

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	284
Land:	Tyrkiet
Kilde:	Human Rights Watch.
Titel:	World Report 2010 - Turkey.
Udgivet:	20. januar 2010
Optaget på baggrundsmaterialet:	25. januar 2010

Title	World Report 2010 - Turkey
Publisher	Human Rights Watch
Country	Turkey
Publication Date	20 January 2010
Cite as	Human Rights Watch, <i>World Report 2010 - Turkey</i> , 20 January 2010, available at: http://www.unhcr.org/refworld/docid/4b586cdd3c.html [accessed 22 January 2010]



World Report 2010 - Turkey

Events of 2009

The government's public announcement in summer 2009, and to the Turkish parliament in November, that it was committed to ensuring the human rights of Kurds in Turkey, was the most hopeful indication that a long-stalled reform process might be restarted. The realization of a plan to uphold minority rights for Turkey's different ethnic and religious groups would represent a fundamental departure from the variously assimilationist or repressive policies of the past, and offers the possibility of advancing the rights of all groups.

The obstacles to change remain clear. Numerous provisions of the current constitution restrict human rights and fundamental freedoms, and a new constitution must be a priority. There were continuing prosecutions and convictions of individuals who expressed nonviolent critical opinion or political views on the Kurdish issue, among other subjects viewed as controversial. Restrictions on press freedom remain a concern. Decisions of Turkey's Court of Cassation continued to flout international human rights law and the case law of the European Court of Human Rights, and demonstrate that the judiciary remains a site of institutionalized resistance to reform. The struggle to assert civilian control over the military in Turkey continues: A June change to the law on military courts ensures that military personnel will be tried in civilian courts for serious offenses, including forming criminal gangs and plotting coups.

The most notable foreign policy achievement of the year came with the signing of an agreement by Turkey and Armenia that opens the way to establishing diplomatic relations and reopening the long-closed border between the two countries. The decision is subject to parliamentary approval.

Freedom of Expression, Assembly, and Association

The criminalization of opinion remains a key obstacle to the protection of human rights in Turkey, although debate is increasingly open and critical. Prosecutions of journalists, writers, publishers, academics, human rights defenders, and officials of Kurdish political parties and associations sometimes resulted in convictions. Journalists and editors were frequently prosecuted for investigative reporting on matters such as the conduct of the military. Temporary closure of newspapers, and long-term restriction of access to websites, including YouTube, continued. The Dogan Media Group received two huge

finances (amounting to over US\$3 billion) for alleged tax evasion. The Organization for Security and Co-operation in Europe (OSCE) representative on freedom of the media expressed concern that "unprecedented" fines against a media group critical of the government threatened media plurality and hence media freedom in Turkey.

Restrictions on broadcasting in minority languages were progressively lifted in 2009. January saw the opening of a Kurdish-language state television channel, TRT Ses, and in November there was an easing of restrictions on private channels broadcasting in minority languages.

The Court of Cassation ruled against the closure of the lesbian, gay, bisexual, and transgender (LGBT) Lambda Istanbul Solidarity Association in April. However, the court's ruling included the discriminatory condition that the association not "encourage lesbian, gay, bisexual, transvestite and transsexual behavior with the aim of spreading such sexual orientations."

Demonstrators deemed supporters of the Kurdistan Workers' Party (PKK) are treated similarly to the group's armed militants by courts. Following a March 2008 precedent decision by the General Penal Board of the Court of Cassation, individuals joining demonstrations where the PKK had called for public participation were to be charged with "membership" in the PKK for "committing a crime in the name of the organization." To date, hundreds of demonstrators, a significant proportion of them children, have been convicted or are on trial under these charges for their participation in sometimes violent demonstrations. Most of those on trial spend prolonged periods in pretrial detention.

Since November 2007 the pro-Kurdish Democratic Society Party (DTP), which has 20 members in parliament, has been faced with a closure case pending before the Constitutional Court for alleged separatist activities.

Human Rights Defenders

Three years after the January 19, 2007 murder of Turkish-Armenian journalist and human rights defender Hrant Dink, there was no progress in uncovering state involvement in the conspiracy behind his killing. There have been 10 trial hearings in Istanbul against 20 defendants, including the gunman. Eight gendarmes are on trial in Trabzon for basic negligence in failing to act on intelligence reports pointing to plans to murder Dink. Lawyers for the Dink family have called for their trial to be combined with the Istanbul murder trial; the lawyers have to date applied four times to the European Court of Human Rights complaining of violations of the right to life, fair trial, and the prohibition on discrimination.

