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REPORT OF FACT FINDING MISSION 11– 20 FEBRUARY 2008

TURKEY

23 JULY 2008

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Introduction

- i Country of Origin Information (COI) Service of the UK Border Agency produces information about conditions in countries which generate asylum seekers to the UK, for use by officials involved in the asylum / human rights determination process. COI Service carried out a fact finding mission to Turkey from 11–20 February 2008 to obtain information regarding specific issues which arise in relation to asylum applications from Turkish nationals, not available from existing published sources.

TERMS OF REFERENCE

- ii The terms of reference for the fact-finding mission were to obtain information regarding:
 - the position of women in relation to the issues of domestic violence, rape / sexual assault and honour killings;
 - the treatment of prisoners and detainees;
 - the position of children in relation to the issues of births out of wedlock, child labour and access to education

METHODOLOGY

- iii This report has been compiled from information obtained from a range of different sources interviewed while visiting the country. Some published sources are also referred to in the report in order to provide contextual information. The report does not include any UKBA opinion or policy.
- iv The mission team was based in Istanbul and Ankara and held meetings with a number of individuals and organisations with detailed knowledge of the issues researched. These included representatives from Government, international organisations, NGOs and legal organisations which were chosen with the aim of presenting the most comprehensive range of views and knowledge of the issues in the time available. The choice of sources interviewed was also determined by availability. A list of the sources interviewed is included in the Contents section.

The report does not seek to be a comprehensive survey of the issues researched. Rather, it is a compilation of the views obtained from the individuals and representatives of organisations interviewed, all of whom are clearly identified. The information provided by the sources has been reported as told, without further analysis or verification. The report should be used in conjunction with the latest available COI Report on Turkey published by the Country of Origin Information Service.

- v All individuals and organisations interviewed by the mission team were advised of the purpose of this report and care has been taken to present their views in an accurate and transparent way. Each was sent a list of outline questions in advance of their meeting (see Annex E). Every interlocutor has seen the note of their interview in draft form, made amendments where necessary, and given explicit consent for it to be

published. Some sources asked to remain anonymous and, in these cases, an agreed descriptor has been used.

- vi The agreed notes of every interview (statements of sources) are included in the second part of this the report. The first part of the report is compiled from information taken directly from these notes, collated and organised under the headings for the main themes researched.
- vii The programme of meetings for the mission was arranged by the British Embassy in Ankara; COI Service is very grateful for the assistance and support provided.

Country of Origin Information Service
UK Border Agency
Apollo House
36 Wellesley Road
Croydon CR9 3RR
United Kingdom

Email: cois@homeoffice.gsi.gov.uk

Website: http://www.homeoffice.gov.uk/rds/country_reports.html

ADVISORY PANEL ON COUNTRY INFORMATION

- viii The independent Advisory Panel on Country Information (APCI) was established in 2003 to make recommendations to the Home Secretary about the content of the UK Border Agency's country of origin information material. The APCI welcomes all feedback on the UKBA's COI Reports, Key Documents and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk
- ix In the course of its work, the APCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. The APCI may or may not have reviewed this particular document. At the following link is a list of the COI Reports and other documents which have, to date, been reviewed by the APCI: www.apci.org.uk/reviewed-documents.html
- x Please note: It is not the function of the APCI to endorse any UKBA material or procedures. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

Advisory Panel on Country Information

Email: apci@homeoffice.gsi.gov.uk

Website: www.apci.org.uk

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1. Women

- 1.01 The Constitution of the Republic of Turkey, under Article 10, states that,
- “All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.” [24]
- 1.02 Freedom House, in their ‘Countries at the Crossroads 2007’ report, noted that “Women’s rights in Turkey are not fully realized in the cities and are observed even less in rural districts. Although the legal framework is strong, women still face discriminatory practices. NGOs and the Ministry for Women and Families report that about a third of women in Turkey are victims of violence.” [25]
- 1.03 In a recent article in the Turkish Daily News, published on 8 February 2008, it was stated: “More than half of the women in Turkey aged between 25 and 29 do not work, a recent survey by the Turkish Confederation of Employers’ Unions (TİSK) has revealed, and as many as 60 percent of women aged between 15 and 29 do not attend school.” [26]

DOMESTIC VIOLENCE

- 1.04 According to the organisation Women’s Aid, “Domestic violence is physical, sexual, psychological or financial violence that takes place within an intimate or family-type relationship and that forms a pattern of coercive and controlling behaviour. This can include forced marriage and so-called ‘honour crimes’. Domestic violence may include a range of abusive behaviours, not all of which are in themselves inherently ‘violent’. ” [23]
- 1.05 In a World Bank 2003 report ‘Bridging the Gender Gap in Turkey’ it was noted that “Domestic violence, which primarily takes the form of wife battering, also includes other physical, verbal, psychological and sexual violence including incest and marital rape... Studies indicate that physical violence against women in the family can take various forms including pinching, punching, kicking, striking against walls, slapping, and beating using a variety of instruments, and ultimately killing.” [27]
- 1.06 Furthermore, the 2003 World Bank report noted that “Forced and early marriages are themselves forms of domestic violence. Often, they also function as a foundation for violence-ridden family lives... These marriages cannot be registered as official marriages... Not only is this a union that has no legal validity in Turkey, it is, under Turkish law, a punishable crime to have or to conduct a religious marriage in the absence of a legal registration.” [27]
- 1.07 The US State Department Human Rights report on Turkey 2007, published on 11 March 2008, noted that;

“The law prohibits rape, including spousal rape; however, the government did not effectively enforce the law. Victims often waited days or weeks to report incidents for fear of embarrassment or reprisals, which hindered the possibility of effective prosecution of assailants. Experts worked during the year to convince the government to accept psychiatric victim reports as alternative forms of evidence. Cases of rape were underreported. Violence against women, including spousal abuse, was a serious and widespread problem. The law prohibits violence against women, including spousal abuse. The government did not effectively enforce the law. Domestic human rights organizations reported that these measures were partially effective; more women called the police emergency hotline to report domestic violence and went to police stations to file abuse reports” [28a]

- 1.08 The fact finding mission interviewed Women for Women’s Human Rights – New Ways (WWHR), an independent women’s NGO, which was founded in 1993 with the aim of promoting women’s human rights on the national, regional and international levels. [4] WWHR reported that domestic violence occurred throughout Turkey and within different social, economic, and ethnic groups. WWHR did not record statistics of incidents of domestic violence. [S1.2]
- 1.09 On the issue of human rights violations against women, Ms Douglas-Todd, resident advisor to the Justice and Home Affairs (JHA) in Turkey, reported that this was an issue across Turkey with incidents ranging from domestic violence right through to honour killings. Ms Douglas-Todd said that, traditionally, Turkey was a patriarchal society. In many cases of domestic violence or other human rights abuses against women, individual cases would be referred by the police – who were often not trained in handling women’s issues – back to the family to deal, as traditionally the policy in Turkish society was not to break families up. Moreover, it was very difficult for women to get out of a domestic violence situation, as many were not economically independent. [S18.7]
- 1.10 The Social Services and Child Protection Agency (SHCEK) said that most cases of domestic violence in Turkey involved women who suffered violence from their husbands. SHCEK advised that, in Turkish society, men were seen as the dominant power and the use of violence against their wives was culturally condoned. [S11.4]
- 1.11 The EU Commission Delegation to Turkey (which represents the European Commission on the diplomatic and political level) advised that domestic violence was more common in the South Eastern region, but was a problem throughout the whole country. In this region, there was less access for women to education, judicial and social services. The EU delegation also cited the example of the city of Urfa, where women were particularly vulnerable to domestic violence as a result of strong tribal bonds and a lack of shelters. [S19.2]
- 1.12 In a Norwegian report of a fact-finding mission to Turkey (7-17 October 2004), made public in February 2005, Ms. Nebahat Akkoç and the other women’s rights activists stated that violence against women was endemic all over Turkey and not limited to ‘backward’ parts such as Eastern Anatolia. It appeared, however, that the problem was especially grave in traditional areas, where tribal customs still played an important role in everyday life. Ms. Zülal Erdogan and Ms. Remziye Tanrýkulu from the Diyarbakýr Bar

Association supported this view and pointed out that there were relatively more cases in conservative, Kurdish families in the Southeast and among migrants from the Southeast living on the outskirts of the metropolitan areas. [35] (p32)

- 1.13 Fatma Sahin is an AKP MP for Gaziantep and National Chairwoman of the Justice and Development Party Women's branch. From 2002-7 Ms Sahin chaired the Parliamentary Enquiry into Honour Killings. She was also the author of a report on honour killing in 2006 and had been Chair of a reserved committee in the Turkish parliamentary assembly which looked into issues of domestic violence against women and honour killing. Ms Sahin had also been involved in a research project working in collaboration with Civil Society Organisations, NGOs, and academics looking at the prevalence of domestic violence and honour killings in Turkish society over the last 5 years. [S20.1]
- 1.14 Ms Sahin explained that as part of the research project, a field study was conducted in five cities with high levels of incidents recorded, for example, Diyarbakir, Urfa and Van. One hundred people were interviewed as part of the project including women in shelters and men in prisons. Evidence collated indicated that there were similarities in the family structure from which cases were occurring, that is, in most cases, female victims of abuses were from low educational backgrounds who were not financially independent and who were not strong enough to take independent decisions in respect of their own lives. Incidents also occurred in communities who had migrated from the traditional sector (agricultural) to modern sector (industrial). There were also cases that occurred in major cities like Istanbul, Izmir and Ankara which were similar to those cases identified in countries like the UK. [S20.3]
- 1.15 Ms Sahin said that before carrying out the research, she had assumed that domestic violence and honour killings would be a cross regional issue but this was not the case - domestic violence and honour killings were more prevalent in migration receiving regions. [S20.2]
- 1.16 In 2006, SHCEK conducted a study into which regions applications for assistance from female victims of domestic violence were coming from. SHCEK said that, in descending order, the highest number of applications came from the Mediterranean region, the Aegean region, Anatolia, the Black Sea and the Marmara region. All these regions had similar numbers of cases. However, in analysing the figures further, SHCEK found that 67% of applications were from women living in major cities, 28% from women outside of major cities and 5% from women living in villages. [S11.9]
- 1.17 In the United Nations Special Rapporteur's report on violence against women, its causes and consequences, by Yakin Erturk, dated May 2006, it was noted that "The situation of women in the eastern regions is particularly worrisome. Their limited access to education, employment, information, health services and justice are major constraints on their citizenship rights, their ability to negotiate the terms of their existence and to obtain redress for their problems." [29a]
- 1.18 Mr Vedat Ersen Cosar, Head of the Ankara Bar Association explained that domestic violence cases cut across all social strata in Turkish society but, unfortunately, there were no definitive statistics available to identify which

particular social or geographical groups were particularly affected. He explained that this was why it was not possible to provide a concise answer about how widespread domestic violence in Turkey. Also the Ankara Bar Association was not aware of any statistics on cases of domestic violence brought to court or convictions. [S.6.2]

- 1.19 WWHR said that women were reporting cases of domestic violence more frequently than they used to. Thus, a rise in the number of reported cases was not necessarily indicative of a rise in actual cases occurring. [S1.5] Mr Cosar agreed that while the number of reported cases had increased, the figure was not necessarily indicative of an increase in the number of domestic violence/ female human rights violation cases in Turkish society but rather an increased awareness on the part of women regarding avenues of legal redress available to them and a greater willingness to file and pursue complaints. According to Mr Cosar, the general view was that incidence of domestic violence had declined. [S6.6]
- 1.20 Nevertheless, Mr Cosar suggested that suspected rates of domestic violence were likely to be higher than official figures. In the Eastern provinces this resulted from the low level of education and failings on the issue of registration. In the Western provinces, there was underreporting due to psychological pressures such as shame and worries about protecting the family and the future of the children, which prevented individuals from going public. The elements of poverty and lack of economic freedom were also significant factors. [S6W] SHCEK also said that there was a possibility of underreporting in cases of domestic violence and sexual assault. [S11.9]
- 1.21 Mr Cosar stated in his written submission that there were no facts on the number of cases of domestic violence/rape/sexual assault and honour killings in the last two years. However, civil society organisations such as his had made significant progress on the issue of domestic violence and, as a result of their efforts; they had raised awareness in women and had created a deterrent for men. [S6W]
- 1.22 Mr Ahmet Firat, Director General, and Zumra Yilmaz, Head of Department at the Directorate of EU Coordination, Ministry of Justice, stated that there was no data available regarding violence against women that reflected the position throughout the whole of Turkey. However, information was provided in the Parliamentary Study Report on Violence against Women and Children that was prepared in 2006. There was also a report by the National Population and Health Survey, as well as reports prepared by the Directorate General of Security. He confirmed that the Directorate General of Judicial Records and Statistics was responsible for identifying, collecting, classifying and evaluating statistical data that fell within the mandate of the Ministry of Justice. The Directorate General of Judicial Records and Statistics generated official statistics by transferring the data collected. [S10W]
- 1.23 The FCO have provided information from an article on domestic violence which appeared in the Turkish newspaper, The *Milliyet* on 8 June 2007. The newspaper quoted the Directorate-General of Policing crime statistics for 2005 and 2006 as showing that, in this two-year period, there were 333,237 crimes committed which had elements of violence against women. A Turkish woman suffered from violent crime once every 3 minutes, on average, during those two years; 1,985 women lost their lives and 56,445 women

were injured in these occurrences. (Information provided by the FCO, 29 May 2008.) [36]

- 1.24 In the same article it was recorded:

Occurrences increased in one year

In 2005 there were 46,612 instances of beatings, climbing to 71,564 in 2006. 36, 72 women were the victims of beatings.

In 2005 the number of instances of mistreatment of family members was 9, 901 and in 2006 17, 64. The total number of victims in 2005 and 2006 was 23, 683.

The number of instances of threat was 10,809 in 2005, rising to 28, 88 in 2006. The total number of women who were victims was 13,186 in total.

Whilst the number of women suffering from violence as 5,257 in 2005, it rose to 9,317 in 2006.

Moreover, whilst 8,773 women were injured in 30,621 suicide attempts, 858 women lost their lives in 3,266 occurrences of suicide. [36]

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HONOUR KILLINGS

- 1.25 "Honour killing" is a practice whereby [generally] women are murdered by male relatives for allegedly bringing shame on their family name. Such shame may be incurred by matters such as adultery, having a child out of wedlock, or even being the victim of rape.

- 1.26 In the World Bank 2003 report 'Bridging the Gender Gap in Turkey' it was noted, "...honor crimes constitute another very severe form of violence against women. They occur mostly in the eastern and south-eastern regions of the country or among those who have migrated from these regions to urban areas. A proper definition of the honor crime is, the murder of a woman suspected of having transgressed the limits of sexual behaviour as imposed by traditions, for example engaging in pre-marital relationships or having extra marital affairs." [27]

- 1.27 The report of the Special Rapporteur on 'violence against women, its causes and consequences' by Yakin Erturk, dated May 2006, stated:

"Honour (namus) is an important value in Turkish society; it serves to reproduce the rigid control exercised over women and their sexuality. ... Accordingly, the family must ensure that the code of honor is observed by its members as transgressions (or mere rumors of such transgressions) are seen as 'stains' on the entire family. These stains may have to be cleansed at any cost, if necessary through murder." [29a] (Summary page2)

- 1.28 The Special Rapporteur added: "What distinguishes honour-related killings from other forms of violence against women is the way they are organized and executed. A family council, which may also include members of the extended kin, decides upon and organizes the murder. A young man or boy is often assigned to commit the crime because it is hoped that the young offender will receive a more lenient sentence. Such murders are often presented as acts of retribution against a woman who supposedly committed an act of grave immorality. However, the demonstrative manner in which

they are carried out reveals that they serve mainly to terrorize women as a group in order to uphold patriarchal privilege.” [29a] (page10)

- 1.29 In the same report of 2006 by the Special Rapporteur, it was noted that, “In the past, courts granted reduced sentences for honour murders considering that the perpetrators had been unjustly provoked by the victim’s ‘inappropriate behaviour’. Article 82 of the Penal Code now stipulates that killings in the name of töre have to be considered as a case of aggravated homicide and the perpetrator(s) must be sentenced to life imprisonment.” [29a] (Page 16)

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Incidence of Honour Killings

- 1.30 Women for Women’s Human Rights – New Ways (WWHR) said that honour killings tended to be more prevalent in South East and Eastern areas of Turkey (e.g. Diyarbakir and Van), particularly in Kurdish ethnic/ religious communities. However, WWHR noted that honour killings were not confined to this section of the community/ geographical area; the issue also affected women such as those in immigrant communities in Istanbul. WWHR also advised that honour killings were unknown in the Alevi community and certain geographical areas, including provinces in the East such as Tunceli. [S1.9]
- 1.31 Ms Fatima Sahin AKP MP for Gaziantep and Deputy Chairman responsible for AKP Women’s Branch and the author of the report on Honour Killings 2006 was asked how widespread honour killings were in Turkey. Ms Sahin advised that previously the groups most affected had been those from the South and South Eastern regions but that she had since observed that cases also stemmed from the Black Sea region. According to Ms Sahin, women affected by honour killings in the Black Sea region were those from a low educational background. [S20.10]
- 1.32 In the Norwegian report of fact-finding mission to Turkey (7-17 October 2004)’ made public in February 2005 it was also noted that like other forms of violence against women, honour killings happen in all parts of the country. They appear to be more frequent in the Black-Sea Region and in Kurdish inhabited areas in the Southeast, where tribal customs play an important role in everyday life. From the Sunni-dominated areas of central-Anatolia (such as Konya) however, fewer cases are reported...Just like other kinds of violence within the family, no comprehensive recording or statistical monitoring is conducted as to the prevalence of honour killings.” [35] (p33-34)
- 1.33 According to Mr Tuzecan honour killings or rather ‘customary killings’ as they are called in Turkey were very prevalent amongst the Kurdish community because of tribal structures. Mr Tuzecan also explained that honour killings were often presented as forced suicides. In Batman, for example, the rate of forced suicides was very high but these were not taken seriously as the girls were often never officially registered so to all intents and purposes did not officially exist. [S2.6] The EU Commission Delegation also mentioned that some girls from rural areas were not registered or did not have identity cards, which meant that if they were the victims of honour killings they could often not be traced by the authorities. [S19.4]

- 1.34 On the issue of reporting incidences of honour killings, WWHR stated that the number of reported honour killings had increased - not because of an increased number of killings but rather an increased willingness to report cases to the authorities. WWHR said that, although still an issue in Turkish society, the number of cases of honour killings did not appear to be on the rise. However, because of increased reporting and the fact that honour killings were often recorded as suicides (i.e. where girls were forced by their families to kill themselves), it was not possible to be definitive about the level of incidence. [S1.8]
- 1.35 The EU Commission Delegation said that with the new Turkish Penal Code which entered into force in 2005, honour killings are now dealt with under article 82, as an aggravated ground for homicide. However, because honour killing crimes were not specifically profiled in statistics recorded for crimes committed under Article 82, it was difficult to get a precise picture of just how prevalent the honour killing issue actually was. Also, a particular profile of honour killing was forced suicide which was often dealt with in crime statistics as a suicide, again making statistical analysis on prevalence of honour killings in Turkey difficult. [S19.3]

For article 82 see – [Written answers – Ahmet Firat – Director General and Zumra Yilmaz](#) [S10W]

- 1.36 An *International Herald Tribune* article dated 12 July 2006 noted that, “...every few weeks in this Kurdish area of southeast Anatolia [Batman], which is poor, rural and deeply influenced by conservative Islam, a young woman tries to take her life. Others have been stoned to death, strangled, shot or buried alive. Their offences ranged from stealing a glance at a boy to wearing a short skirt, wanting to go to the movies, being raped by a stranger or relative, or having consensual sex. Hoping to join the EU, Turkey has tightened the punishments for ‘honour crimes’. But rather than such deaths being stopped, lives are being ended by a different means. Parents are trying to spare their sons from the harsh punishments associated with killing their sisters by pressing the daughters to take their own lives instead.” [37]
- 1.37 The same article further noted that, in the previous six years, there had been 165 suicides or suicide attempts in Batman, 102 of them by women. As many as 36 women had killed themselves since the start of the year (2006), according to a United Nations official's finding on violence against women. There had been so many unnatural deaths that the United Nations dispatched a special envoy to the region last month to investigate. After a fact-finding mission, the envoy, Yakin Erturk, concluded that while some suicides were authentic, others appeared to be honour killings disguised as a suicide or an accident. [37]

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LEGISLATIVE FRAMEWORK IN RELATION TO CRIMES OF VIOLENCE AGAINST WOMEN

- 1.38 World Organisation against Torture (OMCT) in their 2003 report, Violence against Women in Turkey stated that, “Turkey is a State Party to the Convention on the Elimination of All Forms of Discrimination against Women. In General Recommendation 19, the Committee on the Elimination of Discrimination against Women concluded that gender-based violence, including torture, is a form of discrimination against women as defined under article 1 of the Convention on the Elimination of All Forms of Discrimination against Women. Turkey ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 29 October 2002.” [19]
- 1.39 The OMCT 2003 report noted “several noteworthy changes” to the Civil Code to reflect a new approach to gender equality, as follows:
- 1) The husband is no longer the head of the family; spouses are equal partners, jointly running the matrimonial union with equal decision-making powers;
 - 2) Spouses have equal rights over the family abode;
 - 3) Spouses have equal rights over property acquired during marriage;
 - 4) Spouses have equal representative powers;
 - 5) The concept of ‘illegitimacy’ formerly used to designate children born out of wedlock has been abolished; custody of children born outside marriage lies with the mother. The new Civil Code has also raised the legal minimum age for marriage to 18 (it was formerly 15 for women and 17 for men), gives...the same inheritance rights to children born outside the marriage, gives single parents the right to adopt children, and gives women the right to retain their maiden names when hyphenated with that of their spouses. [19]
- 1.40 At the 32nd session of CEDAW in January 2005, a report by Women for Women’s Human Rights – New Ways, endorsed by the Turkish Penal Code Women’s Platform, was submitted stating that:
- “One of the most significant amendments in the new Civil Code (adopted by the Parliament in 2001) has been the adoption of the ‘Regime Regarding the Ownership of Acquired Property’ as the de facto property regime governing married couples. This enables the equal sharing of all acquired property during marriage, and as such recognizes the value of the unpaid work of women that goes into the reproduction of daily life of the family.” [4b]

General legislative provisions

- 1.41 The UN Special Rapporteur 2006 report on violence against women, its causes and consequences, by Yakin Erturk, stated that:
- “On 26 September 2004 the Turkish National Assembly adopted Reforms of the Penal Code, which entered into force on 1 June 2005. The reforms successfully removed the most obvious patriarchal notions from the law. Rape and sexual assault, which were previously understood as ‘crimes against public decency and family order’, are now defined as ‘crimes against sexual inviolability’. Marital rape has been criminalized (subject to the victim’s complaint) and penalties for using violence against the spouse or family members have been strengthened.” [29a] (page16)

- 1.42 In a written statement, Mr Ahmet Firat, Director General and Zumra Yilmaz, Head of Department – Directorate of EU Coordination, Justice Ministry made the following comments regarding the legal framework in relation to violence against women:

“In recent years, numerous positive steps towards preventing violence against women and protecting the rights of women have been taken. Legal reforms aimed at women and developed with the contribution of public institutions and women’s NGOs have been put into practice. The **Family Protection Law No. 4320** came into force in 1998. This law was **amended in 2007**. Various arrangements were made in the Turkish Civil Code enacted in 2002 and the Turkish Penal Code (TPC) enacted in 2005 with a view to combating violence against women. The Family Protection Law aims to prevent violence, protect victims (women and children, in particular), and punish persons resorting to violence. In this regard, 166 Family Courts were established and 157 of them are currently in operation. Through the amendments made to the Family Protection Law in 2007 the definition of a ‘victim’ was clarified and the scope of the protection provided to victims was expanded. Taking into account that other family members alongside the spouse could also be exposed to violence the provisions of the article were broadened. The scope of the prohibition to use alcohol and drugs and measures imposed on the person resorting to violence as well as the measures to be taken to protect the victim of violence have been broadened.

“Attention has been drawn to the need for judges to take action *sua sponte* (Latin for “on its own will or motion.” This term is most commonly used to describe a decision or act that a judge decides upon without having been asked by either party.”) even if no claim for alimony has been made. In order to facilitate the ways for seeking remedy for victims the law has provided for a broader scope of exemption from fees as well as the abolishment of fees for actions to be carried out during proceedings. On the other hand, the system and arrangements introduced in the new Turkish Penal Code place the individual at the centre. With a view to underscoring the importance attached to the individual, ‘crimes against humanity’ have been regulated in the special provisions. In this context, ‘crimes against sexual inviolability’ that are mainly committed against women have been provided for under the title of ‘Crimes against Individuals’ thus upholding the woman’s individuality.”
[S10W]

- 1.43 Mrs Olcay Bas, Head of Department and Directorate General for Women’s Status stated that, in terms of legal avenues of redress available to female victims of human rights violations, the 4320 law on protection of the family was introduced in 1998 and provided women with the necessary legal remedy. Following a series of meetings between public sector organisations and the legal representatives of NGOs, under the co-ordination of the Directorate General on the Status of Women, a Bill to make changes to the law was drafted, which would bring about the removal of some problems in the implementation of the law, which had been widely implemented since the date it came into force. The Bill was passed by the General Chamber of the Turkish Grand National Assembly and came into force on 4 May 2007.
[S13.3]

- 1.44 Mrs Bas explained that with the changes that were made, the definition of a victim of domestic violence was interpreted more broadly and the implication

that domestic violence occurred only as violence between spouses was removed. Mrs Bas explained that it was considered that the definition of those subject to domestic violence could include those who were not living under the same roof, individuals living in separate homes because they were divorced or separated, or individual family members and children who were in fact living separately despite being married because they may also suffer from domestic violence. Relying on Article 41 of the Constitution (Protection of the Family) a measure entitled “Application for Treatment or Examination at a Health Facility” was also put in place, with the intention of preventing violence which had been or would be perpetrated, through treatment and assessment as to whether the person perpetrating the violence was in any way incapacitated. And it was arranged that administrative work carried out in relation to applications made and the execution of decisions given within the scope of the law should not be chargeable, in order to avoid excessive costs in legal proceedings for those who victims of domestic violence were. [S13.4]

- 1.45 Mrs Bas advised that the Directive on the Implementation of the Law on Family Protection, also prepared under the co-ordination of the Directorate-General on the Status of Women, with the participation of relevant public sector organisations and legal representatives of civil society organisations, came into force after publication in the Official Gazette No: 26803 on 1 March 2008. With this Directive, the preventative measures outlined in Law no: 4320 were arranged in a detailed way and clarity was brought to concepts such as “domestic violence” “informing” and “complaint” and the issues of bringing alimony and precautionary measures into force and use of correct procedures were elaborated in such a way as to show citizens and implementers of the law how it should be done. [S13.5]
- 1.46 Mrs Bas said that if a violent spouse of a woman who is a victim of violence, on her complaint, or on the complaint of a third person, can be given of remaining away from the home for 3-6 months. [S13.6]
- 1.47 Women for Women’s Human Rights – New Ways (WWHR) said that the Penal Code reform of 2004 contained amendments in 35 articles increasing sentences for perpetrators of crimes against women including domestic violence, sexual assault and rape in line with international standards. For example, a perpetrator of a sex abuse crime, if successfully prosecuted, could receive a sentence of 5-20 years. In WWHR’s view, implementation of the new Penal Law would take some time, but some good examples of successful prosecutions under the new law had been documented. More generally, WWHR said that there has been an increasing number of prosecutions of cases relating to domestic violence/ sexual assault/ honor killings. The change is not dramatic but is noticeable [S.1.13]
- 1.48 Ms Senay Ertem, Head of the Board for Women’s Rights (within the Bar Association), was asked about the legislative framework in place for redress against human rights violations against women. She advised that that new legal mechanisms were in place and implementation was improving slowly. However, the regulations pertaining to law 4320 on protection of the family and its changes had been put into effect immediately, and in this way women and family members who suffered every kind of violence were provided with a direct point of legal protection, allowing them to receive quick responses to their enquiries and applications for protection. [S6.7]

- 1.49 Ms Ertem said that a number of important changes still needed to be made to the family court system and there was a need for improvements in implementation, procedures and attitudes to make the courts more sensitive to the plight of domestic violence victims. Amendments to the legislative framework in relation to sentences for crimes of domestic violence, in addition to the changes which related to the protection of women had also brought in changes to address economic threats such as giving women who were facing violence the right to demand a share of their spouse's salary or a part of household expenditure. [S6.7]
- 1.50 Mr Vedat Ersen Cosar, President of the Ankara Bar Association stated, in his written submission, that in general, the new Penal Code provided effective arrangements within a broad framework on the issue of domestic violence. He cited the recognition of rape within the family as a crime and the acceptance of custom (töre) killing as an aggravating factor as striking examples of this. He noted that, with Law No: 4320 relating to the protection of the family, the right to apply to the Family Court to prevent domestic violence was recognised and the protective measures to be applied were also described. [S6W]
- 1.51 The EU Commission Delegation also said that the necessary legislation was in place to give redress to domestic violence victims, which included amongst other things a requirement for prosecutors to investigate any allegations made, which was a huge improvement. However, implementation of the legislative framework was still an issue. [S19.5] The 4380 family law had also been extended to provide security measures to victims whereby victims of domestic violence or other abuse could apply to have a restriction order placed on the violent spouse. [S19.6]
- 1.52 Mr Temucin Tuzecan, Director of the 'Stop Violence against Women' campaign noted that there had been a change in the law on domestic violence since 1997 but implementation was slow. [S2.4]
- 1.53 WWHR said that despite Turkey being a large country physically with limited financial resources, positive developments were being taken forward in the area of women's human rights and will continue. A legislative framework was in place but the implementation was slow. Also, organizations representing women's interests had extended to parts of the country where they did not used to be. [S1.16]

For Family Law 4320 see – [Annex C](#)
 For Legal Aid Regulations see – [Annex D](#)

Honour killings

- 1.54 The EU Commission Delegation said that a new Turkish Penal Code entered into force in 2005 and honour killings were now dealt with under article 82 as an aggravated ground for homicide. [S19.3]
- 1.55 Mr Ahmet Firat, Director General and Zumra Yilmaz, Head of Department – Directorate of EU Coordination, Justice Ministry noted in their written submission that: "Article 81 of the TPC (Turkish Penal Code) regulates the crime of murder. Article 82 provides the conditions that must be satisfied to qualify as murder and include murder committed:

- Against any relative in the ascending line (such as father, mother etc.) or the descending line (such as children, grandchildren etc.) or the spouse or sibling (TPC, Article 82(d));
- Against a woman known to be pregnant (TPC Article 82(f)); or
- With the motive of traditional practices (Article 82(k)).

They noted that “In order to prevent the wrong application of tort claims in killings committed between relatives referred to as ‘honour killings’ (‘töre’ or ‘namus’), pursuant to the legal arrangements made in Article 29 titled ‘Tort’, the crime must be committed under the effect of vehement and severe emotional distress inflicted by a tort. Accordingly, for instance, any killing committed by the father or brother of a woman exposed to sexual assault will not be able to benefit from a reduced sentence based on a tort claim.” [S10W]

- 1.56 They further stated that: “Article 38(2) of the TPC provides for an increased punishment in the event of any solicitation to commit a crime by using one’s authority arising from a relationship in the ascending line or descending line. In cases where children are solicited to commit a crime, the article provides that, irrespective of any relationship in the ascending line or descending line, an increased sentence shall be applied. This way, the sentences to be imposed on those who solicit children to commit a crime are increased.” [S10W]

ENFORCEMENT OF LEGISLATION

- 1.57 Mr Temucin Tuzecan, Director of the Stop Violence against Women campaign, advised that the Ministry of State had been pushing hard for the effective implementation of the new legislative framework and the training of police, judges and prosecutors was underway. [S2.4]
- 1.58 Women for Women’s Human Rights – New Ways (WWHR) said that a study undertaken in 1996-98 suggested that women did not trust state institutions in handling complaints of domestic violence because the police were reluctant to investigate such cases. This position had changed and women were more willing to report cases to the police. WWHR said that the police were now more willing to investigate cases of abuse than they used to be but this was dependent on where a woman lived and there was no consistency of response from the police on women’s human rights violations. [S1.6] More generally, WWHR said that there had been an increasing number of prosecutions of cases relating to domestic violence/ sexual assault/ honour killings. The change was not dramatic but was noticeable. [S.1.13]
- 1.59 Ms Jennifer Douglas-Todd, Resident Twinning Advisor, Independent Police Complaints Commission Project Team said that traditionally Turkey was a patriarchal society. In many cases of domestic violence or other human rights abuses against women, individual cases would be referred by the police - who were often not trained in handling women’s issues - back to the family to deal, as traditionally the policy in Turkish society was not to break families up. [S18.7]
- 1.60 Mr. Tuzecan said that the police were more likely to take forward reported cases of domestic violence if there was physical evidence of violence such as physical marking of a beating. The police were less lacking with regard to

taking into account the psychological effects of domestic violence which were generally not accepted or considered as evidence. However, when evidence of physical violence was strong, punishment of the perpetrator could be as much as 8-10 years imprisonment and in cases of murder a life sentence. [S2.5]

- 1.61 According to Mr. Tuzecan, reluctance of women to bring forward cases of human rights violations was a common problem. Mr Tuzecan said that failure on the part of female victims of human rights violations to formally file complaints was also because some women were not aware of their rights of redress or how the complaints system worked. Mr Tuzecan said the newspaper he worked for, The Hurriyet wanted to be a platform for making the women of Turkey aware of their basic human rights and the methods of redress available to them. [S2.9]
- 1.62 In Mr. Tuzecan's opinion, until there was a shift in societal attitudes regarding the treatment of women and until there was greater awareness amongst women about how to deal with relationship problems domestic violence would remain an issue. However, Mr. Tuzecan was also optimistic as the government was beginning to implement the laws on domestic violence that had been put in place by the previous government because of Turkey's desire to move into the EU. [S2.11]
- 1.63 Mr Vedat Ersen Cosar, President of the Ankara Bar Association, said that there had been a number of successful prosecutions of domestic violence/ female human rights abuse cases and that the family courts were also producing positive results. Mr Cosar said that while the number of reported cases had increased, the figure was not necessarily indicative of an increase in the number of domestic violence/ female human rights violation cases in Turkish society but rather an increased awareness on the part of women regarding avenues of legal redress available to them, including a greater willingness to file and pursue complaints. According to Mr Cosar, the general view was that incidence of domestic violence had declined. [S6.6] WWHR agreed that women were reporting cases of domestic violence more frequently than they used to and that the rise in the number of reported cases was not necessarily indicative of a rise in actual cases occurring. [S1.5]
- 1.64 Regarding the effectiveness of enforcement of the legislative provisions on domestic violence was, Mr Cosar said in his written submission that, although judges had different viewpoints on the implementation of these measures, he was able to say that, in general they were implemented. [S6W]
- 1.65 The EU Commission Delegation said that the approach of the courts in determining cases of domestic abuse against women was questionable. Some good judgments made it to the news but other judgments were discriminatory and not necessarily commensurate with the crime of the husband. Implementation of the legislation by the judiciary therefore varied from court to court and there was no uniformity. [S19.5]
- 1.66 When asked how many incidents of domestic violence, rape / sexual assault and honour killings had been brought to court in the past two years, and, in each of these categories, how many cases there been where the defendant was found guilty, Mr Ahmet Firat, Director General and Zumra Yilmaz, Head

of Department – Directorate of EU Coordination, Justice Ministry noted in their written submission:

“In 2005, a total of 439 lawsuits were filed pursuant to Law No. 4320 at criminal courts. In the same year, 323 of these cases were concluded and 202 suspects were convicted. In 2006, a total of 646 lawsuits were filed and 669 cases, including lawsuits filed in the same year and cases transferred from the previous year, were concluded whereby 574 suspects were convicted.” [S10W]

- 1.67 “A total of 14 lawsuits filed in 2006 pursuant to Article 82(k) of the TPC on the grounds of honour killings were transferred to 2007. In 2007, 5 new lawsuits were filed. Out of the total 19 cases 4 were concluded until October 2007 and 5 male suspects above the age of 18 were convicted. Out of these 5 men, 3 were sentenced to imprisonment and 2 were sentenced to imprisonment and a judicial fine.”

For crimes of sexual violence, Mr Firat and Mrs. Zumra Yilmaz stated in their written submission, that:

“In 2006, 4,419 lawsuits were filed pursuant to Article 102 [sexual assault] of the TPC. A total of 6,287 cases including the cases transferred from 2005 were concluded out of which 4,418 cases ended in conviction.”

“In 2006, 2,414 lawsuits were filed pursuant to Article 103 [sexual abuse against children] of the TPC. A total of 2,337 cases including the cases transferred from 2005 were concluded out of which 1,607 cases ended in conviction.”

“In 2006, 1,234 lawsuits were filed pursuant to Article 104 [sexual intercourse with a minor] of the TPC. A total of 2,373 cases including the cases transferred from 2005 were concluded out of which 953 cases ended in conviction.”

“In 2006, 3,919 lawsuits were filed pursuant to Article 109 [deprivation of liberty] of the TPC. A total of 4,964 cases including the cases transferred from 2005 were concluded out of which 3,326 cases ended in conviction.”

“In 2006, 3,451 lawsuits were filed pursuant to Article 232 [Ill-treatment] of the TPC. A total of 3,442 cases including the cases transferred from 2005 were concluded out of which 2,218 cases ended in conviction.”

“In 2006, 192 lawsuits were filed pursuant to Article 233 [breach of obligation derived from Family Law] of the TPC. A total of 117 cases including the cases transferred from 2005 were concluded out of which 52 cases ended in conviction.”

