jandarma and security officials, and were subject to verbal threats, arbitrary arrests at rallies, and detention at checkpoints. Security forces also regularly harassed villagers whom they believed were sympathetic to HADEP/ DEHAP. Although most detainees were released within a short period, many faced trials, usually for "supporting an illegal organisation" (presumably the PKK), "inciting separatism", or for violations of the Law on Meetings and Demonstrations. [5g]

6.129 In April 2002 the Ankara State Security Court sentenced former HADEP leader Ahmet Turan Demir, Turkish Communist Party leader Aydemir Güler and Turkish Socialist Party leader to 10 months' imprisonment each for "challenging Turkey's unitary structure" during speeches at a 2000 HADEP convention. In September 2002 police raided HADEP offices in Erciş district, Van province, confiscating books and detaining HADEP district

chairman Kemal Dogruel and four other party members. The detainees were released later that day. In August 2002 Jandarma searched homes on the town of Geçitli, Hakkâri province, and detained seven people after HADEP members distributed election forms in the area. Jandarma reportedly warned the detainees not to support HADEP, and released them the next day. In November Istanbul attorney Erdal Tuncel claimed police raided his home, beat him, threatened to kill him, and told him to cut his ties to HADEP. [5g]

6.130 In early September 2002 HADEP, EMEP (Labourers Party) and SDP (Socialist Democracy Party) decided to unite under the roof of DEHAP (Democratic People's Party) for the 3 November 2002 general election. HADEP leader Murat Bozlak said "This is the first step of a wide unity." [31b] It was reported that the fragile peace that had fallen on Turkey's war-scarred and poverty-stricken Southeast led to a new sense of freedom for people to vote for DEHAP. One shopkeeper, waving a yellow DEHAP flag in the small, dusty town of Hazro in Diyarbakır province, said "We can easily support DEHAP now. This time we do not have to fear what our votes will cost us... This year the Kurdish identity is out in the open." Osman Baydemir, a DEHAP parliamentary candidate from Diyarbakır, said "We have emerged from the chaotic years (of emergency rule, and strict bans on use of the Kurdish language), and the political atmosphere is kinder, gentler. We are able to visit the towns and villages where we were previously barred, we are allowed to hold large meetings. This has caused a huge explosion in our support." [99] DEHAP won (provisionally) 6.2% of votes cast at the election, and did not surmount the 10% threshold required for parliamentary representation. [41d]

6.131 On 13 March 2003 Turkey's Constitutional Court (which is accorded complete independence from the legislative and executive branches of the State, which has no power whatsoever to modify or postpone decisions of the Court) banned HADEP on the grounds that it aided and abetted the PKK. (DEHAP was not banned). The Constitutional Court President declared that 46 members of HADEP, including Chairman Murat Bozlak, could not be founders, members or administrators of another party for a period of five years. The Court ordered HADEP's assets to be transferred to the Treasury. [63p][78] Mr Ahmet Turan Demir, a leading member of HADEP, said "Our party did not deserve to be banned. You cannot suppress political thought by closing down parties. We are going to take this issue to the European Court of Human Rights. We are going to expose this to the entire world." [30z]

Relatives of HADEP members

6.132 Relatives of HADEP members need not fear persecution by the Turkish authorities solely because a relative is a member of HADEP. In certain cases, however, it cannot be ruled out that, for example, first or second degree relatives of HADEP members who are active at local level are closely watched by the State because of their relatives' activities. [2a]

Kurdistan Workers' Party (PKK) and the conflict in the southeast

6.133 The government relied on an exclusively military answer to the problems in the southeast and appeared to have handed over its authority to the security forces, who increasingly forced the local population to take sides e.g. through the village guard scheme. The policy was to concentrate the local population into more easily protected villages away from the Iraqi and Syrian borders. During the fighting the local population suffered considerably both from PKK excesses and heavy handed retaliation on the part of the security forces. The Turkish authorities accused several countries, including Syria, Greece, Cyprus, Russia, Iraq and Iran, of harbouring the PKK. [1a][6][77] Following heightened military tension between the Syria and Turkey, on 20 October 1998 an agreement was signed under which Syria agreed to curtail PKK activities in its territory. [2s] Despite reported hitches in the implementation of the agreement, overall Turkish officials stated that they regarded Syria as trying to abide by its terms. [30i]

6.134 The "village guards" (see paras 5.57ff) are armed and paid by the authorities to defend their villages against attack by the PKK and to deny them logistical support from the villages in the area. Although recruitment into the village guard corps is voluntary (indeed, some Kurdish tribes are pro-government and enthusiastic in their participation) refusal by individuals or entire villages to participate in the system is usually considered by the local forces as an indication of active or passive support for the guerrillas. The **evacuation of the village**, and its subsequent complete or partial destruction on security grounds, can follow a refusal to join. Between 1984 and 1999 and particularly in the early 1990s, the Government forcibly displaced a large number of people from villages. The Government reported that 378,000 people had "migrated" (it disputes the term "evacuation") from 3165 state of emergency region villages between 1994 and 1999; many left before that due to the fighting. A credible estimate of the number of persons who remained internally displaced during 2001 was as high as one

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million. The Interior Minister confirmed that 4455 villages and hamlets had been destroyed or deserted in the state of emergency region. [5b][5c][5d] There has of course been voluntary migration away from the rural areas for economic or educational reasons, continuing the previously established trend of migration to urban centres in pursuit of employment. [1a][6][18g][77]

6.135 Voluntary and assisted resettlements are ongoing. In some cases, people may return to their old homes; in other cases, centralised villages have been constructed. According to the Interior Ministry, between June and December 2000 35,513 people had returned to 470 villages or pastures; over 6000 homes had been constructed, and the State had given over £2 million in construction materials or other supplies. In August 2001 the governor of the state of emergency region estimated that since 1999 18,600 people had returned to their villages in that region with government assistance, with a total of 5853 houses constructed for the "citizens who were forced to abandon their villages due to terrorism". However, Human Rights Watch disputes the US State Dept.'s picture of "an upsurge in the rate of returns", and says that it is not borne out by HRW investigations. [5d][9d] The European Commission's 2002 report on Turkey notes that over 4000 displaced people now live in newly built "central villages", but that the majority of the displaced rural population continues to live in urban centres in very difficult economic and social conditions. Inadequate health care, lack of hygiene, malnutrition, insufficient drinking water, and improper disposal of sewage and garbage are common problems. This situation has adverse consequences for the children whose education and literacy levels are unsatisfactory. [76]

6.136 Dr Francis Deng, Representative of the United Nations Secretary-General on Internally Displaced Persons, visited Turkey from 27 to 31 May 2002 in order to study the situation of internal displacement there and to have dialogue with the Government, international agencies, representatives of donor countries and NGOs. His discussions revealed surprising openness and transparency on the part of the Turkish authorities to discuss the various aspects of the displacement problem, including its causes, in particular the conflict in the south-east and the responsibility of both sides for the displacement of the civilian population, as well as the steps which are being taken to facilitate the return and resettlement of the internally displaced, following the marked reduction in the level of hostilities towards the end of the 1990s. What is critically important, in the Representative's view, is that an opportunity now exists for the international community to assist the Turkish Government in the challenging task of facilitating the voluntary return, resettlement and reintegration of the displaced population. He made several preliminary proposals to aid this process. He observed that an open and constructive partnership involving the Government, civil society and international agencies would serve to facilitate the timely and effective implementation of the Government's return policy, while at the same time alleviating the concerns expressed by the NGOs, and improving the perception of the problem, both within and outside Turkey. [34]

6.137 The majority of Kurds are reported to be opposed to the PKK and its "ruthless armed techniques". Political killings perpetrated by the PKK have included state officials (Jandarma, local mayors, imams, and schoolteachers), state-paid village guards and their family members, young villagers who refused to be recruited and PKK guerrillas-turned-informants. The PKK was attributed with the killing of at least 130 unarmed civilians during 1997. In January 1998, a US State Department official stated "We believe that Turkey has the right to protect its citizens against the PKK. We also would like to see those individuals and organisations who criticise Turkey to understand the difference between the PKK terrorism and the Kurdish minority and not to confuse the two". [6][7a][23a][40c][67]

6.138 On 2 August 1999 Öcalan made a call for the PKK to cease its activities from 1 September 1999 and to withdraw from Turkey. Two days later the PKK presidential council answered his appeal and confirmed that PKK combatants would indeed cease operations against Turkey. The statement was supported the following day by the People's Liberation Army of Kurdistan (ARGL), the armed wing of the PKK, which confirmed that it would abide by Öcalan's decision, although it claimed the right to fight in self-defence if attacked. [32b] PKK fighters withdrew from Turkey at the end of August. The number of armed confrontations in the southeast declined considerably, and in October 1999 the Government reduced the number of checkpoints in the region. [1a]

6.139 In the year 2000 the PKK was almost completely inactive. There were reports of internal divisions over Öcalan's call for ending the armed struggle, but by the end of 2000 no rival faction appeared to have gained control of the group. Apparently on orders from the PKK leadership, several groups of eight to ten former militants turned themselves in to the authorities, asking for amnesty. They are all standing trial for charges relating to membership of the PKK. Although PKK attacks against civilians and law enforcement personnel in the southeast have virtually ended, the military did engage the PKK in 2000, killing several alleged terrorists. Government authorities acknowledged that the level of violent conflict was considerably lower than in the past, and that a major reason for this was an absence of PKK activity. In 2001 there were only about 45 armed clashes between

the Government and the PKK. [5c][5d] The extent to which the heat has been taken out of the situation varies from province to province in the southeast, depending in part on the personality of each provincial governor. The atmosphere is least relaxed in Bîrnak province, where some tension can still be felt. As this makes that province the odd man out, pro-Kurdish circles sometimes refer to it as "the Bîrnak republic". [2a]

6.140 The October 2002 European Commission report on Turkey's progress towards accession to EU membership observes that the security situation has continued to improve in the southeast. After the lifting of the state of emergency in Hakkâri and Tunceli, some relaxation in daily life has been reported. The Tunceli Culture and Nature Festival took place between 1 and 4 August 2002 with no ban on bands singing in Kurdish. Previously banned journals and newspapers could be found at newsagents. However, the governor of Tunceli stated that the military would not be pulled back. With the lifting of emergency rule in the southeastern province of Hakkâri, the security forces' practices in the region have also changed. In the province military influence is still felt, but the atmosphere is reportedly much less tense. According to reports from the city, the food quota has been lifted. [76]

6.141 According to statistics from the state of emergency region governor, 23,512 PKK members, 5044 security force members, and 4472 civilians have lost their lives in the fighting since 1987. During 2001 nine civilians, 22 members of the security forces and 111 terrorists died as a result of armed clashes, according to the military. According to human rights groups, fewer than ten civilians were killed due to clashes with security forces. Human rights groups, villagers and the Government disagreed on whether some deaths were of civilians or of "terrorists", as defined by the Government. [5d] In 2002, according to the military, seven civilians, nine members of the security forces, and 25 terrorists died as a result of armed clashes. [5g]

6.142 On 16 April 2002 the PKK announced that it had ceased activities and had regrouped as **KADEK**, the Kurdistan Freedom and Democracy Congress (Kurdistan Özgürlük ve Demokrasi Kongresi). Deputy Prime Minister Yılmaz stated that if former PKK members who were involved in unlawful activities in the past continued to be active within the same organisation, all the restrictive decisions and measures that applied to the PKK must also apply to the new organisation. He went on to say that the fact that the PKK had realised that violence and terrorism were not a solution was a positive development. However, those who were involved in terrorism in the past should, he said, definitely be brought to justice. Such tactical changes did not affect the policy of the Turkish State on this subject. [61a][63m]

PKK/KADEK members, and persons engaged in marginal activities on behalf of the PKK, and relatives of members

Please see paras 6.184ff.

Kurdish National Congress

6.143 The Kurdish National Congress was formed in May 1999 in Amsterdam. The Congress claims to have broader representation than the parliament-in-exile, representing Kurds from Turkey, Iran, Syria, Armenia and Western countries. However, important Iraqi Kurdish parties are not represented. It opened an office in London in early October 2000; details are sketchy, but it is expected to be staffed by one to three people, and based in the offices of the Kurdistan Information Centre. [42c]

Newroz (in Kurdish)/ Nevruz (in Turkish)

6.144 In the years before 2000, the Turkish authorities used to take tough action against public meetings during Newroz, the new year celebrated by Kurds, Persians and in Central Asia on 21 March. However, in many cities in 2000 no ban was imposed on demonstrations, which, moreover, seem to have gone off peacefully. More than 80,000 attended in Diyarbakır. Only in Istanbul did the province governor ban a demonstration on the grounds that in the application for the demonstration the word "Newroz" had been spelled with a "w", a letter which does not occur in the Turkish alphabet. (It occurs in Kurdish). In 2001, too, Newroz was generally calm. Except in Siirt and Istanbul, HADEP was allowed to organise large-scale festivities for the second year running. The meetings organised almost everywhere by HADEP attracted thousands of participants. There were incidents in Istanbul, Siirt, Antalya and Mersin, where, according to reports, the police intervened when participants threw stones at cars or shouted slogans for the PKK or for Öcalan. Over 100 people were arrested in Istanbul. 39 were arrested in Mersin, 32 of whom were released shortly afterwards. [2a]

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6.145 On 21 March 2002 a total of 66 Newroz demonstrations, including 26 illegal demonstrations, were held in 44 provinces. 200,364 people joined the demonstrations, and 1201 people were taken into custody during illegal demonstrations. Two people died in the incidents while six others were injured. A Turkish Government spokesman added that two policemen died, and 46 others were injured in the demonstrations. [30p]

ALEVIS, INCLUDING ALEVI KURDS (see also "Freedom of religion" section)

6.146 The Alevis (or Alawis) form within Islam a non-orthodox current, in which Ali, son-in-law of the prophet Mohammed, plays a central role. Some Muslims think that Alevis (to the extent that they are recognised as Muslims at all and not regarded as heretics) are very far removed from the Sunni current (which is widespread in Turkey) of Islam. [2a]

6.147 There are no official Turkish estimates of the number of Alevis. According to Alevis' own information, there are twelve to twenty million Alevis living in Turkey (the population of which is 67.8 million). Other sources report that a considerably smaller proportion of the Turkish population is Alevi. A fully accurate estimate is difficult if not impossible. [2a] As far as the proportion of Alevis in Turkey's Kurds is concerned, it is estimated that the proportion is about a third. [16e] Ethnic Turkish Alevis are found in central, western and northern Anatolia, especially around Sivas, Tokat, Yozgat, Nevşehir, Çorum, Amasya and Erzincan. Kurdish Alevis are widespread in Bingöl, Maraş, Malatya, Erzincan and Tunceli provinces (i.e. the marginal areas between the mainly Kurdish southeast and the ethnic Turkish areas of Anatolia). A large number of Kurdish Alevis speak Zaza, rather than Turkish or Kurmanji. [16a][79]

