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TURKEY

Republic of Turkey

Head of state: Ahmet Necdet Sezer
Head of government: Recep Tayyip Erdoğan
Death penalty: abolitionist for all crimes
International Criminal Court: not ratified

After the introduction of new legislation in previous years, there was little evidence of progress in the implementation of reforms. There were continued prosecutions of people expressing their peacefully held opinions. Human rights further deteriorated in the eastern and south-eastern provinces in the context of an increase in fighting between the security forces and the armed Kurdistan Workers' Party (PKK); there was an increase in attacks on civilians in other areas by armed groups. There were reports of excessive use of force against demonstrators by law enforcement officers during violent protests in the city of Diyarbakır in the south-east of the country. In spite of a general decrease in allegations of torture or ill-treatment, there were reports that such abuses were widespread in police custody against those detained during the protests. There were continued concerns about unfair trials and conditions in "F-type" prisons. Little progress was made in creating shelters for women victims of violence.

Background

In December the European Union (EU) partially froze Turkey's membership negotiations because of its refusal to open its ports and airports for trade with the Republic of Cyprus on the grounds of the EU's continuing embargo of the internationally unrecognized Turkish Republic of Northern Cyprus.

In June, Parliament revised the Law to Fight Terrorism, greatly widening the scope and number of crimes punishable as terrorist offences, introducing articles liable to further restrict freedom of expression, and failing to restrict the use of lethal force by law enforcement officials. In July the President approved the Law but applied to the Constitutional Court for the annulment of two articles relating to sanctions against the press. In September the Ombudsman Law was passed by Parliament after amendments. During the year, Turkey ratified both the (first) Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) and the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty.

Official human rights mechanisms, such as the provincial human rights boards under the control of the Human Rights Presidency attached to the Prime Minister's Office, did not function consistently and failed to address grave violations.

Freedom of expression

Laws containing fundamental restrictions on freedom of expression remained in force, resulting in the prosecution, and sometimes conviction, of groups such as journalists, writers, publishers, academics, human rights defenders and students for the peaceful expression of their beliefs.

Many prosecutions were brought under Article 301

of the Turkish Penal Code (TPC) which criminalizes denigration of "Turkishness", the Republic and the institutions of the state. Most of these cases, such as that of Nobel Prize-winning novelist Orhan Pamuk, ended in acquittal.

- In July the General Penal Board of the Court of Cassation upheld a six-month suspended sentence against Hrant Dink, a journalist, who was tried after writing about Armenian identity in *Agos* newspaper.

Turkish and international human rights defenders campaigned for the repeal of Article 301 of the TPC on the grounds that it lacked "legal certainty of the crime". They rejected the arguments of the Ministry of Justice that the development of case law would signal an end to arbitrary prosecutions.

Other articles of the new TPC of 2005 also imposed restrictions on freedom of expression.

- In October Abdurrahman Dilipak, a journalist with *Vakit* newspaper, received a sentence of just under one year, commuted to a fine of 10,500 liras (approximately US\$7,250), for insulting the President. The prosecutor had called for his acquittal.

- Birgül Özbarî, a journalist for Özgür Gündem newspaper, faced seven prosecutions for "alienating

the population from military service" because of her writings on military service and conscientious objection. She faced possible prison sentences totalling 36 years.

Article 288 of the TPC restricting public comment

on cases under judicial consideration was used in an arbitrary and overly restrictive way to hinder independent investigation and public comment on human rights violations.

Officials of the pro-Kurdish Democratic Society Party (DTP) and those joining pro-Kurdish platforms faced frequent prosecutions amounting to a pattern of judicial harassment.

- The trial of 56 mayors from the DTP began in October. The mayors had signed a letter in December 2005 to the Danish Prime Minister, arguing that the Denmark-based Kurdish television channel, Roj TV, should not be closed down. They were being prosecuted for "knowingly and willingly supporting the PKK."

People collecting signatures for a petition recognizing Abdullah Öcalan, imprisoned leader of the PKK, as a "political representative", received varying sentences, with students receiving the harshest punishments.

Killings in disputed circumstances

There were continuing reports of fatal shootings of civilians by members of the security forces. The usual explanation for these killings was that the victims had failed to obey a warning to stop, but such killings often demonstrated disproportionate use of force and in some cases may have amounted to extrajudicial executions. There were concerns about Article 16 in the revised Law to Fight Terrorism which failed to be explicit that lethal force could only be used when strictly unavoidable to protect life. There were fears that Article 16, which permitted the "direct and unhesitating" use of firearms to "render the danger ineffective", could further hinder thorough and impartial investigations into shootings by members of the security forces.

Members of the security forces continued to use excessive force during the policing of demonstrations. Demonstrations in March in Diyarbakır, to mark the funeral ceremony of four PKK members, escalated into violent protests. Ten people, including four minors, were killed, eight of them from gunshot wounds. Many demonstrators and police officers were injured. Investigations into the killings were continuing at the end of the year. The demonstrations spread to neighbouring cities; two demonstrators were shot dead in the town of Kızıltepe, a stray bullet killed a boy aged three in the city of Batman, and in Istanbul three women died when a bus crashed after being set on fire by demonstrators.

In September a bombing in a park in Diyarbakır resulted in 10 deaths. The perpetrators were unknown.

Attacks by armed groups

Bomb attacks targeting civilians increased. An armed group, the Kurdistan Freedom Falcons, claimed responsibility for bomb attacks including in Istanbul, Manavgat, Marmaris and Antalya, in which nine people died and scores were injured. In March, in the city of Van in the east of the country, a bomb exploded next to a minibus, leaving two civilians and the bomber, a PKK member, dead.