“In 2007, 787 lawsuits filed pursuant to Article 105 of the TPC on the grounds of sexual harassment were transferred to 2007. In 2007, 2,642 new lawsuits were filed. The Supreme Court of Appeals reversed 17 cases. Out of the total 3,446 cases 1,352 were concluded until October 2007 out of which 620 ended in conviction. Imprisonment was ruled in 111 cases, a judicial fine in 375 cases, imprisonment and a judicial fine in 11 cases, and the imprisonment was converted to a fine in 47 cases, an injunction in 13 cases, and was suspended in 63 cases.” [S10W]

- 1.68 When asked whether there were any official bodies in place responsible for monitoring or following up complaints of human rights violations against women, Mr Temucin Tuzecan, Director of the Stop Violence Against Women campaign, advised that there was no constitutional body in place for this purpose. He further added that, Central Government had an official body with regional organisations dealing with children and women in need but because of the ingrained civil service mentality in Turkey, these did not open outside of core 9 – 5 office hours. [S2.7] WWHR also said that there was no constitutional body to follow up complaints of domestic violence, sexual assault or honour killings and that cases must be reported to the police. [S1.5]

TRAINING OF POLICE AND SECURITY FORCES

- 1.69 Asked whether there had been any change in the attitude of the law enforcement bodies in handling domestic violence cases, the EU Commission Delegation commented that it was a mixed picture and they still received complaints about the police. The younger generation of police officers was more educated and better understood issues surrounding domestic violence, but the older generation was still very traditional in its approach. Training on women's human rights issues was taking place across the country but whether the Gendarme and local village guards had become more aware of and sensitive to women's issues remained to be seen. There was no constitutional body in place to follow up complaints against the police or other law enforcement bodies. [S19.7]
- 1.70 The EU Commission delegation explained that the police were not necessarily proactive but were receiving more training on women's human rights issues. The EU delegation could not say if there was an improvement in police attitudes on cases of abuse against women as, for example, some were still telling domestic violence victims to go home and reconcile matters instead of investigating allegations made. There was also still the problem of underreporting of human rights abuses by women, particularly in rural areas [S19.4]
- 1.71 According to Women for Women's Human Rights – New Ways (WWHR), training for police and public prosecutors on women's issues surrounding domestic violence and sexual assault had improved. Although there was no standard core curriculum in police colleges regarding women's issues, some training was taking place for judges, prosecutors and police officers regarding handling women's cases, even though these were limited in scope and time. [S1.7]
- 1.72 Ms Sahin, AKP MP for Gaziantep, advised that the in-service training programme of more than 40000 police officers aimed to increased police awareness of sensitive women's issues, required serious monitoring in order to assess actual impact. [S20.9]
- 1.73 Ms Senay Ertem, Head of the Board for Women's Rights (within the Bar Association) said there had been some improvement with regard to police attitudes to handling domestic violence cases. As a result of targeted police awareness-raising and education programmes and increased training for police working at the points of application, carried out at regular intervals, the effectiveness of police performance had improved. The police were

attaching greater importance to investigating complaints from women and approaching them with greater sensitivity. [S6.9]

- 1.74 Mr Temucin Tuzecan, Director of the Stop Violence against Women Campaign, said the government had been pushing hard for the effective implementation of the new legislative framework on domestic violence and the training of police, judges and prosecutors was underway. Changing very strong cultural habits was a difficult and slow process. But increased police training on women's issues combined with a new enlightened younger generation of police officer who had a better awareness and understanding of human rights had led to visible improvements in the police handling of cases of women's human rights violations. [S2.4]
- 1.75 The *Kathimerini* English Edition news of 27 November 2007 reported on a government training program to sensitise police about domestic violence and protection of women from abusive partners. Under this project ,sponsored by United Nation Population Fund, 40,000 police officers will be trained to assist women seeking protection from violence in 2008 and they will be tutored by 270 police instructors, who have themselves been in training since May [2007]. [38]

ACCESS TO THE COURT SYSTEM

- 1.76 The Constitution of Turkey provides for equality before the law for both men and women without discrimination. The provision, which is in Article 10, reads: "All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any other such considerations." [19] (page6)
- 1.77 When asked about women's access to court systems, Ms Zumra Yimaz, Head of the Directorate of EU Coordination, Justice Ministry, said that the right to seek a remedy is laid down in section two of the Turkish Constitution under 'Fundamental Rights and Duties'. Article 36 provides that: "Everyone has the right of litigation either as plaintiff or defendant before the courts through lawful means and procedure. No court shall refuse to hear a case within its jurisdiction". In light of this article, women and men alike have equal rights and freedoms and can therefore access the judiciary with equal ease. [S10W]
- 1.78 Ms Zumra Yimaz further added that, pursuant to the last paragraph of Article 1 of the Family Protection Law, all applications lodged at the Family Court for incidents of domestic violence, as well as the execution of the verdict, are exempt from fees. In addition, if individuals who wish to file a lawsuit in the civil courts for other reasons prove that they are poor by way of a document issued by the headman, they will be able to benefit from Articles 465 to 472 of the Code of Civil Procedure that govern 'judicial assistance.' [S10W]
- 1.79 Mrs Olcay Bas, Head of Department, Directorate General for Women's Status also said that there was no gender discrimination and both men and women had equal access to the justice system, including legal representation. [S13.14] Professor Fendoglu, President of Human Rights Presidency, Prime Ministry, agreed that the legislative framework, in line with EU standards, provided equal access to both men and women. [S17.10]

- 1.80 Women for Women's Human Rights – New Ways (WWHR) stated that, for women seeking redress against human rights violations and other issues, there were many women lawyers available who were active within the Bar Association, some of whom provided a free legal service for those unable to afford legal costs. [S1.14]
- 1.81 Mrs Bas said that in terms of access to women lawyers, there was a very high proportion of women represented in the judicial system. Women unable to fund taking their cases forward could apply to the Bar Association for legal aid. Cases brought before the court were treated on an equal basis. Turkey had signed up to the treaty to prevent discrimination against women and had made the necessary constitutional amendments to put this into effect. [S13.15] Mrs Bas said that, to ensure that victims of domestic violence did not face excessive costs, administrative work carried out in relation to applications made and the execution of decisions given within the scope of the law were not chargeable. [S13.14]
- 1.82 The EU Commission Delegation said that there were sensitive women lawyers available to handle women's cases. The presence of women lawyers was stronger in the major Turkish cities. However, in Anatolia they were fewer in number and in nine Turkish provinces there were no bar associations at all. Access to female lawyers was dependent on access to a good bar association and assistance on offer from NGOs. Legal financial assistance to victims of domestic violence unable to afford a lawyer was generally available and a lawyer assigned free of charge to those in financial difficulty, but the EU delegation was unable to comment whether this facility would be available in rural regions. [S19.9]
- 1.83 Regarding women's access to the court system, the EU Commission Delegation said that in principle, there was equal access for women but in practise especially in rural regions this was not the case. The Delegation said that in rural areas, women had less access to education and social services and often did not speak Turkish which restricted their access to legal remedies. In addition, though there was access to interpretation in the courts the quality of interpreters could not be guaranteed and some courts failed to assign interpreters to cases where they were required. Furthermore there was a general shortage of interpreters in Kurdish speaking areas and individuals from Kurdish areas were often represented by administrative staff working in the court. The use of such staff was clearly not adequate or legal. [S19.8]
- 1.84 WWHR said that some difficulties in access to the court/ legal services were experienced by women who were not literate or Turkish speaking; for example, women from Kurdish/ immigrant communities for whom access to an interpreter was 'a lottery'. However interpreters were available in cases brought forward to the court for anyone who did not speak the language. [S1.15]
- 1.85 When asked about access to justice for illiterate women, Mrs Bas advised that education in Turkey was compulsory until the age of 15 years. A project campaign, 'Come on Girls, to School', about providing financial support on the issue of girls being sent to school was being implemented by UNICEF and was becoming widespread across the whole of Turkey. For adults, literacy courses were organised by the state. There were many campaigns

being implemented, especially to increase the proportion of girl children attending schools. [S13.14]

- 1.86 Responding to the question whether women had equal access to courts to seek civil or legal remedy, Mr Ahmet Firat, Director General and Mrs. Zumra Yilmaz, Head of Department – Directorate of EU Coordination, Justice Ministry stated in their written submission: “The right to seek remedy is laid down in section two of the Turkish Constitution under ‘Fundamental Rights and Duties’. Article 36 provides that: “Everyone has the right of litigation either as plaintiff or defendant before the courts through lawful means and procedure. No court shall refuse to hear a case within its jurisdiction”. In light of this article, women and men alike have equal rights and freedoms and can therefore access the judiciary with equal ease. [S10W]
- 1.87 On the question of what provisions were provided in the legal system for illiterate women, Mr Firat and Mrs Zumra Yilmaz stated: “For criminal trials, Article 158(4) of the Code of Criminal Procedure provides that reports or complaints can be made orally provided that they are subsequently written and recorded. [S10W]
- 1.88 Written procedures constitute the essence of civil jurisdiction. Accordingly, lawsuits must be filed based on a statement of claim in writing. Lawyers and petitioners can assist illiterate women in composing their statement of claim or response to a statement of claim. Pursuant to Article 474 of the Code of Civil Procedure in oral prosecutions both parties can apply to the Court of Peace on their own will within the scope of their case. In such cases, the parties have to bring forward a statement of claim written by them containing the reasons and content of their claim and defence. In the event that they are illiterate, the judge will have the clerk write down the claims and defences as well as the reasons and evidence. [S10W]
- 1.89 Article 42 of the Regulations on the Clerk’s Office in Civil and Commercial Courts reads: “where illiterate persons apply to retrieve the originals or copies of the documents they presented to court such documents shall be presented after their identities are established and such identification is recorded in the case file.” [S10W]
- 1.90 When asked whether there were female lawyers able to take up sensitive cases and to what degree free legal assistance was provided to women who did not have the means to pay, Mr Firat and Mrs. Zumra Yilmaz stated in their written submission:
- “Pursuant to the last paragraph of Article 1 of the Family Protection Law all applications lodged at the Family Court for incidents of domestic violence as well as the execution of the verdict are exempt from fees. In addition, if individuals who wish to file a lawsuit at civil courts for other reasons prove that they are poor through a document issued by the headman they will be able to benefit from Articles 465 to 472 of the Code of Civil Procedure that govern ‘judicial assistance’. [S10W]

Judicial assistance comprises:

- Temporary exemption from all trial related fees and expenses.
- Payment of costs for witnesses and experts by the state as an advance payment.

- Exemption from providing collateral for the trial costs.
- Temporary exemption from notification fee and costs.
- Legal representation, where necessary, whereby the fee for such representation shall be paid later.
- Payment of all fees and costs collected by the execution office by the state as an advance payment.
- Temporary exemption from stamp duty.
- Temporary exemption of fees and duties for documents and copies issued by notary publics.

For criminal prosecutions, victims do not pay any prosecution fees. At the end of the prosecution, the suspect found guilty covers the prosecution fees." [S10W]

1.91 Asked whether lawsuits filed by both men and women were examined and treated on an equal basis, Mr Farit and Mrs. Zumra Yilmaz stated in their written submission that:

"Everyone is equal before law and there is no difference with regard to lawsuits filed by men or women. Public prosecutors and judges are obliged to practice the law equally to everyone. Equity before the law and justice is regulated in Article 3 of the Turkish Penal code as follows:

"Article 3.

- (1) The punishments and the security measures against the offender shall be proportionate with the gravity of the conduct committed.
- (2) For the purposes of implementation of the Penal Code, no one can be granted privileges nor be subject to discrimination based on his race, language, religion, sect, nationality, political or any other thoughts, philosophical belief, national or social origin, birth and economic or social status."

In addition, Article 2 of the Law on Execution of Penalties and Security Measures provides as follows:

- "(1) Rules regarding the execution of penalties and security measures shall be implemented without discrimination with regard to the race, language, religion, sect, nationality, political or any other thoughts, philosophical belief, national or social origin, birth and economic or social status of the convicts and without granting privileges to anyone.
- (2) No one may be subjected to cruel, inhuman, or degrading behaviour in execution of penalties and security measures." [S10W]

GOVERNMENT INITIATIVES

1.92 Fatma Sahin, AKP MP for Gaziantep and National Chairwoman of the Justice and Development Party Women's branch was asked about government initiatives in relation to domestic violence and honour killings. During 2002-7 Ms Sahin chaired the Parliamentary Inquiry Commission into Honour Killings and Violence against Women and Children, and was author of the subsequent report on these issues. [S20.1]

1.93 As noted in the written submission from Mr Ahmet Firat, Director General and Mrs Zumra Yilmaz, Head of Department – Directorate of EU Coordination Justice Ministry, the report of the Commission recommended measures to be taken as a national action plan for tackling human rights

violations against women. The Prime Minister issued a directive on communicating the measures to be taken to all public institutions and organizations in the form of an Official Circular [S10W]

- 1.94 Details of the circular, provided by Mr Firat and Mrs Zumra Yilmaz are reproduced below:

“CIRCULAR BY THE OFFICE OF THE PRIME MINISTER No. 2006/17:
RIGHTS OF WOMEN and CHILDREN

Since continuing violence against women and children in our country requires new and immediate measures to be taken, the Turkish Grand National Assembly has deemed it necessary to attend to this social wound and a Parliament Inquiry Commission has been established for Investigating the Reasons behind Honour Killings and Violence against Women and Children and Specifying the Measures to be Taken. This commission concluded its studies and prepared a comprehensive report on the measures to be taken regarding violence against women and children as well as honour killings. Recommendations on the measures to be taken, based on this report, have been communicated to all public institutions and organisations through the Official Circular issued by the Office of the Prime Minister No. 2006/17 and the duty of ensuring general coordination was assigned to the Directorate General of Social Services and the Child Protection Agency in the field of violence against children and to the Directorate General on the Status of Women in the field of violence against women and honour killings. Through this circular our Ministry has been assigned with the following duties:

- a) To provide training activities on the approach adopted by the judicial staff on the issue of violence against children, which is among the recommended “protective and preventive measures” under the chapter titled recommendations for solutions regarding violence against children, to eliminate the infrastructural deficiencies in correctional institutions, to complete the infrastructural deficiencies regarding the Law No. 5395 on the Protection of the Child, to establish of the necessary infrastructure pursuant to the obligation on audio-visual recording of the hearings of children who are victims of violence, to make the legal regulations necessary to make it a legal requirement to subject the perpetrators of violence, particularly, incest, to rehabilitation, the costs of which shall be borne by the perpetrators, to make the legal regulations necessary to simplify the legal procedures on the process of seeking remedies in favour of victims, and to prepare the documents and records free of charge, and to secure the “informed consent” of the child in his/her physical examination.
- b) To provide training on “social gender equality perspective” to the judicial staff and social workers who work for Family and Juvenile Courts under the Chapter titled Recommendations for Solutions regarding Violence against Women, to ensure that the social workers to be assigned to family courts pursuant to the Law No. 4787 on the Establishment, Duties and Trial Procedures of Family Courts are officially appointed to their respective positions as soon as possible, to make the legal regulations necessary to simplify the legal procedures on the process of seeking remedies in favour of victims, to provide health records free of charge, and to take protective measures respecting the privacy of

women in all stages throughout this procedure, to undertake the necessary work to adopt the “Framework Law on Equality” as soon as possible, to make the legal regulations necessary to effectuate the provision “Equality Before the Law” as provided in Article 10 of the Constitution, to take the necessary measures, to segregate the provisions in the current legislation which jeopardise equality, to replace the legal regulations aiming at controlling the woman’s body, thus violating the human rights of women, to make changes in the regulations provided in the Family Protection Law, to make regulations in the Law on Political Parties which support participation of women in politics.

- c) To make the necessary regulations in line with the obligations under the law and international conventions in the field of honour killings, to provide professional training to reflect the change in the conception in the laws to the practice.

The studies undertaken by our Ministry are communicated to the coordinating authorities quarterly within the framework of implementation of the Circular. In this context, the “Family training programme aiming at the 0-6 age group – My Family” implemented under the co-ordination of the Directorate General of Mass Education for Apprenticeship and with the technical and financial support of UNICEF, has been put into practice. Co-operation has been made with SHCEK to ensure that children of convicts and detainees in 0-6 age group in the institutions under the Ministry of Justice benefit from the services provided by SHCEK in the institutions operating under the SHCEK, in accordance with the capacity of such institutions, in order to minimise the negative impact of detainee life for such convicts and detainees who are detained in the Penalty Execution Institutions.⁹ Studies in these areas are encouraged in cooperation with universities. It has been ensured that judges, public prosecutors and support staff receive training in fields regarding children within the scope of “The Project to Better Manage, Protect and Strengthen Justice for Children” and the training activities in this field are currently being continued.

There is no doubt that the most effective way to prevent honour killings and violence against women and children is education. The entire society needs to be educated on this issue, and the statistical data maintained in the regions where such incidents are experienced need to be collected and construed in order to provide an effective training meeting the needs. Currently, there is no institution in Turkey that can provide rapid and updated information on this issue. Identification, collection, classification and evaluation of statistical data on issues within the jurisdiction of the Ministry and provision of respective services lie under the responsibility of the Directorate General of Judicial Records and Statistics. The Directorate General of Judicial Records and Statistics establish official statistics by transferring the information provided by the entire judicial organisation at the end of the year to the records.” [S10W]

- 1.95 Ms Sahin explained that the National Action Plan and the Prime Ministerial Circular enabled the government authorities and other groups working on women’s human rights issues to work more effectively to tackle abuses. To this end a number of related projects had been carried out:

- 40,000 soldiers received training on issues related to domestic violence and honour killing.
 - Amendments were made to the Penal code providing for stronger sentences to be passed against perpetrators of domestic violence
 - In respect of honour killing crimes, the perpetrators of such crimes had begun to receive reduced sentences but after amendments to the Turkish penal law honour killings were treated as homicides and perpetrators given sentences commensurate with the crime.
 - Implementation of amendments to family law (law no 4320) establishing a family court infrastructure which provided women with easier access to courts, and judges with the means to monitor perpetrators of domestic violence crimes who were often repeat offenders. [S20.5]
- 1.96 Mr Temucin Tuzecan, Director of Stop Violence Against Women campaign, said that in July 2006, the Prime Minister passed a decree [Official Circular] reminding the state authorities to take the issue of domestic violence seriously and take steps to alleviate some of the problems associated with it. The decree was considered to be a huge step forward in making a difference to the treatment of victims of domestic violence. Mr Tuzecan said that as far as he was aware there were no other governmental campaigns or initiative being run to tackle domestic violence. [S2.10]
- 1.97 The EU Commission Delegation also commented on the Prime Minister's Circular, which they said was followed by a similar circular from the Ministry of Interior. However, the EU delegation did not have any information on the number of cases being prosecuted or resulting in convictions. Apart from the circulars issued by the government mentioned above on combating domestic violence, which Kurdish NGOs had mentioned were not of much help to them because of language issues, the EU delegation was not aware of any other initiatives planned by the government to tackle human rights abuses against women. [S19.6]
- 1.98 Women for Women's Human Rights – New Ways (WWHR) said that the government had commissioned a report on honour killings, led by Fatma Sahin MP, which included guidance in relation to domestic violence, but said that not much had come out of this study. [S1.11]
- 1.99 Ms Olcay Bas, Head of Department, Directorate General for Women's Status, said that data relating to activities carried out within the framework of the Circular by the organisations responsible and co-ordinating organisations as specified in the Circular, was reviewed quarterly, within the scope of the co-ordination role of the Directorate-General on the Status of Women. Mrs Bas explained that the periodic report submitted to the Prime Ministry was also published on the website of the Directorate-General. [S13.12]
- 1.100 Mrs Bas said that educational materials, CDs and posters were produced by the Directorate-General on the Status on Women on subjects related to the education of female children, male-female equality, women's human rights, domestic violence and the prevention of custom and honour killings had been passed to 600 garrisons. Mrs Bas said that these materials were used within the framework of the citizenship lessons given to privates and NCOs doing citizenship duty (military service), with the aim of increasing the sensitivity of men, as an important element of the struggle to combat violence against women. [S13.13]

- 1.101 Mrs Bas stated that the “Field Research into Domestic Violence” project was at the inception phase. When the field research was complete, its conclusions would provide important data on the sources and types of violence and would be evaluated as official data within the scope of the Turkish Statistical Institute (TUIK) “Official Statistics Programme.” [S13.14]
- 1.102 Mrs Bas said that a Protocol had been signed between Türkiye Radyo Televizyon (the Turkish national television TRT) and the Directorate-General on the Status of Women, within the framework of the work of the Gap Radio-TV Consultative Board. This had the aim of effectively informing public opinion about the work carried out by the Directorate-General on the Status of Women, explaining the value of the work of women in the South East Anatolia region and the benefits it had brought, and securing participants for a project to inform local people. Under this Protocol, the filming of regional programmes called “Don’t Hurt Me” had been completed, targeted at women living in the SE Anatolia region and addressing the issues of employment, education and violence. Broadcasting would begin across the region on TRT GAP TV in 2008. [S13.15]
- 1.103 Mrs Bas said that the Directorate-General had produced reports and papers on the issue of violence against women and participated at meetings, symposiums and panel discussions organised by various organisations to increase public awareness. In co-operation with Ankara Local Authority Cultural and Social Affairs Department Headquarters, seminars on “Women’s Human Rights, Violence against Women and Legal Developments” had been organised in 12 women’s centres belonging to the local authority, in a different place each week, reaching approximately 500 women. The Directorate-General would continue to contribute reports and papers at such meetings. [S13.16]
- 1.104 Mrs Bas stated that, as part of the Project on Struggling Against Domestic Violence Against Women, 2 ‘spot films’ had been prepared to highlight provisions in accordance with Law No: 4320, which allowed measures to be taken against the person using violence, on the application of a third person,. The films also drew attention to the fact that victims of violence were under the protection of the state, stressing that nobody subject to violence was without a remedy. The films contained the message: “Violence against women is a crime. Do not shut your eyes to it. Do not remain silent”. The films were being broadcast on local and national channels. [S13.17]
- 1.105 An official from the foreign relations and EU Affairs Department at the Ministry of Interior reported that there were two ongoing projects being taken forward with the United Nations Population Fund (UNFPA) to raise women’s awareness of their human rights and to prevent domestic violence. In the official’s view, a preventative agenda in tackling the domestic violence issue was very important. [S12.10]
- 1.106 The first project referred to by the official from the foreign relations and EU Affairs Department at the Ministry of Interior was being run with UNFPA across 6 provinces including Izmir, Sanliurfa, Van and the central Anatolian regions. The aim of the project was to develop women friendly organizations with local authorities and councils that women could visit to learn more about their rights and other related issues. [S12.11]

- 1.107 The second project was being run in cooperation with Denmark and the Ministry of the Interior under 2006/17 Directive to raise awareness among district governors (Kaymakams), mayors, deputy governors and district officials to improve the status of women in their districts. Officials would be tasked by the central government authorities to put in place measures to improve the social, educational and cultural situation of women residing in their districts, for example targeting women's employment in the region. These officials would then be inspected every three years by the inspectorate boards to see how they were doing against the objectives set down for them by central government. [S12.12]
- 1.108 Regarding EU initiatives being taken forward in Turkey to tackle human rights abuses against women, the EU Commission Delegation reported that there were a number of projects that they were involved in:
- Promoting gender equality
 - Combating Domestic Violence through a project that aimed to strengthen the capacity of stakeholders active on the issue including the formulation of a National Action Plan and Strategy by stakeholders on tackling abuse.
 - Project to increase shelter provision for female victims of domestic violence
 - Project to establish a national database to record honour killings.
- [S19.10]
- 1.109 WWHR considered that government initiatives to specifically prevent honour killings were limited. There had been some government collaboration with the United Nations Population Fund (UNFPA) and larger media companies in terms of awareness raising campaigns. However, these campaigns had not been specifically targeted and it was debatable whether they had had any measurable results. [S1.10]

SHELTERS

- 1.110 The US State Department Human Rights report 2007, published on 11 March 2008, noted: "Women's NGOs reported that more than 150,000 women were victims of domestic violence between 2001 and 2005. The government continued to show slow progress on implementing a 2004 law stipulating the need for shelters for women victims of domestic violence in towns with a population of more than 50,000. According to the government, its Institution for Social Services and Orphanages operated 23 shelters for female victims of domestic violence and rape with a total capacity of 405. The government reported that provincial government offices, municipalities, and NGOs operated 18 shelters, and that one private foundation operated a shelter." [28a]
- 1.111 The USSD 2007 report further reported that "The Bursa Gunyuzu Women's Solidarity Cooperative and local prosecutor decided not to pursue the cooperative's December 2006 criminal complaint against the Bursa Greater Municipality and the Osmangazi district for failing to properly implement laws requiring municipalities with a population greater than 50,000 to open a shelter for abused women." [28a]
- 1.112 Several of the sources interviewed mentioned the fact that according to the new municipality by-laws there should be a women's shelter in each

municipality of 50,000 or more people. Women for Women's Human Right's – New Ways (WWHR) said this provision had yet to be fully implemented. [S1.3] The Social Services Child Protection Agency, SHCEK, said that there was no time frame for the completion of such shelters. [S11.14] Mr Temucin Tuzecan, Director of Stop Violence against Women campaign, said that the majority of these shelters had not been built because a lack of government guidelines. [S2.13]

- 1.113 There were some discrepancies in the information provided by different sources regarding the number of shelters currently available. However, Mrs Olcay Bas, Head of Department, Directorate General for Women's Status said that there were currently 44 shelters in total, of which 23 were run by the Social Services and Child Protection Agency (SHCEK) and 21 by local authorities and other organisations. [S13.16] Mrs. Bas's figures were confirmed by SHCEK, who stated that 23 shelters are run by government agencies, 21 by NGOs and municipalities. [S11.11]
- 1.114 SHCEK explained that Turkish law provided for separate social service agencies (outside of SHCEK's organization) which offered support and assistance to women. SHCEK was responsible for licensing such agencies and for monitoring the service they provided. [S11.10] To date SHCEK had issued three licenses to three women's shelters run by local authorities and one by a civil society. [S11.11]
- 1.115 WWHR said that women's shelter provision had previously been limited to Turkish cities, for example Ankara, Istanbul and Izmir. However, there were now 36 shelters for victims of domestic violence across the country. [S1.3]
- 1.116 Mr Tuzecan advised that there were currently 26 shelters across Turkey for a population of over 72 million inhabitants. The 26 shelters across the country were run by NGOs and municipalities. Mr Tuzecan said that there was no realistic figure on how many more shelters were actually needed. However, the issue was not about building more shelters but concentrating on preventative measures to eradicate the abuse of women at grass roots level then shelters would not be required. [S2.14]
- 1.117 Mrs Bas said that, in co-operation with the UNFPA and the Ministry of Interior, a new project is planned to build additional shelters in 8 cities and educate the personnel to be assigned to those shelters. Mrs. Bas said that although the number of shelters across Turkey was not high, agencies across Turkey worked together to ensure that women requiring protection were housed immediately. For example, if there was not room in one shelter, arrangements would be made for accommodation in another shelter or safe house. [S13.16]
- 1.118 Mr Zorluoglu, Head of the Directorate General for Regional Authorities said that under the municipality law 5393, every municipality with 50000 people or more was obliged to establish shelters for women and children. Smaller municipalities could build shelters too but there was no legal requirement for them to do so. He further added that the building of shelters was a new area of responsibility for municipalities but he was hearing at the centre more about the municipalities building shelters. [S14.3]
- 1.119 Mr Tuzecan said that there were not sufficient shelters being built in Turkey to cover the vast number of women who needed to have access to them.

Also, to be effective, shelters required anonymity and in smaller communities this could not be achieved. [S2.13] The EU Commission Delegation also said that some smaller towns and villages found it very hard to keep shelters in their areas anonymous as the victim's spouses often knew where shelters were and came to take their wives back home. [S19.2]

- 1.120 Regarding the actual operation of existing shelters, WWHR advised that shelters provided a limited service; not offering 24 hour service provision and generally working on a 9 to 5 basis. Some were run by the government or social services, others by the municipalities in collaboration with women's organisations. However, the service provided by shelters was not restricted to victims of domestic violence but was also offered to victims of sexual assault and those fearing honour killings. [S1.4]
- 1.121 Mr Zorluoglu, Head of the Directorate General for Regional Authorities, said that shelters varied in the kind of accommodation provided. He advised that the department of social services was the main body responsible for running shelters through the provincial services. Mr Zorluoglu said that in many instances municipalities would build a shelter for women and children in their area of responsibility but these shelters would then be transferred to the department of local social services. [S14.5]
- 1.122 As mentioned above, the Social Services and Child Protection Agency (SHCEK) indicated that they directly operated 23 shelters (also known as "Guest-Houses") across Turkey. Each shelter had a manager of university graduate level education in a relevant social science, social workers, psychologists, nurses and other staff. The staff worked together to identify the conflict dispute and the type of legal aid or support assistance that a woman might require. Shelters also worked with women who wished to reunite with their families. [S11.6]
- 1.123 SHCEK's 23 centres had a total capacity to accommodate 477 women. SHCEK explained that there was ongoing work to build 10 more shelters, but this would need to be assessed in light of availability of staff and suitable accommodation. However, ideally, SHCEK would prefer to concentrate on working to prevent the abuse of women, thus preventing the need to build more shelters. [S11.7]
- 1.124 When asked about the profile of women seeking refuge through its organization, SHCEK advised that the majority of applicants to their shelters were young married women with only a primary school education, who had never had a job and had no other income other than that from their husband. In most cases the women had children aged between 0-6. However, SHCEK also said that domestic violence was not simply confined to this social stratum but cut across all age groups and all sections of society. [S11.8]

SUPPORT

- 1.125 The Social Services Child Protection Agency (SHCEK) explained that their organization provided support and social assistance to women, children and the elderly in Turkey. It provided services through social centres across Turkey as well as family telephone help-lines and awareness raising initiatives to help those in need. [S11.2] SHCEK said that they were working closely with community centres across Turkey in to improve implementation of law 4320 (a law on the protection of the family) and increase awareness female human rights issues, thus reducing violations and aiding personal development for women. Specifically, SHCEK was working to ensure that municipalities employed social workers, psychologists, pediatricians and child experts who were best qualified to work with women on these types of issues. [S11.15]
- 1.126 SHCEK reported that there were also initiatives to establish family counseling centres, where families could discuss problems with professionals and develop problem solving skills so that they would not resort to domestic violence. Other initiatives included those run by the social services, in cooperation with family advisory centres, to increase women's awareness about adjusting to city life and to encourage children and youth to continue in education. [S11.16]
- 1.127 The Women for Women's Human Rights – New Ways (WWHR) cooperated with social services agencies which run community centres throughout the country and provides a holistic human rights education programme for women. The community centres are an important means of support to women from the lower socio economic strata in Turkish society, providing support and advice regarding access to education and redress against human rights violations. The latter is of particular importance given that many women are not aware of their rights and what the police can do for them on issues such as domestic violence. [S1.12]
- 1.128 Mr Murat Zorluoglu, Head of Department of Directorate General for Regional Authorities, Ministry of the Interior, said that a number of NGOs and civil organizations in the regions operated to provide support and assistance to women suffering human rights violations and that the function and quality of the services provided by these bodies was increasing every day. [S14.7]
- 1.129 Mrs Olcay Bas, Head of Department, Directorate General for Women's Status said, that there had been good progress following the Prime Ministerial directive 2006/17. In terms of other government organisations offering support and assistance to women on women's issues Mrs Bas said these included:
- Various NGO organisations providing advice and guidance on all women related issues
 - The Bar Association's Women's Commission providing guidance and free of charge legal counselling
 - The number of multipurpose social centres linked to the Prime Ministry GAP administration was 29
 - 74 social centres (linked to SHCEK) where support and assistance with women's problems were provided. These centres also provided child protection services.

- The telephone helpline “Call 183” run by Child Protection Social services. [S13.17]
- 1.130 Several helpline services available to women were mentioned by the sources interviewed. SHCEK’s telephone hotline “Call 183”, noted above, provided support and guidance to women on issues of domestic violence/abuse. Those reporting abuses could be reached immediately as call offices were available across Turkey. If necessary, SHCEK (in cooperation with the Turkish National Police) could remove people from violent home environments. Other hotlines were also available to women throughout Turkey providing support and guidance, such as the Turkish National Police Helpline ‘call 155’, the Gendarmerie helpline ‘call 156’ and a line run by IOM call 157 to deal with cases of human trafficking. There was also the Istanbul hotline 02126569696, which was run in cooperation with civil societies and municipality organizations and the daily newspaper The Hurriyet. [S11.18]
- 1.131 Mr Tuzecan, Director of Stop Violence Against Women campaign, said that The Hurriyet ran a 24 hour telephone hotline (02126569696) for female victims of human rights violations. [S2.7] Working in cooperation with the state authorities and part funded by the EU, the hotline was staffed by seven full time psychologists and two full time lawyers. Mr Tuzecan explained that anybody with access to a phone in Turkey or abroad could obtain guidance from the Hurriyet hotline, which had been up and running for 3 months and had taken 6,000 calls to date. Mr Tuzecan said that of the 6000 calls, 3500 genuinely required advice and the remainder were ‘time wasters’. [S2.8]
- 1.132 Regarding advice on legal matters, Ms Senay Ertem, Head of Board for Women’s Rights (within the Bar Association) said that the Ankara Bar Association Women’s Rights Centre provided guidance to victims of domestic violence and other human rights violations on legal avenues of redress and access to legal financial assistance. [S.6.3] Also, as a member of the umbrella organisation ‘TUBAKKOM’, founded within the structure of the Turkish Union of Bars, the Centre was working with other Bar Associations to inform women on the issue of their legal rights and other sections of society on the issue of women’s rights. [S.6.4]
- 1.133 Ms Ertem said that among the other services it offered, the Ankara Bar Association held periodic meetings in co-operation with local authorities to raise the legal awareness of women who were not able to come to the consultation centre; was currently setting up a web-page called ‘Purple Port’, which would provide a legal guidance service across the whole of Turkey on all issues relating to women, including domestic violence against women; had prepared and distributed a handbook and many brochures and posters on women’s protection / rights issues; had arranged programmes to increase awareness of women’s human rights in the Bar Association’s premises, schools and universities; and played a role in campaigns on the issue. [S6.5]
- 1.134 Mrs Olcay Bas, Head of Department, Directorate General for Women’s Status said that, within the framework of the 2006/17 Circular, an initiative called the “Protocol on the Education Project on the Role of Health Personnel in the Struggle with Domestic Violence Against Women” prepared by the Prime Ministry Directorate-General on the Status of Women and the Health Ministry Directorate General for Basic Health Services, was signed

by Health Minister Dr Recep Akdag and Minister of State Nimet Cubukcu on 3 October 2008, with the aim of clarifying procedures for services provided to women who are victims of violence, or who are at risk, and arranging an education programme in accordance with this. [S13.2d] With the training that will be carried out within the scope of the aforementioned Protocol it is aimed to increase the sensitivity of doctors, nurses, midwives and other health personnel working in public sector organisations, which provide first, second and third step health services (hospitals, clinics, mother and baby health, family planning organizations etc), on the issue of the struggle against violence against women, together with the administrators of 81 provincial health directorates; and to develop professional skills, and education. [S13.2e] It is intended that with the training, 500 trainers will be developed as a priority, after which 75,000 health officials working in the field will be reached. The Protocol will be implemented for a period of 2 years. [S13.2e]

- 1.135 Mrs Bas added a project to work with the Presidency of Religious Affairs was being piloted in Ankara. The aim of the project was to provide training for Imams to enable them to provide guidance about the issues mentioned above (domestic violence, custom/honour killings, women's human rights etc).The project, which would be implemented first in Ankara, would be realised in 3 stages. In 2009, it would be implemented country-wide. [S13.2f]

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2. Treatment of Prisoners and Detainees

2.01 Article 19 of the Constitution provides as follows:

“Everyone has the right to liberty and security of person.”

“No one shall be deprived of his liberty except in the following cases where procedure and conditions are prescribed by law: execution of sentences restricting liberty and the implementation of security measures decided by court order, apprehension or detention of a person in line with a court ruling or an obligation upon him designated by law.”

“Individuals against whom there is strong evidence of having committed an offence can be arrested by decision of a judge solely for the purposes of preventing escape, or preventing the destruction or alteration of evidence as well as in similar other circumstances which necessitate detention and are prescribed by law.”

“Individuals arrested or detained shall be promptly notified, and in all cases in writing, or orally, when the former is not possible, of the grounds for their arrest or detention and the charges against them.”

“The person arrested or detained shall be brought before a judge within at latest 48 hours and within at most four days in the case of offences committed collectively, excluding the time taken to send him to the court nearest to the place of seizure. No one can be deprived of his liberty without the decision of a judge after the expiry of the above specified periods. The arrest or detention of a person shall be notified to next of kin immediately.”