6.148 Looking only at the religious dimension (which is less important than the political), Alevis differ outwardly from Sunni Muslims in the following ways. (i) They do not fast in Ramadan, but do during the Ten Days of Muharram (the Shi'i commemoration of Imam Husayn's martyrdom). (ii) They do not prostrate themselves during prayer. (iii) They do not have mosques, but instead use houses of worship (cemevi (singular), cemevleri (plural)), which also act as socio-cultural centres. In smaller communities meetings are also held at home. (iv) They do not have obligatory formal almsgiving, although they have a strong principle of mutual assistance. (The practice of payment of alms (zakat) is one of the five practices obligatory on all believing Muslims, but nowadays the fulfilment of this religious obligation is left to the conscience of the individual believer). Alevis, in contrast to Sunni Muslims, tend not to attribute great importance to theology/a fixed creed or performance of religious rites; in that respect Alevism's nearest equivalent in Christianity is probably Quakerism. [1a][2a][79]

6.149 Alevis were reviled as non-Muslims of dubious loyalty, and to avoid persecution they practised dissimulation, taqiyya. Until the 20th century, Alevis survived by living in remote areas, but with conscription and the drift to towns in search of work, Alevis, especially Kurds, have been increasingly exposed to Sunni prejudice and animosity. [79]

6.150 Both Turkish and Kurdish Alevis may be subjected to some bureaucratic discrimination as are other ethnic and religious minority groups in Turkey (for example, Christians). Many Alevis accuse the Turkish Directorate for Religious Affairs of being geared solely towards the Sunni faith. Nor does the Turkish education system allow any room for the Alevi interpretation of Islam. However, there is no evidence that Alevis are persecuted on account of their religious beliefs by the Turkish State. The state does not regard the Alevi faith as a separate religion, and the Alevis are not an officially recognised religious minority. Alevis' identity cards have "Islam" indicated as religion. [2a][6][16a]

6.151 Alevis sometimes have a tense or even polarised relationship with the Sunni majority. Alevis have sometimes felt poorly protected by the authorities. [2a] Two highly publicized massacres of Alevis took place in 1978 and 1993. In 1978, at a time of widespread violent unrest, hundreds of Alevi Kurds in Maraş were reportedly killed by members of a group known as the Grey Wolves (National Action Party). The 1993 massacre occurred in Sivas, when militant Islamic fundamentalists started a hotel fire that burned to death 37 Alevi intellectuals. Around 100 people were convicted for their involvement in the incident, with sentences of up to 15 years' imprisonment. In March 1995 serious violence occurred when militant Islamic fundamentalists opened fire on coffee houses in Istanbul associated with the Alevi sect. Two or three died in the original incident, and a further 25 died during several days of civic disorder which followed. The demonstrators had reportedly hurled petrol bombs at the police, who responded by firing into the crowd. [1a][7a][18g]

6.152 It is very important to recognise there has also been a change in what Alevism signifies. Traditional Alevism, based upon village and rural life, broke down in the context of urbanisation. In its place Alevism identified with the political left. The Sunni Islamic revival of the 1980s has provoked a reaction among Alevis. The revivalist process has been an ethno-political movement rather than a strictly religious one, with a spate of publications in Turkey concerning Alevi religion and history. [79]

6.153 The report "Asylum seekers from Turkey II" quotes one informant: "Police hate Alevis because they are left wing. This is the crucial issue. There is very generalised hostility to leftist people." The expectation on the part of the security forces that Alevi Kurds were likely to be leftists, and therefore liable to mistreatment, was voiced by a number of the authors' informants. [16e]

6.154 In recent years the degree of organisation within the Alevi community has increased. In 1995 the Alevi organisation Cem Evi was set up. The foundation does not experience any problems or opposition from the government as regards its publications and activities. The same applies, with occasional exception, to the small number of other Alevi organisations. [2a]

ARABS

6.155 Arabs are mainly located in the southern province of Hatay, but also found five other southern provinces; Mardin, Adana, Urfa, Mersin and Siirt. There are probably about one million Sunni Arabs in Turkey. In 1985 there were estimated to be about 200,000 Alawi or Nusairi Arabs and in 1984 about 7,000 Arab Christians. [4a]

CAUCASIANS

6.156 Caucasians can be split into three groups: Circassians, Georgians and Laz speakers. The north-eastern province of Artvin still has the largest single group of native Georgian and Laz speakers who can also be found in the provinces east of Istanbul which border the Black Sea - Kocaeli, Sakarya and Bolu. [4a]

ARMENIANS

6.157 It is estimated that there are about 50,000 Armenians in Turkey, including Gregorians, Protestants and Catholics, most of whom live in Istanbul. It is claimed (a claim disputed by the Turkish State) that in 1915 and 1916 (prior to the foundation of the Turkish Republic) more than a million Armenians were killed at the hands of the "Unity of Progress" wing of the government. Following this and subsequent mass deportations many Armenians fled from Turkey. [1a]

6.158 Under the law, religious buildings that become "extinct" (because of prolonged absence of clergy or lay persons to staff local religious councils or for lack of adherents) revert to government possession. During 1999 an Armenian church in Hatay province was deemed by authorities to be no longer in community use, and it is to revert to the government agency which approves the operation of churches etc. [5b]

GREEKS

6.159 Many members of the Greek Orthodox community in Turkey have emigrated, allegedly because of pressure from the Turkish authorities. There are now only about 4,400 Turkish citizens of Greek origin left in Istanbul. [4a]

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SYRIAN ORTHODOX CHRISTIANS (also known as Syriac Christians, Jacobites, Assyrians, Arameans or West Syrians)

6.160 This grouping was formerly a large and prosperous community, mainly located in the southeastern provinces of Mardin and Adiyaman and centred on the ancient monasteries of the Tur'Abdin area. Estimated in 1980 to number 40,000 people but there has since been a move towards emigration, particularly amongst the younger Syriac generation, partly for economic reasons. Part of the community has relocated in Istanbul, while others have gone to western Europe and the USA. In 1988, it was estimated that only 1000 - 2000 Arameans were left in the Tur'Abdin district and the overall figure in the southeast is believed to have dropped to 4,500 after a series of murders in 1990. The population over Turkey as a whole is estimated at 17,000 to 21,000. [2a][4a][5a] Distinct from Arameans, but nonetheless connected to them, are the Chaldean or East Syrian Christians, still to be found in scattered groups in the province of Mardin, and another, even smaller group, the Nestorians (also known as Assyrians) who were once numerous in the provinces of Van and Hakkâri. The combined numbers of these groups was estimated in 1980 to be only 7,000, and it is likely that this figure is much lower today. [4a]

6.161 Syrian Orthodox Christians are not covered by the Lausanne Treaty. One consequence of this is that Syrian Orthodox children are not exempt from the compulsory religious instruction in state schools. Another consequence is that the religion may not acquire additional property for churches. In September 1997 the Syriac Church was ordered to halt restoration efforts to its monasteries in the southeast and in October 1997 was ordered to terminate its Aramaic language classes on grounds that it lacked proper authorisation from the Regional Board, the Education Ministry, and the Office of Foundations. [5a]

6.162 In June 2001 Prime Minister Ecevit issued a circular to local authorities reaffirming the rights of Syrian Orthodox Turkish nationals who had emigrated to return to their villages in regions covered by the state of emergency and in adjacent provinces. With the support of President Sezer, the Government gave permission for the opening of another Syrian Orthodox church in Istanbul. [76]

JEWS

6.163 Jews account for the smallest religious population in Turkey. In 1996, it was estimated that there were about 25,000 remaining in Turkey. It is reported that Sephardic Jews still play an important and respected role in business and the professions. [1a][4a][18g][23b]

WOMEN

6.164 The literacy rate for women is approximately 78%, compared with 94% for men. Women make up between 43% and 50% of the work force and generally receive equal pay for equal work in the professions, business, and civil service jobs. They may take the examination required to become governors or subgovernors with several having been appointed as subgovernors. Although only 4% of the 550 MPs in 1999 were female, Tansu Çiller was Prime Minister in 1993-96, and she still leads one of the main opposition parties. There is one woman minister (Tourism Minister Güldal Aksit) in the new AKP government. [5a][5b][30x][56] In August 2002 Turkey ratified the Optional Protocol to the UN Convention on the Elimination of Discrimination against Women. [76]

6.165 Spousal abuse is serious and widespread. Legislation passed in January 1998 made spousal abuse illegal and either sex may file civil or criminal charges. However, police are reported to be reluctant to intervene in domestic disputes and frequently advise women to return to their husbands. "Honour" murders - the killing by immediate family members of young unmarried girls who are suspected of being unchaste - have become less common but continue in rural areas. The government banned the practice of forced virginity testing in January 1999. Under the new law, a girl cannot be medically tested to establish her virginity, unless those demanding it have authorisation from the Justice Ministry. In June 1998 the Constitutional Court annulled Article 440 of the Penal Code, which punished women, but not men, for infidelity. [5a][40a][56]

6.166 With effect from 1 January 2002, Turkey's Civil Code was revised so that the man is no longer the head of the household, and giving both man and woman equal rights in the management of the marriage and the

household. The woman can keep her maiden name, and add her husband's last name to her name. The minimum marriage age for both men and women was increased to 17. [30o]

6.167 Independent women's groups and women's rights associations exist, but have not significantly increased their numbers or activities, mainly because of funding problems. There are many women's committees affiliated with local bar associations. Other organisations include the Association to Support Women Candidates (Ka-Der), "The Flying Broom" women's advocacy group, the Turkish Women's Union, and the Foundation for the valuation of Women's Labour. The concept of lobbying for women's rights, including changes to the civil code and greater elected representation, is gaining momentum. Women continue to be very active in ongoing debates between secularists and Islamists, especially with respect to the right to choose whether to wear religious head coverings in public places, such as government offices and universities. [5g]

The issue of the wearing of headscarves is dealt with in the "Freedom of religion" section (paras 6.51ff above).

CHILDREN

6.168 Turkey has ratified the UN Convention on the Rights of the Child, which affirms that special efforts must be made to protect children against torture or other cruel treatment. However, Turkish children as young as 12 have reportedly been subjected to torture. [12a] In May 2002 Turkey ratified the Convention's optional protocol on the sale of children, child prostitution and child pornography. The new Civil Code, which came into force on 1 January 2002, introduces the concept of the "interests of the child" in cases of separation or divorce, and eliminates discrimination between the legal status of legitimate and illegitimate children. [76]

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

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

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

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

6.173 The Government is committed to furthering children's welfare, and it works to expand opportunities in education and health, including a further reduction in the infant mortality rate. The State Minister for Women's and Family Issues oversees implementation of the Government's programmes for children. The Children's Rights Monitoring and Assessment High Council focuses on children's rights issues. [5g]

Turkey, Country Information

6.174 Government-provided education up to the age of 14 or the eighth grade is compulsory. Traditional family values in rural areas place a greater emphasis on advanced education for sons than for daughters; the relatively new 8-year compulsory education requirement (implemented in 1998) is expected to ensure that more girls continued their education. According to the Ministry of Education, since 1997 the percentage of girls enrolled in primary school rose from 79% to 97%, while the percentage for boys rose from 91 to 98.5%. However, in rural areas the literacy rate for girls remains low, and many do not complete primary school. The literacy rate for boys, most of whom complete primary school, is higher. Some children in rural areas continue on to high school, for which they generally must travel or live away from home. [5g]

6.175 The social security system aims to provide social security and health insurance for all its citizens, but there are still gaps in this coverage, leaving about 20% of families and their children without coverage. According to the June 2000 UNICEF (UN Children's Fund) report on "The State of Women and Children in Turkey", people not covered by insurance may use a special programme to access public health care. In terms of immunisation, infant mortality and malnutrition, Turkey's standards remain at levels that are not compatible with the level of development and resources in the country, according to the UNICEF report. Currently only about 40% of children aged 12 to 23 months are fully immunised. Infant mortality has rapidly declined over the past decade, and as of 1998 stood at 43 per 1000. UNICEF estimates that during 2001 the rate decreased and is about 33 per 1000. [5g]

6.176 Although the law provides special safeguards for children in police custody, police officers and prosecutors frequently circumvent or ignore these provisions. The law stipulates that the state prosecutor or a designated assistant should carry out interrogations of minors, and that minors must be provided with lawyers; however, in practice police and prosecutors often deny minors access to lawyers and fail to inform parents. Children and juveniles detained under the Anti-Terror Law are often held for up to four days in incommunicado detention. In September 2000 the Minister of Justice and the head of Ankara's Bar Association signed an agreement allowing the Bar Association to inspect two children's prison facilities in Ankara, the first such arrangement. Children as young as 11 years of age who are accused of State Security Court crimes are treated as adults. [5c][5d]

6.177 Children have suffered greatly from the cycle of violence in the southeast. In the past the migration - forced or voluntary - of many families, past terrorism against teachers, and school closings on the southeast uprooted children and moved them to cities that were hard pressed to find the resources to provide basic mandatory services such as schooling. [5g]

6.178 Instances of child beating and abuse are more frequently reported than in previous years, according to women's groups. In March 2001 a member of an Istanbul Chamber of Doctors Children's Rights Commission reported that sexual abuse and violence towards children was increasing. She noted that the social attitudes that violence towards children is the parents' right persisted. [5d]

6.179 The Constitution and labour laws forbid the full-time employment of children younger than 15, with the exception that those 13 and 14 years of age may engage in light, part-time work if enrolled in school or vocational training. However, in practice many children work because families need the supplementary income. The bulk of child labour occurs in rural areas and often is associated with traditional family economic activity, such as farming or animal husbandry. [5d]

6.180 The Government recognised the serious problem of child labour in Turkey. The Ministry of Labour, the Government partner of the International Labour Organisation's International Programme on the Elimination of Child Labour (IPEC), has been actively combating child labour since 1992, when it established a child labour unit and trained Ministry of Labour inspectors specifically in child labour issues. In 1996 the Government and the ILO signed an agreement to extend IPEC until December 2001. Currently some 70 of the 700 field inspectors are trained to handle child labour issues, while the total number of establishments falling within the jurisdiction of the Ministry is 4 million. Labour inspectors cover only areas that are defined in the labour laws. Many children are working in areas that are not covered by labour laws, such as agriculture or the informal economy, and are therefore beyond the reach of the inspectorate. [5d]

HOMOSEXUALS, TRANSSEXUALS AND TRANSVESTITES

6.181 There are no laws specifically concerning homosexual acts. In the Penal Code there are articles (419,547,576) which are intended to safeguard public morals, and which can be used against homosexuals. [75] There is a certain ambivalence towards homosexuality in Turkey. "Active" sexual partners are not usually considered homosexual. In the eyes of many Turks, only "passive" sexual partners are homosexual. In general homosexuals need not fear official persecution by the Turkish authorities. There is no policy actively directed against homosexuals in Turkey. Nor is there any policy on the basis of which homosexuals have less access to public institutions, or fewer rights to practise a profession, than other Turks. In practice, however, people may lose their jobs if it becomes clear that they are homosexual. Rural areas and relatively conservative areas (e.g. Konya) are not very tolerant of homosexuals. Individuals experiencing problems in such areas because of their sexuality appear to escape them to some extent by moving to places like Istanbul, Izmir or Ankara, where there is now a fairly well-developed homosexual scene. There are some homosexual rights organisations. The most important are Lambda, founded in 1993, in Istanbul, and Kaos GL in Ankara. They organise weekly activities, and national demonstrations take place several times a year. Since 1994 Kaos GL has published an eponymous bi-monthly magazine which is available in alternative bookshops in many cities. Interest groups are tolerated but claim that local authorities have been obstructive in the past. [2a] Para 5.101 of this assessment relates to homosexuals and military service.