In November 2009, 31 mainly Izmir-based members of trade unions affiliated with the public sector workers' trade union confederation KESK stood trial in Izmir on charges of being members of the PKK. The evidence against them mainly referred to their activities in support of such issues as Kurdish-language education. In Ankara in November lawyer Filiz Kalayci, former head of the Ankara branch of the Human Rights Association and a member of the association's prison commission, stood trial with three other lawyers and the head of a prisoners' solidarity association on charges of PKK membership. The lawyers have been involved in the documentation of prisoners' complaints about prison conditions, ill-treatment, and disciplinary punishments, and there are concerns that they have been targeted for prosecution because of this work. Both proceedings are ongoing at this writing.

Torture, Ill-Treatment, and Killings by Security Forces

Police ill-treatment occurs during arrest, outside places of official detention, and during demonstrations, as well as in places of detention. In October Güney Tuna was allegedly beaten by seven police officers in Istanbul, leaving him with a broken leg and serious head injury that were not recorded in a routine custody medical report. There were far fewer reports than in the past two years of police violence against demonstrators during

May 1 demonstrations in Istanbul, although the policing of demonstrations remains a concern, and in April security forces were allegedly responsible for shooting dead two demonstrators during an unauthorized demonstration near Halfeti, Urfa. From July 1 it was obligatory for all police officers in riot gear to wear numbered helmets, for purposes of identification.

The trial of 60 prison guards, gendarmes, and police officers in connection with the October 2008 death of Engin Çeber began in January 2009. Six of the defendants are in custody. Çeber collapsed in Metris Prison and died in hospital, an autopsy recording that he had suffered a brain hemorrhage after being repeatedly beaten.

Impunity

Turkish courts are notoriously lenient toward members of the security forces who are charged with abuse or misconduct, contributing to impunity and the persistence of torture and the resort to lethal force. Long delays and the lack of thorough and independent investigations by prosecutors contribute to impunity.

Of particular concern is the approach of Turkey's top court to the use of lethal force by the security forces. In June the Court of Cassation upheld the acquittal of four police officers for the killing of Ahmet and Ugur Kaymaz in November 2004 in the southeastern town of Kiziltepe. The court ignored substantial forensic evidence demonstrating that the father and 13-year-old son may have been victims of a summary execution. Lawyers for the Kaymaz family will apply to the European Court of Human Rights.

In July 2009 a second "Ergenekon" trial alongside the first began on the basis of second and third indictments probing the alleged plot to overthrow the government by senior retired military and gendarmerie personnel, figures associated with organized crime, journalists, and academics. There are now 192 individuals on trial, in the first such attempt in Turkey's modern history to bring coup plotters to justice.

The most significant attempt at bringing to justice state perpetrators of extrajudicial killings and "disappearances" began in Diyarbakir in September with the trial of a colonel, village guards, and informers for the murder of 20 individuals in the period 1993-95 in Cizre, Sirnak province.

Key International Actors

United States President Barack Obama's April 2009 visit to Turkey marked an important turning point in restoring the credibility of the US with the Turkish public after the US-led invasion of Iraq. The US has been supportive of moves to normalize Turkish-Armenian relations, and is dependent on Turkish support during the withdrawal from Iraq. It now has the potential to play a role in promoting respect for human rights in Turkey domestically for the first time in seven years.

Negotiations with the European Union over Turkey's accession to membership did not progress, with eight negotiation chapters remaining frozen because of stalemate over a divided Cyprus. The EU remains the most important international actor with the potential to foster respect for human rights in Turkey, but the deadlock in negotiations, and the public hostility of some EU member states to eventual EU membership for Turkey, have undermined the EU's leverage. The European Commission's annual report published in October included a more positive political assessment than in the past three years, while raising serious concerns about human rights protection in most areas. The report acknowledged the importance of the Ergenekon trial "as an opportunity for Turkey to strengthen confidence in the proper functioning of its democratic institutions and the rule of law."

Following a visit to Turkey, Council of Europe Commissioner for Human Rights Thomas Hammarberg issued two reports. One was critical of Turkey's continuing failure to recognize religious and ethnic minority groups other than Greeks, Armenians, and Jews –

the commissioner urged Turkey to adopt numerous measures to uphold minority rights "with a view to fully aligning law and practice with the Council of Europe human rights standards." The second focused on the situation of migrants and refugees in Turkey.

Update: Since the World Report went to press in December, the Democratic Society Party (DTP) was closed by a decision of the Constitutional Court, and human rights defender Muharrem Erbey was arrested in the course of a broader police operation against elected mayors and activists from the DTP and the Peace and Democracy Party, its successor. These developments have been included in the web version of the Turkey chapter, but are not included in the print version.

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