“Damages suffered by persons subjected to treatment contrary to the above provisions shall be compensated for according to law, by the State with respect to the general principles of the law on compensation.” **[29c]**

2.02 Turkey has ratified all seven principal United Nations human rights treaties, including the Convention on the Rights of the Child and, in September 2003, the International Covenant on Civil and Political Rights (ICCPR). Turkey is also a long-standing member of the European Convention on Human Rights and has accepted the competence of the European Court of Human Rights to receive individual complaints. Turkey is a member State of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment as well and regularly receives visits by the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) established under that treaty, most recently in December 2005. **[29c] (full report)**

2.03 The United Nations report of the Working Group on Arbitrary Detention who visited Turkey 9th to 20th October 2006 stated how the entry into force on 1st of June 2005 of the new Criminal Code and Criminal Procedure Code, as well as of many connected laws, had strengthened the safeguards against arbitrary detention in Turkey's criminal justice system. The new criminal procedure law establishes limitations on the duration of police custody and of remand detention of persons awaiting trial and judgment. **[29b] (press release)**

- 2.04 The United Nations 2006 report further noted that: “The suspect's access to a lawyer while in police custody is now much better protected. Declarations made to the police in the absence of the lawyer have no longer any value as evidence. Juvenile offenders are now held by specialised police forces supported by psychologists and social workers, and are prosecuted by specialised prosecutors before special courts for minors.” [29b] (press release)

PRISONS AND DETENTION - GENERAL INFORMATION

- 2.05 Turkish prisons are divided into three security categories: F-type, which are maximum-security; E-type and special type, which are medium-security; and, open prisons and juvenile reformations, which are minimum-security. [20] [1a]
- 2.06 The United Nations report of the Working Group on Arbitrary Detention visited Turkey in October 2006 and noted that the prisons (with the exception of military prisons) are administered by the General Directorate for the Penitentiary System, which is under the authority of the Ministry of Justice. Responsibility for the legal aspects of detention in each prison is, however, vested in the local Chief Prosecutor, who delegates a prosecutor to each prison. Since 1997, the prison infrastructure has undergone a substantial renewal: since 1995, 475 new prisons have been established and since 1990, 238 old prisons have been closed. As of 6 October 2006, there were 67,795 detainees in the penitentiary system, corresponding to 91 prisoners per 100,000 inhabitants. [29c] (full report)
- 2.07 The European Commission Turkey 2006 Progress Report recorded that: “The reforms in detention procedures and detention periods have shown positive results on the ground. The regulation concerning the system for the medical examination of persons in police or gendarmerie custody complies with previous recommendations from the Committee on the Prevention of Torture.” [17a]
- 2.08 The EC Turkey 2006 Progress Report further noted that “Turkey has adopted regulations to implement the 2004 legislative reforms in this area. Physical infrastructure has also continued to be improved and training is being strengthened. Outstanding problems in prison facilities include a lack of communal activities, limited interaction between custodial staff and prisoners, inadequate health-care and psychiatric resources as well as cases of overcrowded prison cells. Cases of ill-treatment by prison staff have been reported. Civil and military prisons are not open to independent monitoring, pending the ratification of the Optional Protocol to the UN Convention against Torture (OPCAT).” [17a]
- 2.09 Mr Ahmet Firat, Director General of the Directorate of EU Coordination Justice Ministry explained that detention time limits for people accused of ordinary crime were a maximum 4 days. Those arrested under the terror laws could be detained for up to 7 days. However, detention could never exceed 7 days. [S10.8]
- 2.10 The EC 2005 Progress Report on Turkey observed that “Article 141 of the Constitution limits the length of pre-trial detention by providing for the right to be judged within a reasonable time. Under Article 91 of the Criminal Procedure Code, a person who has been arrested shall in general be brought before a court within twenty four hours; in exceptional cases, this

period may be extended to a maximum of four days. A person who has been remanded in custody awaiting trial may be detained, under Article 102 of the Criminal Procedure Code, for up to six months if accused of a minor offence and two years if accused of a serious offence; in exceptional cases, this period may be extended to three years.” [17b]

- 2.11 Regarding training for prison staff, a judge from the International Affairs Department of Prisons and Detention Facilities said that prison staff had previously been trained in-service, but that training of staff today was very different and Turkey now had four main prison staff training centres. Trainers running the centres were all trained by Council of Europe experts, together with national experts including psychologists and social workers. Human Rights training was provided to newly recruited staff as part of the prison training core curriculum and there were modules on issues such as the Penal Code, penal procedure code, penal enforcement legislation, prison reforms, social services, prison psychology, international prison rules and standards, human rights, anger management and effective relationships. Staff working as prison wardens were well qualified - either high school graduates or university graduates, the latter group forming much of the recent recruitment. [S9.6]
- 2.12 The judge further added that increases in the prison services budget as a result of the new Code of Prison Workshops no. 4301 had led to improvements in the prison system. Previously, prisons were overcrowded, with limited services, for example, the provision of food was inefficient resulting in prisoners being allowed to bring food into the prison. Law no. 4301 and the introduction of additional money to the prison budget had allowed better service provision in terms of prisoner rehabilitation, improved food, reduction of overcrowding and the renovation or construction of prison buildings. [S9.7]
- 2.13 The judge also explained that prisoner rehabilitation included offender psycho-social programmes tailored to the needs of the individual, focusing on educational, employment and social needs. The aim in Turkish prisons was now for each offender to hold a professional or vocational training certificate to help obtain employment once they leave. The Ministry of Justice was working in cooperation with the Ministry of Labour and Education to provide vocational training to prisoners. [S9.8]
- 2.14 Also, the judge stated the Ministry of Justice was working in cooperation with the Council of Europe to develop ten offender behaviour programmes such as anger management for dangerous offenders, long term prisoners, sex offenders and those with drug and alcohol problems; and to develop programmes for women with children. Prison managers were encouraged to work with over 100 civil society organisations. [S9.9]
- 2.15 The judge summarised the official prison statistics as at 1 February 2008:
- 85169 – Common criminals
 - 637 – Terrorist/ Islamist fundamentalists
 - 3761 – Left wing terrorist groups including Marxist/ Leninist and separatist groups (this number has declined)
 - 4496 – Mafia/ profit making groups
 - 2035 – Women
 - 1500 – Juveniles [S9.12]

- 2.16 The judge explained that children 13-15 years old convicted of crimes were sent to one of 133 probation centres which implemented non-custodial sentences and provided social and psychological support to prisoners after conviction and also to victims. Children 16-18 years old convicted of crimes were sentenced to either non-custodial or custodial according to the nature of the crime. He also explained that in Turkey all victims of crime were also supported by probation centres. Each probation centre had a protection board which consisted of people from local businesses, civil society organizations, public organisations and which provided support to both victims and prisoners and provided work for them. [S9.13]

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INCIDENTS OF MISTREATMENT OF PRISONERS / DETAINEES

- 2.17 According to the judge from the International affairs department of Prisons and Detention Facilities, there was no tolerance for ill treatment in prisons either in law or in practice. He said that the numbers of allegations of mistreatment had declined and are very rare compared to before 1998. This had been confirmed by European Committee for the Prevention of Torture (CPT) reports. The judge was not aware of any trends regarding the police detention centres as these were outside of his area of responsibility. [S9.3]
- 2.18 An official from the Foreign Relations and European Union Department, Ministry of Interior said that the European Committee for the Prevention of Torture (CPT) made regular visits to Turkish prisons. In the CPT's last two reports, the committee recorded that there were no instances of ill treatment or complaints or allegations to the prison authorities. Therefore, most claims of mistreatment by officials were against police officials in detention centres. [S12.5]
- 2.19 The EC progress report on Turkey 2006, however, observes that cases of torture and ill-treatment are still being reported, in particular outside detention centres. [17a] (page13) The 2006 report states that the Turkish legal framework includes a comprehensive set of safeguards against torture and ill-treatment. Cases of torture and ill-treatment declined over the reporting period. However, concerns remained regarding cases outside detention centres, regarding human rights violations in the Southeast and the problem of impunity. [17a] (page 13)
- 2.20 Mr Husnu Ondul - Chairman of the Human Rights Association (İnsan Hakları Derneği 'İHD') said that in the past detainees had been subject to severe levels of mistreatment, including Palestinian hangings (where individuals were hung upside down), electric shocks and beatings on the feet but these severe forms of mistreatment had now been virtually stopped. Out of 500 to 800 reports of mistreatment put forward during a year, Mr Ondul estimated that about 3-4 cases might have been the subject of these forms of mistreatment. [S4.3]
- 2.21 When asked about the nature of the mistreatment individuals experienced in detention or in prison at the hands of police officials, Mr Ondul said that the police implemented 32 different methods of mistreatment including: sleep deprivation, regular beatings, fist fighting, making individuals stand on one

foot, making individuals strip naked and making threats to kill, rape or generally humiliate. Mr Ondul also said that police officials carried out various methods of mistreatment towards individuals of different sexual persuasions, such as transsexuals. [S4.4]

- 2.22 When asked to define levels of mistreatment, Mr Ondul advised that reports of mistreatment and torture received by the Human Rights Association were not separated into claims of mistreatment and claims of torture. Verbal abuse or psychological mistreatment often came together with some form of severe physical violence such as beatings. For instance, at the Diyarbakir branch of the Human Rights Association, only one applicant who cited mistreatment at the hands of the police, reporting swearing and pushing; the rest of the reports received at the branch included beatings. [S4.13]
- 2.23 In terms of trends in the incidents of mistreatment and locations where it took place, Mr Ondul said that there were incidents reported across the country from Istanbul to Diyarbakir, in police national offices from the West to the North and from the East to the South. He added that normally, the police would not take an individual directly to a detention centre but to another place where the mistreatment would happen, such as a car park and only then would the individual concerned be taken to a police station. He also said however, that some incidents of mistreatment took place in parts of detention centres where there was no CCTV. [S4.5]
- 2.24 According to Mr Emrullah Beyter, the chairman of the Turkish human rights group Mazlum Der - whose full name in Turkish translates as "The Organization for Human Rights and Solidarity with Oppressed People" most cases of mistreatment took place in detention centres belonging to the police. Not much was reported on cases of mistreatment in prisons as a result of the significant improvements introduced in the treatment of individuals in prisons. However, individuals accused of [certain] crimes, including sex crimes, were sometimes victims of mistreatment. [S5.5]
- 2.25 Mr Ondul of the Human Rights Association said that in the first six months of 2007, there were 51 cases of mistreatment in prisons. When asked in which prisons this mistreatment took place, Mr Ondul said that it occurred in all kinds of prisons across the country and that there had also been 89 cases of mistreatment at places other than official detention centres. [S4.6]
- 2.26 In 2005, the Human Rights Association received 825 complaints of incidents of torture and mistreatment at the hands of police officials. In 2006, the figure was 708 and in 2007, again 678. The numbers of cases of mistreatment reported fluctuated depending on circumstances, both increasing and decreasing at particular points of time. For example in 1999, before legal reforms were implemented by the government on the issue of torture and mistreatment of detainees, 594 incidents of torture and mistreatment were reported. After legal reforms were put in place in 2004 there were 1040 reports. While he felt the government had failed to implement its 'zero tolerance policy' (see legislative framework) increases at particular points did not, according to Mr Ondul, indicate an increase in the number of cases of mistreatment; rather it reflected people feeling more encouraged to make complaints. [S4.7]
- 2.27 In Mr Ondul's opinion, police official's also mistreated detainees as a means of punishment for alleged crimes, for example, if a person committed a petty

crime or theft. He gave the example of a shopkeeper who alleged that a boy had stolen some goods from his shop. When the police officers arrived they beat the boy, who they said already had a criminal record and deserved the beating. The beating was recorded by a camera in the workplace and was shown on television. [S4.10]

- 2.28 Mr Beyter, Chairman of Mazlum Der said that the mistreatment reported was mostly in the form of violent behaviour and beatings. In his opinion, there were no recent reports on levels of violence reaching the level of torture. About 70% of cases reporting mistreatment by the police authorities would cite having been beaten. Mr Beyter was not aware of reports citing any other methods of mistreatment. [S5.6]
- 2.29 Mr Ahmet Turk, of the Democratic Society Party (DTP) MP said that from 1990-1994, people suffered severe mistreatment whilst in detention and in prison. Those most affected were of Kurdish origin or from leftist opposition parties. However, he said that the situation in Turkey today was very different. There were still cases of mistreatment in detention but no systematic maltreatment of detainees and prisoners. [S7.2]
- 2.30 In terms of trends/ patterns in the numbers of cases of ill treatment by law enforcement bodies reported to the Human Rights Foundation of Turkey (HRFT), Mr Metin Bakkalci, the Chairman, said that in 2005 there were 692 cases reported, in 2006 the figure was 337 and in 2007, 452. He noted that a high proportion of the cases related to complaints of torture (in 2006 222 of 337 applicants and in 2007 320 of 452 applicants were tortured). [S8.4]
- 2.31 Mr Bakkalci said that positive changes to the law between 1999 and 2005 contributed to a decline in cases reported up to 2006. However in 2007, a change to the terror laws of Turkey contributed to a rise in the number of reported cases. These changes extended police powers of arrest to stop and search individuals. Mr Bakkalci also said that with the new changes to the terror laws, conversations between a lawyer and the defendant which were previously considered confidential could now be recorded by the police officers. In addition, police officers could attend confidential first interviews of a lawyer with his client. [S8.5]
- 2.32 In addition to the numerical increase in applications to HRFT, increased use of physical force by the police was noted. HRFT had observed many injuries related to heavy trauma among applicants: such as broken bones, damaged or missing organs, torn eardrums and such. In addition to those physical complaints, various psychological conditions, such as post traumatic stress disorder had also been observed. [S8.6]
- 2.33 When asked about geographical trends as to where mistreatment occurs and the profile of persons alleging mistreatment at the hands of state law enforcers, Mr Metin Bakkalci referred to the 2007 HRFT annual report. Mr Bakkalci advised that the HRFT had recorded a greater number of cases of mistreatment in areas of Turkey where there were Anti Terror Branches (ATB). For example, in Istanbul reported cases increased by one and a half times and in Izmir by twice, as well as increases in reported cases in Adana Diyarbakir and Ankara. In Diyarbakir, the figure had decreased. [S8.11]
- 2.34 With regard to regional distribution, Mr Bakkalci said that previously cases had been more closely aligned to the South and South Eastern region, but

this was no longer so. There were cases recorded in the Marmara region, the Mediterranean regions and the South-Eastern Anatolian regions. [8.12]

- 2.35 When asked about any noticeable trends or patterns in the nature or scale of claims of mistreatment by state law enforcers, Mr Firat, Director General – Directorate of EU coordination, Justice Ministry, said that he would only be able to provide an authoritative view about what happened in Turkish prisons, as events occurring in police detention centres were outside of his work remit. With regard to prisons, Mr Firat had not heard of any recorded cases and said that it was not possible to mistreat prisoners. Mr Firat said that fights might be common in prisons but these were between prisoners and were not related to state officials. Also, if there were allegations made by prisoners against prison officers, prosecutors would investigate. If any evidence was found, the officers would be charged and no perpetrator would go unpunished. [S10.3]
- 2.36 With regard to detention centres, Mr Firat said that there might be incidents of alleged mistreatment of detainees but certainly no systematic abuse. According to the Istanbul protocol, police officers were required to obtain medical reports as soon as a person was admitted to detention and immediately after a person's release from detention. In this way, the detention system was transparent and any mistreatment would not go undetected. In Turkey there was a zero tolerance policy towards mistreatment/torture. [S10.4]
- 2.37 When asked about the numbers of reported cases of alleged mistreatment from prisoners, Mr Firat said that when allegations were investigated there was rarely any evidence found to prosecute further. There were no figures available, but Mr Firat could say with absolute authority that there was a decrease in the number of cases reported. [S10.5]
- 2.38 When asked about the nature of ill-treatment taking place, Mr Firat said again that he was not aware of any ill treatment of prisoners in Turkey. Mr Firat advised that there might be some allegations of assault in detention centres, but such cases would be immediately investigated and punished. [S10.7]
- 2.39 When asked how widespread cases of alleged mistreatment by state law enforcement officials were, the EU Commission Delegation (which represents the European Commission on the diplomatic and political level) said that recent statistics were not available. However, the numbers of complaints from individuals had increased following the amendment of the terror laws which extended police powers to stop and search. Prisoners had also complained about ill treatment, including being beaten whilst being transferred from one prison to another and of being deprived of medical treatment. [S.19.12]
- 2.40 On 1st May 2008 the MSNBC world news published an article on the "Turkish police clash with May Day protesters", reporting that the Turkish riot police used clubs, tear gas and water cannons to break up crowds of workers and students trying to reach a main Istanbul square for a Labour Day rally banned by the government. 180 demonstrators were detained; 30 people were injured. [30]

- 2.41 The *International Herald Tribune* however reported that in Istanbul, Turkish riot police used clubs, tear gas and water cannon to break up crowds and six police officers were injured and 467 demonstrators were detained. Officials set up barricades in and around the square where May Day celebrations have been banned since 1977, when unknown gunmen opened fire on demonstrators, causing a stampede that left several dozen dead. [31]

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PROFILE OF MISTREATED PRISONERS / DETAINEES

- 2.42 When asked about the general profile of those detained who had reported mistreatment, Mr Ondul, Chairman of the Human Rights Association said that of the 232 cases received by the Human Rights Association in 2007, the majority were from individuals of Kurdish origin. The second majority of cases received were from those with political opposition views, for example PKK members. The remainder of the cases were from gypsies, transsexuals and those involved in petty crimes. [S4.11]
- 2.43 Questioned further on the profile of those reporting torture and mistreatment, Mr Ondul said that most incidents concerned individuals involved in armed conflict with police and soldiers; principally Kurdish separatist armed groups, but also others strongly involved in political activities. However, he said that it would be too general an assessment to suggest that it was only these groups that experienced mistreatment. Mr Ondul had seen cases from South East and Eastern Turkey where not only people attending PKK events or activities experienced mistreatment but also simple villagers living in Kurdish communities who might not be involved with the PKK. Mr Ondul said that the police in the South East and Eastern areas often saw simple villagers as PKK party members. Similarly, members of opposition parties such as the DTP (whether active or passive party members) were subjected to mistreatment if they were detained for any crime by the police. Gypsies and transsexuals had also experienced mistreatment, the former group often failing to make complaints regarding ill treatment due to lack of awareness about their human rights but also because they 'did not have a mentality of complaining'. [S4.12]
- 2.44 When asked about the profile of people who experienced mistreatment in detention or in prisons and in which areas such incidents took place, Mr Beyter, Chairman of Mazlum Der said that there was no clear cut answer. Most incidents appeared to take place in South Eastern and Eastern Turkey and in less developed parts of Istanbul and Izmir. Cases reported included members of the Kurdish movement and the Turkish leftist opposition groups, such as students, but there was no evidence to support these reports. Other cases reported included radical Islamists and petty criminals. [S5.3]
- 2.45 Mr Beyter also mentioned a recent alleged example of mistreatment by police officials involving a lawyer who was at a teahouse in Istanbul with a relative. The relative was approached by some police officials who asked them for their ID. While the relative showed the police officer their ID the lawyer took a call on his mobile phone. At this point the police were alleged to have beaten up the lawyer. The lawyer brought forward a mistreatment case against the police. The police defence to the prosecution was that the lawyer was resistant to their enquiries. [S5.4]

- 2.46 Mr Ahmet Turk, of the Democratic Society Party (DTP) MP said that as well as Kurds, other groups could be subject to mistreatment in detention/ prison including members of his own party, socialists, communists and radical Islamists. However, in Mr Turk's view, the majority of those detained are individuals of Kurdish origin who make political statements and have links to the PKK. However, not all Kurdish people would face such measures - Kurds who were not politically active would not face mistreatment by police officials. [S7.8]
- 2.47 When asked about the proportion of prisoners detained for political beliefs, Mr Ahmet Turk, Group Chairman of the Democratic Society Party (DTP) and MP for Mardin said that currently there were 200 to 300 people detained and that he could provide a list of people in detention which included the Chairman of the DTP party and the Chief of the Batman DWP party (the Chair of the Batman party having only been arrested a couple of days previously). [S7.4]
- 2.48 Mr Bakkalci of the HRFT said that there had been an increase in the number of reported cases of ill treatment from people of a non-political profile from 11% in 2006 to 14% in 2007. However, only recently, members of the DTP had been arrested in Batman. [S8.13]
- 2.49 The judge from the International Affairs Department of Prisons and Detention Facilities said that there was no particular profile of person alleging to have experienced mistreatment whilst in prison. Claims of mistreatment could come from any person – from those convicted of sex crimes to those in prison for terrorist activities. But any case of ill treatment in prison would be carefully examined at both the administrative and judicial level pursuant to the law and practice. He also said that most ill treatment claims brought forward by individuals in prison were claims of a psychological nature or related to prison services, treatment activities and discipline issues. He gave the example of a prison guard looking at a detainee 'the wrong way'. The profile of persons bringing forward such claims could usually be defined in the following categories: those imprisoned for terrorist activities (Separatist, Fundamentalist or Marxist/Leninist) mafia members, sex and drug offenders, prisoners with physiological disorders or any other prisoner. In the judge's experience, claims of mistreatment in prison were generally not confirmed. [S9.4]
- 2.50 Mr Firat, Director General – Directorate of EU Coordination Justice Ministry, said that there were no statistics kept on regional patterns of reported cases of mistreatment by state law enforcers. However, in his view applications generally came from individuals living in the East and South Eastern regions who were close to terrorist organisations such as the PKK. [S10.6] Mr Firat said that the profile of those alleging mistreatment included those who suffered from psychological problems or who were uneducated, but not those who were from a particular political group. However, it would not matter what group or community a person alleging mistreatment came from. All claims were treated equally before the law and if found credible the perpetrators were punished. [S10.7]
- 2.51 An official from the Foreign Relations and European Union Department, Ministry of Interior said that there was no particular profile for those claiming

to have been mistreated at the hands of the police. The same official also added that personal assumption is that people with a particular social or political awareness are more inclined to organizing protest marching and demonstrations and it is more likely for individuals amongst them who do not comply with the legal obligations and procedures to be at odds with the police authorities,. However, no research had been undertaken on profiling and any profile of person could be involved in a demonstration. [S12.6]

2.52 Professor Fendoglu, President of Human Rights Presidency said that there was no particular profile for those complaining. Cases were brought against law enforcement officials by a cross section of people including Kurds, Roma and Turks. [S17.9]

2.53 In terms of the profile of those alleging mistreatment and geographical trends in incidents, Ms Douglas-Todd, Resident Twinning Advisor, Independent Police Complaints Commission Project Team, had heard that incidents of mistreatment were traditionally concentrated in the East of the country but that there had also been occurrences in Istanbul too. [S18.5]

2.54 When asked about any noticeable patterns of mistreatment or profile of those alleging mistreatment, the EU Commission Delegation said that there that there was no particular profile; cases often included people detained for ordinary crimes. People belonging to pro Kurdish parties sometimes alleged mistreatment and this group included ordinary Kurdish political party members as well as those who were of a higher political profile. However, Kurds who were politically passive and not members of political groups were generally not affected. [S19.15]

2.55 The EU Commission Delegation said that detention was common following demonstrations. In Batman the situation had been problematic during demonstrations following a political anniversary there. And on 1 May 2007, the Labour Day demonstrations had led to a significant number of arrests following which a number of complaints were made alleging mistreatment by the police authorities. [S19.15]

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LEGISLATIVE FRAMEWORK

2.56 Several of the sources interviewed referred to the government's 'zero tolerance' policy on torture, which was announced by the new AKP government in 2002. [1]

2.57 A government circular issued to Provincial governors on the application of the policy stated:

"No concession in any form will be made from the careful and decisive implementation of legal and administrative procedures which have been made, in line with our government's understanding of "zero tolerance towards torture". The necessary investigations into allegations of torture and ill-treatment will be started without delay and completed within the shortest period of time possible. In line with legal and administrative procedures to counter torture and ill-treatment, alongside the routine inspections of managers at all levels in public sector organisations and other responsible

officials, carried out with and without prior notice, Human Rights Boards and related organisations and units located in the provinces and sub-provinces will carry out visits with and without prior notice. In order to address the problems identified in these visits and inspections, the required precautions will be taken quickly and it will be ensured that the necessary procedures relating to those who identified the fault will be carried out." [21] (Translation)

- 2.58 Amnesty International noted in their report 'Memorandum on AI's recommendations to the government to address human rights violations' dated 1 August 2005 that the 'zero tolerance for torture' policy appeared to be limited to legislative changes (such as increasing the punishment for individuals convicted of torture or allowing access of detainees to lawyers) and training given to police officers. [2]
- 2.59 According to the judge from the International Affairs Department of Prisons and Detention Facilities, Turkey had the most modern Penal Code, Penal Procedure and Penal Enforcement Laws in Europe, as these laws had been promulgated in 2005, in co-operation with the Council of Europe and other international groups. Within the framework of "Turkish Prison Reform", in addition to the physical modernization of prisons, nineteen different pieces of legislation relating to prisons, including mistreatment by law enforcement officials had been put in to practice. [S9.5]
- 2.60 Mr Ondul, the Chairman of the Human Rights Association advised that since Turkey was listed for EU accession in December 1999, it had continued to make improvements to the existing legislative framework in relation to mistreatment in prisons and detention. On 30 November 2002, the government had removed emergency regulations, thus allowing detainees to consult legal advisors and had increased the severity of sentences for cases of torture and mistreatment. [S4.2]
- 2.61 Mr Beyter, Chairman of Mazlum Der said that there had been some improvements in the legal framework in relation to the mistreatment of individuals in detention or in prison as the government looked to reform its legislation in line with EU standards. Only recently (a few days ago), the government had amended the legislative framework to reduce police power in terms of being able act arbitrarily in how they treated citizens. [S5.2]
- 2.62 Mr Beyter, Chairman of Mazlum Der did not consider that the government had been sincere in its statement on a zero tolerance on torture. For example, despite some changes to the composition of monitoring boards carrying out periodic visits to prisons to include doctors and lawyers, there were no representatives invited to join the boards from Human Rights organizations. [S5.7]
- 2.63 Mr Turk of the DTP said that although the government of the Republic of Turkey had signed the Optional Protocol to the Convention against Torture over two years previously, it had still not ratified it. According to this protocol, prisons and detention centres would be inspected and monitored by independent bodies. Consequently, prisons and detention centres in Turkey were still not inspected by an independent body. [S7.10]
- 2.64 The EU Commission Delegation said that the prison monitoring boards did not include independent members, such as representatives of NGOs;

instead they tended to appoint retired judges, and prosecutors who were often not very open minded. The monitoring boards also failed to produce regular reports of inspections so were not transparent. Turkey had yet to ratify the Optional Protocol on Torture (OPCAT), but there was hope this would happen soon as the EU delegation was lobbying for this. [S.19.12]

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ENFORCEMENT

- 2.65 The EU Commission Delegation said that the enforcement of the government's zero tolerance policy on torture and mistreatment was questionable and impunity of law enforcement officials remained a problem. The government had announced pilot projects to tackle the mistreatment in detention centres and prisons but the EU delegation had seen nothing striking in terms of implementation and effectiveness of these projects. [S19.11]
- 2.66 Mr Ondul, Chairman of the Human Rights Association said that while avenues of legal redress were available to individuals who had been subjected to mistreatment at the hands of the police authorities, police impunity remained a problem. Officers were able to continue their police duties while prosecutions against them are ongoing. He cited the example of a Nigerian man who was recently killed during police detention in Istanbul. The police officer prosecuted for the incident was still working. Mr Ondul also said that during the last 8 years, there had been thousands of reports of mistreatment of individuals by police officers, but in the last six months of 2007 there were no reports of public officers being arrested and tried. [S4.8]
- 2.67 According to Mr Ondul, the government and the judiciary had adopted a no punishment (impunity) policy in relation to mistreatment and torture and this was why mistreatment of individuals in detention and prison continued in the practice of the security forces. [S4.9]
- 2.68 Mr Ondul remarked that the Prime Ministerial Statement on the government's zero tolerance approach to torture, though positive, had not been fully implemented and had not produced any measurable results. Mr Ondul cited a recently published academic study on judges interviewed across the country: When judges were asked whether they viewed the human rights of the individual as being more important than the interests of the state, most were more concerned about the rights of the state. Mr Ondul cited this example to support his view that the culture of prosecution in Turkey was shaped to protect the state and not the rights of the individual. [S4.14]
- 2.69 In terms of successful prosecutions of police officers and other individuals responsible for human rights violations, Mr Beyter, Chairman of Mazlum Der was of the opinion that the court system did not protect the rights of the individual over the interests of state authorities. Most prosecution cases brought forward relating to mistreatment by state authorities were acquitted. [S5.9]
- 2.70 When asked whether allegations of mistreatment were investigated by police officials, Mr Ahmet Turk of the DTP said that cases were investigated but all were acquitted. Mr Turk used the example of a recent case in Southern

Turkey where the police besieged a house and opened fire killing both father and son. The case was prosecuted in Anatolia but the officers responsible were let out on bail and the court eventually decreed that the officers concerned were acting in the line of duty and they were acquitted. Mr Ahmet also gave another example of a recent case where police officers opened fire and killed the passengers in a car but were later acquitted as they were acting in line of duty. In Mr Turk's view, despite Turkey's rule of law which says that human life was sacred, the general approach by the law enforcers was to protect the interests of the state over and above the rights of the individual. [S7.9]

- 2.71 Mr Bakkalci Chairman of HRFT said that under the new legal framework, detainees were only given the right to one appointed lawyer, whereas police officers on trial could have access to three different counsels. Mr Bakkalci also explained that the state provided legal aid for civilians for one lawyer to the amount of 135-420 YTL, but for police officers the figure was up to 7,000-35,000 per lawyer, up to 105,000 YTL for three lawyers. [S8.7]
- 2.72 When asked whether allegations of ill treatment were investigated and cases brought to justice, Mr Bakkalci said that Turkish people were losing hope in the judicial system with regard to the successful prosecution of cases of human rights violations. This was because of practical obstacles in legal procedures when somebody applied to prosecute a case. Mr Bakkalci said that because it was difficult to open a case for investigation, a limited number of cases were brought against individuals accused of ill treating prisoners or detainees. [S8.9]
- 2.73 Mr Bakkalci cited the Diyarbakir demonstration as a case in point, where many were ill treated but only 32 filed prosecution cases and two years on, none had been concluded. [S8.9] The EU Commission Delegation also mentioned that there was concern that a number of prosecution cases brought forward after the Mayday demonstration were dropped by the judicial authorities, raising issues about the effective administration of justice in such cases and police impunity. [S19.15]
- 2.74 Mr Bakkalci said that he was conducting a study on the practical limitations of pursuing cases of ill treatment by law enforcers through the judicial system which would be concluded shortly. With regard to cases successfully prosecuted, Mr Bakkalci said that most cases were acquitted by the court. [S8.10]
- 2.75 When asked whether there had been any successful prosecutions of police officers who had committed human rights violations towards individuals, Mr Ondul, Mr Beyter, Mr Bakkalci and the EU Commission Delegation all said that they were only aware of one example, which involved the killing of a student in 1991 by a police officer. The case took eighteen years to be finalized by the Court. The individual prosecuted for the crime continued to work until he retired and received his pension. He only received a four year sentence. [S4.9] [S8.8] Mr Beyter, said that in his opinion, the sentence was not commensurate with the crime committed. [S5.9]
- 2.76 The judge from the International Affairs Department of Prisons and Detention Facilities did not have any statistics on the number of mistreatment cases brought forward against prison officials or figures for those successfully prosecuted for mistreatment against offenders in

detention. This information should be collected from all courts. However, he indicated that such cases were extremely rare. He also advised that doctors' reports were prepared on admission to prison, so every offender was examined to see if they had been mistreated or not. According to him, people detained for political reasons were limited (only 3 persons) to those detained in connection with terrorist activity. [S9.11]

- 2.77 When asked if sentences imposed on individuals convicted of mistreatment of prisoners were commensurate with the offence committed, Mr Firat, Director General – Directorate of EU coordination Justice Ministry advised that normally sentences ranged from 3 to 12 years depending on the severity of the crime committed. Individuals convicted of sexual assault would receive between 10 to 15 years and individuals convicted of the death of a prisoner would warrant life imprisonment. No official would ever be let off with just a fine. [S10.9]
- 2.78 An official from the Foreign Relations and European Union Department, Ministry of Interior' explained that the number of prosecution cases brought forward against police officials alleged to have mistreated individuals in detention/ prison had sharply declined from the mid 90s to 2005. In 2005, the number of cases brought forward alleging ill treatment or use of excessive force by police officials was 290. In 2006, the figure was 42 and in 2007, 10 in 2008 thus far. The official also said that none of these cases had been decided and all were still going through the court system. [S12.2]
- 2.79 When asked as to whether any cases of alleged mistreatment by the police authorities were successfully prosecuted, the official advised that public prosecutors always thoroughly investigated such claims. The same official from the Foreign Relations and European Union Department, Ministry of Interior said that there was no favorable bias in the justice system towards the police authorities and no doubt about the accuracy of judicial decisions in police prosecution cases. [S12.7]
- 2.80 When asked about the numbers of cases of alleged mistreatment by law enforcement officials, Professor Fendoglu, President of the Human Rights Presidency stated that in the first 6 months of 2007, NGOs reported 600 cases of mistreatment and of these 451 were recorded as serious incidents. However, according to Professor Fendoglu, the NGO figures did not correspond with statistics collated from Human Rights Boards across Turkey by the Human Rights Presidency. Also, Professor Fendoglu said that upon investigation of cases of mistreatment by law enforcement officials, the prosecuting authorities often did not find any evidence to support the complaint. [S17.5]
- 2.81 Professor Fendoglu said that the government had a zero tolerance policy in place towards the mistreatment of prisoners and detainees. However, despite the legislative framework in place for tackling abuses, negative attitudes and actions of police officers and gendarme towards people could still be a problem. But these were individual cases rather than being systematic. Moreover, Professor Fendoglu explained that there was a declining trend in the number of cases of reports of mistreatment in detention in Turkey due to the efforts (projects implemented) to bring the practice in line with the legislative framework. [S17.7]

- 2.82 In terms of statistical analysis of numbers of cases of mistreatment by state authorities reported, Mr Beyter of Mazlum Der advised that there had been a decline in the number of cases reported since the year 2000. However, current figures still did not correlate to statements made by the government on the issue of torture and mistreatment. [S5.11]
- 2.83 Mr Turk of the DTP was not aware of any figures for reported cases of mistreatment in detention or prison. He said that individual complaints were received every now and again but these were not on the large scale that they used to be and incidents of mistreatment were not as systematic. In Mr Turk's view, much depended on the nature of individual police officers as to whether they resorted to violence. [7.5]
- 2.84 Professor Fendoglu, President of the Human rights Presidency, reported statistics recorded in the first 6 months of 2007 related to cases brought forward against law enforcement officials accused of carrying out acts of mistreatment against prisoners and detainees. These were broken down as follows:
- Public prosecutor investigation continuing - 20 cases
 - Governorship decision not to prosecute - 4 cases
 - Human Rights Boards investigation continuing - 55 cases
 - Responsible personnel not allowed to continue duties while investigations into complaints against them ongoing - 7 cases
 - No criminal complaint to the prosecutor of the Republic where allegations made but not founded - 19 cases
 - Chief prosecutor decided not to prosecute where the police and gendarme were concerned - 11 cases
 - Withdrawal of complaints - 2 cases
 - Human Rights Board adjudged no human right violations - 5 cases
 - Cases continuing at the Main Criminal Court - 1 case. [17.6]
- 2.85 The Human Rights department at the Turkish National Police headquarters produced statistics reflecting action taken against personnel under legislation dealing with cases of torture and mistreatment in respect of accusations of "torture" investigated during the period 14 February 2005 to 31 January 2008.
- 2005 - 41 cases were judged – "Not possible to give a sentence"
 2006 - 26 cases were judged – "Not possible to give a sentence"
 2007 - 23 cases were judged – "Not possible to give a sentence" plus 3 cases judged – "Out of time"
- 2.86 Figures relating to accusations of "mistreatment" for the same period were:
- | | | |
|------|---------------------------------|-----|
| 2005 | Not possible to give a sentence | 545 |
| | Out of time | 6 |
| | Short-term suspension | 2 |
| | Warning | 1 |
| | Wage reduction | 1 |
| | Long-term suspension | 1 |
| 2006 | Not possible to give a sentence | 598 |
| | Out of time | 1 |
| | Short-term suspension | 4 |
| | Wage reduction | 2 |

2007	Not possible to give a sentence	171
	Out of time	6
	Short-term suspension	1
	Long-term suspension	1
	Condemnation	1
		[22]

- 2.87 With regard to the nature of complaints of alleged mistreatment by police officers, Ms Douglas-Todd, Resident Twinning Advisor, Independent Police Complaints Commission Project Team said that the Turks had a wide definition of torture and that some of the complaints received would, by UK standards, be categorised as minor complaints. The Turkish government was taking a very proactive stance towards tackling the torture issue and it was accepted by both the public sector and civil society that allegations of torture had significantly reduced over the last few years. Anecdotally, it was possible that tolerance levels changed if the individual is suspected to be related to terrorism, both by law enforcement officers and civilians. This was similar to the experience in the UK in relation to the Brazilian case with public attitude changing when it was confirmed that he was not related to terrorism acts. [S18.4]
- 2.88 Ms Douglas-Todd explained that although individuals could file complaints with a range of different offices and organisations, all cases would ultimately be progressed through the judicial prosecution service, which was the sole avenue of redress. When asked about whether any police officials accused of mistreatment had been successfully prosecuted, Ms Douglas-Todd advised that from the EU progress report, 2007 and the Amnesty International report on Impunity a number of police officers prosecuted had been acquitted and reinstated in their roles. However Ms Douglas-Todd said that the law enforcement bodies were tough on misconduct and therefore did also dismiss individuals for misconduct and there were records to prove this. [S18.6]
- 2.89 Mr Beyter said that most cases of mistreatment in detention/ prisons were bought forward by Human Rights organizations. This was because people were cautious about bringing forward cases on an individual basis. Mr Beyter said that the Human Rights foundation was very active and has offices and rehabilitation centre in Ankara, Adana, Diyarbakir, Istanbul, and Izmir. He said that 80-90% of cases bought forward by the Human Rights Foundation were mistreatment/torture cases. [S5.8]

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GOVERNMENT AND OTHER INITIATIVES TO PREVENT MISTREATMENT

- 2.90 Mr Ondul, Chairman of the Human Rights Association, said there was no independent Ombudsman in Turkey to investigate complaints of mistreatment. Turkey was yet to ratify the Optional Protocol on Torture (OPCAT). Therefore prisons and detention centres were not currently monitored by independent bodies. The Human Rights Foundation of Turkey was campaigning for Turkey to sign OPCAT and get it approved by the Turkish parliament. The Human Rights Association supports this campaign. [S4.15]

- 2.91 Mr Beyter Chairman of Mazlum Der also advised that there was no statutory body in place to follow up complaints of mistreatment. A Human Rights body affiliated to the Prime Minister's office is in place with district and provincial branches across the country where individuals can report cases of human rights violations to. However, Mr Beyter said that individuals tended not to report incidences of mistreatment to these boards therefore the boards were unaware of any trends relating to the issue of mistreatment. Mr Beyter reported that the Chair of the Human Rights Association of the Prime Minister's Department based in Ankara had said that the chairs of the district and provincial branches affiliated to the Prime Ministerial Human Rights body have little human rights awareness and have carried out few activities in the preservation of human rights in their areas of responsibilities. [S5.10]
- 2.92 The official from the Foreign Relations and European Union Department, Ministry of Interior said the government was trying to set up an Ombudsman to investigate complaints of mistreatment, but the project had not yet been implemented. He said that the project was being taken forward in conjunction with UK authorities as part of the UK-Turkey twinning project. However, the same official did explain that there were Inspectorate Boards affiliated to the Ministry of the Interior which inspected police detention centres and prisons and which also investigated claims of mistreatment by police officials. The inspectorate board HQ was based in Ankara but had regional offices in Izmir and Istanbul. Their staff included well qualified people such as prison governors, all of whom had 6 months training on handling mistreatment/ human rights violation type claims, are also given specific training on how to investigate claims of human rights violation in the law enforcement practices. [S12.8]
- 2.93 The same official from above further said that the measures taken by the Ministry within the framework of the zero tolerance to torture and mistreatment policy and the work carried out to ensure human rights sensitive policing services and to improve detention centre facilities could be addressed under three sections:
- a) Legal reforms beginning in 1995 and continuing to 2005 saw amendments to the criminal procedure laws which included: increased punishments for police officials committing human rights violations towards detainees, permission to put forward mistreatment cases to the administration court, and a one month deadline for prosecutors to finalise investigations into allegations of mistreatment and medical reporting in police detention.
 - b) Activities to improve the infrastructure of police detention centres, including the 24 hour monitoring, the provision of CCTV recording equipment in all detention centres and general improvements to accommodation. According to the same official, 78% of detention centres now had improved infrastructure and facilities which complied with CPT standards.
 - c) The creation of a human rights based culture in police institutions which included improvements to police training on human rights issues and general awareness of daily procedures. The same official advised that at the end of 2006, 300 000 police officers had undertaken human rights awareness training. [S12.9]