6.182 Turkish law does not prohibit transvestism. Nor does government policy discriminate against transvestites in any way. As in the case of homosexuals, attitudes to transvestites in Turkey are also ambivalent. Some nationally known transvestites from the world of show-business are highly regarded in Turkey. Huysuz Virjin is a famous transvestite who presents a popular talk show on television. The transvestite singer Zeki Müren, who died in 1996, was given a state funeral for his services as a singer. Less famous transvestites face more difficulties. Often those who are open about their transvestism cannot find work. A large proportion of transvestites in Turkey support themselves through prostitution. From time to time, transvestite prostitutes are attacked by customers, passers-by, or local police officers. There are at least two known cases of transvestites who have reported police misconduct and where the police officers have actually appeared in court. One of them is the Police Chief with the nickname "Hose Süleyman", who is alleged to have beaten transvestites with a length of hose. A sentence of 27 years is being called for in his case, which has not yet closed.

A considerable number of people who are currently going through life as transvestites would like to have a sex change but are unable to because it is too expensive (approx. US\$ 5000). [2a]

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

6C. HUMAN RIGHTS: OTHER ISSUES

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

6.184 There has been no change in the Turkish authorities' attitude towards the PKK since it withdrew its fighters outside Turkey's borders, altered its objectives and renounced violence. Like members of militant left-wing or Islamist organisations, PKK members still face criminal prosecution by the authorities. [2a]

6.185 Whoever can be shown to be a member of the PKK, a radical left-wing group such as DHKP/C or TKP/ML or a militant Islamist group such as Hezbollah will be prosecuted under Article 168 of the Criminal Code in conjunction with Article 5 of the Anti-Terror Law. Under Article 168 the penalty is imprisonment for a minimum of ten years and, in the event of aggravating circumstances, a maximum of fifteen years. The penalty is increased by half under Article 5 of the Anti-Terror Law. The above Articles impose heavier penalties on leaders of such organisations. They will also be prosecuted under Articles 125 or 146 for attempted armed subversion of the established constitutional order, which is punishable by life imprisonment (until the reform of August 2002 by the death penalty). [2a][66a]

6.186 Individuals who have criminal proceedings pending against them and are wanted by the authorities are

recorded in the central Judicial Records System, so that the authorities are informed nationwide when a person is wanted. [2a]

ACTIVISTS ENGAGING IN MARGINAL ACTIVITIES FOR ILLEGAL ORGANISATIONS

6.187 Anyone who is prosecuted for conducting marginal activities for illegal organisations such as the PKK or revolutionary groups may be sentenced to imprisonment not exceeding three years and nine months on the basis of Article 169 of the Turkish Criminal Code (support for an armed society or band). Case-law in such proceedings gives a varying picture. Some State Security Courts are relatively quick to assume involvement with an organisation while there are also cases in which the courts have acquitted suspects when there was sufficient proof for a conviction. One such case involved a Turkish national who was found in possession of PKK pamphlets but was nevertheless acquitted. Article 169 of the Criminal Code is covered by the Amnesty Law of 21 December 2000 which led to the release of many people convicted of such offences and the suspension of many pending proceedings. [2a]

RELATIVES OF MEMBERS OF THE PKK/ KADEK, OR LEFT-WING OR ISLAMIST MILITANT GROUPS

6.188 People known to have or suspected of having one or more family members in the PKK can expect some attention from the authorities. Depending, among other things, on the degree of kinship and the (suspected) position of their relative(s) within the PKK, family members may be subjected to varying degrees of intimidation, harassment, official obstruction, questioning and similar problems. It is perfectly conceivable, even probable in many cases, for the families of (suspected) PKK members to be kept under observation by the authorities or questioned and interrogated (e.g. about the whereabouts of their fugitive relatives), but also because they could as often as not be potential suspects themselves. In many cases the Turkish authorities assume that some relatives of PKK supporters harbour sympathies for the party. However, if the authorities are convinced that relatives of (suspected) PKK members do not have any links to the PKK they are not persecuted. [2a]

6.189 Countless people in Turkey have one or more relatives in the PKK without having any significant problems with the authorities as a result. The families of prominent PKK supporters such as Abdullah Öcalan and Bemdî Sakîk were probably always under intensive surveillance by the authorities and lived under a certain degree of pressure, but they were not actually persecuted for their relationship with the PKK leaders. Öcalan's family attended his trial on Yınralı Island. One of Sakîk's brothers is openly politically active. [2a]

6.190 The above applies also to relatives of members of left-wing or Islamic militant groups. [2a]

GOVERNMENT MONITORING OF HUMAN RIGHTS

6.191 In June 1997 a State Minister for Human Rights, who is also chairman of the High Council for Human Rights, was appointed. The Council is also comprised of parliamentary under-secretaries from the Ministries of General Affairs, Justice, Interior, Foreign Affairs, Education and Health. The Council's secretariat is housed in the Ministry of General Affairs. The Council investigates violations nationwide and maintains contact with social organisations. Its work is taken as a basis for advising the government on human rights policy and possible amendments to legislation. [2a]

6.192 At the end of 2000 the State Minister for Human Rights was charged with creating a "petition bureau for human rights" in the offices of all separate province governors to which citizens may address complaints about violations. Bureaux have been opened in, among others, the provinces of Diyarbakır and Van. As part of the same scheme a special telephone number has been set up in the province of Gaziantep for reporting human rights violations. For administrative purposes the bureaux come under the provincial governor. The head of the Jandarma, directors from the Department of Education, Health and Social Security, a lawyer and some NGOs are among the members of the executive councils which investigate the complaints closely. However, human rights

NGOs are not represented. The distribution of powers within the new bureaux is still uncertain. Whether the bureaux will really make a contribution to monitoring of the human rights situation remains to be seen. [2a]

6.193 A Parliamentary Human Rights Commission set up by the Turkish Parliament (Law No. 3686 of 5 December 1999) started work in December 1999. The Commission monitors compliance with national law and international treaties on human rights at home and abroad. The Commission also visits prisons and reports to the Parliament on torture, ill-treatment and abuse. The Commission is composed of 25 members of parliament from government and opposition benches. [2a]

6.194 In May 2000 the Commission published eight extensive reports on its findings following inspections of various police and judicial institutions in the provinces of Istanbul, Erzurum, Erzincan, Samsat, Elazığ and Tunceli in 1998 and 2000. According to the reports, instruments of torture were found in various interview rooms and a large number of detainees interviewed by the Commission stated that they had been victims of torture. The Commission repeatedly concluded in the various reports that torture and inhuman treatment are widespread, that suspects' right of access to a lawyer is regularly denied, that physical conditions in prisons still leave a great deal to be desired and that many torturers are not prosecuted. The reports maintain that those really responsible for this state of affairs are the provincial governors and public prosecutors. The Commission noted major improvements in the province of Tunceli in 1998 and 1999. [2a]

6.195 The Commission's chairwoman, Sema Pişkinsüt, who oversaw the drafting of the reports, refused to divulge the names of the alleged torture victims. In July 2001 the Acting Chief Prosecutor asked Parliament to lift Pişkinsüt's parliamentary immunity so that she could be prosecuted for refusing to provide the names of those alleging torture; in October 2001 Parliament decided to comply with the prosecutor's demand. A final decision must be taken jointly by the Constitution and Justice Committees, but had not been made by the end of 2001. [2a] [5d]

6.196 In October 2000 Ms. Pişkinsüt was replaced as chair of the Commission by Hüseyin Akgül, a Member of Parliament for the nationalist MHP, which has broad support in police circles. Observers link her replacement to her progressive and critical attitude. The new chairman, Mr Akgül, declared that the Commission would continue to work in the same manner, but added that torture was not the only subject the Commission should deal with. A special website (www.tbmm.gov.tr/komisyon/insanhak/insanhaklari.htm) was also opened on 10 December 2001 to which complaints on human rights issues can be made known directly to the Commission via e-mail. [2a]

6.197 In January 2001 a Subcommission was set up to investigate the prison raids at the end of 2000 and "F-type" prisons. In May the Subcommission reported back. Inter alia, the report mentioned maltreatment during transport of prisoners to F-type prisons. [2a]

6.198 Special Prison Inspection Committees were set up pursuant to a law adopted in June 2001. An inspection committee has to be set up for the area of jurisdiction of each criminal court. The committee is to be made up of five members chosen for four years by a commission of judges from the relevant area. The members must have university education and practise the profession of doctor, lawyer, psychologist or similar. [2a]

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

6.200 The Law adopted in June 2001 which governs the setting up of these committees provides that the committees must be active within six months. In August 2001 the Minister of Justice published a circular calling for the committees to be set up as soon as possible. In December 2001 the elections for committee members had not yet been completed in many places. In some places in which the membership of the committees has become known, it emerges that some police officers are included. For example, the committee in Hakkâri is chaired by the local police commissioner. [2a]

6.201 In addition to the organisations mentioned above, there is also a **Consultative Body for Human Rights**, which was created as a body for consultation between the authorities and the NGOs active in the area of human rights. According to the most important human rights NGOs in Turkey, the effectiveness of the Consultative Body

is very limited. [2a]

EUROPEAN COURT OF HUMAN RIGHTS

6.202 The Government recognizes the jurisdiction of the ECtHR. The number of applications involving Turkey registered at the European Court of Human Rights rose from 653 in 1999 to 735 in 2000. In both years, Turkey ranked fifth in the list of countries, by number of applications. Russia, France, Italy and Poland ranked above Turkey in the list. (For comparison, there were 431 applications involving the UK in 1999, and 626 in 2000). A senior official at the Ministry of Foreign Affairs told the IND fact-finding mission in March 2001 that the nature of cases now going to ECtHR was more about legal points than about allegations of mistreatment by public officials. A senior official at the Human Rights High Board Secretariat, Prime Minister's Office, informed the IND mission that in the Government's opinion there was now greater confidence in the internal avenues of redress open to people and this was clear from feedback at regional meetings attended by the High Board. It is only when those internal avenues are exhausted that individuals go to the ECtHR, where the nature of cases involving Turkey had changed to being predominately arguments about points of law. [82]

6.203 During 2002, the ECtHR ruled against the Government in 54 cases, including 22 cases involving the right to a fair trial and 21 involving dispossession of property (from villages in the southeast), and in favour of the Government in two cases. The Government accepted a friendly settlement in 43 cases, and the ECtHR dismissed one case. [5g]

6.204 Turkey's failure to execute judgements of the ECtHR remains a serious problem. There are, for example, 90 cases where Turkey did not ensure fully the payment of just satisfaction ordered by the Court and 18 cases, related to the exercise of freedom of expression, where the authorities did not erase the consequences of criminal convictions violating the ECHR. In July 2002 the Committee of Ministers of the Council of Europe adopted an interim resolution regarding Turkey's lack of compliance with some 40 judgements of the ECtHR, delivered between 1996 and 2002, on violations of the ECHR by Turkish security forces. In September 2002 the Parliamentary Assembly urged the Committee of Ministers of the Council of Europe to take all necessary steps (including, if necessary, financial sanctions) to ensure the execution of the Court's decisions without delay. [76]

6.205 As regards the application of the European Convention on Human Rights (ECHR), the Constitutional Court recognised on 20 March 2002 that the ECHR is a source on which the Turkish courts can base decisions. This should help guarantee fair trial under Article 6 of the ECHR. However, the issue of the direct effect of the judgements of the ECtHR remains to be addressed. As part of the August 2002 reform package provisions have been added to the Turkish legal system to allow for retrial in the event of convictions, both in civil and criminal cases, that have been found contrary to the ECHR. The newly adopted measures have paved the way for reopening impugned proceedings. These new provisions will only apply to decisions taken pursuant to applications made to the ECtHR after August 2003. [76] At the end of 2002 the Turkish Parliament was reviewing a bill that would allow the measures to be applied in most past cases. [5g]

6.206 As part of the campaign to increase awareness of human rights issues amongst the security forces, the rulings of the ECtHR are translated and published in the Police Academy magazine. [76]

HUMAN RIGHTS ORGANISATIONS

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

6.208 The Human Rights Association (HRA)(İnsan Hakları Derneği) was set up in 1986 with the general aim of promoting human rights in Turkey. The organisation's main activities are to collect and verify information on human rights violations. It publishes monthly reports and press releases on arrests, torture, disappearances in custody, violations of the right to freedom of expression and so on. With financial support from EU Member States the HRA organises courses for teachers and lawyers which also cover procedures for the right of individual petition. The HRA has over 30 local branches spread throughout Turkey, and has over 20,000 members. Within the HRA there is a strong Kurdish current which maintains close ties to the Turkish-Kurdish opposition. The HRA is regularly harassed and obstructed by the authorities, notably the security forces. In recent years some HRA regional offices have been (temporarily) shut down and criminal proceedings have been brought against various HRA workers for separatist propaganda or support for illegal organisations. [2a]

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

6.210 In 1999 and 2000 various HRA offices, including the regional offices of Mardin and Gaziantep, Malatya, Van, Konya, Izmir and Bursa were forced to close. During 2000 and 2001 various offices opened again. On 26 November 2001 the office in Bursa opened again, with the result that only the Gaziantep branch is currently still closed. The Diyarbakır branch, which was closed from 1997 apart from a brief interval in April and May 2000, re-opened on 11 October 2000. [2a]

6.211 Other HRA branches have been raided by the police. On 22 December 2000 the police confiscated a large amount of material in a raid on the regional office for Ankara province. In January 2001 it was the turn of the HRA head office in Ankara following media reports that the HRA was receiving funding from Greece. From the material confiscated during the raids, the Turkish judicial authorities have drawn the conclusion that the HRA was guilty of support for the revolutionary organisations the DHKP/C, TKP/ML and MLKP, which were all involved in the prison riots and hunger strikes at the end of December 2000. [2a]

