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Amnesty International

Turkey

Covering events from January - December 2004

The government introduced further legal and other reforms with the aim of bringing Turkish law into line with international standards. However, implementation of these reforms was patchy and broad restrictions on the exercise of fundamental rights remained in law. Despite positive changes to detention regulations, torture and ill-treatment by security forces continued. The use of excessive force against demonstrators remained a serious concern. Those responsible for such violations were rarely brought to justice. Those who attempted to exercise their right to demonstrate peacefully or express dissent on certain issues continued to face criminal prosecution or other sanctions. State officials failed to take adequate steps to prevent and punish violence against women.

Background

The government continued to introduce constitutional and legal reforms in order to fulfil the criteria required to begin accession negotiations with the European Union. On 17 December, the European Council declared that it intended to start these negotiations with Turkey in October 2005.

In January Turkey signed Protocol No. 13 of the European Convention on Human Rights and in April it signed the Second Optional Protocol of the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

In June, the Kurdistan People's Congress (Kongra Gel), successor to the Kurdistan Workers' Party (PKK), announced that it was ending its unilateral ceasefire. In the second half of the year there were many reports of clashes between members of the armed group and Turkish military and security forces in the south-east of the country.

During the year at least 33 people, 13 of them minors, were killed by landmines or abandoned ordnance. Many more were injured.

Law reform

Many significant changes were introduced in 2004. The State Security Courts were abolished and replaced with Special Felony Courts. International law was given precedence over domestic legislation. All references to the death penalty were removed from the Constitution and the Penal Code. Members of the army were removed from the Higher Education Council (YÖK) and the Higher Board for Radio and Television (RTÜK).

New legislation included a new Press Law, a new Law on Associations, a new Criminal Procedure Law and a new Penal Code. All of these laws contained positive developments and were often less restrictive than their predecessors. For example, the new Penal Code removed many articles which discriminated on grounds of gender and introduced a definition of torture that was closer to that laid down in international law. However, many of these new laws carried over provisions from the old ones that had been used to unnecessarily restrict fundamental rights. In addition, implementation of legislative changes was often uneven and in some cases appeared to be resisted by state officials.

A Law on Compensation of Losses Resulting from Terrorism and the



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 signed

UN Women's Convention and its Optional Protocol: ratified

Take action!

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Further information

[Turkey: From paper to practice – making change real, Memorandum to the Turkish Prime Minister on the occasion of the visit to Turkey of a delegation led by Irene Khan, Amnesty International's Secretary General \(AI Index: EUR 44/001/2004\)](#)

[Turkey: Restrictive laws, arbitrary application – the pressure on human rights defenders \(AI Index: EUR 44/002/2004\)](#)

[Turkey: Women confronting family violence \(AI Index: EUR 44/013/2004\)](#)

[Europe and Central Asia: Summary of Amnesty International's concerns in the](#)

Struggle with Terrorism was also passed which aimed to recompense individuals who had been forcibly displaced in the 1990s during the conflict between government forces and the PKK. Human rights groups expressed concern about the low level of compensation envisaged and suggested that the law was designed to prevent applications to the European Court of Human Rights.

region, January-June 2004:
Turkey
 (AI Index: EUR 01/005/2004)

All AI documents on Turkey

Torture and ill-treatment

Detention regulations that provided better protection for detainees led to an apparent reduction in the use of some torture techniques, such as suspension by the arms and *falaka* (beatings on the soles of the feet). However, the regulations were often not fully implemented. Torture and ill-treatment in police and gendarmerie custody continued to be a serious concern with cases of beatings, electric shock, stripping naked and death threats being reported.

Torture methods which did not leave lasting marks on the detainee's body were also widely reported. Deprivation of food, water and sleep and making detainees stand in uncomfortable positions continued to be reported, despite a circular from the Minister of the Interior prohibiting the use of such techniques. In addition, people were beaten during arrest, while being driven around or after being taken to a deserted place for questioning.