- 2.94 The UN Special Rapporteur, in a March 2006 report on Civil and Political Rights, including the question of Torture and Detention; noted that “New projects have been designed for the purchase of audio and video facilities to record the questioning and other treatment of persons in custody and interview rooms of the anti-terror branches of Directorates for Security in 34 provinces. These projects were put on tender in early 2007 and a contract was concluded on 26 June 2007 with a company. The project will be completed in 120 days. In 2008, a further 16 anti-terror branches of Directorates for Security will be equipped with the same audio-visual recording systems. Out of 2,865 custody and interview rooms in police units, 2,237 have been improved through modernization projects. Projects to modernize the remaining 628 are currently underway”. [29d]
- 2.95 In terms of monitoring of prisons, Mr Metin Bakkalci Chairman of HRFT advised that a week after the general elections on 29 July 2007, the Prison Monitoring Laws were changed. Under the previous law, any members of parliament could visit the prisons throughout Turkey. However, after July 2007, only members of the select Parliament Commission were granted this right. Further, changes to the disciplinary laws in 2006 made it more difficult for victims to see their cases concluded. Mr Bakkalci referred to the example of the case opened in 1991 which was only recently (January 2008) concluded, where the police officer was given a 4 year sentence, which was not considered to be commensurate with the crime and was being appealed against. [S8.8]
- 2.96 The judge from the International Affairs Department of Prisons and Detention Facilities advised that prisons in Turkey were subject to the inspection of civil monitoring boards, the judicial inspection of enforcement judges, Ministry of Justice inspectors, national prison service controllers as well as the Parliamentary Human Rights Commission, local human rights bodies, the European Committee for the Prevention of Torture (CPT) and Human Rights bodies of the United Nations (UN). He explained that the civil monitoring boards were voluntary bodies situated in 133 places where there was a heavy felony court and were established along UK lines. However from two points of view it differed from the British system. The members of the boards were appointed by the judiciary instead of the minister and their offices were situated at the court houses instead of the prisons. Members were appointed by the judicial authorities and included doctors, teachers, lawyers, psychologists and social workers. [S9.2]
- 2.97 The UN Special Rapporteur’s March 2006 report noted that the Government had informed that Law No. 4681 was adopted by the Parliament on 14 June 2001. It established prison monitoring boards in areas where there was a prison or other place of detention. The boards are composed of five members, appointed by a judicial commission. Membership is on a voluntary basis. The members of the boards are independent and graduates in law, medicine, pharmacology, psychology, social services or similar education programmes. The members should have 10 years professional experience and a reputation for honesty and impartiality. [29d]
- 2.98 The judge said that claims of mistreatment in prison could be made through the prison administration, but also through lawyers and relatives to the Public Prosecutors, Enforcement judges, Parliamentary Human Right Commission, Minister of Justice, the CPT and the European Court of Human Rights (ECHR). He advised that because prison officials were well aware of

the complaint procedures available to offenders and they received a well designed training on prisoners' rights, they did not ill treat prisoners under their supervision. The New Turkish Penal Code punished this crime severely. He further explained that many prisons had CCTV recording equipment in place, apart from in living areas, making it extremely difficult for prison officials or prisoners to commit acts of ill treatment. [S9.10]

- 2.99 The UN Special Rapporteur's March 2006 report on Civil and Political rights, including the question of Torture and Detention further noted that the Bureau for Inquiry into Allegations of Human Rights Violations was established within the Inspection Board of the Ministry of the Interior in March 2004. Allegations of human rights violations received by the central and regional branches of the Ministry of Interior are referred to the new Bureau for investigation. If the Bureau deems it necessary, public inspectors are appointed to conduct an investigation. The public inspectors are authorized to monitor all places of detention and will receive courses on human rights. [29d] (page 69)
- 2.100 The UN 2006 report further added that the boards can carry out inspections at penal institutions at any time they wish. However, they are required to visit every institution in their district at least once every two months. They are allowed to hold private meetings with prisoners, interview staff and examine records and documents. They prepare quarterly reports which are forwarded to all relevant actors. Upon receipt of the report, the General Directorate of Prisons and Detention Facilities at the Ministry of Justice take steps to rectify any problems referred to in the reports. [29d]
- 2.101 Mr Sedat Ozcan, of the Human Rights Division of the General Security Directorate said that between 2000 and 2007, 354,279 police officials had received human rights awareness training. The Human Rights Division also said that they had held courses since 2003 to inform personnel working in the anti-terrorism branch about the latest ECHR verdicts made in relation to Turkey, advice from the CPT and information on the latest issues and concerns in the field of human rights. [S16.3]
- 2.102 Mr Sedat Ozcan said a draft code on police ethics was also being prepared intended to create stronger cooperation between the police and local communities. The code would provide guidelines for police in the operation of their daily duties and increase the quality of the service they provided. It would also be drafted in line with Copenhagen criteria and ensure that the role of police officer was defined as a profession. [S16.8]
- 2.103 Mr Ozcan also stated that work to standardise conditions in detention centres was also underway. To date, 81%/ 2888 of detention rooms in Turkey met minimum international standards and efforts were ongoing to make improvements to the remaining 547. Human Rights Division advised that not all detention rooms could be standardised as some were situated in preserved/ historical buildings. [S16.12]
- 2.104 As part of work to standardise detention centres in Turkey, CCTV had been installed in centres in 16 provinces. Mr Ozcan explained that this was to avoid suicide and self harming in detention and to prevent baseless allegations made against the police for human rights violations. [S16.13]

- 2.105 Ms Douglas-Todd, Resident Twinning Advisor, Independent Police Complaints Commission Project Team said that the main strength of the current complaints system in Turkey was that Turkish citizens could go to various official and non governmental bodies to initiate a complaint about a law enforcement officer, which would then be taken forward to the judicial process, if a criminal matter. The main weakness in the system was poor recording of data with regard to complaints against law enforcers. The IPCC project therefore envisaged setting up a framework to publish such data on an annual basis to allow future trend analysis. It was envisaged that the IPCC project would take four years to complete and be conducted in two phases: firstly, to conduct a consultation and set up the necessary legislative changes; and, secondly, to establish the IPCC itself. The consultation paper was expected to be issued in May 2008. [S18.3]
- 2.106 The UN Special Rapporteur, March 2006 report on Civil and Political rights, including the question of Torture and Detention further noted that information received from NGOs, the Forensic Medicine Institution (Adli Tip Kurumu) was still the only body authorised to carry out medical examinations of detainees. The body worked under the Ministry of Justice. The doctors reportedly were not properly qualified in forensic medicine and had not received the necessary training on identifying physical and psychological torture. On 1 June 2005, new legislation came into force which provided that the police officer accompanying the detainee for the medical examination should be from a unit that was not involved in the arrest or questioning of the detainee. However, the new legislation was not being implemented in practice. [29d] (page67)

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3. Children

- 3.01 The 'Child Information Network in Turkey' website, defines a child as 'for the purposes of the present Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.' [6b]
- 3.02 The Republic of Turkey signed the UN Convention on the Rights of the Child on 14 September 1990 and ratified it with the decision of the Council of Ministers dated 9 December 1994, No: 4058. The Convention came into force on 11 December 1994. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in the armed conflict was signed on 8 September 2000 and ratified with the decision of the Council of Ministers dated 16 October 2003, No: 4991. The Optional Protocol came into force on 18 March 2004.

CHILDREN BORN OUT OF WEDLOCK

- 3.03 According to the Child Information Network in Turkey the Convention on the Rights of the Child (CRC) was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.
 2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless. [6c]
- 3.04 Mrs Pieters the Deputy Representative of United Nations Children's Fund (UNICEF) advised that in order to register the birth of a child in Turkey, a parent needed to be married. Consequently, individuals who were unmarried would often register their children to married members of their family. Mrs Pieters said that UNICEF was doing an analysis of the Birth Registrations laws which would shortly be published. Also, an awareness raising campaign would be launched jointly with the Directorate General for population under the Ministry of Interior. [S3.15]
- 3.05 The EC progress report 2007 noted that although in the last 10 years there has been a significant decrease in the proportion of unregistered children compared with 10 years ago, the proportion of children under five years of age who were not registered at birth remained high, in particular in the East and Southeast of the country. This created obstacles for children's subsequent access to health and education services. Official statistics showed that the ratio of children who die at birth was still high. [17c]
- 3.06 Mrs Pieters was unable to provide any statistical information about children born out of wedlock. However, she said that when a child was born to an unwed mother it was often placed in an institution, given to a childless family member to bring up, or put up for fostering. Mrs Pieters gave an example of

four pregnant girls in an Istanbul prison, who had been told that their babies were stillborn, when the babies had actually been given for adoption. [S3.14]

- 3.07 On the children born out of wedlock, Mrs Nurdan Tornaci, Deputy Director General and Nilgun Geven, Head of Department for Women's Branch Department of Services for Women, Children and Society (SHCEK) reported that there was still a certain stigma attached to this issue in Turkish society and that often children assumed to be born out of wedlock were left on the streets. In cases of child abandonment, SHCEK would take in the children concerned and look after them; some may then be fostered or adopted. SHCEK said that every year there were about 500 adoption cases, of which approximately 250 children were abandonment cases, probably born out of wedlock. [S11.19]
- 3.08 In the UNICEF 'Gender Review in Education in Turkey 2003', it was also mentioned that estimated percentages of unregistered children were not available. [33]

CHILD LABOUR

- 3.09 In the NGO Report on Turkey's Implementation the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography report of 2006, compiled by Ankara Child Rights Initiative, it was stated that, "Child labour in all circumstances until 15 years of age is prohibited in Turkey." [32]
- 3.10 The Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, states under **Article 32**:
1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
 2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article. [29e]
- 3.11 The Right-to-Education website notes that under article 67 of the Turkish Labour Law, it is forbidden to employ children under 15 years of age, with the exception that employment in light work may be permitted to 13-year-old children if it will not adversely affect their health, school education or vocational training. [18]

- 3.12 The Turkish NGO Report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography report of April 2006 observed that, “not much disaggregated information is at hand with respect to the problem of forms of forced labour, such as domestic child labour, child labour used in institutions, and forced child labour on the streets used by petit crime mobs, and the like. [32] (page9)
- 3.13 The same report further added that children living and/or working on the streets constitute a highly vulnerable group of children with respect to OPSC related crimes. Recent temporary Committee on street children at the Turkish Grand National Assembly (TGNA) revealed that 41,982 children living and/or working in the streets have been provided protection measures by SHCEK. [32] (p.6)
- 3.14 When asked which parts of Turkey were covered by the child labour laws, Mr Yilmaz, Head of the Department of Child Labour, Ministry of Labour and Social Security said that the laws covered the whole country, and that there was no regional limitation. [S15.1] Mrs Pieters the Deputy Representative of United Nations Children’s Fund (UNICEF) advised that while the child labour laws officially covered the whole country, agricultural regions were effectively exempt from the provisions. There were no legal grounds or other means available to ensure that children who were registered in schools regularly attended them and did not instead go out to work in the fields. [S3.1]
- 3.15 The EC progress report 2007 noted that child labour is still widespread in seasonal agricultural work and on the streets. Shortcomings remain in the labour law and its implementation, and the national resources allocated to tackle child labour are insufficient. [17c] (page19)
- 3.16 The representatives of the EU Commission Delegation confirmed that with regard to children in employment, the coverage of the Labour Law is limited. For example, it did not cover the agricultural enterprises employing less than 50 workers. [S19.17]
- 3.17 Mrs Pieters mentioned that, especially in the rural areas, workers were employed on a family “clan” basis whereby older family members obtained employment for their families through a verbal contract with an employer. As a consequence employers could not be held legally responsible for any under age child working. [S3.2]
- 3.18 Mrs Pieters said that figures released in April 2007 by the Turkish Statistical Institute with the support of the International Programme for the Elimination of Child Labour, indicated that 958,000 children aged between 6-17 were engaged in some form of economic employment/activity in 2006. Of these, 120,000 were not attending school. She also said that the first survey on child labour in 7 years showed that longer years of schooling and the decline in the importance of agriculture as a source of employment had caused a marked reduction in child labour. In rural areas, according to this survey, child labour had declined by 50% between 1999 and 2006. Mrs Pieters also said that the number of children working in agriculture had gone down because of the modernisation of the agricultural sector and the fact that families have moved away to urban sectors. [S3.4]

- 3.19 The NGO Report on Implementation of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography report of April 2006 noted that, “there are around 3,850,000 working children in Turkey. 511,000 of them amongst children between 6-14 years of age and 469,000 of them registered working children between 12-14 years of age.” [32] (page9)
- 3.20 When asked about the proportion of children who were in some form of employment and Mr Yilmaz, Head of the Department of Child Labour, Ministry of Labour and Social Security said that according to surveys undertaken in recent years, the evidence was that some children were in employment for short periods to assist with economic pressures at home. These included children helping fathers in their shops and children working in the agriculture sector on farms. A 1994 survey had shown that 2, 269,000 children aged between 6-17 years were in employment. In 1999 the number had decreased to 1,630,000 and in 2006, to 958,000. [S15.3]
- 3.21 In terms of evidence of geographical trends or patterns related to children employed in seasonal work, Mr Yilmaz explained that children often engaged in seasonal labour in rural areas like Adana, Urfa and other south eastern regions. He added that with regard to the proportion of children working in seasonal labour, the majority were in the agricultural sector followed by the industrial / urban sector and the service sector. [S15.6]
- 3.22 When asked about the prevalence of child labour, Ms Douglas-Todd, Resident Twinning Advisor, Independent Police Complaints Commission Project Team, said that this was reported to be widespread in Van, but even more so in Istanbul and that police ‘turn a blind eye’. [S18.8]
- 3.23 Regarding children employed in the urban sector, Mrs Pieters told the mission that number of children engaged in economic employment/activity in this sector had fallen from 478,000 in 1999 to 457,000 in 2006. However, there had been an increase in the number of children employed aged between 6 and 14 from 109,000 to 116,000. The statistics further indicated that out of the total number of children in employment, 392,000 were engaged in agriculture, 271,000 in industry and 294,000 in trade and other services. However these figures did not take into account children who took responsibility for domestic tasks such as cooking, cleaning, shopping and care of siblings or older members of the family. According to the 2006 survey 53% of girls and 33% of boys carried out house hold chores but as girls got older they were more likely to continue with domestic chores than boys. [S3.5]
- 3.24 Although the problem of children in the agricultural sector is being addressed more and more, there are still reports of abuse of economically disadvantaged segments of the society by brokers who hire children between 12 and 16 years of age from their families in Eastern and South Eastern Turkey to work in Western Northern parts of Turkey, mostly during summer months. These children are not only exposed to forced hard labour in fields but also to all forms of abuse including sexual. [32] (page 9)

LEGISLATIVE FRAMEWORK

- 3.25 Mr Yilmaz Head of the Department of Child Labour said that the Turkish government had adopted laws and regulations relating to the prevention of child labour in line with international standards. There were also many

international organisations operating in Turkey that worked with the government to regulate child labour, such as the International Labour Organization (ILO) and the United Nations (UN). Mr Yilmaz reported that in 2006, the ILO had chosen Turkey as one of the most responsible and sensitive countries taking forward work to prevent child labour. [S15.1]

3.26 Mr Yilmaz said that there were a number of Turkish byelaws related to the prevention of child labour but that constitutionally, article 50 of the Turkish Labour Law was the strongest provision in place. Byelaws concerning the education of children and the prevention of child labour included:

- Law no 4857 (Article 71 of the Turkish Labour Law) which prohibits children from being engaged in hard labour
- Law no 222 which concerns the obligation to complete compulsory primary and secondary education for 8 years (6 to 14yrs).
- Law no 2821 which concerns the syndicate trade union law provision on child labour.
- Law no 2559 which concerns the provision of guidelines for the police and local authorities on preventing child labour.
- Law no 1580 which concerns the responsibilities of municipalities regarding child labour.
- Law no 2828 which pertains to social services and child care services.
- Law no 5395 which concerns child protection. [S15.2]

3.27 Ms Douglas-Todd, the Resident Twinning Advisor, also added that legislation was in place and there were many active campaigns in relation to child labour, but implementation remained a problem. [S18.8]

3.28 Mrs Pieters, the Deputy Representative of United Nations Children's Fund (UNICEF) said that UNICEF had undertaken a comparative study assessing the differences between the provisions in Turkish national laws that addressed issues relating to children and those in EU directives. This study would be used to lobby the government on amendments needed to strengthen the existing legislative framework for children. She said that child laws relating to freedom of expression and freedom to be taught in one's own language dated back to 1932 and were in need of major amendments. Amendments made in 2004 had not addressed the need to extend coverage to the agricultural sector. While ratifying the United Nations Convention on the Rights of the Child, Turkey submitted reservations on articles 17, 29 and 30. These reservations remain today. The Turkish authorities should be encouraged to withdraw these reservations during the review of their 2 and 3 State Party Report in 2009. [S3.3]

3.29 Finally, Mrs Pieters told the mission that the implementation of the 2005 reform to the Child Protection Law was going to be a very challenging piece of work to take forward as the infrastructure for implementation was not yet in place. This would require the effective cooperation of different sectors of the government authorities but the indications were that they were in favour of taking the legislative reforms forward. [S3.16]

3.30 The US State Department Report (USSD) 2006 also noted that there were laws to protect children from exploitation in the workplace; however, the government did not effectively implement these laws [article 32 CRC]. The law prohibits the employment of children younger than 15 and prohibits children under 16 from working more than eight hours a day. At age 15

children may engage in light work provided they remain in school. The law provides that no person shall be required to perform work unsuitable for their age, gender, or capabilities, and the government prohibits children from working at night or in areas such as underground mining. The law prohibits children attending school from working more than two hours per day or 10 hours per week. [28b]

- 3.31 The USSD 2006 report further noted that, the Ministry of Labour and Social Security effectively enforced these restrictions in workplaces that were covered by the labour law, which included medium and large-scale industrial and service sector enterprises. A number of sectors are not covered by the law, including small-scale agricultural enterprises employing 50 or fewer workers, maritime and air transportation, family handicraft businesses, and small shops employing up to three persons. [28b]

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ENFORCEMENT

- 3.32 When the fact finding team asked about any evidence on prosecutions and convictions brought forward on the unlawful use of child labour the Deputy Representative of United Nations Children's Fund (UNICEF) Mrs Pieters stated that there were no statistics maintained by the government or the Bar Association on this subject. Mrs Pieters said that each Bar Association office across the country had a department for dealing with children's issues but these were not very efficient. Mrs Pieters also mentioned that 60 Bar offices across the country had offices known as "Child Rights Commissions" but only 40 of these were quite active. Officially speaking, legal redress was available to children, though concerns remained around the fact that there were no children's courts and some children's cases had been referred to the adult courts. [S3.11]

EDUCATION

- 3.33 According to the 'Child Information Network in Turkey' website, under article 28 of the Convention of the Rights of the Child:
1. States Parties recognize the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
 3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries. [6a]
- 3.34 Mrs Pieters the Deputy Representative of United Nations Children's Fund (UNICEF), reported that Turkey did not have enough schools for its 10.8 million school age children, despite the fall in the pace of population growth. Over the past ten years, the Ministry of National Education had mobilised resources to combat the issue including, in cooperation with UNICEF, the launch of a girls' education campaign "Haydi Kizlar Okula" (Come on Girls, to School). This campaign was launched because in many parts of the country, local communities saw no point in girls attending school, expecting women to play a traditional role in society later in life. Many conservative families were unwilling to educate their daughters, particularly beyond the age of 11. As well as doubting the benefit of education for girls, they did not want them to mix with boys and did not think it safe to travel to school on a bus. [S3.6]
- 3.35 Mrs Pieters said that there were some parents who were willing to send both their daughters and sons to school, but in cases of financial hardship, the sons were given preference to continue schooling, as daughters were more likely to be asked to stay at home to help out with domestic chores. The government had enlisted the help of community leaders and field workers in an effort to overcome these preconceptions and provide families with financial support so that their children could attend school. Despite this, overcrowded school facilities and other unfavourable circumstances provided families with a powerful excuse to not send girls to school. [S3.7]
- 3.36 Mrs Bas Head of Department, Directorate General for Women's Status and Ms Sahin AKP MP for Gaziantep also mentioned the "Come on Girls to School" campaign which was being run in rural areas and was becoming widespread across the whole of Turkey. [S13.14] The campaign had so far seen 250,000 girls return to school. [S20.8] Mrs Bas said that there were many initiatives being implemented to increase the proportion of girl children attending schools. [S13.18] Raising educational awareness among young girls on human rights was according to Ms Sahin a key priority and seen as an important means of eradicating abuses against women at a later stage in their lives. [S20.8]
- 3.37 With regard to absenteeism from school, Mrs Pieters said that Turkey had no strict guidelines on children who were absent or missing from school. Until recently, there was no data kept on numbers absent. However, with UNICEF support, the government had now made it mandatory for schools to record absentees and take action against parents for non-attendance. The new system (e-school) recorded all children in each sub district from the ages of 6-14 who attended school and teachers and school principals then fed this information into a database. School principals and Teachers were

also required to open a file for each student to further track their progress and attendance. The province of Urfa had shown positive results in school attendance since the introduction of the new recording system and Mrs Pieters indicated that the new system would provide a useful tool for UNICEF to conduct a trend analysis in 2009 on the proportion of children working in Turkey. [S3.9]

- 3.38 The EC progress report 2007 noted that, concerning education, the gender gap in primary education decreased to 4.6% in the 2006-2007 school year. The first phase of the campaign on education for girls conducted by the Ministry of National Education and UNICEF ended. Between 2004 and 2006 a total of 191,879 girls and 114,734 boys were integrated into primary education. A cash transfer scheme reinforced the campaign by providing direct income support to families. Private-sector and NGO campaigns aimed at increasing enrolment rates in primary and pre-school education continued. [17c] (page 19)
- 3.39 The EC 2007 report further noted that the primary school enrolment rate remained at 90%. In the area of education, improved monitoring of progress and drop-outs, especially of girls from primary education, was needed. More efforts were needed to reduce regional disparities in schooling rates. Girls' enrolment in primary education had increased, but the gap in secondary education remained wide. [17c] (page 19)

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UNDER AGE MARRIAGES

- 3.40 Right to Education – At What Age? are school-children employed, married and taken to court? This website states that under article 87 of the Civil Code minimum age for getting married as 18. However, with the consent of the parents, this limit can be 17 years of age for males and 15 years of age for females. Irrespective of these limits, the judge may permit the marriage of a 15-year-old male with a 14-year-old female for important reasons and under exceptional circumstances under article 88 of the Code. [18]
- 3.41 The Office of the Prime Minister, Directorate General of Press and Information, has recorded that the legal age for marriage has been raised for both men and women (Article 124). However, under extreme situations and with sufficient cause, both men and women who are over the age of 16 can be married with the permission of the judge. [39]
- 3.42 Regarding under age marriages, Mrs Pieters the Deputy Representative of United Nations Children's Fund (UNICEF) in Turkey said that underage marriages affected particular sections of society including the Kurdish, Roma and Arab communities. Mrs Pieters advised that 99% of such marriages did not get prosecuted owing to cultural stigma. [S3.12]
- 3.43 Mrs Pieters said that UNICEF was currently concerned about the Roma community in Turkey who were often socially excluded as a result of failure to register the births of their children. They did not send their children to school (a major factor affecting Roma girls) and child marriage was also an issue. [S3.10]

- 3.44 In the United Nations Development Programme report on Youth of Turkey 2008 it was noted that although the law prohibits children from marrying, families — particularly those in remote rural areas — have sufficient leeway to give their adolescent daughters in marriage, owing to inadequate birth registration procedures. Furthermore, many rural communities consider an *imam nikah* or religious ceremony sufficient to formalise a union. As a result, many marriages remain officially unregistered and essentially invisible to the State. [34] (page 59)
- 3.45 The same report further noted that, in many cases, child marriage is motivated to a considerable extent by fear that a girl's family honour will be ruined if her virtue is compromised in any way. The same fear is at the root of the issue of honour killings — a persistent threat to adolescent girls and young and adult women alike especially in rural areas where hundreds of Turkish women die each year by way of reparation for their family's allegedly damaged reputation. [34] (page 59)

MISSING CHILDREN

- 3.46 Professor Fendoglu, President of the Human rights Presidency, advised that the Human Rights Presidency had written to the Ministry of Interior, as well as governors of the districts of Turkey, about the high numbers of missing children across the country (11,460 children were reported to be missing in Turkey) requesting information on trends and patterns of disappearances in their areas of responsibility. The Human Rights Presidency Team would then analyse the findings as part of a new project. [S17.11]

ORPHANAGES

- 3.47 Mrs Nurdan Tornaci, Deputy Director General and Nilgun Geven, Head of Department for Women's Branch Department of Services for Women, Children and Society (SHCEK) said that they provided orphanages for children aged up to 12, dormitories and nurseries to educate children aged between 13-18, rehabilitation centres for children working on the street, homes for the elderly and the disabled, and shelters for women subject to domestic violence. SHCEK also worked on child custody issues, particularly in cases of children of foreign nationals. [S11.3]
- 3.48 Regarding orphanages in Turkey, Mrs Pieters the Deputy Representative of United Nations Children's Fund explained that UNICEF was working to come up with recommendations to present to the Turkish parliament on minimum standards of care. UNICEF's research had identified the need for more qualified social workers trained in early childhood development to work in orphanages. She also explained that the training of more social workers would take time as there were only two facilities in Turkey that provided the necessary training. [S3.13]
- 3.49 In the 2006 International Helsinki Federation (IHF) Annual Report on Human Rights Violations, it was noted that mistreatment of children was also reportedly common in state orphanages. A public scandal followed the broadcasting of images of children subjected to severe and group violence by their carers in an orphanage in Malatya in October 2005. [40]

When asked if there was any information on the outcome of the Malatya State Orphanage officials charged, the EU delegation advised that the

information they had was that the criminal case lodged against the 9 official staff involved had resulted in administrative sanctions being imposed. [S19.17] However Mrs Pieters advised that there was no information available on the outcome. [S3.13]

- 3.50 The US State Department Report (USSD) 2007 recorded that, on 26 December 2007, a Malatya penal court sentenced nine suspects to one year's imprisonment for negligence and misuse of authority. A second case against five other employees was continuing. [17c]

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STATEMENTS

S1: Liz Anudon and Karin Rouge - Women for Women's Human Rights (WWHR) – New Ways

- 1.1 Women for Women's Human Rights (WWHR) – New Ways, an independent women's NGO, was founded in 1993 with the aim of promoting women's human rights on the national, regional and international levels. Since its foundation, WWHR has become a widely renowned non-governmental organization around the globe. Through a decade of activism, advocacy and lobbying, WWHR – New Ways has contributed significantly to various legal reforms in Turkey, networking in Muslim societies and promotion of women's human rights at the United Nations (UN) level. Since 2005, WWHR - New Ways has consultative status with the Economic & Social Council (ECOSOC) of the UN. [4]

Interview notes

- 1.2 WWHR reported that incidences of domestic violence happened across Turkey and within different social, economic, and ethnic groups. The WWHR itself did not record statistics of incidences of domestic violence.
- 1.3 WWHR said that women's shelter provision had previously been limited to Turkish cities, for example Ankara, Istanbul and Izmir. However, there are now 36 shelters for victims of domestic violence across the country. WWHR reported that according to the new municipality bylaws there should be a shelter in each municipality of 50,000 or more people but this had yet to be fully implemented.
- 1.4 In terms of actual operation of existing shelters, WWHR advised that shelters provide a limited service; not offering 24 hour service provision and generally working on a 9 to 5 basis. Some are run by the government or social services, others by the municipalities in collaboration with women's organisations. However, the service provided by shelters is not restricted to victims of domestic violence but is also offered to victims of sexual assault and those fearing honour killings.
- 1.5 WWHR explained that there is no constitutional body to follow up complaints of domestic violence, sexual assault or honour killings. Cases must be reported to the police. WWHR said that women are reporting cases of domestic violence more frequently than they used to. Thus, the rise in the number of reported cases is not necessarily indicative of a rise in actual cases occurring.
- 1.6 WWHR said that a study undertaken in 1996-98 suggested that women did not trust state institutions in handling complaints of domestic violence because the police were reluctant to investigate such cases. This position has changed and women are more willing to report cases to the police. WWHR reported that the police are now more willing to investigate cases of abuse than they used to be but this was dependent on where a woman lives and there is no consistency of response from the police on women's human rights violations.

- 1.7 Police and public prosecutor training on women's issues surrounding domestic violence and sexual assault is, according to WWHR, better than it used to be. Though there is no standard core curriculum in police colleges regarding women's issues, some training are taking place for Judges, prosecutors and police officers regarding handling women's cases, even though these are limited in scope and time.
- 1.8 The number of reported honour killings has increased, though as previously noted, this is not because of an increased number of killings but rather an increased willingness to report cases to the authorities. WWHR said that although still an issue in Turkish society, the numbers of cases of honour killings do not appear to be on the rise. However, because of increased reporting and the fact that honour killings are often recorded as suicides (ie where girls are forced by their families to kill themselves), it was not possible to be definitive about the level of incidence.
- 1.9 Honour killings tend to be more prevalent in South East and Eastern areas of Turkey (e.g. Diyarbakir and Van), particularly in Kurdish ethnic/ religious communities. However, honour killings are not confined to this section of the community/ geographical area and the issue also affects women such as those in s immigrant communities in Istanbul. WWHR also advised that honour killings are unknown in the Alevis community and certain geographical areas, such as some provinces in the East like Tunceli.
- 1.10 In WWHR's opinion, government initiatives to prevent honour killings are limited. There has been some government collaboration with the United Nations Population Fund (UNFPA) and larger media companies in terms of awareness raising campaigns. However, these campaigns have not been specifically targeted and it is debatable whether they have had any measurable results.
- 1.11 The government had commissioned a report on honour killings, led by Fatma Sahin MP, which includes guidance in relation to domestic violence, but not much has come out of this study. Generally the government prefers to refer to these crimes as "customary killings".
- 1.12 The WWHR itself cooperates with social services agencies which run community centres throughout the country and provide a holistic human rights education programme for women. The community centres are an important means of support to women from the lower socio economic strata in Turkish society, providing support and advice regarding access to education and redress against human rights violations. The latter is of particular importance given that many women are not aware of their rights and what the police can do for them on issues such as domestic violence.
- 1.13 The Penal Code reform of 2004 contained amendments in 35 articles increasing sentences for perpetrators of crimes against women including domestic violence, sexual assault and rape in line with international standards. For example, a perpetrator of a sex abuse crime, if successfully prosecuted, could receive a sentence of 5-20 years. In WWHR's view, implementation of the new Penal Law will take some time, but some good examples of successful prosecutions under the new law have been documented. More generally, WWHR said that there has been an increasing number of prosecutions of cases relating to domestic violence/

sexual assault/ honour killings. The change is not dramatic but is noticeable.

- 1.14 In terms of legal service provision for women seeking redress against human rights violations and any other issues, many women lawyers are available who are active within the Bar Association, some of whom provide a free legal service for those unable to afford legal costs.
- 1.15 WWHR said that there are some difficulties in access to the Court/ legal services, experienced by women who are not literate or Turkish speaking; for example, women from Kurdish/ immigrant communities for whom access to an interpreter is 'a lottery'. However interpreters are available in cases brought forward to the Court for hearing for anyone who does not speak the language.
- 1.16 In conclusion, WWHR said that despite being a large country physically with limited financial resources, positive developments are being taken forward in the area of women's human rights and will continue. A legislative framework is in place but the implementation is slow. Also, organizations representing women's interests have extended to parts of the country where they did not used to be.

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S2: Temuçin Tüzecan - Director of Stop Violence Against Women Campaign, Hurriyet newspaper

- 2.1 Temuçin Tüzecan is Director of the 'Stop Violence against Women', a 'comprehensive, nation-wide campaign, involving a number of partners and goodwill ambassadors, which has been running ...since 2004', in association with the Hürriyet newspaper.[5]

Interview notes

- 2.2 Mr Tuzecan advised that according to 1991 statistics compiled by the Ministry of State for women, 1 in 3 women were victims of Domestic violence. In Mr Tuzecan's view, these statistics were unlikely to have changed significantly and the figure was possibly higher in certain regions of Turkey.
- 2.3 Mr Tuzecan explained that according to a recent report published by Turkish Economic and Social Studies Foundation (TESEV) 60% of women between the ages of 15–24 and 66% of women between the ages of 24–30 were either out of work, sitting at home or not qualified for work. Economic pressures and conservative family attitudes were some of the factors mentioned in the report for girls failing to register in schools and failing to take part in social activities.
- 2.4 Mr Tuzecan advised that there had been a change in the law on domestic violence since 1997 but implementation was slow. However, the Ministry of State had been pushing hard for the effective implementation of the new legislative framework and the training of police, judges and prosecutors was underway. The changing of very strong cultural habits was a difficult and slow process. But increased police training on women's issues combined with a new enlightened younger generation of police officer who had a better awareness and understanding of human rights had led to visible improvements in the police handling of cases of women's human rights violations.
- 2.5 In terms of the police taking forward reported cases of domestic violence, Mr Tuzecan explained that cases were more likely to be taken forward if there was physical evidence of violence such as physical marking of a beating. The police were lacking with regard to taking into account the psychological effects of domestic violence which were generally not accepted or considered as evidence. However, when evidence of physical violence was strong, punishment of the perpetrator could be as much as 8-10 years and in cases of murder a life sentence.
- 2.6 According to Mr Tuzecan, honour killings or rather 'customary killings' as they are called in Turkey, were very prevalent amongst the Kurdish community because of tribal structures. Mr Tuzecan also explained that honour killings were often presented as forced suicides. In Batman, for example, the rate of forced suicides was very high but these were not taken seriously as the girls were often never officially registered so to all intents and purposes did not officially exist.
- 2.7 When asked about official bodies in place responsible for monitoring or following up complaints of human rights violations against women, Mr Tuzecan advised that there was no constitutional body in place.

Central Government had an official body with regional organisations dealing with children and women in need but because of the ingrained civil service mentality in Turkey, these did not open outside of core 9 – 5 office hours. That said there were a number of women's NGO bodies that were active including the newspaper that Mr Tuzecan worked for "The Hurriyet", which ran a 24 hour telephone hotline (02126569696) for female victims of human rights violations.

- 2.8 Working in cooperation with the state authorities and partly funded by the EU, the hotline was staffed by seven full time psychologists and two full time lawyers. Mr Tuzecan explained that anybody with access to a phone in Turkey or abroad could obtain guidance from the Hurriyet hotline, which had been up and running for 3 months and has taken 6,000 calls to date. Mr Tuzecan said that of the 6000 calls, 3500 genuinely required advice and the remainder were 'time wasters'.
- 2.9 According to Mr Tuzecan, reluctance of women to bring forward cases of human rights violations was a common problem. Mr Tuzecan cited the case of a 17 year old girl in a town in Eastern Turkey, Ardahan, who sought legal advice via the Hurriyet hotline but who failed to formally file a complaint. Mr Tuzecan said that failure on the part of female victims of human rights violations to formally file complaints was also because some women were not aware of their rights of redress or how the complaints system worked. Mr Tuzecan reported that as a newspaper The Hurriyet wanted to be a platform for making the women of Turkey aware of their basic human rights and the methods of redress available to them.
- 2.10 When asked whether the government had made any statements on domestic violence, Mr Tuzecan said that in July 2006, the Prime Minister passed a decree reminding the all relevant authorities who may come across cases of domestic violence to take the issues of domestic violence seriously and to alleviate some of the problems associated with domestic violence. The decree was considered to be a huge step forward in making a difference to the treatment of victims of domestic violence, supporting the efforts of Minister of State Nimet Cubukcu who gives priority to the issue.
- 2.11 In Mr Tuzecan's opinion until there was a shift in societal attitudes towards the treatment of women and until there was greater awareness amongst women about how to deal with relationship problems domestic violence would remain an issue. However, Mr Tuzecan was also optimistic as the government was beginning to implement the laws on domestic violence that had been put in place by the previous government because of Turkey's desire to move into the EU.
- 2.12 In terms of women's access to the court system and the availability of legal assistance, Mr Tuzecan explained that women had easy access to the court system to pursue their remedies but socially some women were not inclined to pursue human rights violations through the courts as they feared reprisal. Even though there were women lawyers to help, who were sensitive to the issue of domestic violence, women were still fearful of reporting or lodging complaints.
- 2.13 When asked about shelter provision for victims of human rights violations, Mr Tuzecan said that there were not sufficient shelters being built in Turkey

to cover the vast number of women who needed to have access to them. The new legislative framework indicated that there should be a shelter provided for a population of 50,000 in each municipality but because of the lack of guidelines from the government, the majority of these shelters had not been built. Also, to be effective, shelters required anonymity and in smaller communities this could not be achieved.

- 2.14 Mr Tuzecan advised that there were currently 26 shelters across Turkey for a population of over 72 million inhabitants. The 26 shelters across the country were run by NGOs and municipalities. Mr Tuzecan said that there was no realistic figure on how many more shelters were actually needed. However, the issue was not about building more shelters but concentrating on preventative measures to eradicate the abuse of women at grass roots level then shelters would not be required.
- 2.15 When asked about the “No to Domestic Violence Campaign” Mr Tuzecan advised that this campaign started in October 2004 and was primarily to get people to understand their basic human rights. Mr Tuzecan explained that the campaign began with a bus which was driven to regions of Istanbul, a city of 12 million people, where the inhabitants were of low educational attainment and income. Two hour presentations were provided about human rights and how to deal with abusive relationships. The initial campaign reached 26,000 people, but had since grown into a larger campaign. The campaign had recently developed a website with its own logo and 550 people across the country had become trainers associated to the campaign. In addition, those involved in the campaign had been invited to train police officers in municipalities and centres across Turkey. With the help of UNFPA, the Hurriyet had organised three conferences on domestic violence, one of which was attended by Baroness Scotland. The aim of the conferences was to make women aware of their rights but also to make police officers aware of the sensitivity of issues relating to domestic violence and how to deal with them compassionately.
- 2.16 Mr Tuzecan said that in 2008, Hurriyet planned to organise alliances with local businesses to get them involved with the campaign. So far, the campaign had formed an alliance with a company selling women’s socks and was able to advertise through that company’s packaging. The Hurriyet would also shortly be talking to Unilever to get involved.
- 2.17 Mr Tuzecan explained that the Hurriyet had received the United Nations best social programme award in 2006 and was going to make human rights as a social project to be implemented in Turkey to coincide with the 60th anniversary of Hurriyet and Universal Declaration of Human Rights.