6.212 In February 2001 the public prosecutor instituted proceedings to ban the HRA. The charge was that the HRA allegedly dealt with matters that were not included in its statute and aims by conducting activities in connection with the hunger strikes and prison riots. On 22 October 2001 the public prosecutor decided to drop the case against the HRA, with the result that the threat of closure was averted. [2a]

6.213 Criminal proceedings are brought with great regularity against individual executive members of local HRA branches. These cases often relate to press statements made by these members, the content of which is seen by the authorities as support for terrorist organisations or insulting state institutions (Articles 159 and 169 of the Turkish Criminal Code). [2a]

6.214 From time to time the HRA or directors of the association are targets of threats or attacks by third parties. On 10 April 2001 Amnesty International reported that Eren Keskin and Osman Baydemir, lawyers and chairmen of HRA branches in Istanbul and Diyarbakır respectively, had repeatedly been receiving death threats by 'phone from anonymous callers. After Amnesty International initiated urgent action the threats stopped. In November 2001 the HRA branch in Istanbul was attacked by a man armed with a pistol and a knife. The man, who belonged to the "Ülkü Ocakları", the youth branch of the MHP, also known as the "Grey Wolves", was overpowered by workers in the building and handed over to the police. He is also suspected of other attacks. [2a]

6.215 The Turkish Human Rights Foundation (HRF)(Türkiye İnsan Hakları Vakfı), which splintered from the HRA in 1990, has five medical centres in Turkey in the cities of Adana, Ankara, Diyarbakır, Istanbul and Izmir where victims of torture can receive treatment. The HRF uses the services of doctors who document traces of torture or abuse. The HRF has a documentation centre and publishes daily and monthly reports on the human rights situation in Turkey. [2a]

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

6.217 On 7 October 2001 the security forces together with the tax investigation department raided the HRF office in Diyarbakır, confiscating 365 files relating to torture victims. On 10 October the police headquarters in Diyarbakır returned the files to the HRF. In January 2002 a legal action was brought against one of the officials of the HRF branch in Diyarbakır for opening a health centre without authorisation. [2a] The case ended in acquittal in March 2002. However, there is still a court case against the HRF on the grounds of possession of illegal publications. [76]

6.218 Mazlum-Der's name is an acronym of İnsan Hakları ve Mazlumlara İçin Dayanışma Derneği, which means Organisation for Human Rights and Solidarity for Repressed People). Mazlum-Der also encounters resistance on the part of the authorities from time to time. For instance, in January and May 1999 the regional offices in Van and Malatya were closed indefinitely. The office in Van re-opened in April 2000 and that in Malatya in August 2001. [2a][5d]

6.219 The reform package of 3 August 2002 eases the restrictions on both local and foreign NGOs working in Turkey. [66a]

STATE OF EMERGENCY

6.220 A state of emergency (in Turkish: Olağanüstü Hal, often abbreviated to OHAL) applied in some south-eastern Turkish provinces since being introduced in the mid-1980s (see detailed list with dates in para 4.8 above). By 1999 it remained in force in six provinces. The state of emergency was lifted the Siirt province in November 1999, in Van province in July 2000, in Hakkâri and Tunceli in July 2002, and in the final two provinces of Diyarbakır and Bingöl on 30 November 2002. [2a][30q][63o][76]

6.221 The provinces in the state-of-emergency region as a whole were administered by a super-governor, based in Diyarbakır, who took precedence over individual provincial governors and was vested by law (Law No. 2935 of 1983, as amended in 1990) with very sweeping powers, such as imposition of a night-time or daytime curfew, restrictions on press freedom, introduction of special identity checks, sealing off or evacuation of particular areas, control of theatre and cinema performances, searches of organisations' offices or closure of organisations, without specifying any reason, for up to three months. That governor also had special security powers in what are termed adjacent provinces, of which there are nine: Batman, Bingöl, Bitlis, Hakkâri, Mardin, Muş, Siirt, Tunceli and Van. Under the Turkish Code of Criminal Procedure, for instance, the period for which a suspect might be held in pre-trial detention in areas covered by the state of emergency was longer than in provinces not covered by it. (See "Legal rights/ detention" in chapter 5). [2a][30q] Coverage by the state of emergency brought a province additional public financial assistance. Some provincial authorities for that reason opposed the lifting of the state of emergency. [2a]

6.222 In January 2002 Turkey withdrew its reservation to Article 5 of the European Convention on Human Rights concerning the right to liberty and security with respect to provinces under emergency rule. [76]

BLOOD FEUDS

6.223 Sources vary on "kan davası" or blood feuds. Some observe that blood feuds are extinct, or nearly extinct, in Turkey. However, the Turkish Ministry of Foreign Affairs asserts that "Murders among the people of the region are often committed for personal reasons, blood feuds or other reasons". A 1997 report about the arrest of Mahmut Sakar, vice president of the Turkish Human Rights Association, stated that Mr Sakar "negotiates an end to blood feuds and tribal in-fighting, which frequently erupt in a society where lawlessness (not least by the state) is rife". The Dutch Ministry of Foreign Affairs states "Particularly in south-eastern Turkey ... the social fabric is such as to entail blood feuds and forms of traditional dispute settlement and rough justice. Kurdish clan customs result in frequent loss of life in vendettas, against which the local Turkish authorities cannot always provide effective protection." [2a][7e]

ANNEX A: CHRONOLOGY

29 October 1923

Turkey was declared a Republic with Mustafa Kemal (surnamed Atatürk in 1934) as President. A single party - the Republican People's Party - was formed as the main instrument of the enforcement of Government policy.

1928

Islam was disestablished and the Constitution amended to make Turkey a secular state.

November 1938

The death of Atatürk led to the election of İsmet İnönü as President.

November 1945

Under pressure from public opinion, President İnönü announced the end of the single party system.

15 February 1950

New electoral law guaranteed free and fair elections.

April 1960

Student unrest led to the imposition of Martial Law.

27 May 1960

The President and Prime Minister were arrested and the government was replaced by a Committee of National Unity headed by General Cemal Gürsel.

January 1961

A new Assembly to act as a temporary parliament was convened - comprising the Committee of National Unity acting jointly with the 271 member House of Representatives, in which the People's Party predominated. Parties were again legalised and a number of new parties emerged. A special committee of the Assembly framed a new constitution in which there were significant changes from the 1924 version - including the 1946 change which replaced the one party system of government with a multi-party system and the recognition of unions. The new constitution established a 150 member Senate and a 450 member Grand National Assembly.

25 October 1961

Parliament opened, thus transferring power back to the civilian authorities.

1970

Fighting between left and right political factions became serious with the use of firearms and petrol bombs. There were a number of political murders.

1971

Political and social unrest continued into 1971 with outbreaks of violence amongst students and trade unions, and by Kurdish separatists. Factional infighting prevented the Government from taking effective action.

12 March 1971

The Chief of the General Staff and the Army, Navy and Airforce Commanders delivered a memorandum to the President, accusing the Government of allowing the country to slip into anarchy and of deviating from Atatürk's principles. They threatened that unless "a strong and credible government" was formed, the armed forces would take over the administration of the state. The same day the cabinet resigned. A new "above-party" government was formed which first directed its attention to the suppression of political violence.

26 April 1971

Martial Law was imposed in 11 provinces including Ankara and Istanbul. Newspapers were suppressed, strikes were banned and large numbers of left wing supporters were arrested.

26 September 1973

Martial Law came to an end.

15 May 1974

Turkey, Country Information

To mark the 50th anniversary of the founding of the Turkish Republic, the Government granted an amnesty to 50,000 prisoners.

20 July 1974

After a Greek-backed coup against President Makarios, Turkish troops landed in Cyprus and took control of about 1/3 of the island. The island remains divided.

1974 - 1977

An increase in political violence throughout Turkey, but most notably in the universities, between left and right groups.

December 1977

By mid-December 250 people had died as a result of political violence. A state of emergency was declared in Turkey's eastern provinces.

December 1978

By December 1978 over 800 people had been killed in political violence - mainly in the eastern provinces. The outbreak of violence came to a climax in December 1978 in the town of Kahramanmaraş (K Maraş). Right and left wing extremists had exacerbated the historical enmity and distrust between the orthodox Sunni majority and the Alevi Shi'a minority. Following the funeral of two left wing political activists on 21 December a large scale demonstration by Alevis took place. Sunnis fired on the Alevi mourners and indiscriminate rioting erupted. In the following three days over 100 people were killed and over 1,000 injured.

26 December 1978

Martial Law was imposed in Istanbul and Ankara and 11 eastern provinces.

April 1979

Martial Law was extended to six provinces in the mainly Kurdish southeast.

August 1980

By August, almost 2000 people had died as a result of clashes between the left and right-wing factions since the beginning of the year - despite the extension of martial law in 20 out of the 67 provinces.

The 12 September 1980 coup

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

18 September 1980

The leaders of the coup formed a five-man National Security Council (NSC), with General Evren as Chairman and Head of State. Martial law was extended to the whole country and the Grand National Assembly (Parliament) dissolved.

21 September 1980

The NSC appointed a mainly civilian Council of Ministers. Former political leaders, suspected terrorists and political extremists were all detained, political activities were banned, and the activities of extremist trade unions suspended.

27 October 1980

The NSC enacted a 7 point provisional Constitution, giving itself legislative powers for an indefinite period.

October 1981

A Consultative Assembly was formed to draft a new Constitution, comprising 160 members. All former politicians who were banned from political activity in 1981 were excluded, and on 16 October all political parties were disbanded.

7 November 1982

The new Constitution was approved by a referendum with a 91% majority. The Constitution gave further powers to the President, including the power to dissolve the Grand National Assembly, delay laws, call elections and make all key appointments. A "temporary article" of the Constitution installed General Evren as President for a 7 year term.

24 April 1983

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

6 November 1983

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

1984

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

July 1987

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

6 September 1987

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

29 November 1987

The first free elections since the 1980 military coup were contested by 7 parties. ANAP won 65% of the 450 National Assembly seats with 36% of the votes, and formed a government with Turgut Özal as Prime Minister.

7 January 1988

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

November 1988

An 8 year state of emergency in İstanbul was lifted.

9 November 1989

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

1990

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

9 April 1990

The government introduced harsh measures to combat ethnic unrest - imposing restrictions on the media and increasing the powers of local officials to outlaw strikes and impose internal banishment. On 14 April the State of Emergency powers of the Regional Super Governor of SE Turkey were extended to cover 10 provinces of the region. However, the violence escalated and in April and May alone, clashes between rebel Kurds, security forces and civilians left 140 dead. The 10 provinces under the State of Emergency were Batman, Bingöl, Diyarbakır, Elazığ, Hakkâri, Mardin, Siirt, Pirnak, Tunceli and Van.

January 1991

National Assembly gave permission for Allied Forces to use Turkish air bases.

12 April 1991

Anti-Terror Law passed by National Assembly. The legislation provided for the abolition of articles 140, 141, 142 and 163 of the penal code which proscribed the formation of religious and communist parties, for the early release of many prisoners, for the commuting the death sentence for more than 250 prisoners and for the relaxation of the ban on the use of minority languages (though some restrictions remained). By mid-April it was reported that 5,000 political prisoners had already been released from prison. However, in July 1991, Turkey's Constitutional Court refused to give legal status to the United Turkish Communist Party (TBKP).

March 1992

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

July 1992

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

2 December 1992

The Judicial Reform Package (CMUK) became law.

18 March 1993

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

16 April 1993

PKK extended cease-fire indefinitely.

19 April 1993

President Turgut Özal died of a heart attack.

17 May 1993

Suleyman Demirel elected as President.

24 May 1993

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

2 July 1993

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

16 October 1993

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

30 November 1993

The PKK ordered the closure of all educational institutions in the southeast, warning that those who violated the ban would become targets.

15 March 1994

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

26 December 1994

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

February 1995

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

12 March 1995

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

27 October 1995

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

24 December 1995

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

3 March 1996

ANAP and DYP sealed a minority government pact.

21 March 1996

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

24 May 1996

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

6 June 1996

PM Yilmaz, ANAP's leader, resigned

28 June 1996

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

3 November 1996

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

10 January 1997

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

28 February 1997

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

21 March 1997

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

26 April 1997

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

21 May 1997

Chief prosecutor opened case to close Refah (Welfare) Party.

30 May 1997

The government lost its absolute majority in parliament as a former minister resigned from DYP to follow other defectors.

18 June 1997

Erbakan announced resignation and sought President Demirel's approval for revamped coalition.

20 June 1997

President Demirel bypassed Erbakan's proposal and appointed Mesut Yilmaz, leader of the main opposition ANAP to set up government.

29 June 1997

Demirel approved the government with Yilmaz as Prime Minister.

2 October 1997

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

December 1997

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

16 January 1998

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

5 March 1998

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

12 May 1998

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

17 September 1998

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

9 October 1998

Abdullah Öcalan left his long-term home in Syria.

20 October 1998

Turkish and Syrian officials signed an agreement at Adana in Turkey. Under it, Syria agreed to recognise the PKK as a terrorist organisation, agreed not to tolerate PKK activity on its territory and agreed to hand over PKK militants residing in Syria to Turkey.

12 November 1998

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

16 January 1999

Abdullah Öcalan left Italy by plane and, via a circuitous route, arrived in Kenya.

29 January 1999

Chief Prosecutor of the High Court of Appeals filed a suit against HADEP in the Constitutional Court calling for its closure and citing an "organic relationship" between HADEP and the PKK.

15 February 1999

Abdullah Öcalan was forcibly returned to Turkey where he was detained.

18 April 1999

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

May 1999

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

29 June 1999

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

2 August 1999

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

17 August 1999

A major earthquake (7.4 on the Richter scale) hit north-western Turkey. It was centred close to Izmit, in the centre of Turkey's industrial heartland. It was Turkey's worst earthquake since 1939. The official death toll was 17,840, but there were no reliable figures for the number of people missing or unaccounted for. An outpouring of material aid and sympathy from Greece promised a thaw in Turkish-Greek relations.

12 November 1999

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

December 1999

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

12 January 2000

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

May 2000

The reformist judge Ahmet Necdet Sezer was elected President.

December 2000

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

February 2001

The Turkish lira was effectively devalued by a third on 22-23 February after the Government had been forced to float the currency because of a massive flight of capital and stock market slump. The crisis was triggered by a public clash on 19 February between President Sezer and Prime Minister Ecevit over the latter's alleged inaction against corruption.

June 2001

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

3 October 2001

The Turkish Parliament approved several amendments to the Constitution, notably to articles concerning the use of the Kurdish language. The amendments were intended to facilitate Turkey's accession to the EU.

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6 February 2002

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

March 2002

Law No. 4748: further reform package.

3 August 2002

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

3 November 2002

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

30 November 2002

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

12 and 13 December 2002

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

13 March 2003

The Constitutional Court banned HADEP.

