COUNTRY OF ORIGIN INFORMATION REPORT

TURKEY

13 MARCH 2009

UK Border Agency
COUNTRY OF ORIGIN INFORMATION SERVICE

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Please note: Information which has been updated since the last edition of this document is indicated by the use of grey highlighting. A version of the report without highlighting is available from the RDS website at http://www.homeoffice.gov.uk/rds/country_reports.html

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Preface

i This Country of Origin Information Report (COI Report) has been produced by COI Service, United Kingdom Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 1 February 2009. The 'Latest News' section contains further brief information on events and reports accessed from 2 February to 12 March February 2009. The report was issued on 13 March 2009.

ii The COI Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any UKBA opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

iii The Report includes information from the report of a UKBA fact-finding mission to Turkey undertaken in February 2008. All information contained in the report of the fact-finding mission was obtained from sources interviewed by the mission team and is clearly referenced as such.

iv The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

v The structure and format of the COI Report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

vi The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.

vii As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully

the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

viii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

ix This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the COI Service upon request.

x COI Reports are published regularly on the top 20 asylum intake countries. COI Key Documents are produced on lower asylum intake countries according to operational need. UKBA officials also have constant access to an information request service for specific enquiries.

xi In producing this COI Report, COI Service has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to UKBA as below.

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ADVISORY PANEL ON COUNTRY INFORMATION

xi The independent Advisory Panel on Country Information (APCI) was established in 2003 to make recommendations to the Home Secretary about the content of the UKBA's country of origin information material. The APCI reviewed a number of UKBA's reports and published its findings on its website at www.apci.org.uk Since October 2008, the work of the APCI has been taken forward by the Chief Inspector of UKBA.

Latest news

EVENTS IN TURKEY FROM 2 FEBRUARY TO 12 MARCH 2009

6 March

Nearly 400 members of the Kurdistan Workers' Party, or PKK, have been killed since October 2008 by the Turkish army. A military spokesman Gen. Metin Gurak said "'Turkish airstrikes and artillery fire against PKK targets in northern Iraq have caused close to 375 casualties since October'". The Turkish Parliament in 2008 approved a measure that extended permission for cross-border raids against PKK rebels.

Turkey Claims 375 PKK 'Casualties' 6 March 2009
http://www.upi.com/Emerging_Threats/2009/03/06/Turkey_claims_375_PKK_casualties/UPI-27401236356863/

4 March

A 15 year old boy were given a three year sentence for participating in a demonstration organised by the PKK. A 2006 Anti-Terrorism Law amendment allows the courts to treat 15 to 18 years old as adults. More than 100 children have reportedly been arrested in 2009, many for participating in demonstrations commemorating the of the PKK leader, Abdullah Ocallan. According to a Turkish NGO, there are currently 198 children between the ages of 13 and 17 in prison. While in 2006 and 2007, 1,572 children were prosecuted under anti-terror laws and 174 of whom were found guilty.

Children being jailed under Anti-Terror Laws, 4 March 2009
http://www.ifex.org/en/content/view/full/101276

20 February

Despite improvements that have been made in the healthcare system, Turkey still has the highest infant mortality rate among OECD countries. The "Infant mortality rate in Turkey has fallen dramatically over the past few decades, down from about 190 deaths per 1,000 live births in 1960 to 22.6 deaths in 2006. Nonetheless, the rate of infant mortality in Turkey remains four times higher than the OECD average."

Turkey's infant mortality highest in OECD, 20 February 2009
http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=167445

15 February

Police clashed with stone-throwing demonstrators across the country's predominantly Kurdish southeast during protests marking the 10th anniversary of the capture of PKK leader, Abdullah Ocallan. In Diyarbakir, the region's largest city, about 1,500 people gathered in the streets…Police said "they detained about 50 protesters and that around 20 people, including police officers, were injured in the rock-strewn streets of Diyarbakir."