- Derya Aksakal was reportedly pulled into a minibus as she was walking along the street in Istanbul on 3 March. She was then blindfolded and questioned about her political activities by three masked men, one of whom she recognized as a police officer. The men reportedly extinguished cigarettes on her body, threatened her with rape and subjected her to a mock execution before releasing her about two hours later.
- Aydın Ay was detained on suspicion of theft at Carşı Police Station in Trabzon on 27 October. He alleged that he was stripped naked, given electric shocks and that his testicles were squeezed in order to make him sign documents without knowing the contents.

A high proportion of complaints of ill-treatment related to excessive use of force by the security forces during demonstrations. Despite a circular from the Minister of the Interior instructing officers not to use disproportionate force, there were continuing reports of protesters being beaten and sprayed with pepper gas even after they had been apprehended.

Impunity

There was a lack of effective mechanisms to monitor the implementation of detention regulations and investigate patterns of abuse by the security forces. The Provincial and Regional Human Rights Boards failed to investigate effectively complaints regarding incidents of torture or ill-treatment and did not demonstrate the necessary impartiality or independence.

Investigations into allegations of torture and ill-treatment by prosecutors were rarely adequate and usually resulted in a decision not to prosecute. The lack of thoroughness of such investigations brought into question their impartiality. Decisions were often based upon medical examinations of detainees which were themselves insufficient and often carried out in the presence of security officials, despite regulations forbidding this. Investigations, and subsequent trials, generally did not examine the chain of command and the accused officers were often not suspended from active duty during such proceedings.

Judicial proceedings against individuals accused of torture and ill-treatment were usually severely prolonged and as a result some prosecutions were halted as the statute of limitations had expired.

- On 10 November the Court of Appeal upheld the sentence of a police officer for involvement in the death of trade unionist Süleyman Yeter who died in police custody as a result of torture in March 1999. The trial court had reduced his 10-year sentence to four years and two months' imprisonment for "good conduct", of which he will have to serve only 20 months. Meanwhile, legal proceedings against nine police officers accused of having tortured Süleyman Yeter and 14 other detainees in another incident in 1997 were dropped when the statute of limitations expired on 11 November.
- On 2 December, the trial of four police officers for the torture including sexual torture of two high-school students in March 1999 in Iskendurun was postponed for the 30th time, despite the existence of medical reports corroborating the allegations. Meanwhile one of the students, Fatma Deniz Polattaş, remained in prison for membership of the PKK on the basis of statements allegedly extracted under torture.

Those who lodged complaints that the police had used excessive force during arrest or demonstrations were often charged with "resisting a public official by force and violence or threats" or violating Law No. 2911 on Meetings and Demonstrations.

- Student demonstrators detained on 12 April in Ankara were reportedly ill-treated by riot police who used excessive force to disperse and detain the protesters. The students were reportedly also ill-treated in the

police station and at the courthouse. The judge presiding over the case ignored the complaints of ill-treatment and the students were charged with violating the Law on Meetings and Demonstrations but released pending trial.

Killings in disputed circumstances

Up to 21 civilians were reportedly shot dead by the security forces, many in the south-eastern and eastern provinces. In the majority of cases, the security forces said the victims had failed to heed orders to stop.

- Şiyar Perinçek, a suspected member of Kongra Gel, was shot by a plain-clothes police officer after being knocked off a motorcycle in the city of Adana on 28 May. Witnesses claimed that he was unarmed and no warning was issued. He died in hospital two days later. The driver of the motorcycle, Nurettin Başçı, was detained and reportedly tortured. On 4 October, three police officers went on trial for the "ill-treatment" of Nurettin Başçı; one officer was also charged with the "unintentional killing" of Şiyar Perinçek which the indictment alleges occurred after he was shot at by Şiyar Perinçek. The trial was continuing at the end of the year.
- Police officers shot dead Mehmet Kaymaz and his 12-year-old son Uğur outside their house in K'z'ltepe on 21 November. The authorities claimed that they were armed members of Kongra Gel and that they had shot at police officers who returned fire. Witnesses alleged that it was an extrajudicial execution and that weapons were planted on them after they were killed.