The PKK announced a unilateral ceasefire with effect from 1 October, and there was a subsequent decrease in armed clashes.

In May, an armed attack on judges at the Council of State (the higher administrative court) resulted in the death of a judge, Mustafa Yücel Özbilgin, and the wounding of four other judges. The trial of the gunman and of eight others for the attack and for three bomb attacks on the premises of the newspaper, Cumhuriyet, began in August in Ankara.

In February, former PKK executive Kani Yılmaz, one of the founders of the Patriotic Democratic Party of Kurdistan (PWD), and PWD member Sabri Tori were assassinated in a car bomb attack in Suleymanieh, northern Iraq, continuing a pattern of assassinations allegedly carried out by the PKK against the PWD.

Torture

There were continued reports of torture and ill-treatment by law enforcement officials, although fewer than in previous years. Detainees alleged that they had been beaten, threatened with death, deprived of food, water and sleep during detention. Some of the torture and ill-treatment took place in unofficial places of detention.

- In October, Erdal Bozkurt reported that he was abducted in Alibeyköy in Istanbul by men identifying themselves as police officers, put into a car, blindfolded and handcuffed, beaten and threatened with death, and taken to a place where he was tortured and interrogated for a whole day about his and other people's involvement in a local group which had been protesting against drug dealers and social problems in their neighbourhood. He was released the following day.

There were widespread allegations by adults and minors of torture and ill-treatment during the mass detentions in the course of riots in Diyarbakır in March.

- Two 14-year-old boys reported that they were held for around nine hours at the Çarô¹ police station, stripped naked, made to pour cold water over each other, were threatened with rape, made to lie on a concrete floor, and were forced to kneel down with their hands tied behind their backs while being repeatedly beaten with fists and truncheons and kicked by police officers. Medical reports showed signs of their ill-treatment. They were later transferred to the Children's Department of the Police in another district.

Impunity

Investigations into violations by members of the security forces continued to be deeply flawed and there was a general unwillingness among elements of the judiciary to bring those responsible to justice.

- In February, a decision was made not to pursue an investigation into the alleged torture of five male teenagers in October 2005 in the town of Ordu.

- Two gendarmerie intelligence officers and an informer received prison sentences of over 39 years for the bombing of a bookshop in the town of            in November 2005, in which one man died. The court's verdict stated that the men could not have acted without the involvement of their seniors. Pending appeal at the end of the year, the case exposed the serious obstacles to bringing to justice senior members of the security forces suspected of committing violations.

Interference in justice system

The            bombing trial (see above) proceeded after an investigation into the bombing which appeared to have been mired by political interference by members of the government and senior military personnel. The Public Prosecutor's indictment was made public in March, and implicated the head of the army's land forces and other senior local military personnel in Hakkari province. The Public Prosecutor requested a separate investigation by the military prosecutor to establish whether the bombing was part of a wider conspiracy. The Ministry of Justice investigated the Public Prosecutor for possible misconduct and in April the Higher Council of Judges and Prosecutors dismissed him from office. An appeal by the Public Prosecutor was unsuccessful.

Fair trial concerns

Those charged under anti-terrorism legislation continued to face lengthy and unfair trials in the special Heavy Penal Courts which replaced the State Security Courts abolished in 2004. Prosecutors relied on evidence based on statements allegedly extracted under torture. Retrials, following judgements by the European Court of Human Rights that trials were unfair, were not impartial and did not re-examine evidence. Proceedings were excessively prolonged, and provisions limiting pre-trial detention had not yet become law and did not adequately address the need to complete a trial within a reasonable time.

Prison conditions

Prisoners continued to report ill-treatment, arbitrary and harsh disciplinary punishments and solitary confinement or small-group isolation in "F-type" prisons. In September the European Committee for the Prevention of Torture (CPT) issued a report relating to its December 2005 visit to places of detention in Turkey, calling for a significant increase in the amount of time allowed for prisoners to associate with each other and commenting on the "very harmful consequences" of an isolation-type regime which could lead to "inhuman and degrading treatment". The CPT also reiterated the call it made in 2004 for a full-scale review of prison health care services.

Conscientious objectors

Conscientious objection was not recognized and no civilian alternative was available.

- In a retrial in October, Sivas Military Court sentenced Mehmet Tarhan to two years and one month's imprisonment on two charges of insubordination following his refusal on two

occasions to perform military service.

Violence against women

There was little progress in implementing the provision in the 2004 Law on Municipalities, which stipulated the need for shelters for women victims of domestic violence in towns with a population of more than 50,000. Women's organizations called for additional funds from the government to implement the law. A circular from the Prime Minister in July, outlining measures to combat violence against women and children, and to prevent so-called "honour killings", represented a step towards acknowledging an entrenched and endemic problem. In December, Parliament passed revisions to the Law on the Protection of the Family, widening its scope.

AI country reports/visits

Reports

- Europe: Partners in crime - Europe's role in US

renditions (AI Index: EUR 01/008/2006)

- Turkey: Article 301 - How the law on "denigrating Turkishness" is an insult to free expression (AI Index: EUR 44/003/2006)

- Turkey: No impunity for state officials who violate human rights - Briefing on the Mardinli bombing

investigation and trial (AI Index: EUR 44/006/2006)

- Turkey: Briefing on the wide-ranging, arbitrary and restrictive draft revisions to the Law to Fight Terrorism (AI Index: EUR 44/009/2006)

- Turkey: Justice delayed and denied - The persistence of protracted and unfair trials for those charged under anti-terrorism legislation (AI Index: EUR 44/013/2006)

Visits

AI delegates visited Turkey in March, April, May and October.