Turkey: Kurdish protesters clash with, 15 February 2009
http://www.iht.com/articles/ap/2009/02/15/europe/EU-Turkey-Kurds.php

12 February

Fight against AIDS Association President, Melahat Okuyan, said that cases of "AIDS is rising in areas such as Hatay and Gaziantep." Speaking with the Anatolia news agency Okuyan said that "according to Health Ministry records, as of 2008 there were 3,178 people carrying the HIV virus, which leads to AIDS, in Turkey, 960 of them women. As

for AIDS, there 1,025 registered carriers in İstanbul, 148 in Ankara and 240 in İzmir, she said."
AIDS on the rise in southern Turkey, 12 February 2009
http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=166700

4 February Turkey's Telecommunications Directorate has blocked 1,591 web sites since last year under the law against cyber crime, which includes a wide range of offenses. Internet Technology Association (İTD) President Mustafa Akgül said "the bans on Web sites were a result of Turkey's war against the Internet."
Over 1,500 Web sites banned in Turkey for various reasons, 4February 2009
http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=165887

2 February "Twenty people were injured in a clash between supporters of the outlawed Kurdish Workers' Party (PKK) and members of an Islamist association in southern Turkey. Turkish police had detained seven suspects in connection with the incident, and beefed up security in the region."
20 injured in clash between PKK supporters, Islamist group in Turkey, 2 February 2009
http://english.people.com.cn/90001/90777/90851/6583974.html

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REPORTS ON TURKEY PUBLISHED OR ACCESSED BETWEEN 2 FEBRUARY AND 12 MARCH 2009

Committee to Protect Journalists (CPJ) http://www.cpj.org/
Attacks on the Press in 2008: Middle East/North Africa Developments -February 10, 2009
http://cpj.org/2009/02/attacks-on-the-press-in-2008-mideast-developments.php
(accessed 25 February 2009)

U.S. Department of State (USSD) http://www.state.gov/g/drl/rls/hrrpt/index.htm
2008 Country Reports on Human Rights Practices - February 25, 2009
http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119109.htm
(accessed 26 February 2009)

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Background information

1 GEOGRAPHY

1.01 The Republic of Turkey covers an area of approximately 780,580 square kilometres. Turkey is located between south-eastern Europe and south-western Asia (that portion of Turkey west of the Bosporus is geographically part of Europe), bordering the Black Sea, between Bulgaria and Georgia, and bordering the Aegean Sea and the Mediterranean Sea, between Greece and Syria. Its border countries are Armenia 268 km, Azerbaijan 9 km, Bulgaria 240 km, Georgia 252 km, Greece 206 km, Iran 499 km, Iraq 352 km, and Syria 822 km. (CIA World Factbook, updated 6 November 2008) **[103]**

1.02 The capital city is Ankara, and there are 81 provinces consisting of Adana, Adiyaman, Afyonkarahisar, Agri, Aksaray, Amasya, Ankara, Antalya, Ardahan, Artvin, Aydin, Balikesir, Bartin, Batman, Bayburt, Bilecik, Bingol, Bitlis, Bolu, Burdur, Bursa, Canakkale, Cankiri, Corum, Denizli, Diyarbakir, Duzce, Edirne, Elazig, Erzincan, Erzurum, Eskisehir, Gaziantep, Giresun, Gumushane, Hakkari, Hatay, Icel (Mersin), Igdir, Isparta, Istanbul, Izmir, Kahramanmaras, Karabuk, Karaman, Kars, Kastamonu, Kayseri, Kilis, Kirikkale, Kirklareli, Kirsehir, Kocaeli, Konya, Kutahya, Malatya, Manisa, Mardin, Mugla, Mus, Nevsehir, Nigde, Ordu, Osmaniye, Rize, Sakarya, Samsun, Sanliurfa, Siirt, Sinop, Sirnak, Sivas, Tekirdag, Tokat, Trabzon, Tunceli, Usak, Van, Yalova, Yozgat, Zonguldak. (CIA World Factbook, updated 6 November 2008) **[103]**