14 March 2003

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

SOURCES: [1a][4b][5][41d][76]

ANNEX B: PARTIES WHICH CONTEST PARLIAMENTARY ELECTIONS

Article 68 of the Constitution states "...Political parties are indispensable elements of the democratic political system. Political parties are founded without prior permission and conduct their activities in accordance with the rules set forth in the Constitution and the law. The statutes and programmes of political parties shall not conflict with the indivisible integrity of the State comprising its territory and the nation, human rights, national sovereignty, and the principles of the democratic and secular Republic. No political party whose aim is to support or establish the domination of a class or group, or any kind of dictatorship, can be set up..." [100]

See para 4.50 for size of vote, and parliamentary seats, in 2002 General Election.

Adalet ve Kalkınma Partisi (AKP) (Justice and Development Party). www.akparti.org.tr Founded 2001 by former members of the banned Fazilet (Virtue Party). Islamist-orientated. AK (a Turkish word meaning "white" or "clean") is reformist, and champions the poor. Paras 4.51ff above summarise its policies. Its leader is Recep Tayyip Erdoğan, who states that AKP is a synthesis of Islam and democracy without any conflict of interest, but is also conservative democrat. Deputy Chairman Abdullah Gül. On launching AKP, Mr Erdoğan distanced the new party from Fazilet, and declared that it would be truly democratic and financially transparent and would seek a reconciliation between Turkey's Islamic traditions and Western democratic values. He also declared the party's support for Turkish membership of the EU. AKP was, according to the opinion polls, the most popular party in the run-up to the November 2002 general election, but on 20 September 2002 Mr Erdoğan was banned by Turkey's electoral board from running in the general election because of his criminal conviction. (Turkish law, as it then was, disqualified candidates with criminal records from running for office). After AKP's victory in the general election, the law was changed, Mr Erdoğan was elected in a by-election, and on 14 March 2003 he was appointed

Prime Minister. [1a][3][66b][66c]

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

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

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

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

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

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

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

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

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

Demokratik Halk Partisi (DEHAP) (Democratic People's Party). Founded 1997. DEHAP states that it is not organised on an ethnic base, and is not a solely Kurdish party; it is a party of Turkey, and wishes to embrace all the people of Turkey. [24c] In early September 2002 HADEP, EMEP and SDP (Socialist Democracy Party) decided to unite under the roof of DEHAP at the 3 November 2002 general election. HADEP leader Murat Bozlak said "This is the first step of a wide unity." Although HADEP was banned in March 2003, DEHAP has not been banned. [31b] See para 6.130 above.

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

Doğru Yol Partisi (DYP) (True Path Party). www.dyp.org.tr Founded 1983. Centre-right. Replaced the Justice Party (founded 1961 and banned in 1981). Chair. Mehmet Ağar [97]. Sec.-Gen. Nurhan Tekinel. [1a][41d]

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

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

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

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

Liberal Demokratik Parti (LDP) (Liberal Democratic Party). www.ldp.org.tr Founded 1994. Observer member of

Liberal International. Chair. Besim Tibuk. [1a]

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

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

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

Saadet Partisi (SP) (Felicity/Happiness/Contentment Party). www.saadetpartisi.org.tr/ Founded 2001 by the traditionalist wing of the banned Fazilet (Virtue Party). Islamist. Leader Recai Kutan. Mr Kutan said that the SP would not challenge the principles of the secular state but would seek to further religious rights, including legalisation of the wearing of Islamic headscarves in schools and public offices. [1a][3]

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

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

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

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

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

Yurt Partisi (YP) (Homeland Party). Founded 2002. Leader Saadettin Tantın. [24b]

NOW BANNED

Fazilet Partisi (FP) (Virtue Party). Founded 1997, banned June 2001. Fazilet replaced Refah Partisi (Welfare Party), which was dissolved by the Constitutional Court. Islamic fundamentalist. Interest in free market economy. Leader Recai Kutan. [1c] See para 6.68.

Halkın Demokrasi Partisi (HADEP) (People's Democracy Party). www.hadep.org.tr Founded 1994. Pro-Kurdish nationalist party. Chair. Murat Bozlak. [1a] See paras 6.126ff. Sources 88abcd and e are printed from HADEP's website. On 20 September 2002 Mr Bozlak was barred from running in the November 2002 general election because of his conviction in the past for sedition. [66b] In March 2003 HADEP was banned by the Constitutional Court on the grounds that it aided and abetted the PKK. [63p]

Refah Partisi (RP) (Welfare Party). Founded 1983, closed by a Constitutional Court ruling in January 1998 that it had become the focal point of anti-secular activity. Islamic fundamentalist. Chair Prof. Necmettin Erbakan. [1b] See para 6.67.

ANNEX C: MAIN LEFTIST AND/OR ILLEGAL POLITICAL ORGANISATIONS

Part I

Part II

ANNEX C: MAIN LEFTIST AND/OR ILLEGAL POLITICAL ORGANISATIONS

IMPORTANT. This annex consists of the names of both legal and illegal organisations. Those organisations which are known to be illegal have this fact recorded in their entry below. It would not be possible to have a fully comprehensive list of illegal parties, because they are a constantly changing and clandestine scene.

The Turkish State sees three main threats: militant Kurdish nationalism/separatism; militant Marxist-Leninist groups; and armed radical Islamic movements. [2a]

Brief glossary

- cephe = front
- devrimci = revolutionary
- emek = labour
- halk = people
- hareket = movement
- işçi = worker
- köylü = peasant, villager
- kurtuluş = liberation
- örgüt = organisation, association
- özgür = free
- özgürlük = freedom, liberty

Aczi-Mendi Group. Radical Islamic group. Founded by Müslüm Gündüz in Elazığ in 1985. The meaning of Aczi-Mendi is the "Sect of the Helpless Servants of Allah". All the group's members dress in the same style, with black robes, turbans, and baggy trousers, and they carry sceptres. They hold their meetings in Elazığ and in dervish lodges, which they have established in different cities. Dervish convents in Elazığ, Gaziantep and İzmir have been closed by court order. [92]

Akabe. A radical Islamic group. Author Mustafa İslamoğlu leads it. The legal branch of the group is AKEV (Akabe Education and Culture Association). [92]

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

ARGK. See **PKK**.

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

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

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

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

Ceyshullah (Army of Allah). Founded in Istanbul in 1995. Its aim is to bring about a theocratic regime in Turkey by "holy war". Between 1994 and 1999 the Turkish police conducted six operations against Ceyshullah, and apprehended 33 members, as well as guns, pistols, bombs and other munitions. The members stated that they had been trained in Saudi Arabia and Afghanistan. [92]

Dev Sol See **DHKP-C**

Dev Yol (Revolutionary Path) (Devrimci Yol). Founded 1975. Radical left. Part of ÖDP (see Annex B). Publications - "Bir Adım" (One Step), "Hareket" (Movement), "Devrimci Hareket" (Revolutionary Movement). [80a]

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

Devrim Partisi-Kawa. See **PS-Kawa**.

Devrimci Gençlik See **DHKP-C**

Devrimci Halk Hareketi (Revolutionary People's Movement). Split of TKIP in 1999. Radical left. Publication - "Devrimci Halk" (Revolutionary People). [80a]

Devrimci Hareket (Revolutionary Movement). [80b]

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

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

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

DHKP-C or **DHKP/C** (Revolutionary People's Liberation Party - Front) (Devrimci Halk Kurtulus Partisi - Cephesi). www.ozgurluk.org/dhkc Illegal. Radical left. It was formed in 1993 as a splinter faction of **Dev Sol** (Devrimci-Sol, Revolutionary Left), which was founded in 1978 and which went out of existence following the split. The other splinter faction, known as **THKP/C Devrimci Sol**, is on hostile terms with **DHKP/C**, but constitutes a far smaller group in scale and significance. Although **DHKP/C** has long had a difficult relationship with the **PKK**, it has repeatedly expressed its solidarity with the Kurdish armed struggle.

DHKP/C seeks to overthrow the existing Turkish system of government by armed revolution and to replace it with a Marxist-Leninist state. Its terrorist operations are aimed in particular at the Turkish security forces and public figures, as well as at bodies seen by the group as "symbols of imperialism". An attack on a bank in Istanbul in September 1999 left 23 people injured. The authorities struck a major blow at **DHKP/C** in 1999, arresting 160 members and seizing a large quantity of arms and explosives. In August 2000 the police caught seven **DHKP/C** members trying to plant a bomb at an airforce base. **DHKP/C** was in action again in 2001 with various operations, including an attack on a police car on 10 April, in which a passer-by was killed and two police officers injured. The US State Dept. report for 2001 records that **DHKP-C** suicide bombers attacked police stations in Istanbul in January and September 2001, killing several police officers and civilians.

Many of those involved in the hunger strikes in Turkish prisons in late 2000 and early 2001 came from among **DHKP/C**'s ranks. The group drummed up large-scale support throughout Europe for protests in connection with those events. In Turkey itself the protests included a bomb attack on a police station in Istanbul on 3 January 2001, following which the organisation announced that this was in retaliation for the deaths of 30 prisoners in a prison clearance operation. Turkey's Anatolia news agency reported that, according to a circular distributed to police stations in Istanbul, the organisation had planned further attacks. [2a]

Ankara State Security Court prosecutor Talat Salk alleged in a 1999 court case that **DHKP/C** conducts its activities under the names of **HÖP** (Haklar ve Özgürlükler Platformu) (Rights and Freedoms Platform), the outlawed **Devrimci Gençlik** (Revolutionary Youth), and **TODEF** (Türkiye Öğrenci Dernekleri Federasyonu) (Federation of Turkish Students and Youth Associations). [23f]

Publications - "Yapadığımız Vatan", "Devrimci Sol", "Kurtuluş" (Liberation). [80a] In UK the DHKP-C has since 29 March 2001 been proscribed under the Terrorism Act 2000. See forthcoming API - Proscribed Organisations. Source [54] is printed from the group's website www.ozgurluk.org/dhkc

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

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

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

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

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

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

EMEP See Annex B

ERNK. See **PKK**.

Gerçek (Truth) [80b]

Hareket (Movement). [80b]

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

Hevgirtin Welatparez (Patriotic Union). [80a]

Hizb-İ Kuran. See **Med-Zehra**

Hizbullah/İlim Grubu and **Hizbullah/Menzil Grubu**. Both are illegal. Hizbullah/Hezbollah is a very shadowy Islamist group which originated in the 1980s in southeast Turkey. It advocates the establishment of an Islamic state by violent means. When a major Hizbullah leader was killed by PKK fighters in 1991, a difference of opinion emerged within the organisation as to whether the time was yet right to wreak revenge on the PKK, and also to take up arms in pursuit of its own objective. One faction, centring on the Menzil publishing house (and known as the Menzil group), took the view that the organisation was not yet sufficiently well-developed to pitch into armed struggle. The other, centred on the İlim publishing house and known as the İlim group, thought the time was ripe for armed revenge on the PKK. Its idea was as far as possible to let the Turkish State do the dirty work for it in combating the PKK. The İlim group bore particular responsibility for the atrocities committed by Hizbullah. The group had an ideological aversion to Iran, which adhered to Shia Islam; the İlim group was striving for a Sunni Islam state. When the İlim group managed to kill some of the Menzil group's main leaders in 1996, the Menzil group disintegrated and faded away. Some former Menzil members then joined the İlim group, and, from 1996, Hizbullah became synonymous with the violent İlim faction. Rumours were rife that Hizbullah was at least tolerated by the security forces because it was fighting against a common enemy, and it has been held responsible for a large number of disappearances and killings. Its victims included a former DEP member of parliament, Mehmet Sincar, and an Islamic feminist writer, Konca Kuris. President Demirel denied allegations that there were links between Hizbullah and Turkish officialdom, while the general staff of the armed forces issued an angry statement condemning such allegations as slander.

From 1997 onwards the Turkish authorities began to take tougher action against Hizbullah, with a reported 130 supporters arrested in 1998, 250 in 1999 and 3300 in 2000. In a raid on a home in the Üsküdar area of Istanbul

on 17 January 2000 Hüseyin Velioğlu, Hizbullah's founder and leader, was killed, and two other people arrested. On the basis of evidence found in the home, many other premises were searched, revealing the bodies of thirteen missing businessmen. With many more corpses being uncovered in the following months, the public prosecutor was able to press charges against 21 people on 156 counts of murder in the major Hizbullah trial which opened on 10 July 2000. During an interrogation, a Hizbullah suspect reportedly confessed to killing moderate Islamic scholar Konca Kuris in the early 1990s. In November 2002 an appeals court acquitted five defendants and sentenced the others to prison terms ranging from life to 45 months.

The security forces' many operations against Hizbullah have inflicted heavy setbacks on it, and the number of bombings carried out by the group has fallen from 302 in the first eight months of 1999 to 94 in the corresponding period of 2000. However, the provincial governor of Diyarbakır stated in October 2000 that, in spite of those serious setbacks, Hizbullah could certainly not yet be considered to have been eliminated. There are said to be many teachers and religious officials involved in the organisation.

As of February 2000, Hizbullah was said to have had in Turkey some 20,000 members, who were organised in tight cells and knew a few of their fellow members because they were sworn to strict secrecy. They were said to operate in teams of two or three people, who "would stalk their victim before one member of the group carried out the execution by shooting the target in the neck with a single bullet, while the other kept a watch. A third militant may have assumed the duty of protecting the executioner."

Up to the time of the security forces' major action in January 2000, there were no known instances of Hizbullah's having targeted the authorities in its operations. Since then, however, armed incidents have taken place. On 11 October 2000 in Diyarbakır a policeman was killed in a gunfight with Hizbullah, which has also been linked with the shooting dead of the province's chief of police, Gaffar Okkan, and five of his officers in January 2001. In April 2001 a Hizbullah member was arrested on suspicion of involvement in that attack.

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

[2a][5c][5d][5g][7g][32e][82b][92]

Hizbullah Vahdet. Radical Islamic group, which centred on the Vahdet publisher in the 1980s. The group's leader is Abdulvahap Ekinçi. The group's legal foundations are Davet Education and Culture Association and Abdulkadir Geylani Trust. The group publishes a periodical called "Vahdet". [92]

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

HÖP See **DHKP-C**

IBDA-C (Islamic Great East Raiders - Front) (İslami Büyük Doğu Akıncılar Cephesi). Illegal Iranian-backed fundamentalist group which seeks the establishment of an Islamic republic based on strict Shariah or religious law. It attacks the PKK as well as the Turkish establishment.

IBDA-C is reportedly organised in small, isolated cells. Members organise independently without any hierarchical authority. Usually each cell does not have information about another cell's actions. There are two different types of cell. One type carries out propagandist actions, publishing books and periodicals, and organising meetings, conferences or exhibitions. The other type includes such cells as "Ultra Force", "Altınordu", "Lazistan", and "Union of Revolutionist Sufis". IBDA-C is active in publication, and has many bookstores, websites and print-houses. Meetings are held in bookstores. Some of its periodicals are "Ak-Dogub", "Ak-Zuhur", "Akin Yolu", "Tara", and "Tahkim".