Freedom of expression and human rights defenders

People were prosecuted for the peaceful expression of their opinions, although the Court of Appeal and some lower courts issued landmark judgements upholding the right to freedom of expression. Cases and investigations were opened against individuals because of their peaceful opinions and activities. Such prosecutions constituted a form of judicial harassment; they rarely ended in custodial sentences, but often resulted in heavy fines. Such trials were opened under various articles of the Turkish Penal Code, for example, those which criminalize "insults" to different state bodies or "incitement to enmity and hatred". However, trials were opened under many other laws as well – these included the Anti-Terror Law, the Law on Meetings and Demonstrations, as well as laws on public order and on associations and foundations. Politicians were prosecuted for making election propaganda in languages other than Turkish. Severe fines were handed down under both the old and new press laws to newspapers and journalists.

- Journalist Hakan Albayrak was released from prison in Ankara province in November having served six months of a 15-month prison sentence for an article in which he commented on the funeral rites of Mustafa Kemal Atatürk, the founder of the Turkish Republic.
- On 30 December a court in Ankara continued to hear the case opened against the writer Fikret Başkaya for having intentionally "insulted or derided the Turkish state" in his book *Against the Current*. He faced a sentence of up to three years' imprisonment if convicted.

Such laws were also used against human rights defenders – including lawyers, doctors, environmentalists and trade unionists who continued to be targeted despite a greater willingness on the part of the government to consult with representatives of civil society. Such harassment varied from province to province. In some cases people were prohibited from organizing petitions, reading press statements or holding demonstrations. The UN Special Representative on Human Rights Defenders visited Turkey in October and expressed her concern at the opening of large numbers of cases and recommended that all cases pending against human rights defenders be reviewed. Individuals who participated in human rights activities were also often subjected to professional sanctions such as dismissal, suspension or transfer to postings away from their home towns.

- In June a case was opened seeking the closure of the largest trade union in Turkey, the teachers' trade union Eğitim Sen. The case was based on a statement in the union's statute that it would "defend the rights of individuals to education in their mother tongues" which the prosecuting authorities claimed was unconstitutional. The acquittal of Eğitim Sen in September was overturned by the Court of Appeal in November.
- In June, Professors Şebnem Korur Fincancı and Sermet Koç were removed from their positions as heads of the two faculties of Forensic Medicine at hospitals attached to Istanbul University. They had expressed their concerns about the lack of independence of the Forensic Medical Institute to the press. Şebnem Korur Fincancı had previously been removed from her duties at the Institute for writing a report in which she concluded that an individual had died in custody as a result of torture.

Release of prisoners of conscience

On 21 April, Ankara No. 1 State Security Court upheld the 15-year prison sentences imposed on four former Democracy Party (DEP) parliamentarians: Leyla Zana, Hatip Dicle, Orhan Doğan and Selim Sadak. The retrial

had been initiated as a result of legislation that allowed for new judicial proceedings to be opened where the European Court of Human Rights had found the original judgement to be in breach of the European Convention on Human Rights. However, in early June the Chief Prosecutor of the Court of Appeal requested that the conviction be overturned, emphasizing that the retrial had also been in breach of international fair trial standards and that they should be retried again but released during these proceedings. On 9 June, the four former parliamentarians were released from Ulucanlar Prison in Ankara. A new retrial began at the Ankara Special Felony Court No. 11 on 21 October.

Violence against women

The human rights of hundreds of thousands of women in Turkey continued to be violated as a result of violence in the family. There were reports of beatings, rape and murder or enforced suicide. State officials failed to take steps to protect women adequately. Investigations into reports of family violence were often inadequate and the perpetrators were rarely brought to justice. Shelters for women at risk of violence were extremely rare.

As a result of concerted lobbying efforts by women's organizations, many provisions which had discriminated on grounds of gender were removed in the new Penal Code. Positive measures introduced included: the abolition of the possibility that someone convicted of rape could have their sentence reduced, postponed or annulled if he agreed to marry the victim; the explicit recognition of marital rape as a crime; and the definition of sustained and systematic violence in the family as torture.

AI country visits

AI delegates visited Turkey in February, June and December. In February, the Secretary General of AI met senior government figures, including Prime Minister Recep Tayyip Erdoğan.

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