1.03 As noted in the CIA FactBook (updated 6 November 2008), Turkish is the main spoken language. In addition to the official language it also mentions Kurdish, Dimli (or Zaza), Azeri, Kabardian and there is also a substantial Gagauz population in the Europe part of Turkey. **[103]** In addition, the following languages are also spoken by some populations in Turkey: Abaza, Abkhaz, Adyghe, Albanian, Arabic, Armenian, Ashkaraua, Bulgarian, Crimean Turkish, Dimli, Domari, Gajol, Georgian, Greek, Hértevin, Kazakh, Kirghiz, Kirmanjki, Kumyk, Ladino, Laz, Osetin, Pomak, Romani, Serbian, Tatar, Turkmen, Turoyo, Uyghur, Uzbek. **[114]**

1.04 The US State Department report on International Religious Freedom, published on 19 September 2008, reported that:

> "According to the Government, 99 percent of the population is Muslim, the majority of which is Hanafi Sunni. According to the human rights nongovernmental organization (NGO) Mazlum-Der and representatives of various religious minority communities, the actual percentage of Muslims is slightly lower. Following the 1923 Lausanne Treaty, the Government officially recognizes only three minority religious communities. These are Greek Orthodox Christians, Armenian Orthodox Christians, and Jews, although other non-Muslim communities exist. The level of religious observance varied throughout the country, in part due to the influence of secular traditions and official restrictions on religious expression in political and social life."
> **[5e] (Section 1)**

1.05 The US State Department International Religious Freedom Report 2008, released on 19 September 2008, noted that:

"In addition to the Sunni Muslim majority, academics estimate that there are between 10 million and 20 million Alevis, followers of a belief system that incorporates aspects of both Shi'a and Sunni Islam and draws on the traditions of other religious groups indigenous to Anatolia as well. Some Alevis practice rituals that include men and women worshipping together through oratory, poetry, and dance. The Government considers Alevism a heterodox Muslim sect; some Alevis and Sunnis maintain that Alevis are not Muslims." **[5e] (Section I Religious Demography)**

1.06 The USSD Religious report 2008 also noted that:

"There are several other religious groups, mostly concentrated in Istanbul and other large cities. While exact membership figures are not available, these religious groups include approximately 65,000 Armenian Orthodox Christians, 23,000 Jews, and up to 4,000 Greek Orthodox Christians. The Government interpreted the 1923 Lausanne Treaty as granting special legal minority status exclusively to these three recognized groups, although the treaty text refers broadly to "non-Muslim minorities" without listing specific groups. This recognition does not extend to the religious leadership organs. For example, the Ecumenical (Greek Orthodox) and Armenian Patriarchates continued to seek legal recognition of their status as patriarchates rather than foundations, the absence of which prevents them from having the right to own and transfer property and train religious clergy. Additionally, because the Government requires all places of learning to be under the control of the Ministry of Education, the Greek Orthodox, Armenian Orthodox, and Jews choose not to train their ministry in the country. The Bulgarian Orthodox Church, through a 1945 bilateral agreement, is considered under the ecclesiastical authority of the Greek Orthodox Ecumenical Patriarchate in Istanbul (and Greece), but the Bulgarian Orthodox Church has its own foundation." **[5e] (Section I Religious Demography)**

See Section 18 – Freedom of Religion

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POPULATION

1.07 It was reported by the CIA World Factbook, last updated 6 November 2008, the population of Turkey exceeded 71,892,807 (July 2008 est.) **[103]** While it was reported by Jane's Sentinel Country profile, updated 26 Feb 2008, that the population was in the region of 70,586,256 (TURKSTAT, 2007). **[81a]**

MAP

1.08 Map of Turkey courtesy of CIA World FactBook: https://www.cia.gov/cia/publications/factbook/geos/tu.html

See also links to more detailed maps of Turkey:

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

http://www.lib.utexas.edu/maps/middle_east_and_asia/turkey_pol83.jpg

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2 ECONOMY

2.01 The Economist Intelligence Unit (EIU) country report, released July 2008, noted that:

"Higher inflation and severe monetary policy tightening by the Central Bank in mid-2006 dampened domestic demand growth, resulting in a sharp slowdown of GDP growth from an annual average of 6.9% in 2006 to a modest 3.4% in the second half of 2007 (4.5% for the year as a whole). Growth accelerated to a surprisingly strong 6.6% in the first quarter of 2008, but we expect the rate of expansion to slow again during the remainder of this year. (p9)GDP growth accelerated from an average of 3.4% year on year in the second half of 2007 to a surprisingly strong 6.6% in the first quarter of 2008. Despite high interest rates and the weakness of consumer confidence indicators since September 2007 private consumption growth picked up to 7.3% in January-March compared with just 2.9% in the final quarter of 2007." **[107] (p16)**

2.02 The World Bank Data and Statistics for Turkey – World Development Indicators database, April 2008 (website accessed 24 July 2008) recorded a GNI per capita [average annual income] in 2006 of US $5400. **[45]**

2.03 The 2008 Economist Intelligence Unit (EIU) country report noted that:

"The March employment figures, which actually cover the February-April period, how a rise of 2.2% year on year in non-agricultural employment. Agricultural employment, however, continued to decline, and total employment increased by just 0.7%, which was not sufficient to offset working-age population growth. Accordingly, the rate of unemployment rose to 10.7% compared with 10.4% a year earlier, despite a decline in the already low workforce participation rate from 47% to 46.7%." **[107] (p17)**

2.04 Jane's Sentinel Country profile, updated 7 May 2008, noted that "the share of agriculture in Turkey's GNP has been in decline for decades, falling to just 10.8 per cent in 2007 compared to 11.5 per cent in 2006, 17.8 percent in 1990 and 23.9 percent in 1980. However, the agricultural sector still accounts for around 30 percent of total employment in the country, the majority of it unwaged, family labour. A high population growth rate and a tradition of dividing land between a farmer's children has produced a steady decrease in the average size of cultivated land and a commensurate low rate of mechanisation… However, bringing practices into line with EU norms, while mitigating the political and social consequences of what would be an inevitable steep rise in rural unemployment, remains a significant challenge." **[81a]**

2.05 The Turkish Statistical Institute (TurkStat) noted for the period covering August, September and October 2008 that the:

"Number of unemployed persons increased by 295 thousand persons compared to the same period of the previous year and has reached to 2 million 548 thousand persons in Turkey. Unemployment rate realized as 10.3 % with a 1 point increase. Unemployment rate increased to 12.3 % with a 0.5 percentage

points increase in urban areas and reached to 7.1 % with 1.5 percentage point increase in rural areas. Non-agricultural unemployment rate realized as 13.3 % with a 1.3% increase compared to the same period of the previous year in Turkey. The rate is realized as 11.8 % with a 1.5 percentage points increase for male and 19.2 % for female with a 0.2 percentage points increase." **[89c]**

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3 HISTORY

RECENT HISTORY

3.01 As noted in the Foreign and Commonwealth Office (FCO) Country Profile on Turkey, updated 27 January 2009

"The Republic of Turkey was founded by Mustafa Kemal Atatürk, a military hero, in 1923. His aim was to transform Turkey into a modern, secular state, which could compare with Western European nations in terms of military and economic strength. Today, Turkey is a member of almost every Western European international organisation. It joined NATO in 1952; the Council of Europe in 1949; and became a full candidate for European Union membership in 1999." **[4l]**

3.02 As stated in the FCO country profile, "Atatürk (Father Turk) was Turkey's first President; he died in 1938. The Turkish military regards itself as the main guardian of the principles of Atatürk's legacy, even to the point of intervening directly to restore political stability in 1960, 1971 and most recently in 1980… In September 1980 the Turkish military took power following a breakdown of law and order under a succession of weak and divided coalition governments during the 1970s." **[4l]**