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S3: Mrs Lila Pieters – Deputy Representative of United Nations Children’s Fund (UNICEF) in Turkey

Interview notes

- 3.1 When the mission asked which parts of Turkey were covered by the child labour laws Mrs Pieters the Deputy Representative of United Nations Children’s Fund (UNICEF) advised that officially the child labour laws covered the whole country but that agricultural regions were effectively exempt from the provisions. There were no legal grounds or other means available to ensure that children who were registered in schools regularly attended them and did not instead go out to work in the fields. [S3.1]
- 3.2 Mrs Pieters mentioned that especially in the rural areas workers were employed on a family “clan” basis whereby older family members obtained employment for their families through a verbal contract with an employer. As a consequence employers could not be held legally responsible for any under age child working. [S3.2]
- 3.3 Mrs Pieters explained that UNICEF had undertaken a comparative study assessing the differences between the provisions in Turkish national laws that addressed issues relating to children and those in EU directives. This study would be used to lobby the government on amendments needed to strengthen the existing legislative framework for children. Mrs Pieters said that child laws relating to freedom of expression and freedom to be taught in one’s own language dated back to 1932 and were in need of major amendments. Amendments made in 2004 had not addressed the need to extend coverage to the agricultural sector .While ratifying the United Nations Convention on the Rights of the Child, Turkey submitted reservations on articles 17, 29 and 30. These reservations remain today. The Turkish authorities should be encouraged to withdraw these reservations during the review of their 2 and 3 State Party Report in 2009. [S3.3]
- 3.4 Mrs Pieters advised that figures released in April 2007 by the Turkish Statistical Institute with the support of the International Programme for the Elimination of Child Labour, indicated that 958,000 children aged between 6-17 were engaged in some form of economic employment/activity in 2006. Of these, 120,000 were not attending school. She also stated that the first survey on child labour in 7 years showed that longer years of schooling and the decline in the importance of agriculture as a source of employment have caused a marked reduction in child labour. In rural areas, according to this survey, child labour had declined by 50% between 1999 and 2006. Mrs Pieters said that the number of children working in agriculture had gone down because of the modernisation of the agricultural sector and the fact that families have moved away to urban sectors. [S3.4]
- 3.5 With regard to children employed in the urban sector, Mrs Pieters advised that number of children engaged in economic employment/activity in this sector had fallen from 478,000 in 1999 to 457,000 in 2006. However, there had been an increase in the number of children employed aged between 6-14 from 109,000 to 116,000. The statistics further indicated that out of the total number of children in employment, 392,000 were engaged in agriculture, 271,000 in industry and 294,000 in trade and other services.

However these figures did not take into account children who took responsibility for domestic tasks such as cooking, cleaning, shopping and care of siblings or older members of the family. According to the 2006 survey 53% of girls and 33% of boys carried out house hold chores but as girls got older they were more likely to continue with domestic chores than boys. [S3.5]

- 3.6 Mrs Pieters reported that Turkey did not have enough schools for its 10.8 million school age children, despite the fall in the pace of population growth. Over the past ten years, the Ministry of National Education had mobilised resources to combat the issue including, in cooperation with UNICEF, the launch of a girls' education campaign "Haydi Kizlar Okula". This campaign was launched because in many parts of the country, local communities saw no point in girls attending school, expecting women to play a traditional role in society later in life. Many conservative families were unwilling to educate their daughters, particularly beyond the age of 11. As well as doubting the benefit of education for girls, they did not want them to mix with boys and did not think it safe to travel to school on a bus. [S3.6]
- 3.7 Mrs Pieters reported that there were some parents who were willing to send both their daughters and sons to school, but in cases of financial hardship, the sons were given preference to continue schooling, as daughters were more likely to be asked to stay at home to help out with domestic chores. The government had enlisted the help of community leaders and field workers in an effort to overcome these preconceptions and provide families with financial support so that their children could attend school. Despite this, overcrowded school facilities and other unfavourable circumstances provided families with a powerful excuse to not send girls to school. [S3.7]
- 3.8 In 2007 the Turkish National Committee for UNICEF managed to raise money for prefabricated classrooms and Mrs Pieters reported that the provinces of Mardin, Sanlurfa, Batman, Siirt and Sirnak and Kirsehir were chosen for the initial implementation. The Directorate General of the Ministry of Interior is matching the funds raised by the National Committee.
- 3.9 With regard to absenteeism from school, Mrs Pieters said that Turkey had no strict guidelines on children who were absent or missing from school. Until recently, there was no data kept on numbers absent. However, with UNICEF support, the government had now made it mandatory for schools to record absentees and take action against parents for non-attendance. The new system (e-school) recorded all children in each sub district from the ages of 6-14 who attended school and teachers and school principals then fed this information into a database. School principals and Teachers were also required to open a file for each student to further track their progress and attendance. The province of Urfa had shown positive results in school attendance since the introduction of the new recording system and Mrs Pieters indicated that the new system would provide a useful tool for UNICEF to conduct a trend analysis in 2009 on the proportion of children working in Turkey. [S3.9]
- 3.10 Mrs Pieters explained that UNICEF were currently concerned with the Roma community in Turkey who were often socially excluded as a result of failure to register the births of their children, who did not send their children to school (a major factor affecting Roma girls) and for whom child marriage was an issue.

- 3.11 When asked about any evidence on prosecutions and convictions brought forward on the unlawful use of child labour, Mrs Pieters stated that there were no statistics maintained or recorded by the government or the Bar Association on this subject. Mrs Pieters said that each Bar Association office across the country had a department for dealing with children's issues but these were not very efficient . Mrs Pieters also said that 60 Bar offices across the country had offices known as "Child Rights Commissions" but only 40 of these were quite active. Officially speaking, legal redress was available to children, though concerns remained around the fact that there were no children's courts and some children's cases had been referred to the adult courts. [S3.11]
- 3.12 Regarding under age marriages, Mrs Pieters advised that 99% of such marriages did not get prosecuted owing to cultural stigma. Mrs Pieters said that underage marriages affected particular sections of society including the Kurdish, Roma and Arab communities. [3.12]
- 3.13 With regard to orphanages in Turkey, Mrs Pieters explained that UNICEF was working to come up with recommendations to present to the Turkish parliament on minimum standards of care. UNICEF's research had identified the need for more qualified social workers trained in early childhood development to work in orphanages. Mrs Pieters explained that the training of more social workers would take time as there were only two facilities in Turkey that provided the necessary training. When asked whether there was any further information available on the outcome of the case against the Malatya State Orphanage officials, Mrs Pieters advised that there was not. [S3.13]
- 3.14 Mrs Pieters was unable to provide any statistical information about children born out of wedlock. However, she did say that when a child was born to an unwed mother it was often placed in an institution, given to a childless family member to bring up or put up for fostering. Mrs Pieters gave an example of 4 pregnant girls in an Istanbul prison, who on giving birth were told that their babies were still born but in-fact the babies were adopted. [S3.14]
- 3.15 When asked about registering children's births, Mrs Pieters advised that in order to register the birth of a child in Turkey, a parent needed to be married. Consequently, individuals who were unmarried would often register their children to married members of their family. Mrs Pieters said that UNICEF was doing an analysis on the Birth Registrations laws which will shortly be published and an awareness raising campaign will be launched jointly with the Directorate General for population under the Ministry of Interior. [S3.15]
- 3.16 Finally, Mrs Pieters noted that the implementation of the 2005 reform to the Child Protection Law was going to be a very challenging piece of work to take forward as the infrastructure for implementation was not yet in place. This would require the effective cooperation of different sectors of the government authorities but the indications were that they were in favour of taking the legislative reforms forward. [S3.16]

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S4: Husnu Ondul - Chairman of Human Rights Association (İHD)

- 4.1 Human Rights Association (İnsan Hakları Derneği 'İHD') was founded, on 17th July 1986, by 98 human rights defenders. İHD was founded in dark period because of the military coup that conducted on 12th September 1980. The attempt to set up a foundation was initiated by relatives of the detainees and convicted prisoners. Today Human Rights Association continues its struggle with 33 branches, 2 representative offices and over 10.000 members and activists. There are many activities, such as; campaigns, preparing reports and so on, during the 20 years period of İHD. These activities are carried out for many purposes. For example; abolishing death penalty and DGM (State Security Court), freedom of expression, finding disappeared persons, peace, amnesty that aims to social peace, signature campaign for persons that expelled from their positions because of "1402" article, Not to Be Silent against Torture, Equal opportunities for disabled persons etc... [8]

Interview notes

- 4.2 Mr Ondul advised that since Turkey was listed for EU accession in December 1999, it had continued to make improvements to the existing legislative framework. On 30 November 2002, the government removed the emergency regulations, thus allowing detainees to consult legal advisors and increased the severity of sentences for cases of torture and mistreatment. [S4.2]
- 4.3 Mr Ondul said that in the past detainees had been subject to severe levels of mistreatment, including Palestinian hangings (where individuals were hung upside down), electric shocks and beatings on the feet but these very severe forms of mistreatment have now been stopped. Out of 500 to 800 reports of mistreatment put forward during a year, Mr Ondul estimated that about 3-4 cases might have been the subject of these forms of mistreatment. [S4.3]
- 4.4 When asked about the nature of the mistreatment individuals experienced by individuals in detention or in prison at the hands of police officials, Mr Ondul said that the police implemented 32 different methods of mistreatment including: sleep deprivation, regular beatings, fist fighting, making individuals stand on one foot, making individuals strip naked and making threats to kill or rape or generally humiliate. Mr Ondul also said that police officials carried out various methods of mistreatment towards individuals of different sexual persuasions, such as transsexuals. [S4.4]
- 4.5 In terms of trends in the incidence of mistreatment and locations where it takes place, Mr Ondul reported that there were incidents reported across the country from Istanbul to Diyarbakir, in police national offices from the West to the North and from the East to the South. Normally, the police would not take an individual directly to a detention centre but to another place where the mistreatment would happen, such as a car park, and only then take the individual concerned to a police station. However some incidents of mistreatment take place in parts of detention centres where there is no CCTV. [S4.5]

- 4.6 In the first six months of 2007, there were 51 cases of mistreatment in prisons. When asked in which prisons this mistreatment was taking place, Mr Ondul said that it occurred in all kinds of prisons across the country. There had been 89 cases of mistreatment at places other than official detention centres. [S4.6]
- 4.7 In 2005, the Human Rights Association received 825 complaints of incidents of torture and mistreatment at the hands of police officials. In 2006, the figure was 708 and in 2007, 678. Trends in numbers of cases of mistreatment reported fluctuated, both increasing and decreasing at particular points of time. For example in 1999, before legal reforms were implemented by the government on the issue of torture and mistreatment of detainees, 594 incidents of torture and mistreatment were reported. However, after legal reforms were put in place in 2004 there were 1040 reports. The government had failed to implement its zero tolerance policy. But increases at particular points did not according to Mr Ondul indicate an increase in the number of cases of mistreatment; rather it reflected people feeling more encouraged to make complaints. [S4.7]
- 4.8 While avenues of legal redress are available to individuals who have been subjected to mistreatment at the hands of the police authorities, police impunity remains a problem. Officers are able to continue their police duties while prosecutions against them are ongoing. Mr Ondul cited the example of a Nigerian man who was recently killed during police detention in Istanbul. The police officer prosecuted for the incident was still working. Mr Ondul also said that during the last 8 years, there had been thousands of reports of mistreatment of individuals by police officers, but in the last six months of 2007 there were no reports of public officers being tried whilst under arrest. [S4.8]
- 4.9 When asked whether there had been any successful prosecutions of police officers who had committed human rights violations towards individuals, Mr Ondul could only cite one example, which involved the killing of a student in 1991 by a police officer. The case took 18 years to be finalized by the Court. The individual prosecuted for the crime continued to work until he retired and received his pension. He only received a 4 year sentence. According to Mr Ondul, the government and the judiciary had adopted a no punishment (impunity) policy in relation to mistreatment and torture and this was why mistreatment of individuals in detention and prison continued in the practice of the security forces. [S4.9]
- 4.10 In Mr Ondul's opinion, police officials' also mistreated detainees as a means of punishment for alleged crimes, for example, if a person committed a petty crime or theft. He gave the example of a shopkeeper who alleged that a boy had stolen some goods from his shop. When the police officers arrived they beat the boy, who they said already had a criminal record and deserved the beating. This event was shown on television; the beating was recorded by a camera in the workplace. [S4.10]
- 4.11 When asked about the general profile of those detained who had reported mistreatment, Mr Ondul said that of the 232 cases received by the Human Rights Association in 2007, the majority were from individuals of Kurdish origin. The second majority of cases received were from those with political opposition views, for example PKK members. The remainder of the cases

were from gypsies, transsexuals and those involved in petty crimes. [S4.11]

- 4.12 Questioned further on the profile of those reporting torture and mistreatment, Mr Ondul said that most incidents concerned individuals involved in armed conflict with police and soldiers; principally Kurdish separatist armed groups, but also others strongly involved in political activities. However, he said that it would be too general an assessment to suggest that it was only these groups that experienced mistreatment. Mr Ondul had seen cases from South East and Eastern Turkey where not only people attending PKK events or activities experienced mistreatment but also simple villagers living in Kurdish communities who might not be involved with the PKK. Mr Ondul said that the police in the South East and Eastern areas often saw simple villagers as PKK party members. Similarly, members of opposition parties such as the DTP (whether active or passive party members) were subjected to mistreatment if they were detained for any crime by the police. Gypsies and transsexuals had also experienced mistreatment, the former group often failing to make complaints regarding ill treatment due to lack of awareness about their human rights but also because they do 'not have a mentality of complaining'. [S4.12]
- 4.13 Mr Ondul also advised that reports of mistreatment and torture received by the Human Rights Association were not separated into claims of mistreatment and claims of torture. Verbal abuse or psychological mistreatment often came together with some form severe physical violence such as beatings. For instance, in Diyarbakir branch of the Human Rights Association only one applicant citing mistreatment at the hands of the police reported swearing and pushing; the rest of the reports received at the branch included beatings.
- 4.14 Asked about government initiatives on the issue mistreatment and torture, Mr Ondul remarked that the Prime Ministerial Statement on the government's zero tolerance approach to torture, though positive, had not been fully implemented and had not produced any measurable results. Mr Ondul cited a recently published academic study (carried out by TESEV) on judges interviewed across the country: When judges were asked whether they viewed the human rights of the individual as being more important than the interests of the state, most were more concerned about the rights of the state. Mr Ondul cited this example to support his view that the culture of prosecution in Turkey is shaped to protect the state and not the rights of the individual. [S4.14]
- 4.15 There is no independent ombudsman in Turkey to investigate complaints of mistreatment. Turkey is yet to ratify the Optional Protocol on Torture (OPCAT). Therefore prisons and detention centres are not currently monitored by independent bodies. The Human Rights Foundation of Turkey is currently campaigning for Turkey to sign OPCAT and get it approved by the Turkish parliament. The Human Rights Association supports this campaign. [S4.15]
- 4.16 The Department of Human Rights, affiliated to the Prime Ministers Office, has 800 boards in 81 (provinces) cities. However, Mr Ondul said that these boards are not functional and are not able to protect individual human rights in Turkey. In 2007 these 800 boards received approximately 1000 complaints, while 780 were received by the Diyarbakir branch of the Human

Rights Association. This showed the trust that citizens had in the Human Rights Association.

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S5: Emrullah Beyter – Chairman of Mazlum Der

- 5.1 The Turkish human rights group Mazlum Der - whose full name in Turkish translates as "The Organization for Human Rights and Solidarity with Oppressed People" - was founded on 24 January 1991 in Ankara. Independent of the state and political parties or groups, it aims to defend and support human rights for all people both in and outside Turkey without any discrimination or double standards. Nevertheless, the organization has found itself targeted for unfounded allegations of links with armed Islamist groups. [9]

Interview notes

- 5.2 Mr Beyter advised that the Mazlum Der had published its 2007 report. The information contained in that report was based mainly on media reporting. Mr Beyter said that there had been some improvements in the legal framework in relation to the mistreatment of individuals in detention or in prison as the government looked to reform its legislation in line with EU standards. Only recently (a few days ago), the government had amended the legislative framework to reduce police power in terms of being able to act arbitrarily in how they treated citizens. [S5.2]
- 5.3 When asked about the profile of people who experienced mistreatment in detention or in prisons and in which areas such incidents took place, Mr Beyter said that there is no clear cut answer. Most incidents appeared to take place in South Eastern and Eastern Turkey and in less developed parts of Istanbul and Izmir. Cases reported included members of the Kurdish movement and the Turkish leftist opposition groups (for example students) but there was no evidence to support these reports. Other cases reported included radical Islamists and petty criminals. [S5.3]
- 5.4 Mr Beyter also cited a recent example of alleged mistreatment by police officials involving a lawyer who was at a teahouse in Istanbul with a relative. The relative was approached by some police officials who asked them for their ID. While the relative showed the police officer their ID the lawyer took a call on his mobile phone. At this point the police were alleged to have beaten up the lawyer. The lawyer brought forward a mistreatment case against the police. The police defence in response to the prosecution was that the lawyer was resistant to their enquiries. [S5.4]
- 5.5 According to Mr Beyter most cases of mistreatment take place in detention centre belonging to the police. Not much is reported on cases of mistreatment in prisons as there have been significant improvements in the treatment of individuals in prisons. However, individuals accused of crimes including sex crimes are sometimes victims of mistreatment. [S5.5]
- 5.6 Mr Beyter, Chairman of Mazlum Der said that the nature of mistreatment reported was mostly in the form of violent behaviour and beatings. In his opinion, there were no recent reports on levels of violence reaching the level of torture. About 70% of cases reporting mistreatment by the police authorities would be likely to cite having been beaten. Mr Beyter was not aware of reports citing any other methods of mistreatment. [S5.6]
- 5.7 Mr Beyter, Chairman of Mazlum Der did not consider that the government has been sincere in its statement on a zero tolerance on torture. For

example, despite some changes to the composition of monitoring boards carrying out periodic visits to prisons to include doctors and lawyers, there were no representatives invited to join the boards from Human Rights organizations. [S5.7]

- 5.8 Most cases of mistreatment in detention/ prisons are brought forward by Human Rights organizations. This is because people are cautious about bringing forward cases on an individual basis. Mr Beyter said that the Human Rights foundation is very active and has offices and rehabilitation centre in Ankara, Adana, Diyarbakir, Istanbul, and Izmir. He said that 80-90% of cases brought forward by the Human Rights Foundation are mistreatment/torture cases.
- 5.9 In terms of successful prosecutions of police officers and other individuals responsible for human rights violations, Mr Beyter's opinion was that the court system does not protect the rights of the individual over the interests of the state authorities. Most prosecution cases brought forward relating to mistreatment by the state authorities are acquitted. Mr Beyter was not aware of any successful prosecutions apart from one case involving the murder of a student in 1991 by police officials. The case was only recently concluded the end of 2007. In Mr Beyter's opinion, the sentence afforded by the authorities was not commensurate with the crime committed. [S5.9]
- 5.10 Mr Beyter advised that there is no statutory body in place to follow up complaints of mistreatment. A Human Rights body affiliated to the Prime Minister's office is in place with district and provincial branches across the country where individuals can report cases of human rights violations to. However, Mr Beyter said that individuals tended not to report incidences of mistreatment to these boards therefore the boards were unaware of any trends relating to the issue of mistreatment. Mr Beyter reported that the Chair of the Human Rights Association of the Prime Minister's Department based in Ankara had said that the chairs of the district and provincial branches affiliated to the Prime Ministerial Human Rights body have little human rights awareness and have carried out few activities in the preservation of human rights in their areas of responsibilities. [S5.10]
- 5.11 In terms of statistical analysis of numbers of cases of mistreatment by state authorities reported, Mr Beyter advised that there has been a decline in the number of cases reported since the year 2000. However, current figures still do not correlate to statements made by the government on the issue of torture and mistreatment.

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S6: Vedat Ahsen Cosar, President of Ankara Bar Association and Senay Ertem, Head of Board for Women's Rights (within the Bar Association)

- 6.1 Vedat Ahsen Cosar chaired the Board Directors of the Ankara Bar, from the years of 1983 to 1985. He was elected the president of Ankara Bar Association on October 18th 2004. After his 2years presidency period he was re-elected again on October 16th 2006. He is still president of Ankara Bar Association. Ankara Bar Association is a constitutional public professional organization. It has a legal entity. [10] Senay Ertem is President of the Women's Rights Centre of the Ankara Bar Association. The Centre provides advice and consultative services to women in the province of Ankara who are suffering violence. It also advises other provincial Bar Associations in developing these services. However, women in need of legal assistance must seek legal aid.

Interview notes

- 6.2 Mr Cosar explained that domestic violence cases cut across all social strata in Turkish society but unfortunately there were no definitive statistics available identifying which particular social or geographical groups were particularly affected. This was why it was not possible to provide a concise answer about how widespread domestic violence in Turkey was. Similarly, the Bar Association was not aware of statistics on cases of domestic violence brought to court or convictions. [S6.2]
- 6.3 Ms Ertem, Head of Board for Women's Rights explained that the role of the Ankara Bar Association Women's Rights Centre was to provide guidance to victims of domestic violence or other human rights violations on the use of legal avenues as well as access to legal financial assistance. [S6.3]
- 6.4 Ms Ertem said that the responsibility of the Ankara Bar Women's Rights Centre was to provide legal advice and guidance to women in the province of Ankara and its districts, but as a centre it was additionally, in its capacity as a member of the umbrella organisation called 'TUBAKKOM', founded within the structure of the Turkish Union of Bars, it was working with other Bar associations to inform women on the issue of their legal rights and other sections of society on the issue of women's rights [S6.4]
- 6.5 Ms Ertem also advised that the Ankara Bar Association among the other services it offered, held periodic meetings in co-operation with local authorities to raise the legal awareness of women who were not able to come to the consultation centre, was currently setting up a web-page called 'Purple Port', which would provide a legal guidance service across the whole of Turkey on all issues relating to women, including domestic violence against women, had prepared and distributed a handbook and many brochures and posters on the protection and use of women's rights in particular, had arranged programmes aimed at increasing awareness on the issue of women's human rights, including in the Bar Association's premises, schools and universities, and played a role in campaigns on the issue. [S6.5]
- 6.6 Ms Ertem stated that the Bar Association was organising a Women's Day symposium programme for 6, 7 and 8 March where the position of women would be debated and at the same time the gains they had made would be

brought to the agenda. It was stated that in the programme, alongside the victimisation of women, the “victories” would also be a topic of discussion. Ms Ertem said that as part of the celebrations, the Bar Association would carry out panel discussions, conferences, debate programmes and forums on various topics relating to domestic violence including access to the justice system and the family courts and these programmes would continue.

- 6.7 When asked about the legislative framework in place for legal redress against human rights violations against women, Ms Ertem advised that new legal mechanisms were in place but implementation was improving slowly. However, the regulations pertaining to law 4320 on protection of the family and its changes had been put into effect immediately, and in this way women and family members who suffered every kind of violence were provided with a direct point of legal protection and allowing them to receive quick responses to their enquiries and applications for protection. In addition, it was said that there a number of important changes needed to be made to the family court system and there was a need for improvements in implementation, procedures and attitudes to make the courts more sensitive to the plight of domestic violence victims. Amendments to the legislative framework in relation to sentences for crimes of domestic violence, in addition to the changes which related to the protection of women had also brought in changes to address economic threats such as giving women who were facing violence the right to demand a share of their spouse's salary or a part of household expenditure.
- 6.8 In terms of successful prosecution outcomes on domestic violence/ female human rights abuse cases, Mr Cosar reported that there had been a number of successful prosecutions and that the family courts were also producing positive results. Mr Cosar said that while the number of reported cases had increased, the figure was not necessarily indicative of an increase in the number of domestic violence/ female human rights violation cases in Turkish society but rather an increased awareness on the part of women regarding avenues of legal redress available to them including a greater willingness to file and pursue complaints. According to Mr Cosar, the general view was that incidence of domestic violence had declined. [S6.8]
- 6.9 According to Ms Ertem, there had been some improvement with regard to police attitudes to handling domestic violence cases. As a result of targeted police awareness-raising and education programmes and increased training for police working at the points of application, carried out at regular intervals, the effectiveness of police performance had improved and the police were attaching greater importance to investigating complaints from women and approaching them with greater sensitivity.

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Written Submission on Women – Mr Vedat Ahsen Cosar, President of the Ankara Bar Association [S6W]

The Frequency of Occurrence of Domestic Violence, Rape/Sexual Assault and Honour Killings

Q1: How widespread is domestic violence in Turkey? Any views on incidence in terms of geographical or social criteria?

Unfortunately, it isn't possible to say that it [against women] isn't widespread. There is no such statistic. We can say that violence is less in western provinces and that, when one goes to eastern provinces, violence, which is closely connected with honour killings, is more widespread.

Q2: Are there statistics on the number of cases of domestic violence, rape / sexual assault and honour killings in the last 2 years?

Although we have no facts on this issue, we observe that we, and those civil society organisations like us working sincerely on this issue and a few official organisations have registered important progress on the issue of domestic violence, thanks to their efforts to instil awareness in women and create deterrents for men.

Q3: Is there significant variance between official figures and suspected rates?

Even if there is not a chasm between the two pictures, it is known evident that there is a difference, but we analyse that this difference stems in eastern provinces from the low level of education and failings on the issue of registration and in western provinces from psychological pressure such as shame and worries about issues such as protecting the family and the future of the children, which prevents individuals going public. But an element of poverty and lack of economic freedom, which is the most important reason for domestic violence, is another general reason.

Legal Framework and Implementation

Q4: What legislative framework is in place to give redress against domestic violence, rape / sexual assault and honour killings?

We can say that in general the new Penal Code provides effective arrangements within a broad framework on this issue. We can cite the recognition of rape within the family [I assume this means marital rape] as a crime and the acceptance of custom (töre) killing as an aggravating factor as striking examples of this. With the Law No: 4320 relating to the protection of the family, the right to apply to the Family Court to prevent domestic violence was recognised and the protective measures to be applied were described.

Q5: How effective is the enforcement of legislative provisions on domestic violence, rape / sexual assault and honour killings?

Although court judges do have different viewpoints on the implementation of these measures, we can say that in general the provisions of the law are implemented.

Q6: How many cases of domestic violence, rape / sexual assault and honour killings have been prosecuted in the last 2 years?

Although we have no reliable statistical information on this issue, it is possible to say that the number of applications to legal avenues has increased, as a positive result of the efforts to create awareness among our women on the issue of their rights.

Q7: How many prosecutions in each category have resulted in convictions?

Here what is important is an objective ruling according to the evidence presented by both sides. The finding of the parties right or guilty according to the evidential situation is a requirement of objective adjudication.

Q8: What punishments did the perpetrators receive? Are these considered commensurate with the offences committed?

Although it is not possible to make a firm evaluation on the issue of the sentences given to those who are found guilty, we observe that the sentences which are given are not sufficient to serve as a deterrent.

Q9: Are the enforcement authorities adequately trained in dealing with these issues and how promptly do they respond to complaints?

We know that official bodies, in co-operation with international organisations have started education programmes on this issue, but carrying out a more reliable assessment after the education is completed could be considered.

Q10: Is there any evidence to suggest that the attitude of the police and law enforcement bodies towards domestic violence and associated problems is changing?

It's possible to mention an observable improvement, but it's not yet possible to say that it has reached an adequate level.

Q11: Is there a constitutional body that follows up complaints of domestic violence, rape / sexual assault and honour killings? If so, what are its powers?

[answer to question relating to the existence of constitutional bodies to follow up on complaints of domestic violence etc]

Women's Access to the Courts

Q12: Do women have equal access to the court system to pursue criminal or civil remedies that may be available to them?

These sorts of courts are not found [Turkey] but the founding of Family Courts is a positive step which has been taken in this direction.

Q 13: What provisions are there within the legal system for women who may not be literate?

There is no special arrangement in place for women.

Q14: Are women lawyers available to deal with any particularly sensitive issues?

There is no differentiation on this issue, but when we become aware of cases which require this kind of sensitivity, our centre, acting with the power of attorney, either individually or as a group, will intervene.

Q15: What is the availability of free legal assistance for women who are unable to pay?

[As one of our colleagues gives continuous consultative assistance in our centre and this service is provided by one of our members giving assistance according to a duty rota system, in the event that it is necessary to apply for legal redress, our Bar's Legal Assistance Committee will take action and provide legal support, in particular by appointing a lawyer.]

Q16: Are cases brought by women pursued and treated equally with men?

[As there is no discrimination at all in our laws on this issue, it's not possible to talk of an inequality in implementation.

Government Initiatives and Parliamentary Investigations

Q1 7-20: No response on these issues

Q17 Has the government made any statements on the ill-treatment of women

Q18 What is the progress of the government campaign "Stop Domestic Violence"?

Q19 Are there any other government initiatives in place to prevent the ill treatment of women?

Q20 Has there been any final result relating to the enquiries instigated regarding the abuse of power at the Women's Day 2005 demonstration?

Refuge and Support

Q21: Outside the court system, what organizations/ NGO networks provide support and assistance to women seeking redress?

Apart from the consultative services we give in our centre, we give legal information to women in the places where they live, in co-operation with the local authorities in Ankara. Moreover, in the activities which we have arranged, we are in the forefront of preventing violence against women and we are involved in information campaigns, participating in programmes organised in the media.

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S7: Mr Ahmet Turk Democratic Society Party (DTP) Group Chairman and MP for Mardin

The DTP was set up by the prominent Kurdish human-rights activist Leyla Zana and other Kurdish legislators. [11a] On 9 November 2005, DEHAP members pre-emptively launched the Democratic Society Party (Demokratik Toplum Partisi, DTP) as a result, all DEHAP mayors, members and leaders joined the DTP, and DEHAP was officially dissolved in December 2005. The DTP is led by co-presidents Ahmet Turk and Aysel Tugluk (2006). [11]

Interview notes

- 7.2 Mr Turk said that from 1990-1994, people suffered severe mistreatment whilst in detention and in prison. Those most affected were of Kurdish origin or from leftist opposition parties. However, he said that the situation in Turkey today is very different. There are still cases of mistreatment in detention but no systematic mistreatment of detainees and prisoners. [7.2]
- 7.3 According to Mr Turk, the Kurdish issue is still a problem in Turkey. Although the EU accession process is in full flow and reforms have been implemented in Turkey that give hope for a democratic solution to Turkish society problems, the state is still putting pressure on the political elements of the Kurdish community. Amended counter terrorism laws give the police enhanced powers to open fire in certain circumstances and to 'stop and search'. Some party members had been subjected to stop and search on grounds of 'suspicious behaviour'. Mr Turk reported that buildings of the Democratic Party (DTP) had been attacked on ten occasions and that the party headquarters had been the target of arson. Furthermore, he said that members of a gang known as Ergenekon, including military and other public figures had recently been arrested in connection with the kidnapping of many Turkish businessmen including 8 Kurds. However, according to Mr Turk, though the Kurdish issue still exists, the majority of Kurds are no longer pursuing a separatist agenda. Instead the Kurds want to live in Turkish society as a recognized identifiable group with recognized cultural beliefs.
- 7.4 When asked about the proportion of prisoners detained for political beliefs, Mr Turk said that currently there are 200 to 300 people detained. He said that he could provide a list of people in detention which included the Chairman of the DTP party and the Chief of the Batman DWP party (the Chair of the Batman party having only been arrested a couple of days ago). [7.4]
- 7.5 Mr Turk was not aware of any figures for reported cases of mistreatment in detention or prison. He said that individual complaints were received every now and again but these were not on the large scale that they used to be and incidences of mistreatment were not as systematic. In Mr Turk's view, much depended on the nature of individual police officers as to whether they resorted to violence.
- 7.6 Mr Turk advised that party activists would be better placed to provide information on the types of mistreatment people reported to have experienced in detention/ prison but did provide a couple of examples. Firstly, Mr Turk referred to some protests that had recently taken place in Diyarbakir. During these protests, Mr Turk explained that the police took

some severe measures including responding to the protestors with bullet fire and detained many of the demonstrators, who were then subject to high levels of mistreatment. Secondly, Mr Turk used the example of a recent DTP march that had been planned in a south eastern city. Mr Turk said that one of the DTP MPs from Istanbul was unable to arrive in time for the march as she was stopped by the police forces several times on her way there. Mr Turk claimed that this was an example of the police using another form of mistreatment in the form of psychological as opposed to physical abuse and outside of the detention centres.

- 7.7 Mr Turk also mentioned recent incidents in Izmir, Bursa and Istanbul where homes of Kurdish people had been burned down. There were also cases where members of the Kurdish community preparing for harvesting were faced by a 'lynch mob' preventing them from doing so and they were not helped by police officers. These incidents were reported and the police officers arrested, but there has not yet been an outcome to these cases. In Mr Turk's view, incidents of mistreatment arise from the responses of individual police officers to daily events, rather than any systematic policy, and the situation is not what it was years ago and is very different now.
- 7.8 Aside from the Kurds, Mr Turk advised that other groups could be subject to mistreatment in detention or prison including members of his own party, socialists, communists and radical Islamists. However, in Mr Turk's view, the majority of those detained are individuals of Kurdish origin who make political statements and have links to the PKK. However, not all Kurdish people would face such measures - Kurds who were not politically active would not face mistreatment by police officials. [S.7.8]
- 7.9 When asked whether allegations of mistreatment are investigated by police officials, Mr Turk said that cases are investigated but all are acquitted. Mr Turk used the example of a recent case in Southern Turkey where the police laid siege to a house and opened fire killing a father and son. The case was prosecuted in Anatolia but the officers responsible were let out on bail and the court eventually decreed that the officers concerned were acting in the line of duty and acquitted the case. Mr Ahmet also gave another example of a recent case where the police officers opened fire and killed the passengers in a car but were later acquitted on the grounds that they were acting in line of duty. In Mr Turk's view, despite Turkey's rule of law which says that human life is sacred, the general approach by the law enforcers is to protect the interests of the state over and above the rights of the individual. [S.7.9]
- 7.10 Mr Turk said that although the government of the Republic of Turkey had signed the Optional Protocol to the Convention against Torture over two years previously, it had still not ratified it. According to this protocol, prisons and detention centres would be inspected and monitored by independent bodies. Consequently, prisons and detention centres in Turkey were still not inspected by an independent body. [S7.10]

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S8: Metin Bakkalci - Chairman of Human Rights Foundation

- 8.1 Human Rights Foundation of Turkey (HRFT), established in 1990, is a non governmental and non-profit organization providing treatment and rehabilitation services for torture survivors and documenting human rights violations in Turkey. The HRFT grew out of the necessity to further promote prevention of torture in Turkey where grave human rights violations left thousands of people tortured and traumatized... It is one of the first organizations providing assistance to torture survivors and their families for which public health institutions did not provide remedy. It is also one of the leading organizations established completely by the initiatives of people from Turkey. [12]

Interview notes

- 8.2 The Human Rights Foundation of Turkey (HRFT) is a specialised organisation founded in 1990, which aims to provide people who have been subjected to torture and other cruel, inhuman, degrading treatment and punishments, with physical and mental treatment and rehabilitation services.
- 8.3 When asked about the nature of alleged claims of mistreatment of detainees and prisoners by state officials, Mr Bakkalci said that it is not easy to distinguish between torture and ill treatment. Any definition was relative - ill treatment for one individual could amount to torture for another. Each individual had a different pain threshold. Consequently levels of pain could not be generalised.
- 8.4 In terms of trends/ patterns in the numbers of cases of ill treatment by law enforcement bodies reported to the Human Rights Foundation, Mr Bakkalci said that in 2005 there were 692 cases reported, in 2006 the figure was 337 and in 2007, 452. He noted that a high proportion of the cases related to complaints of torture (in 2006 222 of 337 applicants and in 2007 320 of 452 applicants were tortured).
- 8.5 Mr Bakkalci said that positive changes to the laws between 1999 and 2005 contributed to a decline in cases reported up to 2006. However in 2007, a change to the terror laws of Turkey contributed to a rise in the number of reported cases which extended police powers of arrest to stop and search individuals. Mr Bakkalci also said that with the new changes to the terror laws, conversations between a lawyer and the defendant which were previously considered confidential could now be recorded by the police officers. In addition, police officers could attend confidential first interviews of a lawyer with his client.
- 8.6 In addition to the numerical increase in applications to HRFT, increased use of physical force by the police was noted. HRFT had observed many injuries related to heavy trauma among applicants: such as broken bones, damaged or missing organs, torn eardrums and such. In addition to those physical complaints, various psychological conditions, such as post traumatic stress disorder had also been observed.
- 8.7 Mr Bakkalci added that under the new legal framework, detainees were only given the right to one appointed lawyer, whereas police officers on trial could

have access to three different counsels. Mr Bakkalci also explained that the state provided legal aid for civilians for one lawyer to the amount of 135-420 YTL, but for police officers the figure was up to 7,000-35,000 per lawyer, up to 105,000 YTL for three lawyers.

- 8.8 In terms of monitoring of prisons, Mr Bakkalci advised that a week after the general elections on 29 July 2007, the Prison Monitoring Laws were changed. Under the previous law, any members of parliament could visit the prisons throughout Turkey. However, after July 2007, only members of the select Parliament Commission were granted this right. Further, changes to the disciplinary laws in 2006 made it more difficult for victims to see their cases concluded. Mr Bakkalci cited the example of a case opened in 1991 which was only recently (January 2008) concluded and where the police officer on trial was given a 4 year sentence, which was not considered to be commensurate with the crime committed and was being appealed against.
- 8.9 When asked whether allegations of ill treatment were investigated and cases brought to justice, Mr Bakkalci said that Turkish people were losing hope in the judicial system with regard to the successful prosecution of cases of human rights violations. This was because of practical obstacles in legal procedures when somebody applied to prosecute a case. Mr Bakkalci said that because it was difficult to open a case for investigation, a limited number of cases were brought against individuals accused of ill treating prisoners or detainees. Mr Bakkalci cited the Diyarbakir demonstration as a case in point, where many were ill treated but only 32 filed prosecution cases and two years on, none had been concluded.
- 8.10 Mr Bakkalci said that he was conducting a study on the practical limitations of pursuing cases of ill treatment by law enforcers through the judicial system which would be concluded shortly. With regard to cases successfully prosecuted, Mr Bakkalci said that most cases were acquitted by the court. The only case of a successful prosecution that he had heard of was the case of a student killed by police officers back in 1991. The case was only recently concluded in 2007 and the police officers sentenced.
- 8.11 In terms of geographical trends as to where mistreatment occurs and the profile of persons alleging mistreatment at the hands of state law enforcers, Mr Bakkalci referred to the 2007 HRFT annual report. Mr Bakkalci advised that the HRFT had recorded a greater number of cases of mistreatment in areas of Turkey where there were Anti Terror branches (ATB). For example, in Istanbul reported cases increased by one and a half times and in Izmir by double, as well as increases in reported cases in Adana Diyarbakir and Ankara. In Diyarbakir, the figure had decreased.
- 8.12 With regard to regional distribution, Mr Bakkalci advised that previously cases had been more closely aligned to the South and South Eastern region but that this was no longer so. There were cases recorded in the Marmara region, the Mediterranean regions and the South-Eastern Anatolian regions.
- 8.13 In relation to the profile of persons alleging mistreatment, Mr Bakkalci explained that there had been an increase in the number of reported cases of ill treatment from people of a non-political profile from 11% in 2006 to 14% in 2007. However, Mr Bakkalci said that only recently, members of the DTP had been arrested in Batman.