IBDA-C has been linked with a number of terrorist attacks, especially in the early 1990s. It frequently makes use of explosives and Molotov cocktails in its attacks, and has often targeted banks, casinos, Christian churches and Atatürk monuments.

IBDA/C has been linked with the fatal bomb attack in October 1999 on a secular professor, Ahmet Taner Kipli, who was best known as a journalist for the Cumhuriyet newspaper. In December 1999 and February 2000

IBDA/C members sparked off bloody clashes in Metris prison when they attempted, by armed force, to prevent guards from entering their cell. In the December riot, 54 soldiers were injured and 100 hostages taken by IBDA/C, which also laid claim to the fatal attack on two police officers in Istanbul on 1 April 2001.

Proceedings were brought against IBDA/C's leader, Salih İzzet Erdi, known by the nom de guerre Salih Mirzabeyoğlu, before Istanbul State Security Court in February 2000, seeking to have the death penalty imposed on him for leadership of an illegal organisation working for the establishment of an Islamic state. On 3 April 2001 he was sentenced to death by that court. [2a][82b][85][92]

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

İlerici Gençlik (Progressive Youth) [80b]

IMO (Islamic Movement Organisation). Its goal was to found an Islamic State in Turkey. Members were trained in Iran. Usually high level militants were sent abroad for training in guerrilla tactics, using weapons, and producing bombs. İrfan Cagırcı, the director of the operations team, was caught by police in Istanbul in 1996. After the command and control of IMO had been weakened, IMO collapsed, and today most of its members are in prison. [92]

İpçi Demokrasisi (Workers Democracy). Founded 1998; split of DSİP. Trotskyist. Publication - "İpçi Demokrasisi". [80a]

Jerusalem Fighters See **Kudüs Savaşçıları**

KADEK See **PKK**

Kaplancılar /Sözde Hilafet Devleti. Illegal. [82b]

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

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

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

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

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

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

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

Kudüs Savaşçıları (Jerusalem Fighters). Islamic splinter group, said to have links with Iran. Police operations in May 2000 brought the arrest of some members and the discovery of various arms caches. [2a]

KUK (Kurdistan National Liberationists) (Kurdistan Ulusal Kurtuluşçuları). Marxist-Leninist. Established 1978. Its initial aim is to establish an independent Kurdistan in east and southeast Turkey, and then to unite this republic with territories in which Kurds live in Iran, Iraq and Syria. KUK-MK leaders are Daşraf Bilek (General Secretary), Sait Özsoy, Vasfi Özdemir, Mahfuz Yetmen, Devket Kaçmaz, Lütfi Baksı. KUK-SE leaders are K. Başbüyük, Yalçın Büyük (Gen. Sec.), Abdurrahman Bayram, Abdurrahman Esmer, Yasemin Çubuk, Zeynel Abidin Özalp, and Yusuf Ahmet Bartan. [92]

M-18 See **MLKP**

Malatyalılar (From Malatya/Malatyaites) This radical splinter group, also known as *Paşak-Deşîm*, advocates establishment of an Islamic state. The group first attracted attention at demonstrations against the ban on wearing the veil, in 1997 and 1998, and related disturbances in Malatya. Apart from Malatya, the organisation is reported also to be active in Istanbul, Gaziantep, Erzurum and Kayseri. Its leadership is said to be engaged in talks with Hizbullah, with a view to assembling forces. In October 2000 the security forces carried out a large-scale operation against the group, arresting some 250 people in 28 provinces. Although there have (as of May 2001) been no known Malatyalılar acts of violence, a large number of arms were found in that swoop by the security forces. [2a]

The group's leader is Zekerîya Pengöz. The group's leading members come from the city of Malatya in southeast Turkey. The group publishes "*Deşîsim*" (Metamorphosis) periodical. In addition, it has founded a legal trust named "Islamic Solidarity Trust", which is active in Istanbul. The group calls itself "*Paşak*" (Down Group), and in university circles they use the signature of "Muslim Youth". [92]

Marksist Tutum (Marxist Attitude). [80b]

Mezhepsizler Grubu. Illegal. [82b]

Med-Zehra, also called **Hizb-i Kuran** (The Party of Q'uran). A radical Islamist group, named after the university, Medresetü'z-Zehra, which Said Nursi (who was the originator of the Nurcu movement (probably the most important religious movement in Turkish Kurdistan), and who died in 1969) wished to establish in Kurdistan. Med-Zehra is an important representative of Kurdish Islamic movements. It opposes the Turkish Government, and refuses to employ constitutional methods. [7h]

MIB (Marxist Workers League). Trotskyist. [80a]

MLKP (Marxist Leninist Communist Party) (Marksist Leninist Komünist Partisi). Illegal. Founded 1995; merger of TKP/ML - Hareketi, TKIH, TKP/ML(YİÖ). Stalinist. It seeks the armed overthrow of Turkey's present political system. It also sees itself as representing the Kurdish community, and wants to throw off the "fascist colonial yoke" by means of armed struggle, having its own armed wing, known as M-18. In May 1998 MLKP abducted Tacettin Asci, treasurer of the Bursa branch of the Turkish Human Rights Association, and Ahmet Aydın, and on 7 June 1998 it issued a statement saying that the two had been "executed" as police informers. Amnesty International said that it was appalled to learn of the killings, and added that the fact that the bodies had not been recovered suggested that the victims may have been interrogated under torture by their captors. Amnesty urged that the bodies be surrendered, and also that those responsible for the murders be brought to justice. Publications - "Partinin Sesi", "Atılım" (Progress). [2a][12h][80a][82b]

MLSPB (Marxist-Leninist Armed Propaganda Unit) (Marksist Leninist Silahlı Propaganda Birliği). Illegal. Founded 1975 as split from THKP/C; political military. Radical left. Publication - "Barikat" (Barricade). [80a][82b]

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

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

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

PDK/Bakur (Democratic Party of Kurdistan/North) (Partî Demokratî Kurdistan/Bakur (name in Kurdish); Kürdistan Demokrat Partisi/Küzey (name in Turkish)). Illegal. Founded 1992 as PDK/Hevgirtin. Left, Kurdish nationalist. It aims to unite Kurds living in Iran, Iraq, Syria and Turkey under the flag of an independent Socialist Kurdistan Republic. Publication - "Dênge Bakur". [80a][82b][92]

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

PIK (Islamic Kurdistan Party) (Partiya Islamiya Kurdistan). Founded 1979. PIK's main aim is to establish an Islamic state, and its members see this as a holy mission. Its strategy is allegedly to create chaos in Turkey, to destabilise government institutions, to start a nationwide revolt, and to establish an Islamic Kurdistan. It is active in eastern and southeastern Turkey, especially in Malatya. It has branches in Ankara and Istanbul. Leaders of the party include Prof. Dr. Muhammad Salih Mustafa (Party President and General Emir/Governor), Osman Caner (Emir of Students and Youth) and Sukuti Evcim (Director of Youth). [92]

PKK (Kurdistan Workers' Party) (Partiya Karkerên Kurdistan (name in Kurdish); Kürdistan İşçi Partisi (name in Turkish)). www.pkk.org and www.kurdstruggle.org/pkk See also section entitled "The Kurds" (chapter 6B). Illegal. Founded on 27 November 1978. It advocates armed struggle both at home and abroad, to achieve an independent Kurdish state slicing through Turkey, Syria, Iraq and Iran, and launched the struggle in 1984. 57-member directorate. Its components include ERNK (the National Liberation Front of Kurdistan), the PKK's "popular front and propaganda division", and ARGK (the Kurdistan National Liberation Army), the PKK's "popular army". Leadership: Abdullah "Apo" Öcalan.

The PKK's armed operations in south-eastern Turkey, starting in 1984 and peaking from 1990 to 1994, involved attacks on civilians (in many cases Kurdish) and military targets, causing very many deaths. The PKK was guilty of human rights violations, including murders, especially in rural parts of the south-east, but also in other areas. The victims were mainly Jandarma officers, mayors, teachers, imams, village guards and their families, reluctant recruits, young villagers, refusing to fight for the PKK, and (former) PKK members acting as informants for the Turkish authorities. From the outset, the Turkish army took tough action against the PKK. The PKK attempted to make the south-east ungovernable, by systematically destroying economic and social infrastructure etc., and by deliberately polarising the local population. Many village schools were closed down, not least as a result of the PKK's policy, up until 1996, of killing schoolteachers.

According to information from the Turkish authorities, a total of just over 23,000 PKK fighters and around 5000 members of the armed forces and security forces have been killed since 1987 in the conflict with the PKK. Just over 4400 civilians are reported to have been killed. The injured number just over 11,000 armed forces and security forces members, and around 5400 civilians. No figures are given for injured PKK fighters.

On 3 August 1999 Abdullah Öcalan called on PKK fighters to end their armed struggle and withdraw by 1 September to beyond Turkey's borders. On 1 September his brother Osman, a member of PKK's command council, announced that the PKK would do this with immediate effect. The extent to which Öcalan's call has been followed by PKK fighters can be seen from figures from the Turkish army high command in May 2000, showing only 500 out of 5500 PKK fighters still to be in Turkey. In the first five months of 2000, the number of clashes between the army and guerrillas had fallen to 18, as against 3300 at its peak in 1994 and 48 in 1999. There were few armed clashes in 2001, and a near absence of PKK violence in 2002.

On 16 April 2002 the PKK announced that it had ceased activities and had regrouped as **KADEK**, the Kurdistan Freedom and Democracy Congress (Kürdistan Özgürlük ve Demokrasi Kongresi). Deputy Prime Minister Yılmaz stated that, if former PKK members who were involved in unlawful activities in the past continued to be active within the same organisation, all the restrictive decisions and measures that applied to the PKK must also apply to the new organisation. He went on to say that the fact that the PKK had realised that violence and terrorism were not a solution was a positive development. However, those who were involved in terrorism in the past should, he said, definitely be brought to justice. Such tactical changes did not affect the policy of the Turkish State on this subject.

Publication - "Serxwebûn" (written in Turkish). In UK the PKK has since 29 March 2001 been proscribed under the Terrorism Act 2000. See forthcoming API - Proscribed Organisations. [1a][2a][5g][18g][61a][63m][67][80a][82b]

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

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

PNBK (National Platform of North Kurdistan) (Platforma Neteweyî ya Bakûrê Kurdistanê (name in Kurdish);

Kuzey Kurdistan Ulusal Platformu (name in Turkish)). Founded 1999. Left, Kurdish nationalist. [80a]

PRK/Rizgari (Liberation Party of Kurdistan) (Partiya Rizgariya Kurdistan (name in Kurdish); Kürdistan Kurtulus Partisi (name in Turkish)). Illegal. Founded 1976. Radical left, Kurdish nationalist. The party's aim is to establish an independent Kurdistan, and extend this to an independent United Socialist Kurdistan with territory which is at present part of Iran, Iraq, Syria and Turkey. Publications - "Rizgarî", "Stêrka Rizgarî". [80a][82b][92]

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

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

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

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

Revolutionary Marxist League. Trotskyist. [80a]

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

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

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

Şafak-Deûîpîm See **Malatyalılar**

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

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

Selam Grubu. Illegal [82b]

Selefi (from the Arabic "Salafî", referring to an Islamic revivalist movement which seeks to emulate the lives of the earliest Muslims). The organisation, which was established in 1993 by an imam, supports religious law. In raids in 1999, the Turkish authorities seized eight rocket rifles, one Kalashnikov, and 650 rounds of ammunition. The Turkish State considers the organisation to be terrorist. [22a][30v]

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

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

Sosyalist İktidar Partisi - Komünist Parti (Party for Socialist Power - Communist Party). Founded 1993, Communist, legal, gained 0.12% of the national vote in the April 1999 general election. Changed its name in November 2001 to TKP (Türkiye Komünist Partisi) (Turkish Communist Party); it is unclear whether this is different from, or identical to, the TKP which is listed later in this annex. Publications - "Sosyalist İktidar" (Socialist Power), "Sol" (Left). [30n][80a]

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

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

Spartaküs. Illegal. [82b]

TAYAD (The Solidarity Association of Prisoners' Families) (Tutuklu ve Hükümlü Aileleri Yardımlama Derneği). In January 2001 the headquarters and various branches in Istanbul of the TAYAD were closed after it had held weekly demonstrations over a period of months against the introduction of the new cell system in prisons. Various executive members were arrested. The authorities regard TAYAD as a cover for the revolutionary DHKP/C. The organisation was consequently proscribed for a few years in the early 1990s. [2a]

TDKP (Revolutionary Communist Party of Turkey) (Türkiye Devrimci Komünist Partisi). Illegal. Founded 1980. Ex-Maoist, Stalinist. Its legal wing is Emep (Labourers Party) (founded 1996), which gained 0.17% of the national vote in the April 1999 general election. Publication - "Devrimin Sesi". Source 89 is printed from TDKP's website.