3.03 The FCO country profile also noted that "In 1982 a new Constitution was adopted. Turgut Özal replaced Evren as President in 1989. He modernised the Turkish economy and raised Turkey's international standing until his death in 1993. In May 1993 Prime Minister Süleyman Demirel was elected President. Mrs Tansu Çiller, previously Economics Minister, was elected to replace Demirel as Chairman of the True Path Party (DYP) in early June 1993 and thus became Turkey's first female Prime Minister." **[4l]**

3.04 The FCO country profile further noted that "In June 1996 Necmettin Erbakan became Prime Minister when his Refah party formed a coalition with the DYP. The general and local elections in Turkey of April 1999 brought to power a coalition of the DSP, ANAP and Devlet Bahceli's Nationalist Action Party (MHP), with Bulent Ecevit remaining as Prime Minister.

"However, signs of tension within the coalition continued and Ecevit's failure to resign on health grounds in May 2002 led to the resignations of more than sixty DSP deputies and several Ministers, including the Deputy Prime Minister and the Foreign Minister. These resignations combined with growing pressure from both opposition parties and DSP's coalition partners, led to the Turkish Parliament's decision to hold early elections on 3 November 2002. In the elections, only the socially conservative Justice and Development Party (AKP) and the centre-left Republican People's Party (CHP) crossed the 10% threshold needed to return MPs to parliament.

"Despite the AKP victory their chairman, Recep Tayyip Erdogan, could not take office as Prime Minister because of a conviction for 'inciting religious hatred' for remarks made in a speech in 1998, which banned him from standing for election to Parliament. As a result his deputy, Abdullah Gul, became PM

instead. However in March 2003, Parliament passed a constitutional amendment that annulled his ban enabling him to be elected to Parliament and take over as Prime Minister, with Gul as Foreign Minister." **[4l]**

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LOCAL ELECTIONS

3.05 In *Today's Zaman* it was reported on 28 December 2008 that "The Supreme Board of Election announced a timetable for the local elections set for March 29, 2009. The timetable which was issued at the Official Gazette on Sunday said voter registry lists would be on display between January 5 and 30. Lists of candidates will be announced on March 1, 2009. Election campaign will take place between March 19 and 28." **[24d]**

3.06 The *Turkish Weekly* reported on 7 January 2009 that "A total of twenty-one political parties are set to participate at Turkey's local elections in March. The board included two more parties, People's Ascent Party and Peace and Democracy Party, on the list for March 29 elections after they objected to an earlier list which was announced on December 31. An updated list of political parties which are set to take part in the local elections is as follows:

- Justice and Development (AK) Party
- Motherland Party
- Independent Turkey Party (BTP)
- Great Union Party (BBP)
- Republican People's Party (CHP)
- Democratic Party (DP)
- Democratic Left Party (DSP)
- Democratic Society Party (DTP)
- Labor Party (EP)
- Young Party (GP)
- Rights and Freedoms Party
- Worker's Party (IP)
- Liberal Democratic Party (LDP)
- Nation Party
- Nationalist Movement Party (MHP)
- Freedom and Solidarity Party (ODP)
- Felicity Party (SP)
- Social Democratic People's Party
- Turkey Communist Party (TKP)
- Peace and Democracy Party (BDP)
- People's Ascent Party (HYP)." **[113b]**

RECENT POLITICAL DEVELOPMENTS

3.07 As noted in the Foreign and Commonwealth Office (FCO) Country Profile on Turkey, updated 27 January 2009:

"In February 2008, the government introduced constitutional changes aimed at lifting the ban on women's right to wear the headscarf in universities while outlawing more extreme forms of Islamic dress such as the veil. The right of women to wear the headscarf is one of the most debated issues in Turkish politics. It is directly related to the ongoing divide between secularists and Islamists in Turkey… There remains a de facto ban on the wearing of head scarves in the civil service and universities." **[4l] (Politics)**

3.08 The FCO Country profile updated 27 January 2009 further noted that

"On 14 March 2008, the Chief Prosecutor of the Appeals Court filed an indictment at the Constitutional Court for closure of the AKP. He accused the AKP of violating secular principles and demanded a five-year ban from involvement in politics for 71 prominent AKP figures, including Prime Minister Erdogan and President Gul… On 30 July the Constitutional Court decided to only impose a fine on the AK Party, thus allowing them to remain in government and thus respecting the democratic choice of the majority of Turks who had voted for them in 2007." **[4l] (Politics)**