- 8.14 When asked about government statement “Zero Tolerance on Torture” and any other initiatives being taken forward by the government to prevent the mistreatment of prisoners and detainees, Mr Bakkalci stated that he was not aware of any other initiatives. According to Mr Bakkalci, it was difficult to see who was currently responsible in the Turkish government for the human rights issues but that he had noticed the issue was back on the government agenda. However, Mr Bakkalci considered that the statement on zero tolerance was of little substance. He noted that the government Human Rights Board, though required to meet at least three times a year, had not met since February 2005.
- 8.15 To conclude, in Mr Bakkalci’s opinion more was needed to be done in terms of effectively prosecuting cases of ill treatment by law enforcement officials. However, Mr Bakkalci noted that The Counsel of Forensic Medicine had applied to the EC under the 1st Training Protocol programme inaugurated on 5th February 2008 for 1500 judges and prosecutors and 4000 physician to undertake forensic training on mistreatment/torture and examinations techniques which he considered a very exciting development.

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S9: A judge from International Affairs Department of Prisons and Detention Facilities – Ministry of Justice

- 9.1 The Foreign Relations Department of the Directorate General of Prisons and Detention Facilities of the Justice Ministry is responsible for handling relations with international organisations and delegations, engaging in international dialogue and co-operation, researching and making recommendations on international developments relating to prisons and detention facilities.

Interview notes

- 9.2 The judge advised that prisons in Turkey are subject to the inspection of civil monitoring boards, the judicial inspection of enforcement judges, Ministry of Justice inspectors and national prison service controllers, as well as the Parliamentary Human Rights Commission, local human rights bodies, the European Committee for the Prevention of Torture (CPT) and Human Rights bodies of the United Nations (UN). He explained that the civil monitoring boards are voluntary bodies situated in 133 places where there is a heavy felony court and established along UK lines. However, it differs from British system in two respects. The members of the boards appointed by judiciary instead of the minister and their offices are situated at the court houses instead of the prisons. Members are appointed by the judicial authorities and include doctors, teachers, lawyers, psychologists and social workers.
- 9.3 According to the judge there is no tolerance for the ill treatment in prisons – either in law or in practice. He said that the numbers of allegations of mistreatment had considerably declined and were very rare compared to before 1998. This was confirmed by CPT reports. The judge was not aware of trends regarding police detention centres as these were outside of his area of responsibility.
- 9.4 The judge said that there was no particular profile of person alleging to have experienced mistreatment whilst in prison. Claims of mistreatment could come from any persons, from those convicted of sex crimes to those in prison for terrorist activities, for any reason. But any case of ill treatment in prison would be carefully examined at both administrative and judicial level pursuant to the law and practice. The judge said that most ill treatment claims brought forward by individuals in prison were claims of a psychological nature or related to various kinds of prison services, treatment activities and discipline issues. He gave the example of even a prison guard looking at a detainee ‘the wrong way’. The profile of persons bringing forward such claims usually could be defined in the following categories: those imprisoned for terrorist activities (Separatist, Fundamentalist or Marxist/Leninist) mafia members, sex or drug offenders, prisoners with psychological disorders or any other prisoner. In the judges experience, claims of mistreatment in prison were generally not confirmed.
- 9.5 According to the judge, Turkey has the most modern Penal Code, Penal Procedure and Penal Enforcement Laws in Europe today, as these laws were in the year 2005, in co-operation with the Council of Europe and other international supports. Within the framework of “Turkish Prison Reform”, in addition to the physical modernization of prisons, 19 different pieces of

legislation relating to prisons, including mistreatment by law enforcement officials, have been put in to practice.

- 9.6 In terms of training of prison staff, the judge advised that previously prison staff had been trained in-service, but that training of staff today is very different and Turkey now had four main prison staff training centres. Trainers running the centres were all trained by Council of Europe expert, together with national experts including psychologists and social workers. Human Rights training was provided to newly recruited staff as part of the prison training core curriculum and there were modules on issues such as the Penal Code, penal procedure code, penal enforcement legislation, prison reforms, social services, prison psychology, international prison rules and standards, human rights, anger management and effective relationships. Staff working as prison wardens were well qualified - either high school graduates or university graduates, the latter group forming much of the recent recruitment.
- 9.7 The judge further added that increases in the prison services budget with law no. 4301 had also led to improvements in the prison system. Previously, prisons were overcrowded, with limited services, and provision of food was not efficient so the prisoners were allowed to bring food inside the prison. However, the new Code of Prison Workshops no. 4301 brought additional money to the prison budge, allowing better service provision in terms of prisoner rehabilitation, improved food, reduction of overcrowding and the renovation or construction of prison buildings.
- 9.8 The judge also explained that prisoner rehabilitation included offender psycho-social programmes tailored to the needs of the individual, focusing on educational, employment and social needs. The aim in Turkish prisons was now for each offender to hold a professional or vocational training certificate to help obtain employment once they leave. The Ministry of Justice was working in cooperation with the Ministry of Labour and Education to provide vocational training to prisoners.
- 9.9 Also, the Ministry of Justice was working in cooperation with the Council of Europe to develop ten offender behaviour programmes such as anger management for dangerous offenders, long term prisoners, sex offenders and those with drug and alcohol problems; and to develop programmes for women with children. Prison managers were encouraged to work with over 100 civil society organisations.
- 9.10 In respect of submitting claims of mistreatment or any other complaints in prison, the judge said that applications could be made to/through the prison administration, but also through lawyers and relatives to the Public Prosecutors, Enforcement judges, Parliamentary Human Right Commission, minister of justice, the CPT and the European Court of Human Rights (ECHR). He also advised that because prison officials were well aware of the complaint procedures available to offenders and they received a well designed training on prisoners' rights, they did not ill treat prisoners under their supervision. The New Turkish Penal Code punished this crime severely. He added that many prisons had CCTV recording equipment in place, apart from in living areas, making it extremely difficult for prison officials or prisoners to commit acts of ill treatment.

- 9.11 The judge told the mission that they did not have any statistics on the number of mistreatment cases brought forward against prison officials or figures for those successfully prosecuted for mistreatment against offenders in detention. This information should be collected from all courts. However, he indicated that such cases were extremely rare. He also advised that doctors' reports were prepared on admission to prison, so every offender was examined to see if they had been mistreated or not. According to him, people detained for political reasons were limited (only 3 persons) to those detained in connection with terrorist activity.
- 9.12 He also summarised the official prison statistics as at 1 February 2008:
- 85169 – Common criminals
 - 637 – Terrorist/ Islamist fundamentalists
 - 3761 – Left wing terrorist groups including Marxist/ Leninist and separatist groups (this number has declined)
 - 4496 – Mafia/ profit making groups
 - 2035 – Women
 - 1500 – Juveniles
- 9.13 The judge explained that children 13-15 years old convicted of crimes were sent to one of 133 probation centres which implemented non-custodial sentences and provided social and psychological support to prisoners after conviction and to victims. Children 16-18 years old convicted of crimes were sentenced to either non-custodial or custodial according to the nature of the crime. He also explained that in Turkey all victims of crime were also supported by probation centres. Each probation centre has a protection board which consists of people from local businesses, civil society organizations, public organisations and which provides support to both victims and prisoners and provides work for them.

Date of interview 14th February 2008

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**S10: Mr Ahmet Firat, Director General, Zumra Yilmaz,
Head of Department and Examining
[Investigating] Judges Seval Akkas and
Bunyamin Alper Eski - Directorate of EU Co-
ordination Justice Ministry – 14 February 2008.**

- 10.1 Ahmet Firat is the Director of EU Affairs at the Justice Ministry. He oversees co-ordinates and monitors progress on EU-related reform projects carried out by the Justice Ministry.

Interview notes

- 10.2 Mr Ahmet Firat said that he doubted the credibility of applications made by Turkish nationals seeking asylum on the basis of alleged mistreatment in prisons or detention centres. In his view, many people sought asylum in various different countries for economic reasons. Mr Firat also doubted that documents supplied by asylum seekers were genuine. [S10.2]
- 10.3 When asked about any noticeable trends or patterns in the nature or scale of claims of mistreatment by state law enforcers, Mr Firat said that he would only be able to provide an authoritative view about what happened in Turkish prisons as events occurring in police detention centres were outside of his work remit. With regard to prisons, Mr Firat had not heard of any cases recorded and indicated that it was not possible to mistreat prisoners. Mr Firat said that fights might occur in prisons but these were between prisoners and were not related to state officials. Also, if there were allegations made by prisoners against prison officers, the state prosecutors would investigate these. If any evidence was found, the officers would be charged and none of them would go unpunished. [S10.3]
- 10.4 With regard to detention centres, Mr Firat said that there might be incidents of alleged mistreatment of detainees but certainly no systematic abuse. According to Turkish Criminal Laws and the Istanbul protocol, police officers and other staff working for the police were required to obtain medical reports as soon as a person was admitted to detention and immediately after a person's release from detention. In this way, the detention system was transparent and any mistreatment would not go undetected. The law required that detention centres be inspected by state prosecutors, [Ministry of] Justice inspectors and [Ministry of] Interior inspectors. In Turkey there was a zero tolerance policy towards mistreatment/torture. [S10.4]
- 10.5 When asked about the numbers of reported cases of alleged mistreatment from prisoners, Mr Firat said that when allegations were investigated there was rarely any evidence found to prosecute further. There were no figures available, but Mr Firat could say with absolute authority that there was a decrease in the number of cases reported.
- 10.6 Mr Firat said that there were no statistics kept in relation to regional patterns of reported cases of mistreatment by state law enforcers. However, in his view applications generally came from individuals living in the East and South Eastern regions who were close to terrorist organisations such as the PKK. Mr Firat further stated that conditions in prisons were closely monitored by the Committee of Human Rights Observation who also would

investigate any claims of alleged mistreatment put forward. In places where prisons were located, there was also a Prison Monitoring Committee which monitored Turkish prisons once every three months. [S10.6]

- 10.7 When asked about the nature of ill-treatment taking place, Mr Firat said again that he was not aware of any ill treatment of prisoners in Turkey. Mr Firat advised that there might be some allegations of assault in detention centres, but such cases would be immediately investigated and punished. With regard to the profile of those alleging mistreatment, Mr Firat stated that the profile included those who suffered from psychological problems or who were uneducated but not those who were from a particular political group. However, it would not matter what group or community a person alleging mistreatment came from. All claims were treated equally before the law and if found credible the perpetrators punished. Mr Firat further added that prisoners were given vocational training to help find jobs on completing their sentence or helped with furthering their education.
- 10.8 Mr Firat explained that detention time limits for people accused of ordinary crime was 24 hours. But if a crime was committed jointly, that is if it was committed by three or more people together, the limit could be extended for a day each time up to a limit of 3 days. That is to say, the maximum detention period was 4 days. For persons detained in investigations of some special crimes such as terrorism, organised crime and drug trafficking, the detention period was 48 hours. However, if a crime was committed jointly, that is if it was committed by three or more people together, these persons could be detained for up to 7 days. But, detention could never exceed 7 days. As mentioned earlier, when first arrested a medical report would be compiled by a doctor and another immediately after the person was released. In this way if there was an allegation of mistreatment this would be recognised in the medical report and thoroughly investigated. [S10.8]
- 10.9 When asked if sentences imposed on individuals convicted of mistreatment of prisoners were commensurate with the offence committed, Mr Firat advised that the crime of torture was regulated by Article 94 of the Turkish Criminal Code. Sentences normally ranged from 3 to 12 years depending on the severity of the crime committed. This was a sentence given for the simple instance of the crime. Aggravated instances of the crime of torture were regulated in Article 95 of the Turkish Criminal Code. According to this Article, in instances such as when the crime of torture had at the same time been the cause of a person's injury or psychological damage, the sentences foreseen for the simple occurrence of the crime (3-12 years) could be doubled. That is, the sentence foreseen for this crime varied between 6 and 24 years. There was no possibility within the law for those people convicted of torture to be given a fine. Only a prison sentence could be awarded for this crime. In terms of government initiatives to combat mistreatment in prisons or detention centres, Mr Firat said that such initiatives were outside the authority of his job but the Human Rights Administration investigated all allegations and was a well respected body which operated throughout the country.

[S10W]

1) Women

Information on domestic violence, rape / sexual assault and honour killings is needed. In particular, information on the protection, relief and shelter homes available for women exposed to such incidents is needed.

Frequency of domestic violence, rape / sexual assault and honour killings

How common is domestic violence in Turkey? What is your opinion as to the whether or not the frequency depends on geographical or social criteria?

There is no data at hand on violence against women that can be generally applied to the whole of Turkey. There is a Parliamentary Study Report on Violence against Women and Children that was prepared in 2006. Additionally, there is the report of the National Population and Health Survey as well as reports prepared by the Directorate General of Security.

The Directorate General of Judicial Records and Statistics is responsible for identifying, collecting, classifying and evaluating statistical data that fall under the duties and mandate of the Ministry of Justice. The Directorate General of Judicial Records and Statistics generates official statistics by transferring the data collected at the end of the year from all judicial organisations to the records.

Are there any statistics available for the past two years concerning domestic violence, rape / sexual assault and honour killings?

Is there an obvious difference between the official figures and the suspected figures?

Legal framework and sanctions

What kind of a legal framework is present to remedy Domestic violence, rape / sexual assault and honour killings?

In recent years, numerous positive steps towards preventing violence against women and protecting the rights of women have been taken. Legal reforms aimed at woman and developed with the contribution of public institutions and women's NGOs have been put into practice. The Family Protection Law No. 4320 came into force in 1998. This law was amended in 2007. Various arrangements were made in the Turkish Civil Code enacted in 2002 and the Turkish Penal Code (TPC) enacted in 2005 with a view to combating violence against women.

The Family Protection Law aims to prevent violence, protect victims (women and children, in particular), and punish persons resorting to violence. In this regard, 166 Family Courts were established and 157 of them are currently in operation. Through the amendments made to the Family Protection Law in 2007 the definition of a 'victim' was clarified and the scope of the protection provided to victims was expanded. Taking into account that other family members alongside the spouse could also be exposed to violence the provisions of the article were broadened. The scope of the prohibition to use alcohol and drugs and measures imposed on the person resorting to violence as well as the measures to be taken to protect the victim of violence

have been broadened. Attention has been drawn to the need for judges to take action *sua sponte* even if no claim for alimony has been made. In order to facilitate the ways for seeking remedy for victims the law has provided for a broader scope of exemption from fees as well as the abolishment of fees for actions to be carried out during proceedings.

On the other hand, the system and arrangements introduced in the new Turkish Penal Code place the individual at the centre. With a view to underscoring the importance attached to the individual, 'crimes against humanity' have been regulated in the special provisions. In this context, 'crimes against sexual inviolability' that are mainly committed against women have been provided for under the title of 'Crimes against Individuals' thus upholding the woman's individuality.

Murders - Honour Killings

Article 81 of the TPC regulates the crime of murder. Article 82 provides the conditions that must be satisfied to qualify as murder and include murder committed:

- Against any relative in the ascending line (such as father, mother etc.) or the descending line (such as children, grandchildren etc.) or the spouse or sibling (TPC, Article 82(d));
- Against a woman known to be pregnant (TPC Article 82(f)); or
- With the motive of traditional practices (Article 82(k)).

Furthermore, in order to prevent the wrong application of tort claims in killings committed between relatives referred to as 'honour killings' ('*töre*' or '*namus*'), pursuant to the legal arrangements made in Article 29 titled 'Tort', the crime must be committed under the effect of vehement and severe emotional distress inflicted by a tort. Accordingly, for instance, any killing committed by the father or brother of a woman exposed to sexual assault will not be able to benefit from a reduced sentence based on a tort claim.

Article 38(2) of the TPC provides for an increased punishment in the event of any solicitation to commit a crime by using one's authority arising from a relationship in the ascending line or descending line. In cases where children are solicited to commit a crime, the article provides that, irrespective of any relationship in the ascending line or descending line, an increased sentence shall be applied. This way, the sentences to be imposed on those who solicit children to commit a crime are increased.

Sexual Assault

Article 102(2) of the TPC acknowledges that sexual assault committed through the insertion of an organ or any other object into body constitutes an aggravating circumstance. The new arrangement additionally provides that such acts can also be committed against one's spouse, in contrast to the former TPC where such a provision was absent. However, where such an act is committed against the spouse, investigation and prosecution are subject to a complaint filed by the victim spouse.

The former TPC provided that in cases where a girl or woman is abducted or detained and marries the suspect or convict, the criminal case against the

perpetrator or, if any, the execution of the sentence could be suspended. This provision has not been included in the new law.

Sexual Harassment at the Workplace

Article 105(2) of the TPC regulates the crime of sexual harassment. Pursuant to this article, where sexual harassment is committed by the misuse of authority arising from the hierarchy at the workplace or the employment relationship or by exploiting the convenience of working at the same workplace, such acts shall amount to aggravating circumstances. Additionally, the Article provides that in the event that the victim is forced to leave his/her job due to any such action laid down in the second sentence of this paragraph, the sentence imposed shall not be less than one year.

Deprivation of Freedom

Article 109(3) of the TPC provides that a crime illegally depriving an individual from the freedom to go or stay somewhere will be considered an aggravated circumstance in the event that such a crime is committed against any relative in the ascending line or descending line or against the spouse or the child. The perpetration of such crimes for sexual purposes shall constitute a further aggravating circumstance.

Prostitution

Under the title of 'prostitution' in the section on 'Crimes against Public Morality', Article 227 of the TPC lays down the conditions that must be satisfied in order that the act of encouraging or drawing individuals, children in particular, into prostitution qualify as a crime. Turkey's obligations arising from international instruments on combating prostitution were taken into account while drafting these arrangements.

Ill Treatment

Article 232 of the TPC included in the scope of crimes committed against family has been re-arranged in that domestic violence is criminalised and stipulates that the perpetrator of ill treatment to any individual sharing the same dwelling be punished.

Violation of Obligations Arising from Family Law

Likewise, Article 233(2) of the TPC falls under the scope of crimes committed against family. This article provides that abandoning a desperate spouse known to be pregnant or a desperate unmarried woman sharing the same dwelling who is known to be pregnant from the person in question constitutes a crime.

Furthermore, if the elements of violence are compatible with either of the Articles 86(3)(a), 87, 89 or 96(2)(b) of the TPC then perpetrators of violence can be punished pursuant to these articles.

To what degree do these legal provisions apply to domestic violence, rape / sexual assault and honour killings?

Each incident is evaluated individually and criteria such as the suspect's age and mental condition are taken into account when imposing a sentence. The rulings of the Supreme Court of Appeals are guiding in this sense and contribute to a uniform application across Turkey.

In the past two years, how many incidents of domestic violence, rape / sexual assault and honour killings have been brought to court? In each of these categories, how many cases have there been where the defendant was found guilty?

In 2005, a total of 439 lawsuits were filed pursuant to Law No. 4320 at criminal courts. In the same year, 323 of these cases were concluded and 202 suspects were convicted. In 2006, a total of 646 lawsuits were filed and 669 cases, including lawsuits filed in the same year and cases transferred from the previous year, were concluded whereby 574 suspects were convicted.

A total of 14 lawsuits filed in 2006 pursuant to Article 82(k) of the TPC on the grounds of honour killings were transferred to 2007. In 2007, 5 new lawsuits were filed. Out of the total 19 cases 4 were concluded until October 2007 and 5 male suspects above the age of 18 were convicted. Out of these 5 men, 3 were sentenced to imprisonment and 2 were sentenced to imprisonment and a judicial fine.

For crimes of sexual assault:

In 2006, 4,419 lawsuits were filed pursuant to Article 102 of the TPC. A total of 6,287 cases including the cases transferred from 2005 were concluded out of which 4,418 cases ended in conviction.

In 2006, 2,414 lawsuits were filed pursuant to Article 103 of the TPC. A total of 2,337 cases including the cases transferred from 2005 were concluded out of which 1,607 cases ended in conviction.

In 2006, 1,234 lawsuits were filed pursuant to Article 104 of the TPC. A total of 2,373 cases including the cases transferred from 2005 were concluded out of which 953 cases ended in conviction.

In 2006, 3,919 lawsuits were filed pursuant to Article 109 of the TPC. A total of 4,964 cases including the cases transferred from 2005 were concluded out of which 3,326 cases ended in conviction.

In 2006, 3,451 lawsuits were filed pursuant to Article 232 of the TPC. A total of 3,442 cases including the cases transferred from 2005 were concluded out of which 2,218 cases ended in conviction

In 2006, 192 lawsuits were filed pursuant to Article 233 of the TPC. A total of 117 cases including the cases transferred from 2005 were concluded out of which 52 cases ended in conviction.

In 2007, 787 lawsuits filed pursuant to Article 105 of the TPC on the grounds of sexual harassment were transferred to 2007. In 2007, 2,642 new lawsuits were filed. The Supreme Court of Appeals reversed 17 cases. Out of the total 3,446 cases 1,352 were concluded until October 2007 out of which 620 ended in conviction. Imprisonment was ruled in 111 cases, a judicial fine in 375 cases, imprisonment and a judicial fine in 11 cases, and the

imprisonment was converted to a fine in 47 cases, an injunction in 13 cases, and was suspended in 63 cases.

What kind of punishment was given to the criminals? Do you think these punishments are proportionate to the crimes committed?

Do law enforcers receive appropriate training that enables them to deal with such cases? How long does it take for them to take action on the complaint filed?

Is there any evidence that the police and law enforcers have changed their attitude towards domestic violence and related problems?

Is there a constitutional body that deals with complaints concerning domestic violence, rape / sexual assault and honour killings? If yes, what is the mandate of such a body?

The constitutional body dealing with complaints concerning domestic violence, sexual assault and honour killings is the judiciary. Public prosecutor offices investigate incidents of sexual assault and honour killings and file a lawsuit at the criminal courts. It is the courts that reach a final verdict. Public prosecutor offices report incidents of domestic violence for legal action to be taken pursuant to Family Protection Law No. 4320 upon which the Family Court takes the necessary measures.

Women's Access to Courts

Do women have equal access rights to courts to seek civil or legal remedy?

The right to seek remedy is laid down in section two of the Turkish Constitution under 'Fundamental Rights and Duties'. Article 36 provides that: "Everyone has the right of litigation either as plaintiff or defendant before the courts through lawful means and procedure. No court shall refuse to hear a case within its jurisdiction". In light of this article, women and men alike have equal rights and freedoms and can therefore access the judiciary with equal ease.

What kind of provisions are provided in the legal system for illiterate women?

For criminal trials, Article 158(4) of the Code of Criminal Procedure provides that reports or complaints can be made orally provided that they are subsequently written and recorded.

Written procedures constitute the essence of civil jurisdiction. Accordingly, lawsuits must be filed based on a statement of claim in writing. Lawyers and petitioners can assist illiterate women in composing their statement of claim or response to a statement of claim. Pursuant to Article 474 of the Code of Civil Procedure in oral prosecutions both parties can apply to the court of peace on their own will within the scope of their case. In such cases, the parties have to bring forward a statement of claim written by them containing the reasons and content of their claim and defence. In the event that they are illiterate, the judge will have the clerk write down the claims and defences as well as the reasons and evidence.

Article 42 of the Regulations on the Clerk's Office in Civil and Commercial Courts reads: "where illiterate persons apply to retrieve the originals or

copies of the documents they presented to court such documents shall be presented after their identities are established and such identification is recorded in the case file.”

Are there female lawyers apt to take up sensitive cases in particular?

To what degree is free legal assistance provided to women who do not have the means to pay?

Pursuant to the last paragraph of Article 1 of the Family Protection Law all applications lodged at the Family Court for incidents of domestic violence as well as the execution of the verdict are exempt from fees. In addition, if individuals who wish to file a lawsuit at civil courts for other reasons prove that they are poor through a document issued by the headman they will be able to benefit from Articles 465 to 472 of the Code of Civil Procedure that govern ‘judicial assistance’.

Judicial assistance comprises:

- Temporary exemption from all trial related fees and expenses.
- Payment of costs for witnesses and experts by the state as an advance payment.
- Exemption from providing collateral for the trial costs.
- Temporary exemption from notification fee and costs.
- Legal representation, where necessary, whereby the fee for such representation shall be paid later.
- Payment of all fees and costs collected by the execution office by the state as an advance payment.
- Temporary exemption from stamp duty.
- Temporary exemption of fees and duties for documents and copies issued by notary publics.

For criminal prosecutions, victims do not pay any prosecution fees. At the end of the prosecution, the suspect found guilty covers the prosecution fees.

Are the lawsuits filed by women examined and treated in equal terms with the suits filed by men?

Everyone is equal before law and there is no difference with regard to lawsuits filed by men or women. Public prosecutors and judges are obliged to practice the law equally to everyone. Equity before the law and justice is regulated in Article 3 of the Turkish Penal code as follows:

"Article 3".

(1) The punishments and the security measures against the offender shall be proportionate with the gravity of the conduct committed.

(2) For the purposes of implementation of the Penal Code, no one can be granted privileges nor be subject to discrimination based on his race, language, religion, sect, nationality, political or any other thoughts, philosophical belief, national or social origin, birth and economic or social status."

In addition, Article 2 of the Law on Execution of Penalties and Security Measures provides as follows:

"(1) Rules regarding the execution of penalties and security measures shall be implemented without discrimination with regard to the race, language, religion, sect, nationality, political or any other thoughts, philosophical belief, national or social origin, birth and economic or social status of the convicts and without granting privileges to anyone. (2) No one may be subjected to cruel, inhuman, or degrading behaviour in execution of penalties and security measures." Government Initiatives and Parliament Inquiries

Has the Government made any official declaration on the issue of ill treatment against women?

**CIRCULAR BY THE OFFICE OF THE PRIME MINISTER No. 2006/17:
RIGHTS OF WOMEN and CHILDREN**

Since continuing violence against women and children in our country requires new and immediate measures to be taken, the Turkish Grand National Assembly has deemed it necessary to attend to this social wound and a Parliament Inquiry Commission has been established for Investigating the Reasons behind Honour Killings and Violence against Women and Children and Specifying the Measures to be Taken. This commission concluded its studies and prepared a comprehensive report on the measures to be taken regarding violence against women and children as well as honour killings. Recommendations on the measures to be taken, based on this report, have been communicated to all public institutions and organisations through the Official Circular issued by the Office of the Prime Minister No. 2006/17 and the duty of ensuring general coordination was assigned to the Directorate General of Social Services and the Child Protection Agency in the field of violence against children and to the Directorate General on the Status of Women in the field of violence against women and honour killings. Through this circular our Ministry has been assigned with the following duties:

- a) To provide training activities on the approach adopted by the judicial staff on the issue of violence against children, which is among the recommended "protective and preventive measures" under the chapter titled recommendations for solutions regarding violence against children, to eliminate the infrastructural deficiencies in correctional institutions, to complete the infrastructural deficiencies regarding the Law No. 5395 on the Protection of the Child, to establish of the necessary infrastructure pursuant to the obligation on audio-visual recording of the hearings of children who are victims of violence, to make the legal regulations necessary to make it a legal requirement to subject the perpetrators of violence, particularly, incest, to rehabilitation, the costs of which shall be borne by the perpetrators, to make the legal regulations necessary to simplify the legal procedures on the process of seeking remedies in favour of victims, and to prepare the documents and records free of charge, and to secure the "informed consent" of the child in his/her physical examination.
- b) To provide training on "social gender equality perspective" to the judicial staff and social workers who work for Family and Juvenile Courts under the Chapter titled Recommendations for Solutions regarding Violence

against Women, to ensure that the social workers to be assigned to family courts pursuant to the Law No. 4787 on the Establishment, Duties and Trial Procedures of Family Courts are officially appointed to their respective positions as soon as possible, to make the legal regulations necessary to simplify the legal procedures on the process of seeking remedies in favour of victims, to provide health records free of charge, and to take protective measures respecting the privacy of women in all stages throughout this procedure, to undertake the necessary work to adopt the “Framework Law on Equality” as soon as possible, to make the legal regulations necessary to effectuate the provision “Equality Before the Law” as provided in Article 10 of the Constitution, to take the necessary measures, to segregate the provisions in the current legislation which jeopardise equality, to replace the legal regulations aiming at controlling the woman's body, thus violating the human rights of women, to make changes in the regulations provided in the Family Protection Law, to make regulations in the Law on Political Parties which support participation of women in politics.

- c) To make the necessary regulations in line with the obligations under the law and international conventions in the field of honour killings, to provide professional training to reflect the change in the conception in the laws to the practice. The studies undertaken by our Ministry are communicated to the coordinating authorities quarterly within the framework of implementation of the Circular. In this context, the “Family training programme aiming at the 0-6 age group – My Family” implemented under the co-ordination of the Directorate General of Mass Education for Apprenticeship and with the technical and financial support of UNICEF, has been put into practice. Co-operation has been made with SHCEK to ensure that children of convicts and detainees in 0-6 age group in the institutions under the Ministry of Justice benefit from the services provided by SHCEK in the institutions operating under the SHCEK, in accordance with the capacity of such institutions, in order to minimise the negative impact of detainee life for such convicts and detainees who are detained in the Penalty Execution Institutions.⁹ Studies in these areas are encouraged in cooperation with universities. It has been ensured that judges, public prosecutors and support staff receive training in fields regarding children within the scope of “The Project to Better Manage, Protect and Strengthen Justice for Children” and the training activities in this field are currently being continued. There is no doubt that the most effective way to prevent honour killings and violence against women and children is education. The entire society needs to be educated on this issue, and the statistical data maintained in the regions where such incidents are experienced need to be collected and construed in order to provide an effective training meeting the needs. Currently, there is no institution in Turkey that can provide rapid and updated information on this issue. Identification, collection, classification and evaluation of statistical data on issues within the jurisdiction of the Ministry and provision of respective services lie under the responsibility of the Directorate General of Judicial Records and Statistics. The Directorate General of Judicial Records and Statistics establish official statistics by transferring the information provided by the entire judicial organisation at the end of the year to the records.

What is the level of progress in the government's campaign called "Put an End to Domestic Violence"?

Has the government made any other initiatives to prevent the ill treatment of women?

What is the outcome of the interpellation submitted to the Turkish Grand National Assembly by Gaziantep MP Fatma Sahin in 2006 to investigate honour killings?
Shelter and support

Which organisations or NGO's provide assistance and support to women seeking remedy, apart from the court system?

How many women shelters are there in the country?

What is the percentage of the shelters provided by the government/NGOs?

2) Treatment of convicts and detainees

Frequency of ill treatment cases against convicts/detainees

How many ill treatment cases against convicts/detainees were reported last year? (or what is the most recent figure?)

What is the trend for the figures relating the complaints for ill treatment in the police stations during the last few years?

How common is ill treatment? Do you have any idea about the frequency of such cases currently?

Where does ill treatment take place? Which institutions or places or which regions of the country are known for ill treatment?

What kind of initiatives are undertaken by the government to prevent ill treatment against convicts/detainees?

Does the government finance other initiatives in this field?

Is there an independent auditor (ombudsman) or any other legal body with a duty to investigate complaints on ill treatment, and what are the powers of such bodies?

3) Children

In which regions of the country is employing child labour banned by the law?

How many lawsuits have been filed for employment of child labour?

In how many of these lawsuits has the defendant been found guilty?

The sanctions for violating the provisions of articles 71, 72, 73 of the Labour Code No. 4857 regulating child labour are provided in article 104 under the same Code. There are no other provisions regulating child labour directly in the Turkish Penal Code No. 5237 and the Code of Misdemeanours, which are the two fundamental codes constituting the Turkish legal system. However, Article 117 of the Turkish Penal Code No. 5237, regulating violation of freedom to labour and employment, Article 80 regulating human

trafficking, Article 239 regulating the offence of compelling children to beggary and Article 233 regulating violation of obligations under the family law, may be exercised for child labour when the legal conditions are met. The provisions of the above mentioned articles of the Turkish Penal Code are as follows:

Human Trafficking

- Article 80 - (1) Those who provide, abduct, transport or transfer from one place to another, or harbour persons with the intention of subjecting them to forced labour or service, or subjecting them to slavery or other similar practices, or for the intention of removal of the person's organs, by means of securing the consents of such persons by use of threat, force, coercion or violence, of abuse of authority, of deceit, or by abusing the vulnerabilities and desperations of such persons shall be sentenced to eight to twelve years of imprisonment and an administrative fine corresponding to not less than one thousand days.
- (2) The consent of the victim shall be irrelevant in cases where the acts that constitute a crime are attempted with the intentions described in paragraph one.
- (3) In cases where minors below the age of eighteen are procured, abducted, transported or transferred or harboured with the intentions specified in paragraph one, the penalties foreseen in paragraph 1 shall still be applied to the perpetrator, even when no intermediary actions relating to the crime are committed.
- (4) Legal entities shall also be subject to security measures for such crimes.

Violation of freedom to labour and employment

- Article 117 - (1) Those who violate the freedom to labour and employment by means of force or threat or by any other illegal means shall be sentenced to imprisonment for six months to two years upon complaint by the victim.
- (2) Those who employ a person by way of exploiting the person's desperation, homelessness and dependency, without any payment of wages, or for a wage that is proportionately low when compared to the service provided by the person, or who subject such a person to working and accommodation conditions that transgress human dignity shall be sentenced to imprisonment for six months to three years and an administrative fine not less than a hundred days.
- (3) Persons who procure, transfer or transport a person for the purpose of subjecting her to the situation specified in the previous paragraph shall be sentenced to the same penalty.
- (4) Those who force an employee or his employers to increase or decrease wages by means of coercion or threat or to accept agreements with terms and conditions different from those previously agreed or who cause a work to stop, cease or stop for extended periods shall be sentenced to imprisonment for six months to three years. "

Beggary

Article 229 - (1) Those who use children or persons who are not physically or psychologically capable of managing themselves, as a means in beggary, shall be sentenced to one to three years of imprisonment.

- (2) In case this crime is committed by relatives in blood or in law, including third degree, or by the spouse, the penalty shall be increased by half.
- (3) In case this crime is committed within the framework of the activities of the organisation, the penalty shall be increased by one fold.

Violation of obligations under the family protection law

Article 233 - (1) Those who do not fulfil their obligation to provide care, education or support under the family law shall be sentenced to imprisonment up to one year upon complaint.

- (2) A person who abandons his wife, who is known to be pregnant or his unmarried continuous partner who is pregnant from him, leaving her in a desperate situation shall be sentenced to imprisonment for three months to one year.
- (3) Parents who severely jeopardise the moral values, safety and health of their children due to habitual intoxication or usage of drugs or stimulants or due to acts or behaviours transgressing human dignity shall be sentenced to imprisonment for three months to one year, even if their parental rights have been annulled."

How many lawsuits have been filed regarding marriage with minors? In how many of these lawsuits has the defendant been found guilty?

Men and women can get married after they complete the age of 17 pursuant to the Turkish Civil Code. In extraordinary cases, those who have completed the age of 16 may get married through the consent of a judge, (Article 124). The parents of a child who is married before completing the age of 15 are punished together with the perpetrator in accordance with their rate of participation in the offence. (Turkish Penal Code 103) Those who have sexual intercourse with a child over 15 shall be sentenced to imprisonment for six months to one year upon complaint (Article 104).

Is there any information/development regarding the lawsuit filed against 9 social workers employed by Malatya Orphanage in October 2005?

Through examination of the files, it is understood that 3 suits have been filed regarding the incident which had taken place in the orphanage for the 0-6 age group under the Provincial Directorate of Social Services in Malatya, on and before 10.2005, as follows;

- 1 According to the result of the lawsuit filed against the Provincial Director of Social Services, the director of the orphanage and the social workers have each been sentenced to 1 year of imprisonment pursuant to the resolution by the 1st Criminal Court of First Instance of Malatya of 26.12.2007 under case file no. 2006/103 and resolution no. 2007/1156 and there sentences have been suspended.

- 2 A public criminal lawsuit has been filed against the defendants Songul Turan, Adalet Gungordu, Meryem Karacoban, Adile Korkut and Ayse Dogan for maltreatment of children residing in the same orphanage, currently being prosecuted, with the next hearing on 21.02.2008.
- 3 A public criminal lawsuit has been filed against the defendants Melahat Akboga, Yildiz Guven, Nezahat Demirtas, Elif Biradli, Naciye Tural, Sefika Solmazgul, Mujgan Kazgan, Insaf Yilmaz and Fatma Icyer for maltreatment again related with the same incident, and the Criminal Court of First Instance of Malatya, where the lawsuit was initially filed, decided that the case was not under their jurisdiction and consequently the case was transferred to the 1st Assize Court of Malatya with file number 2006/107 and the hearing was postponed to 25.03.2008.
[S10.10]

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S11: Mrs Nurdan Tornaci, Deputy Director General and Nilgun Geven, Head of Department for Women's Branch, Department of Services for Women, Children and Society (SHCEK)

- 11.1 Nurdan Tornaci is Deputy Secretary-General of SHCEK, the Turkish government social services organisation. The Forum was initiated in 2000 by the Social Services and Child Protection Agency (SHCEK), with the support of UNICEF, as a result of a National Children's Congress. SHCEK is the national agency responsible for monitoring implementation of the UN Convention on the Rights of the Child. [13] Social Services and Child Protection Agency (SHCEK) is tasked with coordinating overall efforts of monitoring the implementation of the CRC and its protocols along with its gigantic task of providing and coordinating all social and child protection services with highly limited budget and short of staff. [13a]

Interview notes

- 11.2 SHCEK explained that their organization provides support and social assistance to women, children and the elderly in Turkey. It provides services through social centres across Turkey as well as family telephone help-lines and awareness raising initiatives to help those in need.
- 11.3 Comprised of a number of different structures SHCEK has: orphanages for children aged up to 12, dormitories and nurseries to educate children aged between 13-18, rehabilitation centres for children working on the street, homes for the elderly and the disabled, and shelters for women subject to domestic violence. The organisation also provides services to unaccompanied refugee children between the ages of 0-18. [S11.3]
- 11.4 SHCEK said that in Turkey most cases of domestic violence involve women who suffer violence from their husbands. SHCEK advised that in Turkish society men are seen as the dominant power and the use of violence against their wives is culturally condoned.
- 11.5 With regard to shelter provision for female victims of domestic violence, SHCEK reported that shelter provision in Turkey is provided to all women regardless of status, social group or ethnicity. The shelters are staffed by women and based on the principle of encouraging victims to determine their individual destiny. Women are admitted immediately on arrival and are able to stay in the shelters until such time that they are ready to leave. Where a shelter does not have room to accommodate an applicant, SHCEK cooperates with the Turkish National Police to place that individual at an alternative safe house, subject to the applicant's agreement. On arrival, an applicant is individually assessed in order to devise a programme of action. All details of individuals accommodated in shelters confidential and SHCEK cooperates with other official organizations to ensure that confidentiality is maintained.
- 11.6 SHCEK said that they have 23 shelters (also known as "Guest-Houses") across Turkey. Each shelter has a manager of university graduate level education in a relevant social science, social workers, psychologists, nurses and other staff. The staff work together to identify the conflict dispute and the

type of legal aid or support assistance that a woman might require. Shelters also work with women who wish to reunite with their family. [S11.6]

- 11.7 SHCEK's 23 centres have a capacity to accommodate 477 women. SHCEK explained that there is ongoing work to build 10 more but this will need to be assessed in light of staff availability and suitable accommodation. However, SHCEK would prefer to concentrate on work to prevent the abuse of women, thus preventing the need to build more shelters. [S11.7]
- 11.8 When asked about the profile of women seeking refuge through its organisation, SHCEK advised that the majority of applicants to their shelters are young married women with only a primary school education, who have never had a job and who have no other income other than that from their husband. In most cases the women have children aged between 0-6. However, SHCEK also said that the domestic violence issue is not simply confined to this social stratum but cuts across all age groups and all sections of society.
- 11.9 In 2006, SHCEK conducted a study into which regions applications from female victims of domestic violence were coming from. In descending order, SHCEK said that region wise, the highest number of applications came from the Mediterranean, the Aegean Region, Anatolia, the Black Sea and the Marmara region. The study found that all these regions had similar numbers of cases. However, in analyzing the figures further, SHCEK found that 67% of applications were from women living in major cities, 28% from women outside of major cities and 5% from women living in villages. SHCEK said that there was still a possibility of underreporting in cases of domestic violence and sexual assault.
- 11.10 SHCEK also explained that Turkish law provides for separate social service agencies (outside of SHCEK's organisation) to provide support and assistance to women. SHCEK is responsible for licensing such agencies and for monitoring the service they provide.
- 11.11 SHCEK advised that in total there are 44 women's shelters across Turkey and that there are plans to open others. Of these, 23 shelters are run by government agencies, 21 by NGOs and municipalities, three by local authorities and one by a civil society.