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

Tehvid-Selam Islamic splinter group, said to have links with Iran. The group adopts Hizballahi ideas, and is closely related to the Hizbullah and Menzil groups. It began to publish "Behadel" (Testimony) and "Tehvid" (Unification) periodicals, and nowadays publishes "Selam" (Greeting, Salute), a weekly newspaper. Police operations in May 2000 brought the arrest of some members and the discovery of various arms caches. [2a][92]

THKP/C Acilciler (Turkish Peoples' Liberation Party and Front - The Urgent Ones) (Türkiye Halk Kurtuluş Partisi/Cephesi Acilciler). Illegal. Probably disbanded. [80a][82b]

THKP/C- Dev Sol (People's Liberation Party/Front of Turkey - Revolutionary Left) (Türkiye Halk Kurtuluş Partisi/Cephesi - Devrimci Sol). Illegal. Founded 1993 as split of Dev Sol. Political military. Radical left. Publication - "Devrimci Çözüm" (Revolutionary Solution). [80a][82b]

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

THKP-C/HDÖ (People's Liberation Party/Front of Turkey - People's Revolutionary Vanguard) (Türkiye Halk Kurtuluş Partisi ve Cephesi - Halkın Devrimci Öncüleri). Founded 1977. Political military. Radical left. Publications - "Cephe" (Front, Façade), "Kurtuluş" (Liberation), "Kurtuluş Cephesi" (Liberation Front). [80a]

THKP/C-MLSPB (People's Liberation Party/Front of Turkey - Marxist Leninist Armed Propaganda Unit) (Türkiye Halk Kurtuluş Partisi ve Cephesi - Marksist Leninist Silahlı Propaganda Birliği). Publication - "Barikat" (Barricade). [80b]

TIKB (Revolutionary Communists Union of Turkey) (Türkiye İhtilalci Komünistler Birliği). Illegal. Founded 1977. Political military. Ex-Maoist, Stalinist. Publications - "İhtilalci Komünist", "Orak-Çekiç", "Devrimci Proletarya", "Alinterimiz". [80a][82b]

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

TIKKO (Turkish Workers' and Peasants' Liberation Army) (Türkiye İşçi Köylü Kurtuluş Ordusu or Türk İşçiler Köylüler Kurtuluş Ordusu). Illegal armed resistance movement, which was set up in 1972 by TKP/ML. It advocates the violent overthrow of the Turkish government and abolition of the entire Turkish political system. Members (a maximum of several thousand people) are scattered in small cells throughout Turkey. The armed guerrilla units are used by both TKP/ML and TKP(ML) in common for their terrorist operations. Amnesty International notes that in the early 1990s TIKKO and other organisations would frequently announce, as if proud of their handiwork, that this journalist, or that Kurdish villager, had been "punished". Since then, the numbers of such killings have fallen notably, perhaps as sympathisers of such organisations have recognised that such "revolutionary justice" is no more than common murder. In September 2000 a police operation against TIKKO in Istanbul brought the arrest of the head of its local section. On 6 October 2000 a suicide squad attacked the

military training college in the Harbiye district of Istanbul. TKP/ML also claimed responsibility for an attack on a police car on 11 December 2000, in which two policemen were killed. February 2001 saw two armed clashes between TIKKO and the security forces. The attack on a Jandarma general in Çorum on 22 March 2001 was said by the authorities to have been carried out by TIKKO, which reportedly itself on 28 March 2001 laid claim to the attack. [2a][12f] In June 2002 TIKKO reportedly abducted and killed Muharrem Hız from Sırcalı village, Tokat province. [9f] There used to be a division of labour between PKK and TIKKO guerrillas, with the PKK carrying on the combat in south-eastern Turkey and TIKKO in the Black Sea region. In October 1999 TKP/ML announced its complete disagreement with Öcalan's call to end the armed struggle. There are reported still to be a few dozen armed TIKKO fighters in the mountains of Tunceli province. [2a][12f]

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

TKEP (Communist Labour Party of Turkey) (Türkiye Komünist Emek Partisi). Illegal. Founded 1980, part of ÖDP (Özgürlük ve Dayanışma Partisi - see Annex B). Communist. [80a][82b]

TKEP- Leninist (Communist Labour Party of Turkey - Leninist) (Türkiye Komünist Emek Partisi - Leninist). Illegal. Split of TKEP in 1990. Political military. Communist. Publications - "Devrimci Emek" (Revolutionary Labour), "Devrim İscin Mücadele Birliği". [80][82b]

TKİP (Communist Workers Party of Turkey) (Türkiye Komünist İşçi Partisi). Illegal. Founded 1998. Ex-Maoist, radical left. Publications - "Ekim" (Sowing, Planting), "Kızıl Bayrak" (Red Flag). Source 90 is printed from the party's website. [80a][82b]

TKKKÖ (Turkey and North Kurdistan Liberation Organisation) (Türkiye ve Kuzey Kürdistan Kurtuluş Örgütü). Illegal. [82b]

TKP (Communist Party of Turkey) (Türkiye Komünist Partisi). Founded 1980 as TKP - İscinin Sesi. Communist. Publication - "İscinin Sesi" (Workers' Voice). [80a]

TKP/İS (Communist Party of Turkey/Workers Voice) (Türkiye Komünist Partisi/İşçinin Sesi). Illegal. [82b]

TKP- Kivılcım (Communist Party of Turkey - Spark) (Türkiye Komünist Partisi - Kivılcım). Illegal. Founded 1989 by Socialist Homeland Party (SVP). Communist. Publications - "Kivılcım" (Spark), "Zafere Kadar Direniş", "Yol" (The Way), "Widerstand". [80a][82b]

TKP/ML (Communist Party of Turkey/ Marxist Leninist) (Türkiye Komünist Partisi/ Marksist-Leninist). Founded 1972. Political military. Based on Maoist ideology, assuming that the rural areas of Turkey will be liberated first, leading to the creation of a peasants' army. The working classes in the cities will then unite with the peasants and help overthrow the "capitalist order". The party has suffered several divisions, with each faction claiming to be "the real party". In 1994 it split into two wings: a partisan wing, retaining the old name TKP/ML, and an Eastern Anatolian regional committee, assuming the almost identical name TKP(ML). Talks have been under way since late 1999 concerning reunification of the two wings. In 1972 TKP/ML set up armed guerrilla units, known as TIKKO (Türk İşçiler Köylüler Kurtuluş Ordusu - Turkish Workers' and Peasants' Liberation Army), which are used by both TKP/ML and TKP(ML) in common for their terrorist operations. In October 1999 TKP/ML announced its complete disagreement with the call by Abdullah Öcalan, PKK leader, to end the armed struggle. TKP/ML claimed responsibility for an attack on a police car on 11 December 2000; two policemen were killed in the attack.

Publications - "Partizan", "İsci-Köylü Kurtuluşu", "Özgür Gelecek" (Free Future). Source 91 is printed from the party's website. [2a][67][80a]

TKP(ML) (Communist Party of Turkey (Marxist-Leninist)) (Türkiye Komünist Partisi (Marksist-Leninist)). Split of TKP/ML in 1994. Political military. Maoist. Publications - "İsci Köylü Kurtuluşu", "Devrimci Demokrasi" (Revolutionary Democracy), "Öncü Partizan" (Pioneer Partisan). [80a]

TKP/ML (Birlik) (Communist Party of Turkey/ Marxist-Leninist (Unity)) (Türkiye Komünist Partisi/ Marksist-Leninist (Birlik). Publication - "Uzun Yürüyüş". [80b]

TKP/(M-L) DABK (Communist Party of Turkey (Marxist-Leninist) East Anadolu Area Committee) (Türkiye Komünist Partisi (Marksist-Leninist) Doğu Anadolu Bölge Komitesi). Illegal. [82b]

TKP/M-L Kons. Kes (Communist Party of Turkey/ Marxist-Leninist Conferencing Body) (Türkiye Komünist Partisi/Marksist-Leninist Koferansçı Kesim). Illegal. [82b]

TKP/ML (Maoist Parti Merkezi) (Communist Party of Turkey/ Marxist-Leninist (Maoist Party Centre)) (Türkiye Komünist Partisi/ Marksist Leninist (Maoist Parti Merkezi)). Illegal. Split of TKP/ML in 1987. Political military. Maoist. Publication - "İktidara". [80a][82b]

TODEF See DHKP-C

Toplumsal Özgürlük Platformu (Social Freedom Platform). Part of ÖDP (see Annex B). [80a]

TSİP (Socialist Workers Party of Turkey) (Türkiye Sosyalist İşçi Partisi). Founded 1993. Legal. Communist. Publication - "Kitle" (Mass, Crowd). [80a]

Türkiye'de Marksist-Leninist Parti (Marxist Leninist Party in Turkey). Founded in 1980 as TKP/ML Spartakus. Stalinist. Publications - "Spartakus", "Bilimsel Komünizmin Sancağı Altında". [80a]

UİC (Union of Islamic Communities). Founded 1983. Its initial goal is to unite Muslims living in Europe under one roof. Its main goal is to establish a Federal Islamic State in Anatolia. Its founder Cemalettin Kaplan declared himself the "caliph" of all Muslims in 1994, and from then on UIC called itself the "Caliphate State". After he died in 1995, his son Metin Kaplan replaced him as "caliph". Some members of UIC have rejected Metin Kaplan's caliphate, and UIC has divided into three groups. UIC has 200-300 members in Turkey, largely in İstanbul, Konya, Adana, Sivas, Aydın, and Maraş, and 1300 members in Germany. In Germany in 1999 Metin Kaplan declared a holy war against Turkey. The German authorities arrested Metin Kaplan in March 1999, and he is still in prison. However, Mr Kaplan leads UIC from prison. The Turkish police have conducted operations against UIC militants in Sivas, Sakarya, Erzurum, Bursa and Çanakkale. [92]

Ürün (Product) [80b]

Vasat Grubu/Ehl-i Sünnet vel Cemaat. Illegal. It claimed responsibility for throwing a grenade at a book fair in Gaziantep on 14 September 1997, killing one person and injuring 24. [94]

Yeni Yol (New Way). Part of ÖDP (see Annex B). Trotskyist. Publication - "Yeni Yol" (New Way). [80a]

ANNEX D: REMOVAL FIGURES FOR TURKISH NATIONALS

Removals of Turkish nationals to Turkey

	Germany	Switzerland	Netherlands	UK	Denmark	USA	Canada	Australia	Sweden	Total of both (1) and (2)	Total of (1)
	(2)	(1)	(1)	(1)	(1)	(2)	(2)	(2)	(1)		
1989		850								850	850
1990		786								786	786
1991		1171								1171	1171
1992	1860	883								2743	883
1993	1631	309								1940	309
1994	3426	147	69		10	33	55			3740	226
1995	2611	109	177	125	15	26	34			3097	426
1996	4647	60	199	190	26	18	25	43	105	5313	580
1997	4972	38	163	250	15	39	28	47	66	5618	532
1998	6692	46	224	185	16	53	30	39	44	7329	515

1999	4960	71	137	85 (a)	20	68 (c)	16	73	52	5482	365
2000	4982	75	244	90 (a)	22	63 (c)	59	29	28	5592	459
2001	4322	92	112	140 (b)	35	66 (c)	67	31	39	48565	418
Totals										48565	7520

1. Numbers only relate to returns of rejected asylum seekers

2. Numbers include both asylum and non-asylum returns.

(a) Excluding in-country removals, because of data quality issues.

(b) For the period April to December 2001 (figures unavailable for Jan. to Mar. 2001 because of data quality issues).

(c) In fiscal year 1.10.98 to 30.9.99, or 1.10.99 to 30.9.00, or 1.10.00 to 30.9.01.

Where numbers are not shown statistics are not presently available for those years.

SOURCES

Germany: Information from the German Federal Agency for the Recognition of Foreign Refugees

Sweden, USA, Canada, Australia: Inter-Governmental Consultations on Asylum Refugee and Migration Policies in Europe, North America and Australia

Denmark: Letter and email from Danish Immigration Service

Netherlands: Letter and email from Netherlands Ministry of Justice

Switzerland: Statistics from the Swiss Federal Office for Refugees

United Kingdom: Statistics from Research Development and Statistics Directorate

Analysis of responses to CIREA questionnaire on Turkey, September 2001

ANNEX E: ADMINISTRATION OF JUSTICE

Judges

1. The position of the judge (hakim, yargıç) is important, especially as there is no jury trial in Turkey. His role is substantially larger than that of a judge in UK or USA. He is actively responsible for the administration of justice. He takes the initiative in finding the law applicable to the facts submitted by the parties. The lawyers have the duty to assist the judge in establishing the facts and determining applicable legal provisions. The independence of judges is safeguarded by Articles 138 and following of the Constitution: "Judges shall be independent in the discharge of their duties. They shall pass judgments in accordance with the Constitution, law, justice and their personal convictions. No organ, office, agency or individual may give orders or instructions to courts or judges in connection with the discharge of their judicial duty, send them circulars, or make recommendations or suggestions. No questions may be raised, debates held, or statements issued in legislative bodies in connection with the discharge of judicial power concerning a case on trial." [78]

Public Prosecutors

2. Offences are, in the great majority of cases, prosecuted in the name of the people by public prosecutors (savcılar), who are virtually representatives of the executive branch of the government within the judiciary. The duty of initiating public prosecution rests with the public prosecutor. As soon as he is informed of the occurrence of an offence, the public prosecutor should make the investigation necessary to decide whether public prosecution should be initiated. He investigates evidence both against the accused and in his favour, and helps to preserve proof which otherwise might be lost. If, at the end of his investigation, the public prosecutor decides not to prosecute, he will inform the accused if the accused has testified, or if a warrant of arrest has been issued against the accused. No one may be convicted under an indictment in which he is not named, nor may he be convicted of a crime not specified in the indictment. [78]

3. In the case of some lesser offences specified by law, where the injury is deemed more private than public, the injured party may himself institute criminal proceedings by filing a private complaint (bahşi dava) without participation of the public prosecutor. In these exceptional cases, the private party enjoys all the rights given to the public prosecutor by law. Furthermore, the person injured by an offence may intervene in any public prosecution, and he becomes a party to the action by virtue of his intervention (Müdahale yolu ile dava). [78]

The defendant

4. The law of criminal procedure is intended not only to secure effective prosecution of offences, but also to secure to the accused an effective defence. The law is designed to protect innocent citizens. The accused is favoured in criminal proceedings by the presumption of innocence. The burden of proof rests on the public prosecutor or the private complainant, and the defendant is not held guilty until his guilt is established by final judgment. When the court is not satisfied by the evidence of the prosecution, or a reasonable doubt exists, the court must give a judgment of acquittal. [78] Of all judgments in the year 2000 in Turkish criminal courts, 283,743 were sentences, 114,439 were acquittals, and 27,384 dismissals. [59a]

Evidence

5. Under the Code of Criminal Procedure, the judge weighs the probative value of all evidence submitted during the preparatory phase and during the trial, taking into account the credibility of the witnesses and other evidence to the best of his ability and in good conscience. The Code prescribes the forms of proof admissible to establish the guilt of the accused: confession, testimony of witnesses, writings and records of officials, evidence gained through discovery, judicial notice, searches and seizures, and the opinion of experts. The Code stipulates in detail the conditions governing the admissibility of each of these means of proof in order to prevent abuses and to ensure that they contribute to the establishment of the truth. [78]

6. In accordance with the Code, all depositions and statements made by interrogated persons and defendants must be made of free will. The use of unlawful interrogation methods (such as maltreatment, torture, forcing drugs, causing fatigue, cheating, deceiving, violence, unlawful promises) which are may distort free will, is prohibited. Accordingly statements and depositions obtained by unlawful means are considered inadmissible, even if they are of free will (for example, if a person were deceived). An additional subparagraph was incorporated into the Code, according to which the verdict of the court cannot be substantiated on evidence unlawfully obtained in the course of the preparatory investigation. [78]

Commencement and conduct of proceedings

Preparatory investigation

7. The public prosecutor, upon being informed of the occurrence of an alleged offence, makes a preparatory investigation (hazırlık soruşturması) in order to ascertain the identity of the offender and to decide whether it is necessary to institute a public prosecution. If he concludes that a public action is necessary, he institutes a case by an indictment before the competent court. If a public action is unnecessary he decides not to prosecute. The Minister of Justice may, by order, direct the prosecutor to initiate a public prosecution. [78]

8. The public prosecutor may, for the purpose of his enquiry, demand any information from any public employee. He is authorised to make his investigation either directly or through police officers. The police are obliged to inform the public prosecutor immediately of events, detainees, and measures taken, and to execute orders of the prosecutor concerning legal procedures. [78]