3.09 The European Commission Turkey 2008 Progress Report published 5 November 2008 recorded that "On 30 July, the Constitutional Court fell short of the required majority to close down the party, but considered that the latter had carried out activities against the secular principles of the Republic. It thus ordered that 50% of the government funds due in 2008 be cut off." **[71d] (p6)**

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EUROPEAN UNION ACCESSION NEGOTIATIONS 2008

3.10 As noted in the UK Foreign and Commonwealth Office (FCO) Country Profile Report 2008, last reviewed on 27 January 2009:

"Turkey's deadline for implementation of the protocol is autumn 2009, and to this end, EU Foreign Ministers said they looked forward to speedy progress on these issues. After a turbulent year of parliamentary and presidential elections in 2007, the European Commission's Annual Report for 2007 noted that Turkey urgently needs to renew its reform momentum. It further notes that more work needs to be done implementing legislation across many key areas including anti-corruption and judicial and agricultural reform, and details how Turkey needs to consolidate its work on the cultural and fundamental rights and freedoms of all groups in Turkey, including minority groups." **[4l]**

3.11 The European Commission (EC) Turkey 2008 Progress Report published 5 November 2008 also recorded that:

"Accession negotiations with Turkey continued. During the preparatory analytical phase the level of preparedness to start negotiations on individual chapters has been assessed on the basis of screening reports. Of a total of 33 screening reports, one has still to be delivered by the Commission to the

Council whilst nine are being discussed in the Council. So far, negotiations have been opened on eight chapters… The enhanced political dialogue between the EU and Turkey has continued. Political dialogue meetings were held in May and September 2008 at ministerial level and in February and July 2008 at political director level. These meetings focused on the main challenges faced by Turkey in terms of the Copenhagen political criteria and reviewed progress being made towards fulfilment of Accession Partnership priorities." **[71d]**

3.12 In the newspaper *Today's Zaman* it was reported in December 2008 that

"The Justice and Development Party (AK Party) has had its share of difficult times, but it may have to face the most critical tests of its six-year tenure in the year that is about to begin. Turkey's bid to become a member of the European Union faces a major stumbling block over Cyprus and the EU's growing impatience over the stalled reform process. The government of Prime Minister Recep Tayyip Erdoğan, by far the most reformist government of Turkey in the past few decades, has built its reformist agenda mainly on the goal of EU membership." **[24c]**

3.13 The same article in *Today's Zaman* further added that "The EU issued a loud and clear warning in November [2008] that it was high time to focus again on the stalled reform efforts after two years of distraction amid fierce fighting between the AK Party government and the secularist state establishment. The EU deadline will expire at the end of March, when local elections are due to take place in Turkey. A further slackening in reform efforts after the first quarter of the year could well mean irreversible damage to the EU membership process. In a solid warning, the EU suspended accession talks with Turkey over eight chapters due to Turkey's refusal to open its ports and airports to traffic from Greek Cyprus, and said it would review the situation once again in 2009." **[24c]**

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4 RECENT DEVELOPMENTS

TERRORISM IN 2008

4.01 On the Institute for Police Studies website, accessed 4 April 2008, Gokhan Aydiner the Governor Director General of the Turkish National Police noted in his book 'Terrorism in the World and in Turkey' that:

"… the Turkish Anti Terrorism Law (law no.3713) defines terrorism as a kind of act done by one or more persons belonging to an organisation with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the individual unity of the State and its terrority and nation, endangering the existence of the the Turkish State and Republic..." **[65]**