The attached document shows who has opened women's shelters:

ORGANISATION TO WHICH THE SHELTER BELONGS	NUMBER	CAPACITY
SHCEK	23	477
Local Authorities	15	445
Governor's Office	3	59
Kaymakam's Office	1	18
Private Legal Persons	2	24
Total	44	1023

- 11.12 Since SHCEK opened its shelters, and has accommodated 7552 women and 5575 children (together with their mothers). The first women's shelter was opened in 1990. The number of women's shelters providing services linked to SHCEK, which was 8 by 2003, had now reached 23, with another

15 being opened after this date. The number of women and children who had benefited from SHCEK's services was given as of the end of 2007.

- 11.13 In terms of other activities carried out by SHCEK, they advised that they would be involved in the upcoming celebrations for women's day planned for 8th March 2008 when, in conjunction with local provincial branches, they would highlight the exploitation of women and girls.
- 11.14 When asked about government initiatives in the area of female domestic violence, SHCEK explained that the government had issued a byelaw for every municipality with a population of more than 50,000 people to establish a women's shelter. However, there was no time frame for the completion of such shelters.
- 11.15 SHCEK said that they were working closely with community centres across Turkey in to improve implementation of regulation 4320 (a law on the protection of the family) and increase awareness female human rights issues, thus reducing violations and aiding personal development for women. Specifically, SHCEK was working to ensure that municipalities employed social workers, psychologists, paediatricians and child experts who were best qualified to work with women on these types of issues.
- 11.16 SHCEK reported that there were also initiatives to establish family counselling centres, where families could discuss problems with professionals and develop problem solving skills so that they would not resort to domestic violence. Other initiatives included those run by the social services, in cooperation with family advisory centre, to increase women's awareness about adjusting to city life and to encourage children and youth to continue in education.
- 11.17 In addition, SHCEK explained that, in cooperation with the bar association and health care units in relevant regions, women were able to access mediation advice and legal support for bringing forward prosecution cases on domestic violence. SHCEK could also appoint jurists to family centres and cooperated with experts on domestic violence cases as appropriate.
- 11.18 SHCEK's telephone hotline "Call 183" provides support and guidance to women on domestic violence/ abuse issues. Those reporting abuses could be reached immediately as call offices were available across Turkey. If necessary, in cooperation with the Turkish National Police, SHCEK could remove people from violent home environments. Other hotlines were also available to women across Turkey providing support and guidance, such as the Turkish National Police Helpline 'call 155', the Gendarmerie helpline 'call 156' and a line run by IOM call 157 to deal with cases of human trafficking. There was also the Istanbul hotline 02126569696, which was run in cooperation with civil societies and municipality organizations and the daily newspaper *The Hurriyet*.
- 11.19 On the specific issue of children born out of wedlock, SHCEK reported that there was still a certain stigma attached to this issue in Turkish society and that often children assumed to be born out of wedlock were left on the streets. In cases of child abandonment, SHCEK will take in the children concerned and look after them, some of whom may be fostered or adopted out. SHCEK said that every year there are about 500 adoption cases, of

which approximately 250 children are abandonment cases probably born out of wedlock. [S11.19]

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S12: 'Official, Foreign Relations and European Union Department, Ministry of Interior'

- 12.1 An official from the foreign relations and EU Affairs Department at the Ministry of Interior. This official oversees co-ordinates and monitors progress on EU-related reform projects carried out by the Interior Ministry.

Interview notes

- 12.2 An official from the Head of EU coordination in the Ministry of the Interior explained that the number of prosecution cases brought forward against police officials alleged to have mistreated individuals in detention/ prison had sharply declined from the mid 90s to 2005. In 2005, the number of cases brought forward alleging ill treatment or use of excessive force by police officials was 290. In 2006, the figure was 42 and in 2007, 10 in 2008 thus far. The official said that none of these cases had been decided and all were still going through the court system. [S12.2]
- 12.3 The official reported that the Ministry of the Interior was also given responsibility in investigating the claims of mistreatment by police. Prisons were the direct responsibility of the Ministry of Justice.
- 12.4 According to this official, there have been a number of illegal, prohibited demonstrations in which the Turkish National Police (TNP) were required to intervene. When intervening in such demonstrations the TNP had on occasion been required to use force, after which the government authorities had received claims of ill treatment by police officials. These claims were reviewed and in most instances, the police officials concerned acquitted. The official also said that the police are becoming more tolerant of such demonstrations, intervening less frequently, which has led to a decline in the number of claims of mistreatment reported.
- 12.5 The official added that the European Committee for the Prevention of Torture (CPT) makes regular visits to Turkish prisons. In the CPT's last two reports, the committee recorded that there were no instances of ill treatment or complaints or allegations to the prison authorities. Therefore, most claims of mistreatment by officials were against police officials in detention centres. [S12.5]
- 12.6 The official said that there was no particular profile for those claiming to have been mistreated at the hands of the police. The official also added that personal assumption is that people with a particular social or political awareness are more inclined to organizing protest marching and demonstrations and it is more likely for individuals amongst them who do not comply with the legal obligations and procedures to be at odds with the police authorities,. However, no research had been undertaken on profiling and any profile of person could be involved in a demonstration. [S12.6]
- 12.7 When asked as to whether any cases of alleged mistreatment by the police authorities were successfully prosecuted, the official from the Ministry of the Interior advised that public prosecutors always thoroughly investigated such claims. He said that there was no favorable bias in the justice system towards the police authorities and no doubt about the accuracy of judicial decisions in police prosecution cases. [S12.7]

- 12.8 Asked whether there was in existence an independent constitutional body to investigate complaints against police officials, the official of EU coordination in the Ministry of the Interior said the government was trying to set up an ombudsman but the project had not yet been implemented. He said that the project was being taken forward in conjunction with the UK authorities as part of the UK-Turkey twinning project. However, he did explain that there are Inspectorate Boards affiliated to the Ministry of the Interior which inspect police detention centres and prisons and which also investigate claims of mistreatment by police officials. The inspectorate board HQ is based in Ankara but has regional offices in Izmir and Istanbul. All of these civil inspectors were originally Kaymakams (district governors) and before their assignment to the civil inspector they are given 6 month training. These well qualified people, who also handle mistreatment / human rights violation type claims, are also given specific training on how to investigate claims of human rights violation in the law enforcement practices. [S12.8]
- 12.9 He said that the measures taken by the Ministry within the framework of the zero tolerance to torture and mistreatment policy and the work carried out to ensure human rights sensitive policing services and to improve detention centre facilities could be addressed under three sections:
- a) **Legislative Reforms:** Legal reforms beginning in 1995 and continuing to 2005 was initiated with the amendments to the criminal procedure law. Some of the amended provisions can be summarized as follows: Increased punishments for police officials committing human rights violations towards detainees, capacity to directly investigate mistreatment cases and deem them urgent, and a one month deadline for prosecutors to finalize investigations into allegations of mistreatment. Medical reporting before and after police detention and the obligation to allocate a solicitor, if requested by the detainee, during the statement taking process.
 - b) **Improvements on the Physical Infrastructure:** Activities to improve the infrastructure of police detention centre, including the 24 hour monitoring, the provision of CCTV recording equipment in all detention centre and general improvements to accommodation. According to this official, 78% of detention centre now had improved infrastructure and facilities which complied with CPT standards. Use of technology in criminal investigations was increased; capacity of the technical tools and equipment and the hardware and labs were supplemented with a state of the art technology.
 - c) The creation of a human rights based culture in police institutions which included improvements to police training on human rights issues and general awareness of daily procedures. The official advised that at the end of 2006, 300 000 police officers had undertaken human rights awareness training. [S12.9]
- 12.10 With regard to women, the official reported that there were two ongoing projects being taken forward with the United Nations Population Fund (UNFPA) to raise women's awareness of their human rights and to prevent instances of domestic violence. In his view, a preventative agenda in tackling the domestic violence issue was very important.

- 12.11 The first project referred to by him was being run with UNFPA across 6 provinces including Izmir, Sanliurfa, Van and the central Anatolian regions. Under the project a collaborative work is conducted with local authorities and councils to develop women friendly cities.
- 12.12 The second project was being run in cooperation with Denmark and the Ministry of the Interior under the applicable legislation including the 2006/17 Directive of the Prime Ministry aims to identify the duties and responsibilities assigned to the governors, district governors 'Kaymakams', mayors and district officials to improve the status of women as well as to develop performance criteria relevant to those duties and responsibilities. In the scope of these duties and responsibilities, the officials would be tasked by the central government authorities to raise awareness in their jurisdiction to boost the status of women and put in place measures to improve the social, educational and cultural situation of women residing in their districts, for example targeting women's employment in the region. Within the framework of these performance criteria, these officials would then be inspected every three years by the inspectorate boards to see how they were doing against the objectives set down for them by central government.

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S13: Mrs Olcay Bas - Head of Department, Directorate General for Women's Status

Mrs Olcay Bas is the head of the department of the Directorate General for Women's Status which was established in 2005 and was a coordinating agency for public agencies working on domestic violence and other women's issues

Interview notes

- 13.1 Mrs Bas advised that the Directorate General for Women's Status was established in 1990 and was a coordinating agency for public agencies working on domestic violence and other women's issues. In 2005, it concluded its research into domestic violence, honour killings and violence against children and later issued a report on the reasons for and consequences of domestic violence. Following this report, the Prime Ministerial Directive 2006/17 covering the issues of Custom/Honour killings and Violence against Women was issued on 4th July 2006. The National Action Plan on Violence against Women, which had been prepared by the Directorate General in co-operation with the relevant public sector and civil society organisations had been approved by the Ministry and was published in February 2008.
- 13.2 Ms Bas Head of the Directorate General for Women's Status explained that her department was also working on a number of other government related women's initiatives including:
- a) A project to combat domestic violence titled "The Struggle with Domestic Violence against Women". The project was supported by the United Nations Population Fund (UNFPA) and funded by the European Union (EU) and aimed to: increase the capacity of organisations working on women's issues to tackle domestic violence; to increase women's social awareness of domestic violence; and, ensure that women were personally empowered to tackle the issue. The project was due to be completed by the end of 2008.
 - b) A project, run jointly with relevant public sector and civil society organisations to work with government officials, bureaucrats and police officers to train them on issues affecting women such as domestic violence.
 - c) Mrs Olcay said that within the framework of the 2006/17 directive, an important co-operation, which was carried out in the scope of the 2006/17 Prime Ministry Directive, was the signature of the 26.12.2006 "Protocol on the Education Project on the Role of Police in Preventing Violence Against Women and the Procedures to be Implemented" by Interior Minister Abdulkadir Aksu and State Minister Nimet Cubukcu, with the aim of carrying out an in-service education project for security officials working in 276 police stations and 921 police centres which were the first point of application for women who were victims of violence, to raise sensitivity and awareness on the issues of violence against women, domestic violence, social gender equality, the manner of approaching victims of violence, the implementation of the Family Protection Law no 4320 and other relevant laws.

- d) Once again within the framework of the 2006/17 Prime Ministry Circular, the “Protocol on the Education Project on the Role of Health Personnel in the Struggle with Domestic Violence Against Women”, prepared by the Prime Ministry Directorate-General on the Status of Women and the Health Ministry Directorate General for Basic Health Services, was signed by Health Minister Dr Recep Akdag and Minister of State Nimet Cubukcu on 3 October 2008, with the aim of clarifying procedures for services provided to women who are victims of violence, or who are at risk, and arranging an education programme in accordance with this.
- e) With the training that will be carried out within the scope of the aforementioned Protocol; it is aimed to increase the sensitivity of doctors, nurses, midwives and other health personnel working in public sector organisations, which provide first, second and third step health services (hospitals, clinics, mother and baby health, family planning organisations etc), on the issue of the struggle against violence against women, together with the administrators of 81 provincial health directorates; and to develop professional skills, and education. It is intended that with the training, 500 trainers will be developed as a priority, after which 75,000 health officials working in the field will be reached. The Protocol will be implemented for a period of 2 years.
- f) A project to work with the Presidency of Religious Affairs was being piloted in Ankara. The aim of the project was to provide training for Imams to enable them to provide guidance about the issues mentioned above (domestic violence, custom/honour killings, women’s human rights etc). The project, which would be implemented first in Ankara, would be realised in 3 stages. In 2009, it would be implemented country-wide. This project would later be implemented country-wide

13.3 In terms of legal avenues of redress available to female victims of human rights violations, Mrs Bas explained that the 4320 law on protection of the family was introduced in 1998 and provided women with the necessary legal remedy. As a result of a series of meetings held between public sector organisations and the legal representatives of NGOs, under the co-ordination of the Directorate General on the Status of Women, a Bill to make changes to the law was drafted, which would bring about the removal of some problems in the implementation of the law, which had been widely implemented since the date it came into force. The Bill was passed by the General Chamber of the Turkish Grand National Assembly and came into force on 4 May 2007. [13.3]

13.4 With the changes that were made, the definition of a victim of domestic violence was interpreted more broadly and the implication that domestic violence occurs only as violence between spouses was removed. It was considered that the definition of those subject to domestic violence could include those who were not living under the same roof, individuals living in separate homes because they were divorced or separated, or individual family members and children who were in fact living separately despite being married because they may also suffer from domestic violence. Relying on Article 41 of the Constitution (Protection of the Family) a measure entitled “Application for Treatment or Examination at a Health Facility” was also put in place, with the intention of preventing violence which had been or would be perpetrated, through treatment and assessment as to whether the person perpetrating the violence was in any way incapacitated. And it was arranged

that administrative work carried out in relation to applications made and the execution of decisions given within the scope of the law should not be chargeable, in order to avoid excessive costs in legal proceedings for those who victims of domestic violence were.

- 13.5 The Directive on the Implementation of the Law on Family Protection, also prepared under the co-ordination of the Directorate-General on the Status of Women, with the participation of relevant public sector organisations and legal representatives of civil society organisations, came into force after publication in the Official Gazette No: 26803 on 1 March 2008. With the Directive in question, the preventative measures outlined in Law no: 4320 were arranged in a detailed way, clarity was brought to concepts such as “domestic violence” “reporting” and “complaint”, and the issues of bringing alimony and precautionary measures into force and use of correct procedures were elaborated in such a way as to show citizens and implementers of the law how it should be done.
- 13.6 It was said that the violent spouse of a woman who is a victim of violence, on her complaint, or on the complaint of a third person, can be given a sentence of remaining away from the home for 3-6 months.
- 13.7 Ms Olcay Bas added that data relating to activities carried out within the framework of the Circular by the organisations responsible and co-ordinating organisations as specified in the Circular, was reviewed quarterly, within the scope of the co-ordination role of the Directorate-General on the Status of Women. The periodic report submitted to the Prime Ministry was also published on the website of the Directorate-General.
- 13.8 Educational materials, CDs and posters prepared by the Directorate-General on the Status of Women on subjects related to the education of girl children, male-female equality, women’s human rights, domestic violence and the prevention of custom and honour killings had been passed to 600 garrisons, to be used within the framework of the citizenship lessons given to privates and NCOs doing citizenship duty [comment: military service], with the aim of increasing the sensitivity of men, who were an important part of the struggle against violence against women. By this way, it is intended to educate 450 thousand privates and non-commissioned officers in this area.
- 13.9 The “Field Research into Domestic Violence Against Women” project was at the inception phase. After field research had come to an end, the conclusions of the research, which would provide important data on the subject of sources and types of violence, would be evaluated as official data within the scope of the TUIK “Official Statistics Programme”.
- 13.10 A Protocol had been signed between TRT and the Directorate-General on the Status of Women, within the framework of the work of and decisions taken by the Gap Radio-TV Consultative Board, with the aim of effectively informing public opinion about the work carried out by the Directorate-General on the Status of Women, explaining the value of the work of women in the South East Anatolia region and the benefits it had brought, and securing participants for a project to inform local people. Under this Protocol, the filming of regional programmes of 6 segments of approximately 25 minutes each in length, called “Don’t Hurt Me” targeted at women living in the SE Anatolia region as a whole and taking up the issues of employment,

education and violence, had been completed. Broadcasting would begin across the region on TRT GAP TV in 2008.

- 13.11 Reports/Papers on the issue of violence against women were also submitted by the Directorate-General at meetings organised by various organisations and work to increase public awareness was done at symposiums, panel discussions and meetings. In the context, and in the framework of co-operation with Ankara Local Authority Cultural and Social Affairs Department Headquarters, seminars on “Women’s Human Rights, Violence Against Women and Legal Developments” had been organised in 12 women’s centres belonging to the local authority, in a different place each week, reaching approximately 500 women.
- 13.12 Reports/papers on the issue of the struggle against violence against women are submitted by personnel of the Directorate-General on the Status of Women at meetings organised by various organisations and institutes and the work to elucidate the public in these issues during various symposiums, panels and meetings will continue.
- 13.13 In the scope of the Project on Struggling Against Domestic Violence Against Women, 2 spot films had been prepared, drawing attention to provisions which allow necessary measures to be taken against the person who is using violence, on the application of a third person, in accordance with Law No: 4320. The films also drew attention to the fact that victims of violence were under the protection of the state, stressing that nobody subject to violence is without a remedy and giving the message that “violence against women is a crime. Do not shut your eyes to it. Do not remain silent”. The films continued to be broadcast on local and national channels.
- 13.14 When asked about the accessibility to court systems Mrs Olcay said that there was no gender discrimination and both men and women had equal access to the justice system, including legal representation. When asked about accessibility to justice for illiterate women, Mrs Bas advised that education in Turkey is compulsory until the age of 15 years. A project campaign (the Come on Girls, to School campaign) run to provide financial support on the issue of girls being sent to school, was being implemented by UNICEF and was becoming widespread across the whole of Turkey. For adults, literacy courses were organised by the state. Apart from the campaign mentioned above, there were many campaigns being implemented, especially to increase the proportion of girl children attending schools.
- 13.15 In terms of women’s access to lawyers, Mrs Bas said that there was a very high proportion of women represented in the judicial system. Women unable to fund taking their cases forward could apply to the Bar Association for legal aid. Cases brought before the court were treated on an equal basis. Turkey had signed up to the treaty to prevent discrimination against women and had made the necessary constitutional amendments to put this into effect.
- 13.16 On the issue of the number of women’s shelters, Ms Bas said that there were 44 shelters in total in Turkey at the moment, of which 23 were run by the Social Services and Child Protection Agency (SHCEK) and 21 by local authorities and other organisations. The government had sanctioned that each municipality with a population of over 50,000 should build a women’s. In co-operation with the UNFPA and the Ministry of Interior a new project is

planned to build additional shelters in 8 cities and educate the personnel to be assigned to those shelters. Ms Bas said that although the number of shelters across Turkey was not high, agencies across Turkey worked together to ensure that women requiring protection were housed immediately. For example, if there was not room in one shelter, arrangements would be made for accommodation in another shelter or safe house.

13.17 In terms of other government organisations offering support and assistance to women on women's issues, Mrs Bas said these included:

- Various NGO organisations providing advice and guidance on all women related issues
- The Bar Association's Women's Commission providing guidance and free of charge legal counselling
- The number of multipurpose social centres linked to the Prime Ministry GAP administration was 29
- 74 social centres (linked to SHCEK) where support and assistance with women's problems were provided.
- Child Protection services in 74 community centres, also providing support and assistance on women's issues.
- The telephone helpline "Call 183" run by Child Protection Social services.

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S14: Murat Zorluoglu – Ministry of the Interior – Head of Department of Directorate General for Regional Authorities

- 14.1 Murat Zorluoglu is Head of Department in the Directorate-General for Regional Authorities in the Ministry of Interior. [Among other things] he is responsible for overseeing the implementation of the Municipalities Law [which includes a requirement for municipalities to build shelters] Mr Zorluoglu explained that his department coordinated and monitored local authorities across Turkey. Turkish local authorities were autonomous bodies guided by the central government which had their own councils that were the decision making bodies within the local authorities.

Interview notes

- 14.2. Mr Zorluoglu explained that his department coordinated and monitored local authorities across Turkey. Turkish local authorities were autonomous bodies guided by the central government which had their own councils that were the decision making bodies within the local authorities.
- 14.3 Mr Zorluoglu said that under the municipality law 5393, every municipality with 50000 people or more was obliged to establish shelters for women and children. Smaller municipalities could build shelters too but there was no legal requirement for them to do so. Mr Zorluoglu said that the building of shelters was a new area of responsibility for municipalities but he was hearing at the centre more about the municipalities building shelters.
- 14.4 When asked whether there was any penalty foreseen by the law for failure on the part of the municipalities to comply with regulation 5393, Mr Zorluoglu advised that there was no such penalty. However, the biggest penalty would be bought by the Turkish people in a particular municipality for example by the voting procedure as municipalities are political bodies. In addition, Mr Zorluoglu said that the government had Ministry inspectors who visit the municipalities every 3 years to investigate whether they are abiding by the laws. If a municipality was found by the inspectorate not to be working in accordance with the laws they would be issued with a written warning. Therefore a system was in place to make things work.
- 14.5 In terms of the shelters themselves, Mr Zorluoglu explained that some were found in a portion of a building and others in entire apartments. The department of social services is the main body responsible for running shelters through the provincial services. Mr Zorluoglu advised that in many instances municipalities would build a shelter for women and children in their area responsibility for which would then be transferred to the department of social services local unit.
- 14.6 Asked about other government initiatives to tackle female domestic violence, Mr Zorluoglu said that an EU project which began at the end of 2007 named 'building shelters for women exposed to domestic violence' aimed to build 8 women's shelters in major cities by 2009. The shelters when built would be run by the municipalities.
- 14.7 Outside of the government arena, Mr Zorluoglu explained that a lot of NGOs and civil organizations in the regions operated to provide support and

assistance to women suffering women's rights violations and that the function and quality of the services provided by these bodies was increasing every day.

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S15: Mr Ilyas Yilmaz - Head of the Department of Child Labour, Ministry of Labour and Social Security

Ilyas Yilmaz was Head of the Child Labour department at the Ministry of Labour and Social Security. This department develops policy in the area of child labour and oversees its implementation.

Interview notes

- 15.1 Mr Yilmaz said that the child labour laws of Turkey covered the whole country, and there was no regional limitation. Mr Yilmaz explained that the Turkish government had adopted laws and regulations relating to the prevention of child labour in line with international standards. There were also many international organisations operating in Turkey that worked with the government to regulate child labour, such as the International Labour Organisation (ILO) and the United Nations (UN). Mr Yilmaz reported that in 2006, the ILO had chosen Turkey as one of the most responsible and sensitive countries taking forward work to prevent child labour.
- 15.2 Mr Yilmaz advised that there were a number of Turkish byelaws related to the prevention of child labour but that constitutionally, article 50 of the Turkish Constitution was the strongest provision in place. Other laws concerning the education of children and the prevention of child labour included those set out below:
- The provisions of the Turkish Labour Law no 4857 relating to children (Articles 71,72,73,85 and 87) were in force
 - Law no 222 which concerns the obligation to complete compulsory primary and secondary education for 8 years (6 to 14yrs).
 - Law no 2821 which concerns the syndicate trade union law provision on child labour.
 - Law no 2559 which concerns the provision of guidelines for the police and local authorities on preventing child labour.
 - Law no 1580 which concerns the responsibilities of municipalities regarding child labour.
 - Law no 2828 which pertains to social services and child care services.
 - Law no 5395 which concerns child protection.
- 15.3 When asked about the proportion of children who were in some form of employment, Mr Yilmaz said that definitive figures would be available from the Ministry of Interior. However, according to surveys undertaken in recent years, the evidence was that some children were in employment for short periods to assist with economic pressures at home. These included children helping fathers in their shops and children working in the agriculture sector on farms. A 1994 survey had shown that 2, 269,000 children aged between 6-17 years were in employment. In 1999 the number had decreased to 1,630,000 and in 2006, to 958,000.
- 15.4 When asked about the proportion of children working unlawfully, Mr Yilmaz said that the Ministry of Justice would be able to provide this information; the role of his own department was to design, coordinate and implement projects on the prevention of child labour. When asked about the projects

being undertaken, Mr Yilmaz explained that his department was involved in three projects:

- a) The first project was run in cooperation with the ILO and funded by European Union (EU). Called "Ways to Prevent Worst Aspects of Child Labour" the project aimed to encourage children to complete their education and not drop out of school.
- b) The second project was run in cooperation with the Ministry of Education and funded by the United States (6 million dollars). The project aimed to prevent children working as seasonal workers from dropping out of school. The project was ongoing and would finish in September 2008.
- c) The third project, completed in June 2007, also run in conjunction with international organisations, was carried out in accordance with EU Directive 94/33 and aimed to engage children in artistic and cultural activities.

15.5 When asked about the proportion of children employed in seasonal work, Mr Yilmaz said that the Ministry of Education would be able to provide statistics. However, Turkey had seen rapid growth in the number of children continuing with their education.

15.6 In terms of evidence of geographical trends or patterns related to children employed in seasonal work, Mr Yilmaz explained that children working in seasonal labour often happened in rural areas like Adana, Urfa and other south eastern regions. Mr Yilmaz said that with regard to the proportion of children working in seasonal labour, the majority were in the agricultural sector followed by the industrial / urban sector and the service sector.

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S16: Mr Sedat Ozcan – Head of Department for Human Rights – General Directorate of Security

- 16.1 Mr. Sedat Ozcan is Head of the Human Rights department at the Turkish National Police headquarters. This department oversees police training and policy on human rights related issues and monitors progress in this area. The Human Rights Division of the General Security Directorate was established in January 1996. Its responsibilities include the investigation and evaluation of allegations of Human Rights violations, following the progress of ECHR applications and the evaluation of CPT (European Committee for the Prevention of Torture) reports.

Interview notes

- 16.2 The Human Rights division explained that the human rights issue is a key priority for the Turkish government and the Turkish police authorities. They said that changes to the legal framework and police training had been made in an attempt to minimise numbers of claims of mistreatment or human rights violations made against police officials. To this end, police officials had received core curricula training at police training schools on Human Rights since 1991.
Since the year 2000, “Human Rights” and “Public Relations” classes were made compulsory parts of education courses for all personnel. And since 2004, a space has been made in educational courses for all personnel who have to change branches, for the subjects of “Human Rights”, “Policing with Community Support” and “Police Professional Ethics”, with the aim that there should not be less than 2 hours education in each subject.
- 16.3 Between 2000 and 2007, 354,279 police officials had received human rights awareness training. The Human Rights Division also said that they had held courses since 2003 to inform personnel working in the anti-terrorism branch about the latest ECHR verdicts made in relation to Turkey, advice from the CPT and information on the latest issues and concerns in the field of human rights. [S16.3]
- 16.4 In terms of impact of Human Rights awareness training on police officials, the Human Rights Division had conducted a survey. The result was that 53% of individuals participating in the survey thought that police behaviour was perfect as a result of training and 47% thought police behaviour was good. Overall 89% said that there had been a positive change in their views following Human Rights training.
- 16.5 Human Rights Division also explained that there had been projects to improve the running of detention centres which were completed in 2006. These included improvements in the conditions of the detention centres themselves, enhancements in training police officers to take statements as well as improvements to strengthen the accountability and effectiveness of the Turkish National Police.
- 16.6 For example, with regard to statement taking, the police are assessed in terms of respect for the rule of law and human rights. 800 police officers were involved in a pilot statement training programme and 200 trainers are now in place to provide training to the wider police force.

- 16.7 In terms of strengthening and increasing accountability and effectiveness within the Turkish national police, a project was carried out in cooperation with the Spanish National police between January 2005 and November 2006. The project was made up of 5 components titled “Sensitivity towards Human Rights in Policing Practice” and contained 3 elements: human rights; police ethics and professional standards behaviour; and the detention process. As part of the project, 10 seminars on human rights and police behaviour were held in different provinces across Turkey. A course on professional police ethics was held in November 2005 in Ankara for 51 senior officers and in April 2006, 80 police trainers were trained on human Rights.
- 16.8 Within the framework of this project, a draft “Principles of Turkish Police Ethics” is also being prepared in order to create stronger cooperation between the police and local communities. This draft code will provide guidelines for police in carrying out their daily duties and help to increase the quality of the service they provide. It was also drafted in line with Copenhagen criteria and with the aim of ensuring that the role of police officer is defined as a professional job. [S16.8]
- 16.9 The Human Rights division also explained that the Human Rights Presidency (the department working directly to the Prime Minister’s office) was planning to give general and special training on human rights to police officers and would prepare a programme to monitor implementation. The Human Rights division said that in 2007, 493 high ranking officials had been trained in European human rights standards with a special focus on different mechanisms of oversight of law enforcement bodies.
- 16.10 In terms of police policy on mistreatment in detention, the Human Rights Division stated that the police work to the government’s zero tolerance policy on torture and within the new legislative framework enacted in the Turkish penal code and the new criminal procedure code.
- 16.11 The Human Rights Division explained that the definition of torture was expanded in the Turkish Penal Code in 2005 (Article 94 and Article 95 Turkish Penal Code). The prosecutor’s role in criminal investigations was also extended and administrative and judicial investigations conducted against individuals alleged to have committed human rights violations.
- 16.12 Work to standardise conditions in detention centres was also underway. To date 81% of the 2888 of detention rooms belonging to police units in Turkey meet minimum international standards and efforts are ongoing to make improvements to the remaining 547. The Human Rights Division advised that it was not possible for a proportion of the detention centres to be standardised, because they were located in protected or historical buildings. An effort was being made not to use such detention centres. [S16.12]
- 16.13 As part of work to standardise detention centres in Turkey, CCTV had been installed in detention centres belonging to the Provincial Police Headquarters Counter-terrorism Branch Directorate in 16 provinces. The Human Rights Division explained that this was to prevent suicide and self harming in detention and to prevent baseless allegations of human rights violations being made against the police. [S16.13]

- 16.14 With regard to legal service provision in Turkey, the Human Rights Division reported that in accordance with Article 149 of the Turkish Criminal Procedure Code individuals could access the assistance of a defence lawyer at any stage of criminal investigation and prosecution. In addition, defence lawyers could be commissioned directly for cases where there were no lawyers present or where the subject was disabled to such an extent as to preclude self defence. (Article 150 of the Turkish Criminal Procedure Code).

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S17: Professor Hasan Fendoglu - President of the Human Rights Presidency, Prime Ministry

- 17.1 Professor Hasan Fendoglu is the President of the Human rights Presidency which was established within the Prime Ministry. The missions of the Department of Human Rights are regulated in the Article 17/A of the Law no 3056. The missions of the Department of Human Rights are as follows: To be permanently in touch with both state and private authorities in charge of the issues related to the human rights and to provide the coordination between these organisations. To monitor the implementation of the regulations related with human rights. To examine and to investigate the application of the human rights violation claims. [14]

Interview notes

- 17.2 Professor Hasan Fendoglu explained that the Human Rights Presidency was founded under the Prime Ministry, based on a decree brought forward on October 5th 2000. The cancellation of this decree by the Prime Ministry granted the Human Rights Presidency legal status in its own right under law no 4643 on April 21st 2001.
- 17.3 The duties of the Human Rights Presidency are as follows:
- a) To be permanently in touch with both state and private authorities in charge of the issues related to human rights and to provide the coordination between these organisations.
 - b) To monitor the implementation of regulations related to human rights; to evaluate findings; to address problems in application or the legislation; and to coordinate studies to ensure that Turkish National Legislation conforms with international human rights documents; and to make proposals on these issues.
 - c) To monitor, to evaluate and to coordinate the application of pre-service education, training and in-service education programmes in human rights for public associations and organisations.
 - d) To examine and to investigate claims of human rights violations, to evaluate the research results and to coordinate studies regarding measures to be taken.
 - e) To provide a secretariat to the councils established with their missions under the coordination of the Prime Ministry.
 - f) To carry out the other related duties given by the authority.
- 17.4 Human Rights Presidency is also responsible to coordinate reports from the 931 provincial and sub-provincial Human Rights Boards of which 81 are from the provinces and 850 from the sub-provinces. Its members included individuals from non governmental organisations (NGOs) and two members who were public officials.
- 17.5. When asked about the numbers of cases of alleged mistreatment by law enforcement officials, Professor Fendoglu stated that in the first 6 months of

2007, NGOs reported 600 cases of mistreatment and of these 451 were recorded as serious incidents. However, according to Professor Fendoglu, the NGO figures did not correspond with statistics collated from Human Rights Boards across Turkey by the Human Rights Presidency. Also, Professor Fendoglu said that upon investigation of cases of mistreatment by law enforcement officials, the prosecuting authorities often did not find any evidence to support the complaint.

17.6 Professor Fendoglu reported statistics recorded in the first 6 months of 2007 related to cases brought forward against law enforcement officials accused of carrying out acts of mistreatment against prisoners and detainees. These were broken down as follows:

- Public prosecutor investigation continuing - 20 cases
- Governorship decision not to prosecute - 4 cases
- Human Rights Boards investigation continuing - 55 cases
- Responsible personnel not allowed to continue duties while investigations into complaints against them ongoing - 7 cases
- No criminal complaint to the prosecutor of the Republic where allegations made but not founded - 19 cases
- Chief prosecutor decided not to prosecute where the police and gendarme were concerned - 11 cases
- Withdrawal of complaints - 2 cases
- Human Rights Board adjudged no human right violations - 5 cases
- Cases continuing at the Main Criminal Court - 1 case.

17.7 In terms of government initiatives to tackle mistreatment in prisons / detention, Professor Fendoglu said that the government had a zero tolerance policy in place towards the mistreatment of prisoners and detainees. However, despite the legislative framework in place for tackling abuses, negative attitudes and actions of police officers and gendarme towards the people could still be a problem. But these are individual cases rather than being systematic. Moreover, Professor Fendoglu explained that there was a declining trend in the number of cases of reports of mistreatment in detention in Turkey due to the efforts (projects implemented) to bring the practice in line with the legislative framework.

17.8 Professor Fendoglu explained that 30 members of his team were in the process of writing to various districts and provinces across Turkey to promote human rights awareness raising initiatives. In addition, Professor Fendoglu advised that the Human Rights Presidency had, only three months ago, distributed 12,000 packs of educational human rights awareness training materials (containing 13 booklets and CD's in each pack) to law enforcement establishments across Turkey. Also, Professor Fendoglu said that the Human Rights Presidency had written to the 931 Human Rights Boards across Turkey to ask them to report on their visits to prisons and detention centres, which should take place on a monthly basis.

17.9 With regard to the profile of persons alleging mistreatment by state law enforcement officials, Professor Fendoglu said that there was no particular profile for those complaining. Cases were brought against law enforcement officials from a cross section of people including some Kurds, Roma and Turks.

- 17.10 In relation to access for women to the judicial system, Professor Fendoglu explained that the legislative framework, in line with EU standards, provided equal access to both men and women. Professor Fendoglu had no figures regarding the number of shelters available to women.
- 17.11. Professor Fendoglu advised that the Human Rights Presidency had written to the Ministry of Interior, as well as governors of the districts of Turkey, about the high numbers of missing children across the country (11,460 children were reported to be missing in Turkey) and had asked them for a response within two months, including information on trends and patterns of disappearances in their areas of responsibility. The Human Rights Presidency Team would then analyse the findings as part of a new project.
- 17.12 When asked whether there were any individuals currently in prison or detention on account of their political beliefs, Professor Fendoglu said that he had no information on this but that anyone detained under the terror laws could only be held for four days.
- 17.13 To conclude, Professor Fendoglu said that the Human Rights Presidency had undertaken and would continue to undertake projects to educate and raise awareness of human rights issues in Turkish society. These projects would include initiatives to raise awareness of avenues of legal redress for those alleging mistreatment or torture. He also indicated that complaints about human rights violations had increased in Turkey as people became more aware of human rights issues and where they could go to lodge complaints related to abuses.

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S18: Jennifer Douglas-Todd, Resident Twinning Advisor, an Independent Police Complaints Commission Project Team and Mr. Hakan Arikan, Senior Project Officer

- 18.1 Jennifer Douglas Todd is the resident advisor to the Justice and Home Affairs (JHA) in Turkey, engaged to prepare a new complaints system for the Turkish National Police and Gendarmerie. The objective of the process of law approximation is to not only implement the relevant amendments to existing legislation but as importantly, to strengthen those institutions responsible for the enforcement or implementation of the new procedures [15]

Interview notes

- 18.2 Ms Douglas-Todd explained that the Council of Europe rulings had provided the impetus behind the development of an Independent Police Complaints Commission (IPCC) Project, as there was no independent police complaints system in Turkey. The project would develop a model suitable for Turkey, covering all law enforcers including customs officials, rather than importing the UK model.
- 18.3 Ms Douglas-Todd said that the main strength of the current complaints system in Turkey was that Turkish citizens could go to various official and non governmental bodies to initiate a complaint about a law enforcement officer, which would then be taken forward to the judicial process, if a criminal matter. The main weakness in the system was poor recording of data with regard to complaints against law enforcers. The IPCC project therefore envisaged setting up a framework to publish such data on an annual basis to allow future trend analysis. It was envisaged that the IPCC project would take four years to complete and be conducted in two phases: firstly, to conduct a consultation and set up the necessary legislative changes; and, secondly, to establish the IPCC itself. The consultation paper was expected to be issued in May 2008.
- 18.4 With regard to the nature of complaints of alleged mistreatment by police officers, Ms Douglas-Todd said that the Turks had a wide definition of torture and that some of the complaints received would, by UK standards, be categorised as minor complaints. The Turkish government was taking a very proactive stance towards tackling the torture issue and it is accepted by both the public sector and civil society that allegations of torture had significantly reduced over the last few years. Anecdotally, it is possible that tolerance levels change if the individual is suspected to be related to terrorism, both by law enforcement officers and civilians. This is similar to the experience in the UK in relation to the Brazilian case with public attitude changing when it was confirmed that he was not related to terrorism acts.
- 18.5 In terms of profile of those alleging mistreatment and trends in incidence across the country, Ms Douglas-Todd had heard that incidents of mistreatment were traditionally concentrated in the east of the country but that there had also been occurrences in Istanbul too. According to Ms Douglas-Todd, when visiting the Van region, they had heard from a member of civil society that law enforcement interest was low as they tended to get officers right at the beginning or end of their careers.