9. In cases where a private complaint is submitted to the public prosecutor, and the prosecutor finds no reason for prosecution or decides not to prosecute after a preparatory investigation, he informs the petitioner of his decision. If the petitioner is, at the same time, the aggrieved party the petitioner may, within 15 days of notice, object to the Chief Justice of the nearest court which hears aggravated felony cases. If the court is convinced that the petition is well founded and rightful, it orders a public prosecution; the prosecutor in charge of the case executes this decision. Otherwise, the court refuses the petition, and after such action a public prosecution may be opened only upon production of newly discovered evidence. [78]

10. A public prosecution shall be dismissed when the perpetrator of an offence which is punishable by a fine or a maximum of three months' imprisonment deposits the minimum amount of the fine prescribed for the specific offence (or, in the case of imprisonment, the sum which is the amount prescribed by the Law of Execution of Penalties for one day of imprisonment) in the appropriate office before the court hearing. If this amount is paid by the offender before a public prosecution has been initiated, and within ten days of the date of the offence, the perpetrator shall not be prosecuted at all. [78]

11. The preparatory investigation is, in principle, secret, performed without the presence of the parties and in written form. [78]

Final investigation (trial)

12. The final investigation or trial (son soruşturma) begins when the indictment is sent by the public prosecutor to the court which will try the case. The final investigation has two stages: the preparation for trial (duruşma hazırlığı) and the trial itself (duruşma). Its object is to examine all evidence before the court, and to reach a judgment with respect to the guilt of the accused. [78]

13. All phases of final investigation are conducted in the presence of the defendant. The Turkish Code of Criminal Procedure has adopted trial in absentia as an exception, only in cases where light sentences are involved i.e. where the offence is punishable by a fine, imprisonment for up to two years, and/or confiscation. At his own request, a defendant may be excused from attending trial, and may send a defence counsel in cases where his presence is not necessary. Trial may also be instituted against an absentee defendant when the offence is punishable by a fine, confiscation, or both. [78] If the suspect has already been heard by the court in an earlier session, or if he has been questioned by a judge on the facts of the case during preliminary enquiries before the trial, the trial may continue in the suspect's absence. A trial may also proceed without the presence of the accused in cases being dealt with by the State Security Courts on condition that the suspect has already been heard by the judge on a previous occasion. [2a]

14. In principle trials are open to the public. This includes cases relating to state security. In political cases the audience usually includes some representatives of human rights organisations, and diplomatic staff from various countries. [2a] Final investigation is normally open to the public. Under the Code of Criminal Procedure, the court may decide, for the protection of public morals and security, to hold partly or completely closed sessions. The trials of children under 15 years of age must be conducted in closed sessions. [78]

ANNEX F: POLITICAL CRIMINAL LAW

The Turkish Penal (or Criminal) Code (Türk Ceza Kanunu - TCK) was adopted by Law No. 765 of 1 March 1926, and was based on the Italian Criminal Code of 1889 as amended by the Mussolini regime. More than half of the original Turkish Penal Code has since been amended. Many political offences are listed in the Turkish Penal Code, while others may be found in the so-called Special Acts, such as the Anti-Terror Law (or Anti-Terrorism Act) No. 3713 of April 1991. Each law in Turkey is given and known by a number, assigned from a consecutive sequence. The numbering system dates from the foundation of the Republic in 1923, but unfortunately the sequence has been started afresh at various points, usually when the military has intervened in government.

Below is a list of the most common political crimes with the appropriate Article numbers, descriptions of the offences and the sentences.

Political crimes in the Turkish Penal (or Criminal) Code (TCK), as amended

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TCK Art.	Description of offence	Sentence
125	Annexing (part of) Turkey.	Death
126	Serving in the army of a State at war with Turkey.	Death
127	Conspiring to wage war against Turkey in conjunction with a foreign power.	Min. 5 years', max. life imprisonment
128	Causing danger of war to Turkey or other countries.	Min. 2 years', max. life imprisonment
129	Helping a hostile army or causing obstruction to Turkey in time of war.	Min. 5 years', max. death
130	Not honouring supply agreements with the army in time of war.	Min. fine. For fraud min. 10 years' imprisonment
131	Destroying military installations.	Min. 8 years' imprisonment. In time of war or if military potential endangered: death*
132	Forging or destroying State secrets, or using them improperly.	Min. 2 years' imprisonment. In time of war or if military potential endangered: life imprisonment
133	Espionage.	Min. 15 years' imprisonment. In time of war or if military potential endangered: death*
134	Conspiracy to violate Articles 132 and 133.	Min. 1 year imprisonment. In time of war or if military potential endangered: max. 15 years' imprisonment
135	Entering military premises without authorisation, illegal possession of State secrets	1 to 5 years' imprisonment. In time of war 3 to 10 years' imprisonment
136	Publication of matters which must be kept confidential in the interest of the State.	Min. 5 years' imprisonment. In time of war or if military potential endangered: min. 10 years'. For purposes of espionage: life imprisonment for the first case and death in the second
137	Publication of matters of which publication is prohibited	Min. 5 years' imprisonment. In time of war or if military potential endangered: min. 10 years'. For the purposes of espionage: life imprisonment for the first case and death in the second
138	Publication of matters of which publication is prohibited by an official with access to this information by virtue of their work. Not properly fulfilling one's role as a diplomat and damaging Turkey's interests. Being aware of the aforementioned matters and not reporting them.	Min. 5 years' imprisonment. In time of war or if military potential endangered: life. Min. 5 years' imprisonment Min. 6 months' imprisonment
139	Ignoring orders and instructions issued on behalf of the State in time of war.	Between 1 and 6 years' imprisonment
146	Causing the discontinuation of Parliament or preventing it from fulfilling its role.	Death*
147	Causing the discontinuation of the Cabinet or preventing it from fulfilling its role.	Death*
148	Recruiting soldiers for another country without the Government's consent.	3 to 6 years' imprisonment. In the event of recruiting other soldiers: raised by 1/3
148	Incitement to armed revolt.	Min. 20 years' imprisonment. Should it lead to actual armed uprising: death*. Conspiracy: min. 6 years' imprisonment
150	Supplying weapons to conspirators	Between 1 and 24 years' imprisonment
151	Not reporting crimes under Articles 146-150 despite being	Min. 6 months' imprisonment

	aware thereof.	
	Knowingly and willingly transporting conspirators	Between 1 and 24 years' imprisonment
152	Assuming unlawful command of a warship, port, town or military unit.	Life imprisonment
153	Inciting members of the armed forces or police to disobedience.	1 to 3 years' imprisonment. If committed in public: 2 to 5 years' imprisonment. In time of war, increased by 1/3
154	Inciting the population to commit the crimes specified under 146 to 153 inclusive.	1 to 3 years' imprisonment
155**	Inciting the Turkish people to civil disobedience or dissuading them from national military service	2 months' to 2 years' imprisonment plus a fine
156	Attempting to assassinate the President	If unsuccessful: life imprisonment. If successful: death*.
157	Physically assaulting the President	Min. 5 years' imprisonment
159	Insulting the Turkish nation, the Republic, Parliament, or the moral personality of the Government or the military or security forces of the State or the moral personality of judicial authorities, with the intention to insult or deride the institution.	1 to 3 years' imprisonment.
161	Using propaganda in time of war to mislead the Turkish people.	Min. 5 years' imprisonment. If against soldiers: min. 15 years'. If committed in collusion with the enemy: life
168	Forming an armed band to carry out the crimes specified under Articles 125, 131, 146, 147, 149 or 156 or being in command of such an organisation. "Just" being a member of such an organisation.	Min. 15 years' imprisonment 10 to 15 years' imprisonment
169	Offering support and shelter to an organisation as specified under Article 168.	* 3 to 5 years' imprisonment
171	Committing the crimes specified under Articles 125, 131, 146, 147, 149 or 156 in conjunction with others.	125, 131, 133 and 156: 8 to 15 years' imprisonment. 146 and 147: 4 to 12 years' imprisonment 149: 2 to 7 years' imprisonment
172	Inciting the population to commit one of the crimes specified under Articles 125, 131, 146, 147, 149 or 156	2 to 5 years' imprisonment
312 sect. 2	Inciting, in a form that could endanger public order, the people to hatred on the grounds of class, religion, denomination or regional differences. Insulting part of the people degradingly and in a way that hurts human dignity.	1 to 3 years' imprisonment 6 months to 2 years imprisonment.

* On 3 August 2002 Parliament approved the end of the death penalty in peacetime and its replacement with life imprisonment without the possibility of parole.

**Article 155 is sometimes used for passing sentence on conscientious objectors.

The sentences and fines specified in the above Articles are often imposed in compliance with Article 5 of the aforementioned Anti-Terror Law No. 3713, which provides for increasing the sentence by half.

Political crimes under the Anti-Terror Law No. 3713 of 12 April 1991, as amended

Article	Description of offence	Sentence
6	Disclosure and publication of terrorist objectives, pamphlets etc. for terrorist organisations.	Fine
7	Founding and leading a terrorist organisation Forming part of a terrorist organisation Providing support to and propaganda for a terrorist organisation in a form that encourages the use of terrorist methods	5 to 10 years' imprisonment and fine 3 to 5 years' imprisonment and fine 1 to 5 years' imprisonment and fine. Where the support is in the form of buildings etc.: doubled
8	Issuing propaganda against the indivisible unity of the State and the people of Turkey.	1 to 3 years' imprisonment and fine. If through the media: fine for the organisation and 6 months' to 2 years' plus fine for the administrators responsible. Also broadcasting ban for the medium for 1 to 15 days'. If visual, 1 to 3 years' imprisonment "if the act does not require a heavier penalty". If the act is committed in a form that encourages the use of terrorist methods, the sentence is increased by a third. Mass media: increased by between a third and a half.

Sources- [121][66a][76][96]

ANNEX G: PROMINENT PEOPLE

Atatürk, Kemal (born 1880/1881, died 1938) (Original name Mustafa Kemal, he was surnamed Atatürk ("Father of the Turks") in 1934). Atatürk was the founder of modern Turkey. He became Turkey's first President in 1923, and he carried through a series of far-reaching reforms which were designed to westernise Turkey. The omnipresent public statues and portraits in Turkey are not merely symbols of the personality cult that has been built around him; they reflect the widely held conviction that without *him* Turkey in its present form simply would not exist.

Bahçeli, Devlet. Was leader of MHP (Nationalist Action Party), and Deputy Prime Minister 1999-2002.

Baykal, Deniz. Leader of CHP (Republican People's Party).

Bozlak, Murat. Chairman of HADEP (People's Democracy Party) until it was banned in March 2003. He is banned from being a founder, member or administrator of another party for five years from March 2003.

Bumin, Mustafa. Chairman of the Constitutional Court, Turkey's highest court.

Cem, Ismail. Foreign Minister 1997-2002, and founder of YTP (New Turkey Party) in July 2002.

Çiller, Tansu. Turkey's first woman Prime Minister 1993-96. Was Chairman of DYP (True Path Party).

Turkey, Country Information

Derviş Kemal. Formerly a Turkish Vice President of the World Bank. Appointed after the February 2001 crisis as the State Minister responsible for the economy; resigned August 2002.

Ecevit, Bülent. Leader of DSP (Democratic Left Party), and Prime Minister 1999-2002. Was Prime Minister in 1974 (when Turkey invaded Cyprus, in order, in its perception, to protect the Turkish Cypriot minority), in 1977, and in 1978-79.

Erdoğan, Recep Tayyip. Prime Minister from March 2003. Born in 1954, he was in 1994-1998 the popular and charismatic Islamist (Virtue/Fazilet) mayor of Istanbul, where even his critics admit that he did a good job, making Istanbul cleaner and greener. He served four months in prison in 1999 for reciting a poem with an Islamic message (and thereby "inciting religious hatred"); the poem included the lines "The mosques are our barracks, the domes our helmets, the minarets our bayonets and the faithful our soldiers". Leader of the Islamist-orientated AK Partisi (Justice and Development Party), which he led to victory in the November 2003 general election, although he was ineligible to stand for Parliament because of his criminal conviction. The law was changed, he was elected in a by-election, and on 14 March 2003 he was appointed Prime Minister. "I am first and foremost a Muslim. I am someone who tries hard to practise my faith" he says. [66c]

Gül Abdullah. Prime Minister from November 2002 to March 2003, and a leading member of the AKP (Justice and development Party). Mr Gül was born in 1950. Graduating from the Faculty of Economics of Istanbul University, he studied languages and attended postgraduate studies in London and Exeter. On his return to Turkey, he gave courses in economics, and then worked as an economist in the Islamic Development Bank in Jeddah. [63n]

Kutan, Recai. Leader of Islamic SP (Felicity/Contentment Party).

Öcalan, Abdullah (nickname "Apo"). Leader of the PKK. Born in 1949 in Urfa, he grew up speaking Kurdish, but forgot much of the language during his teenage years. In 1971 he entered the prestigious Faculty of Political Sciences at Ankara University. Marxism was the dominant creed for his generation of students. He initiated, with six colleagues, a specifically Kurdish national liberation movement based on Marxism-Leninism. From 1978 the Apocular, or followers of Apo, called themselves the PKK. Deserters from the PKK have claimed that their authoritarian commander brooked no opposition, and organised the execution of scores of dissident colleagues. He has described himself as a "man without pity". What is most ironic about the PKK's bandit king is his very Turkishness. He has freely admitted "I think and plan completely in Turkish." He was captured, forcibly returned to Turkey in February 1999, put on trial, convicted of treason and sentenced to death. On 2 August 1999 he called on the PKK to end its armed struggle. In January 2000 the Turkish Government agreed to respect an injunction from the European Court of Human Rights calling for the suspension of Öcalan's execution, pending his appeal to the Court. With the abolition in 2002 of the death penalty for offences in peacetime, his sentence was commuted to life imprisonment without conditional release. [30w][101]

Özcan, Hüsamettin. Deputy Prime Minister 1999-2002.

Özkök, General Hilmi. Born 1940, Chief of the General Staff for a four year term from August 2002. One of the most powerful men in Turkey.

Sezer, Ahmet Necdet. President of Turkey since May 2000. He is the first President in Turkey's history who is neither an active politician nor a senior military official. He was formerly Turkey's most senior judge, the Chairman of the Constitutional Court, where in 1999 he criticised Turkey's Constitution for restricting democratic freedoms. He has a reputation for personal integrity, and a deeply ingrained respect for the rule of law. Very secular.

Yılmaz, Mesut. Prime Minister in 1991, 1996, and 1997-1999, and Deputy Prime Minister 1999-2002. Was Chairman of ANAP (Motherland Party).

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COUNTRY INFORMATION AND POLICY UNIT

17 - 23 March 2001

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