- 18.6 With regard to avenues of redress available to those claiming to have experienced mistreatment at the hands of police authorities, Ms Douglas-Todd explained that although individuals could file complaints with a range of different offices and organisations, all cases would ultimately be progressed through the judicial prosecution service, which was the sole avenue of redress. When asked about whether any police officials accused of mistreatment had been successfully prosecuted, Ms Douglas-Todd advised that from the EU progress report, 2007 and the Amnesty International report on 'Impunity' a number of police officers prosecuted had been acquitted and reinstated in their roles. However Ms Douglas-Todd said that the law enforcement bodies are tough on misconduct and therefore did also dismiss individuals for misconduct and there were records to prove this.
- 18.7 On the issue of human rights violations against women, Ms Douglas-Todd reported that this was an issue across Turkey, with incidents ranging from domestic violence right through to honour killings. Ms Douglas-Todd said that traditionally Turkey was a patriarchal society. In many cases of domestic violence or other human rights abuses against women, individual cases would be referred by the police - who were often not trained in handling women's issues - back to the family to deal, as traditionally the policy in Turkish society was not to break families up. Moreover, it was very difficult for women to get out of a domestic violence situation as many were not economically independent. [S18.7]
- 18.8 When asked about Child labour, Ms Douglas-Todd said that this was reported to be widespread in Van, but even more so in Istanbul and that police 'turn a blind eye'. She said that legislation was in place and there were many active campaigns in relation to child labour, but implementation remained a problem. [S18.8]

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S19: Representatives of the EU Commission Delegation

- 19.1 The European Commission Delegation to Turkey represents the European Commission on the diplomatic and political level. It is the channel for day-to-day relations between the Commission and Turkey, and reports to Brussels on the latest political, economic and commercial developments. It monitors and reports to Brussels political and economic developments related to Turkey's reform process and to the EU acquis and short- and medium-term priorities under the accession partnership. [16]

Interview notes

- 19.2 When asked how widespread domestic violence was in Turkey, the EU delegation advised that domestic violence was more common in the South Eastern region but was a problem of the whole country. In this region, there was less access for women to education, judicial and social services. The EU delegation also cited the example of Urfa where women were particularly vulnerable to domestic violence as a result of strong tribal bonds and the lack of shelters. In terms of shelter provision, the EU delegation advised that some smaller towns and villages found it very hard to keep shelters in their areas anonymous as the victim's spouses often knew where shelters were and came to take their wives back home. [S19.2]
- 19.3 With regard to the issue of honour killings, the EU delegation explained that a new Turkish Penal Code entered into force in 2005 and honour killings were now dealt with under article 82 of the Penal Code as an aggravated ground for homicide. However, because honour killing crimes were not specifically profiled in statistics recorded for crimes committed under Article 82, it was difficult to get a precise picture of just how prevalent the honour killing issue actually was. Also, a particular profile of honour killing was forced suicide which was often dealt with in crime statistics as a suicide, again making statistical analysis on prevalence of honour killings in Turkey difficult. [S19.3]
- 19.4 When asked about police handling of cases of human rights violations against women, the EU delegation explained that the police were not necessarily proactive but were receiving more training on women's human rights issues. The EU delegation could not say if there was an improvement in police attitudes on cases of abuse against women as domestic violence victims for example were still being told to go home and reconcile matters instead of investigating allegations made. There was also still the problem of underreporting of human rights abuses by women particularly in rural areas. Further the issue of girls from rural areas not being registered or having identity cards meant that if such girls were the victims of honour killings they could often not be traced by the authorities. [S19.4]
- 19.5 In terms of the legislative framework available to give redress to domestic violence victims, the necessary legislation was in place, which included amongst other things a requirement for prosecutors to investigate any allegations made which was a huge improvement. However, implementation of the legislative framework was still an issue. The approach of the courts in determining cases of domestic abuse against women was also questionable. Some good judgments made it to the news but other judgments were discriminatory and not necessarily commensurate with the crime of the

husband. Implementation of the legislation by the judiciary therefore varied from court to court and there was no uniformity. [S19.5]

- 19.6 With regard to government initiatives to tackle domestic violence and other abuses against women, the EU Commission delegation advised that in 2006, the Prime Ministry directorate issued a circular on combating violence against women. This was followed by a similar circular from the Ministry of Interior (circular 2006/17). The 4380 family law had also been extended to provide security measures to victims whereby victims of domestic violence or other abuse could apply to have a restriction order placed on the violent spouse. However, the EU delegation did not have any information on the number of cases being prosecuted or resulting in convictions. Furthermore, apart from the circulars issued by the government mentioned above on combating domestic violence, which Kurdish NGOs had mentioned were not of much help to them because of language issues, the EU delegation was not aware of any other initiatives planned by the government to tackle human rights abuses against women. [S19.6]
- 19.7 Asked whether there was a change in attitude of the law enforcement bodies to handling domestic violence cases, the EU delegation commented that it was a mixed picture and they still received complaints about the police. The younger generation of police officers were more educated and better understood issues surrounding domestic violence but the older generation were still very traditional in their approach. Training on women's human rights issues was taking place across the country but whether the Gendarmerie and local village guards had become more aware of and sensitive to women's issues remained to be seen. There was no constitutional body in place to follow up complaints against the police or other law enforcement bodies. [S19.7]
- 19.8 Regarding women's access to the court system, the EU delegation said that in principle yes there was equal access for women but in practice especially in rural regions this was not the case. The EU delegation said that in rural areas, women had less access to education and social services and often did not speak Turkish which restricted their access to legal remedies. In addition, though there was access to interpretation in the courts the quality of interpreters could not be guaranteed and some courts failed to assign interpreters to cases where they were required. Furthermore there was a general shortage of interpreters in Kurdish speaking areas and individuals from Kurdish areas were often represented by administrative staff working in the court. The use of such staff was clearly not adequate or legal. [S19.8]
- 19.9 The EU delegation explained that there were sensitive women lawyers available to handle women's cases. The presence of women lawyers was stronger in the major Turkish cities. However, in Anatolia they were fewer in number and in 9 Turkish provinces there were no Bar Associations at all. Access to female lawyers was dependent on access to a good bar association and assistance on offer from NGOs. Legal financial assistance to victims of domestic violence unable to afford a lawyer was generally available and a lawyer assigned free of charge to those in financial difficulty but the EU delegation was unable to comment whether this facility would be available in rural regions. [S19.9]

- 19.10 In terms of EU initiatives being taken forward in Turkey to tackle human rights abuses against women, the EU delegation reported that there were a number of projects that they were involved in:
- Promoting gender equality
 - Combating Domestic Violence through a project that aimed to strengthen the capacity of stakeholders active on the issue including the formulation of a National Action Plan and Strategy by stakeholders on tackling abuse. The EU delegation said that they would forward further information on this project.
 - Project to increase shelter provision for female victims of domestic violence
 - Project to establish a national database to record honour killings.
- [S19.10]
- 19.11 Turning to the issue of cases of alleged mistreatment by law enforcement officials in detention centres/ prisons, the EU Commission delegation said that the enforcement of the government's zero tolerance policy on torture and mistreatment was questionable and impunity of law enforcement officials remained a problem. The government announced pilot projects to tackle the mistreatment in detention centres and prisons but the EU delegation had seen nothing striking in terms of implementation and effectiveness of these projects. [S19.11]
- 19.12 When asked how widespread cases of alleged mistreatment by state law enforcement officials were, the EU delegation said that recent statistics were not available. However, the numbers of complaints from individuals had increased following the amendment of the terror laws which extended police powers to stop and search. Prisoners had also complained about ill treatment, including being beaten whilst being transferred from one prison to another and of being deprived of medical treatment. In addition, the prison monitoring boards did not include independent members, such as representatives of NGOs; instead they tended to appoint retired judges, and prosecutors who were often not very open minded. The monitoring boards also failed to produce regular reports of inspections so were not transparent. The EU delegation also reported that in "F Type" prisons the leisure time of prisoners was extended by a recent circular but that the circular was not implemented properly. The reasons given were difficulties in administering its implementation and shortage of staff. Turkey still had yet to ratify the OPCAT, but there was hope this would happen soon as the EU delegation was lobbying for this. [S19.12]
- 19.13 In terms of making claims of alleged mistreatment by law enforcement officials, the EU delegation said that it was very rare for people to make complaints to the Human Rights Boards. This was because the boards were part of the same system that people were looking to complain about. However, the EU delegation said that they were very hopeful about the new chair of the Parliamentary Committee on Human Rights.
- 19.14 With regard to the nature of reported cases of mistreatment, the EU delegation said reports of mistreatment tended to increase when arrests took place during a demonstration or riot for example there was an increase in report cases after the riots in March 2006. Mistreatment was often reported in places outside of the detention centres. This was so doctors producing medical reports about individuals in detention would say that the

mistreatment happened before the individual was arrested and detained. The types of mistreatment reported including beatings and physical violence but none involving any devices. Typically, cases recorded were of psychological mistreatment as such mistreatment did not leave behind any physical evidence or marking. When asked if mistreatment reached the level of article 3 of the ECHR, the EU delegation was not in a position to comment as they relied on NGOs for information on reported cases. Furthermore, it was hard to make any definite claims about the nature of alleged mistreatment as NGO reporting only covered 60% of Turkey.

- 19.15 When asked about any noticeable patterns of mistreatment or profile of those alleging mistreatment, the EU delegation said that there that there was no particular profile which often included people detained for ordinary crimes. People belonging to pro Kurdish parties' sometimes alleged mistreatment and this group included ordinary Kurdish political party members as well as those who were of a higher political profile. However, Kurds who were politically passive and not member of political groups were generally not affected. Again detention was common following demonstrations. In Batman the situation had been problematic during demonstrations following a political anniversary there. And on 1 May 2007, the Labour Day demonstrations had led to a significant number of arrests following which a number of complaints were made alleging mistreatment by the police authorities. Of concern was the fact that a number of prosecution cases brought forward after the Mayday demonstration were dropped by the judicial authorities raising issues about the effective administration of justice in such cases and police impunity. When probed as to whether they were aware of any successful prosecutions brought against police authorities alleged to have mistreated people in detention, the EU delegation said that they were aware of only one case which had taken seventeen years to be brought to justice. The EU delegation could not therefore say whether sentences imposed on individual law enforcement officers convicted of mistreatment were commensurate with the crimes committed. [S19.15]
- 19.16 The EU delegation explained that often after demonstrations had taken place, the government would issue circulars to police officials reminding them of their responsibilities and how to behave during such incidents but these circulars were often forgotten until the next incident. Apparently 50 circulars had been issued since 1 January 2006. Asked whether an independent ombudsman was in place to follow up complaints of mistreatment, the EU delegation advised that they were not aware of any independent body of this kind. (The law on Ombudsman was adopted in 2006 vetoed and readopted in 09/2006 then it was approved by the President but sent to the Constitutional Court. Currently its implementation is suspended and it is still pending before the High Court) There were currently seven political prisoners in prison under article 301 of the Turkish Penal Code. The EU delegation said that police officers who faced allegations of torture / mistreatment would often make counter claims against the victim.
- 19.17 With regard to children in employment, the EU delegation reported that the coverage of the Labour Law is limited. For example, it does not cover the agricultural enterprises employing less than 50 workers. When asked if there was any information on the outcome of the Malatya State Orphanage officials charged, the EU delegation advised that the information they had was that the criminal case lodged against the 9 official staff involved had resulted in administrative sanctions being imposed. [S19.17]

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S20: Fatma Sahin, AKP MP for Gaziantep and Deputy Chairman responsible for AKP Women's Branch

- 20.1 Fatma Sahin is AKP MP for Gaziantep and National Chairwoman of the Justice and Development Party Women's branch. In the 2002-7 Parliamentary terms she chaired the Parliamentary Enquiry into Honour Killings and is the author of the report on Honour Killing 2006. She was asked as to how widespread the issues of domestic violence and honour killing were in Turkey, she explained that for the last four months she had been chair of a reserved committee in the Turkish parliamentary assembly which looked into issues of domestic violence against women and honour killing. Ms Sahin had also been involved in a research project working in collaboration with Civil Society Organisations, NGOs, and academics looking at prevalence of domestic violence and honour killings in Turkish society over the last 5 years. Ms Sahin said that before this research project began she had assumed that domestic violence and honour killings would be a cross regional issue but this was not the case: incidents were more prevalent in rural areas or urban regions which received migrants from agricultural communities. [S20.1]

Interview notes

- 20.2 Ms Sahin said that before this research project began she had assumed that domestic violence and honour killings would be a cross regional issue but this was not the case. According to Ms Sahin incidences of domestic violence and honour killings were more prevalent in migration receiving regions. [S20.2]
- 20.3 As part of the research project, Ms Sahin explained that a field study lasting 2 months was conducted in five cities with high levels of incidents recorded, for example, Diyarbakir, Urfa and Van. One hundred people were interviewed as part of the project including women in shelters and men in prisons. Evidence collated indicated that there were similarities in the family structure from which cases were occurring, that is, in most cases, female victims of abuses were from low educational backgrounds who were not financially independent and who were not strong enough to take independent decisions in respect of their own lives. Incidents also occurred in communities who had migrated from the traditional sector (agricultural) to modern sector (industrial). There were also cases that occurred in major cities like Istanbul, Izmir and Ankara which were similar to those cases identified in countries like the UK. [S20.3]
- 20.4 After completing the research project, Ms Sahin explained that the various groups involved in it decided that Ministers should join together to produce a national action plan on tackling human rights violations against women. A national action plan was therefore prepared and as a consequence of it, the Prime Minister issued a directive which identified domestic violence as a social problem.

Ms Sahin further advised that the national action plan and the Prime Ministerial directive enabled the government authorities and other groups working on women's human rights issues to become stronger in working to tackle abuses and to this end a number of related projects were carried out:

- 40,000 soldiers received training on issues related to domestic violence and honour killing.
 - Amendments were made to the Penal code providing for stronger sentences to be passed against perpetrators of domestic violence
 - In respect of honour killing crimes, the perpetrators of such crimes had begun to receive reduced sentences but after amendments to the Turkish penal law honour killings were treated as homicides and perpetrators given sentences commensurate with the crime.
 - Implementation of amendments to family law (law no 4320) establishing a family court infrastructure which provided women with easier to access court and judges with the means to monitor perpetrators of domestic violence crimes who were often repeat offenders. [S20.5]
- 20.6 According to Ms Sahin, following completion of the research project, Director General of Women Status prepared quarterly reports on women's issues which were then used as a basis of updating government directives. Ms Sahin said that since the government and state authorities had recognised domestic violence and other abuses against women as a social issue back in 2002, the government had sought to combat the issue through its national action plan and by working to update the legislative framework.
- 20.7 When asked whether there was a variance between statistics recorded on incidences of human rights abuses against women and actual rates, Ms Sahin reported that women from rural areas still failed to report complaints as the issue was kept within the family but that generally women across Turkish society were more willing to report complaints than they had done previously. Ms Sahin said that as a result of globalisation and being part of a democratic society and thanks to the media sharing information raising women's awareness of their human rights, women were better placed to access legal redress. Therefore any rise in the number of domestic violence cases reported was not necessarily indicative of an increase of abuses against women in Turkish society but rather the fact that women were more aware of their legal rights and how to protect them. [S20.7]
- 20.8 In terms of tackling the problem of domestic violence in rural areas, Ms Sahin AKP MP for Gaziantep explained that there was an ongoing campaign in these areas called "come on girls to school". The campaign had so far seen 250,000 girls return to school. Raising educational awareness among young girls on human rights was according to Ms Sahin a key priority and seen as an important means of eradicating abuses against women at a later stage in their lives. [S20.8]
- 20.9 When asked about police attitudes in handling complaints from women of human rights abuses, Ms Sahin AKP MP for Gaziantep advised that the in service training programme of more than 40000 police officers aimed to increased police awareness of sensitive women's issues, required serious monitoring in order to assess actual impact. [S20.9]
- 20.10 With regard to honour killings specifically, Ms Sahin AKP MP for Gaziantep advised that previously the groups most affected had been those from the South and South Eastern regions but that she had since observed that cases also stemmed from the Black Sea region too. Again, according to Ms Sahin, women affected by honour killings in the Black Sea region were those from a low educational background. [S20.10]

- 20.11 Ms Sahin advised that the government emphasis was now to pursue a preventative approach in tackling issues of human rights abuses against women in terms of access to education and employment and that these together with other different elements were combined within the national action plan. As the lead party in government, the AKP had carried out many ambitious administrative measures in the female field and had never put women's issues down the government priority agenda. The work of the AKP on women's issues had been noted by the EU in their yearly report on Turkey and the AKP campaign to amend the Turkish penal code to provide for rape in marriage as a crime would never have been pursued previously by a conservative government. The AKP itself had 10% female representation its ranks. [S20.11]
- 20.12 Ms Sahin also advised that on 8 March 2008, the AKP was organising an international event whereby successful female mayors from 15 EU countries would be invited to Turkey to share their experiences about their work and hopefully encourage women across Turkey to run/participate in the mayoral 2009 elections.

Date of interview: 18th February 2008

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Annex A – Glossary

AKP	Justice and Development Party (ruling party of Turkey)
DTP	Democratic Society Party
EC	European Commission
EU	European Union
FCO	Foreign and Commonwealth Office
HRP	Human Rights Presidency
IHD	Human Rights Association
IPCC	Independent Police Complaints Commission
MoJ	Ministry of Justice
NGO	Non–Governmental Organisation
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
TIHV	Turkish Human Rights Foundation
UN	United Nations
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children’s Fund
SHCEK	Social Services and Protection of Children
WWHR	Women for Women’s Human Rights

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Annex B – Map of Turkey



<http://www.factmonster.com/atlas/country/turkey.html>

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Annex C – References to Law No. 4320 on the Protection of the Family

Full Text of Law No. 4320 Amendment 5636/1 dated 26/04/2007

Clause 1- If a spouse or child or another member of the family living under the same roof or who holds the court ruling for a divorce or who is legally entitled to live separately or who indeed lives apart although they are married is subject to domestic violence, and notification is made either by the victim or by the Chief Public Prosecutor, in addition to the provisions of the Turkish Civil Code, taking into consideration the specific circumstances, a Judge of the Family Court can on its own initiative (*sua sponte*) pass one or more of the following rulings or take any other measures that are deemed appropriate. The accused spouse can be ordered:

- a Not to use violence or threatening behaviour or discourse against a member of the family;
- b To leave the dwelling shared with other members of the family and, to allocate this dwelling to the other members of the family and not to approach the dwelling where these members of the family live together or separately or not to approach their place of work.
- c Not to damage the property of the members of the family;
- d Not to cause distress to the members of the family via communication tools;
- e To surrender a weapon or other similar instruments, if any, to the law enforcement officers;
- f Not to arrive at the dwelling or the work place of the victim of violence while under the influence of alcohol or other intoxicating substances nor use such substances in these places.
- g To apply to a health care institution for treatment or medical examination.

The above-mentioned measures can be applied for a period not exceeding six months and, if the spouse or the other family member who consorted to violence does not abide by the rulings, s/he shall be warned that s/he is liable to arrest and confinement. If the spouse or the other family member who consorted to violence is the provider of the family or is contributing to the family's income, the Judge shall take into account the standard of living of the victim and can rule on maintenance payments even though no request has been made by the victim provided that no maintenance payment has been ruled previously as per the provisions of the Turkish Civil Code. No fee is charged for applications under this statute and for the executive actions taken to implement the court ruling.

Clause 2- Amendment 5636/2 dated 26/04/2007

A copy of the protection order is entrusted to the Chief Public Prosecutor by the court. The Chief Public Prosecutor monitors the application of the order through the law enforcement agencies. In the event of a failure by the relating party to abide by the protection order, the law enforcement agencies, without the need for the victim to submit a written application, will on their own initiative conduct an investigation and transfer the documents to the Chief Public Prosecutor within the shortest possible time.

The Chief Public Prosecutor files a suit (public criminal case) at the Magistrate (Criminal) Court against the spouse or the member of the family who does not abide by the order. Even if it constitutes another de facto crime, the court shall rule an additional imprisonment of three to six months for the spouse or the member of the family who fails to abide by the protection order. Matters concerning the implementation of this statute shall be organised by regulations.

Clause 3- This law comes into effect from the date on which it is promulgated.

Clause 4- The provisions of this law are implemented by the Council of Ministers.

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Corollary to the Clauses of the Law

Clause 1- The first clause of the draft provides for a member of the family who suffers abuse within the family, notification of which is either made by the victim or the Public Prosecutor, to secure one or more protective rulings, in addition to the provisions of the Turkish Civil Code. For example; if a husband arrives home under the influence of alcohol and abuses his wife and children the court can pass a ruling that he is "not to arrive home under the influence of alcohol" or, if the husband needs to be kept away from the home, it can issue more than one ruling, such as "not to approach the wife's house or workplace", "not to damage the wife's possessions", "to inform the accused spouse's superior at work or his employer" or "to forbid the accused spouse from coming to their shared home". In extraordinary circumstances the court can also pass other similar rulings in addition to those enumerated. If the Magistrate's Court considers that there is a possibility of the victim again being subject to abuse then it can pass an order immediately after the application without need for witnesses or hearing from the other side. Those who have suffered abuse are not responsible for proving to the court the possibility of being subjected to abuse. The court can issue rulings for a period of up to six months and if the accused does not abide by the court rulings s/he is warned that s/he is liable to arrest and confinement. The presiding judge can make a maintenance order so as to prevent the victim from becoming impoverished. In order to set the amount of maintenance, an expert is required to conduct an investigation and determine the standard of living of both the plaintiff and the defendant. In order for the victim not to incur any financial expense, no charge shall be made for applications to the Magistrates Court.

Clause 2- According to the second clause of the draft, a copy of the protection order shall be forwarded to the Public Prosecutor by the Magistrates Court and the responsibility for ensuring that the order is complied with shall be delegated to the police. In the event of the protection order not being complied with, the police shall conduct its own investigation, without need for the victim to submit a formal application, and forward the documents to the Public Prosecutor in the shortest possible time. The Public Prosecutor shall open a case at the Magistrates Court in the name of the state against the spouse who is not complying with the protection order. The aforementioned case shall be conducted in the manner and with the speed foreseen by the law on Criminal Courts.

At the conclusion of the trial, if the spouse who has not complied with the provisions of the protection order is guilty of another crime then s/he is liable to a prison sentence of three to six months. The passing of the prison sentence foreseen in this clause is based upon the accused being previously warned by the court of the consequences of his/her failure to abide by the protection order and the persistent endangering of the unity of the family. The aim of the setting of a six month upper limit for the prison sentence is to act as a deterrent and to ensure that the sentence does not fall within the scope of the punishments foreseen in the 119th clause of the Turkish Criminal Code.

Clause 3- The law will come into effect on its promulgation.

Clause 4- The implementation of the law is the responsibility of the competent authority.

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Annex D Legal Aid Regulations of the Union of Bar Associations of Turkey

http://www.barobirlik.org.tr/mevzuat/avukata_ozel/avukatlik_kanunu/docs/LEGAL_AID_REGULATIONS.doc

PART ONE

Purpose, Scope and Basis

Purpose Article 1 – The purpose of these Regulations is to establish the procedures and principles pertaining to legal aid as per Articles 176 through 181 of the Attorneyship Law, number 1136, dated 19 March 1969.

The purpose of legal aid is to make attorneyship services available to those who lack the wherewithal to pay attorneyship fees and jurisprudence costs with a view to overcoming the obstacles to the right of the individual to seek justice and to ensure equality in exercising the right to seek justice.

Scope Article 2 – These Regulations cover the division among bar associations and the utilization of the moneys transferred to the account of the Union of Bar Associations of Turkey in accordance with Article 180 of the Attorneyship Law, number 1136, dated 19 March 1969; as well as the establishment, duties, and responsibilities of the Legal Aid Office; the identification of the attorneys to be assigned and the determination of their fees; and the operation and inspection of legal aid.

Legal basis Article 3 – These Regulations have been prepared in accordance with Articles 176 through 181 of the Attorneyship Law, number 1136, dated 19 March 1969.

PART TWO

General Provisions

Legal Aid Office and Representative Article 4 – A Legal Aid Office consisting of an adequate number of attorneys to be identified and assigned by the board of directors of the bar association will be established in every bar association area. The board of directors of the bar association may also designate an attorney as the representative of the Legal Aid Office in jurisdictional areas outside the location of the bar association where more than five attorneys are available. An adequate number of assistant representatives will also be assigned when necessary.

The Legal Aid Office and the representatives perform the duties prescribed in the Attorneyship Law, number 1136, dated 19 March 1969 and the duties to be assigned by the boards of directors of the bar associations in accordance with the Attorneyship Law and regulations.

The Legal Aid Office and the representatives operate under the responsibility and supervision of a member of the board of directors of the bar association who is charged with managing legal aid affairs.

Adequate space, office equipment, and staff will be provided to the Legal Aid Office and the representatives for the performance of their duties, the costs being paid out of the legal aid allowance.

Bar associations may assign attorneyship apprentices with tasks to be performed with Legal Aid Offices and representatives on a temporary basis for the purposes of training.

Request for legal aid Article 5 – A request for legal aid will be made to the Legal Aid Office or its representatives where the services will be rendered. A Judicial Aid Application Form is completed and registered in the Legal Aid Merits Book upon a request being made.

The Legal Aid Office or the representatives will request the necessary information and documents from the requestor, conduct an investigation as they deem appropriate on the rightfulness of the request, and make a decision if required. Public and private organizations and agencies will provide assistance to the Legal Aid Office and the representatives during this investigation.

If the request for legal aid is rejected, the requestor may apply to the president of the bar association verbally or in writing within fifteen days as of the date of notification. The president of the bar association will make a decision within seven days. This decision will be final.

Rendering of legal aid Article 6 –

a) If the request for legal aid is accepted, the fact will be recorded in a memorandum. The requestor will be made to furnish a letter of commitment to the effect that the requestor will reimburse the bar association with the fee paid to the attorney and five percent of the material gains, if any, the requestor will receive upon completion of the job; and that the requestor will return twice the amount of the fee paid to the assigned attorney and any expenditures incurred including legal interest thereon if it is subsequently discovered that the request for legal aid was not rightful.

Judicial aid will be requested in accordance with Articles 465 through 472 of the Code of Civil Procedure, number 1086, dated 18 June 1927, for those who cannot pay the jurisprudence costs. If this request is rejected, the person concerned will be required to pay any jurisprudence costs other than the attorneyship fee. Otherwise, the request for legal aid may be rejected.

However, in the event it becomes clear that the jurisprudence costs cannot be paid, and a firm conviction or a strong impression arises as to the rightfulness of the person requesting legal aid, payment will be effected out of the legal aid funds upon the recommendation of the Legal Aid Office or the representatives and by a decision of the board of directors of the bar association.

If the case is dismissed, the charges to be returned will be transferred to the legal aid fund.

b) Upon the acceptance of the request for legal aid, one or several attorneys will be assigned to do the work and conduct the actions necessary. A copy of the letter of assignment will be given to the requestor with instructions to contact the attorney assigned together with the required information, documents, and the power of attorney. The attorney assigned will be under the obligation to render attorneyship services upon the receipt of the letter of assignment; the information, documents, and the power of attorney pertaining to the job and the requestor; and the amount advanced for obligatory expenditures for the job if the request for legal aid has been rejected.

The obligation of the assigned attorney will cease when and if the requestor fails to furnish the documents and information required for the performance of the job, and to pay the obligatory jurisprudence costs other than the attorneyship fee, or refrains from giving a power of attorney. The assigned attorney will report the fact without delay to the Legal Aid Office or the representatives that gave him the assignment.

c) Attorneys' declared fields of specialization will be taken into consideration in making assignments.

d) If the assigned attorney wishes to abstain from performing the job for a rightful excuse, he/she may retire from the assignment by paying to the bar association the fee indicated for that job in the tariff within fifteen days as of the date he/she received notice of the assignment.

e) An assigned attorney is under the obligation to see the job through to its completion in accordance with the provisions of the Attorneyship Law, number 1136, dated 19 March 1969. Other lawsuits and execution proceedings or similar legal actions may not be considered as falling under the scope of the job at hand albeit they may be connected and related therewith.

f) The Legal Aid Office or the representatives will monitor the progress of the services being rendered by the assigned attorney. The attorney will be under the obligation to furnish the information and documents requested by the latter at any stage of the job.

Upon completion of his/her services, the attorney will submit a report on the job performed and the documents attesting to the completion of services to the Legal Aid Office or the representatives.

Fees Article 7 – An attorney assigned with legal aid will be paid the fee indicated for the job at hand in the minimum attorneyship fee tariff. In the event of more than one attorney being assigned, each will separately incur the same fee. Allowances permitting, the rule is to pay the attorney's fee in advance upon his/her documentation of the commencement of his/her services.

An attorney who fails to complete the legal aid services for an assignment without a rightful excuse will be under the obligation to pay twice the amount of the fee he/she has received to the bar association.

Revenues of the Legal Aid Office Article 8 – The revenues of the Legal Aid Office are the following:

- a) Judicial aid allowance extended to bar associations by the Union of Bar Associations of Turkey.
- b) Financial aid granted to the bar association by public and private agencies and organizations and from the budgets of provincial governments and municipalities.
- c) All donations made for the purpose of legal aid.
- d) The money to be recovered from attorneys abstaining from legal aid services or failing to complete their services without a rightful excuse.
- e) Moneys received from requestors as per the letters of commitment.
- f) Ten percent of the fee received by the attorney assigned with legal aid and five percent of the value adjudged in favour of the beneficiary of legal aid, to which charges are applicable.

Expenses of the Legal Aid Office Article 9 – The expenditures of the Legal Aid Office are the following:

- a) Fees to be paid to attorneys assigned with legal aid and travel expenditures connected therewith.
- b) Salaries to be paid to personnel to be employed in the office.
- c) Office equipment, stationery, and other expenses.
The funds for legal aid will be used exclusively for legal aid services and indicated in separate parts in the budget of the office. The surplus revenue will be carried over to the following year as is.

The division of legal aid funds between bar associations Article 10 – The Union of Bar Associations of Turkey will transfer the money collected in accordance with Article 180 of the Attorneyship Law, number 1136, dated 19 March 1969, to the legal aid chapter of its budget and allow the funds to accumulate in a separate bank account. Twenty-five percent of these funds will be earmarked for the legal aid expenditures and the Judicial Aid Balancing Fund of the Union of Bar Associations of Turkey, and the remainder will be sent to the bar associations.

Each bar association will be allocated five basic points. Extra points will be added to the basic points as follows in order to calculate the Judicial Aid Allocation Point:

- a) 1 extra point for every 25 attorneys in membership.
- b) 1 extra point for every 50,000 in population.
- c) 3 extra points to each bar association in the areas with priority in economic development efforts.

Fractional increments less than 0.5 points will be disregarded in the calculation. Fractional increments greater than 0.5 will be rounded to the next higher whole number.

The legal aid funds to be allocated to bar associations will be calculated according to the following formula:

Total Funds for Judicial Aid in Budget of the Union of Bar Associations of Turkey X
0.75 X Judicial Aid Allocation Points of the Bar Association

The allocations sent to bar associations during the year will be reported separately to each bar association at the end of the year.

Bar associations which deplete their share of the legal aid allocation before the end of the year may request additional funds from the Judicial Aid Balancing Fund of the Union of Bar Associations of Turkey by submitting a report indicating the expenditures effected by their respective Legal Aid Office, the justification for the request for additional funds, and the legal aid jobs pending. Additional funds will be extended by the board of directors of the Union of Bar Associations of Turkey if the request is considered appropriate.

Allocations not spent during the year will be carried over to the following year. Allocations not spent in two consecutive years will be deducted from the allocation for the New Year.

Bar associations will prepare a Judicial Aid Year's End Report at the end of every year and submit it to the Union of Bar Associations of Turkey. Accounts will be settled at the Union of Bar Associations of Turkey on the basis of these reports.

The funds allocated to bar associations will be paid in four instalments. Bar associations will prepare quarterly reports after the first instalment and submit them to the Union of Bar Associations of Turkey.

The next instalment will be paid after the reports and the spending have been determined to be in compliance with the Regulations. The same procedure will be applied in the subsequent instalments.

Inspection of Legal Aid Offices Article 11 – The board of directors of the bar association may always inspect the operations of the Legal Aid Office and the representatives. The Legal Aid Office will submit a report covering its activities, including those of the representatives, to the board of directors of the bar association at the end of every year.

Provisional Article 1 – The boards of directors of bar associations will make the assignments of the attorneys to serve in their respective Legal Aid Offices and, if necessary, of the representatives, and report the completion of the establishment of their Legal Aid Office to the Union of Bar Associations of Turkey by a letter. Bar associations not reporting the establishment of their Legal Aid Office will be denied allocations.

Entry into effect Article 12 – These Regulations will enter into effect on the date of their publication.

Enforcement Article 13 – The provisions in these Regulations will be enforced by the board of directors of the Union of Bar Associations of Turkey.

Annex E - UK Border and Immigration Agency fact-finding mission to Turkey 11-20 February 2008

Questionnaire

Introduction

Country of Origin Information (COI) Service of the Border and Immigration Agency (BIA) is responsible for providing objective information about countries that generate asylum applications in the UK, for use by officials working in the asylum process.

COI Service will shortly be conducting a fact-finding mission to Turkey obtain detailed information on a range of issues which arise in asylum applications from Turkish nationals, which is not available from existing published sources. The mission will be carried out during 11 – 20 February 2008.

The mission team will seek to interview a range of sources representing differing perspectives on the issues being considered. The information obtained by the mission will be published in a report and used by BIA officials and by appeals courts to help inform decision-making on asylum and human rights applications.

The mission team will produce a note of each interview and care will be taken to present the interviewee's views in an accurate and transparent way. Each interviewee will be given the opportunity to see the note of their interview in draft form, make amendments, and if satisfied give their explicit consent for it to be published. It would be helpful if information obtained could be attributed to sources, but interviewees may remain anonymous if they prefer.

The mission team members would like to express in advance their gratitude to any individuals or organisations able to take part in this research. A list of the issues the team will be seeking to obtain information upon is provided below.

1) Women

Information is needed regarding the issues of domestic violence, rape / sexual assault and honour killings. In particular, information is needed on the protection, redress and shelters available to them.

Incidence of domestic violence, rape / sexual assault and honour killings

- How widespread is domestic violence in Turkey?
- Any views on incidence in terms of geographical or social criteria?
- Are there statistics on the number of cases of domestic violence, rape / sexual assault and honour killings in the last 2 years?
- Is there significant variance between official figures and suspected rates?

Legislative framework and enforcement

- What legislative framework is in place to give redress against domestic violence, rape / sexual assault and honour killings?

- How effective is the enforcement of legislative provisions on domestic violence, rape / sexual assault and honour killings?
- How many cases of domestic violence, rape / sexual assault and honour killings have been prosecuted in the last 2 years?
- How many prosecutions in each category have resulted in convictions?
- What punishments did the perpetrators receive? Are these considered commensurate with the offences committed?
- Are the enforcement authorities adequately trained in dealing with these issues and how promptly do they respond to complaints?
- Is there any evidence to suggest that the attitude of the police and law enforcement bodies towards domestic violence and associated problems is changing?
- Is there a constitutional body that follows up complaints of domestic violence, rape / sexual assault and honour killings? If so, what are its powers?

Women's access to the court system

- Do women have equal access to the court system to pursue criminal or civil remedies that may be available to them?
- What provisions are there within the legal system for women who may not be literate?
- Are women lawyers available to deal with any particularly sensitive issues?
- What is the availability of free legal assistance for women who are unable to pay?
- Are cases brought by women pursued and treated equally with men?

Government initiatives and Parliamentary Enquiry

- Has the government made any statements on the ill-treatment of women?
- What is the progress of the government campaign "Stop Domestic Violence"?
- Are there any other government initiatives in place to prevent the ill treatment of women?
- Has there been any final result relating to the enquiries instigated regarding the abuse of power at the Women's Day 2005 demonstration.
- What was the result of the Parliamentary Enquiry into honour killings in 2006 led by Fatma Sahin - MP for Gaziantep?

Shelters and support

- Outside the court system, what organizations/ NGO networks provide support and assistance to women seeking redress?
- How many shelters are provided across the country?
- What proportions of shelters are provided by the Government / NGOs?

2) Treatment of prisoners and detainees

- Incidence of mistreatment of prisoners / detainees
- What is the number of reported cases of mistreatment of prisoners / detainees for last year (or most recent figure available)?
- What is the trend in the numbers of reports of mistreatment in police stations in recent years?
- How widespread is mistreatment? Any views on current level of incidence?
- Where does mistreatment take place? Which institutions or location, and which regions of the country?
- What forms of 'ill-treatment' take place and which of these are considered to be "torture?"

Profile of prisoners / detainees mistreated

- Are there particular 'profiles' for those mistreated?
- Do these include Kurds with separatist views?
- Do these include those who have been arrested for 'ordinary' crimes?
- Legislative framework and enforcement
- What legislative framework is in place to protect the rights of police prisoners / detainees?
- Is there a 'zero tolerance' approach by the authorities to torture?
- Are allegations of ill treatment investigated and cases brought to justice?
- If so who brings the prosecutions?
- How many prosecutions of police officials for mistreatment of prisoners / detainees
- were brought last year (or most recent figure)?
- What is the number of police officials convicted of mistreatment of prisoners / detainees last year?

- Were the sentences commensurate with the offences committed?
- Is there an update on progress relating to the HR monitoring system to combat torture in detention

Government and other initiatives to prevent mistreatment

- What government statements have there been on the issue of torture?
- What government initiatives are in place to prevent mistreatment of prisoners / detainees?
- Does the government fund any other initiatives?
- Is there an independent ombudsman or other statutory bodies that follow up
- complaints of mistreatment and what are their powers

3) Children

- Which parts of the country are covered / not covered by laws prohibiting child labour?
- How many prosecutions have been brought forward for unlawful use of child labour? How many resulted in convictions?
- How many prosecutions have been brought forward for cases of underage marriages? How many resulted in convictions?
- Any information regarding the outcome of the case against the 9 officials of the Malatya States Orphanage in October 2005?
- Are you able to obtain any statistics relating to children born out of wed-lock in Turkey? To what extent would a woman or her child be stigmatised

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