4.02 The European Commission (EC) 2008 Progress Report published 5 November 2008 noted that: "As regards the fight against terrorism, the Supreme Council on Counter-terrorism remains the leading authority. Following adoption of the Law on the prevention of laundering proceeds of crime, implementing legislation was adopted requiring the report of suspicious transactions connected with financing of terrorism to the Financial Crimes Investigation Board (MASAK). A special unit to fight financing of terrorism has been established under MASAK. MASAK received 144 reports of suspicious transactions connected with financing of terrorism in 2007, compared with 8 in 2006." **[71d] (p74)**

4.03 The EC 2008 Progress report also noted that: "Turkey has ratified neither the International Convention for the suppression of acts of nuclear terrorism nor the Council of Europe Convention on the prevention of terrorism. Compliance with nine special Financial Action Task Force recommendations on financing of terrorism needs to be pursued, particularly on freezing and confiscation of terrorist assets." **[71d] (p74)**

4.04 The EC 2008 Progress report further noted that: "Terrorist attacks by the PKK, which is on the EU list of terrorist organisations, continued in the South-East, but also throughout the country and claimed many lives. Following parliament's authorisation the government ordered air strikes against terrorist hideouts in Northern Iraq. The 'temporary security zones' established in June 2007 in the provinces of Sirnak, Siirt and Hakkari close to the Iraqi border remain operational." **[71d] (p27)**

4.05 The US State Department Country report on Terrorism in Turkey 2007, released by the Office of the Coordinator for Counterterrorism on 30 April 2008, noted that:

"Most prominent among terrorist groups in Turkey is the Kongra-Gel/Kurdistan Worker's Party (KGK/PKK). Composed primarily of Kurds with a separatist agenda, the KGK/PKK operated from bases in northern Iraq and directed its forces to target mainly Turkish security forces… This persisted in 2007, when the KGK/PKK continued its terrorist tactics… the Turkish parliament on October

17 overwhelmingly passed a motion authorizing cross-border military operations against KGK/PKK targets in northern Iraq. Turkish forces carried out extensive operations along the Turkey-Iraq border in the latter part of the year." **[5a] (p96)**

See also Section 19.37 PKK / KADEK / Kongra-Gel and the Conflict in the South-East

4.06 The *Sabah* newspaper reported ON 25 December 2008 that: "In the southeastern Cizre province of Şırnak, PKK terrorists attacked a military vehicle carrying soldiers from guard duty along the Syrian border in Nusaybin. As a result of the cross fire, soldiers Emrah Karataş, Zeki Yolcu and Turan Damgacı lost their lives in the line of duty, while twelve soldiers were wounded. Four soldiers in critical condition. A wide-spread investigation operation has been initiated in the region's center in order to catch the escaped terrorists." **[87a]**

4.07 *TheHurriyet News* noted on 30 December 2008 that: "Turkey will establish a new unit for the struggle against terrorism consisting of contracted officials dedicated solely to this mission, Hurriyet daily reported citing Deputy Prime Minister Cemil Cicek. Cicek, who also chairs the Higher Board of Counter-Terrorism, said there was lack of coordination among the current institutions struggling against terrorism." **[70a]**

4.08 The *Southeast European Times* noted on the 17 October 2008 that

"Another rash of clashes between the Turkish army and the Kurdistan Workers' Party (PKK) on Thursday (October 16th) left five soldiers dead and 15 wounded. According to the General Staff, five members of the terrorist group also died. An attack on a Turkish army outpost left 17 soldiers dead on October 3rd, and an ambush of a bus carrying police in Diyarbakir killed five police officers on October 8th, generating huge public pressure on the government and military." **[51]**

4.09 The TE-SAT 2007 Terrorism Situation and Trend Report noted that: "The rise of fundraising activities by the PKK in the EU is related to the escalation of the terrorist campaign of Kurdish terrorists in Turkey…The dismantling of the French branch of TKP/ML revealed that the organisation financed its terrorist activities in Turkey through criminal activities such as kidnapping, extortion and money laundering." **[43]**

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5 CONSTITUTION

An English translation of the Constitution of the Republic of Turkey can be found at **[36e]** http://www.byegm.gov.tr/mevzuat/anayasa/anayasa-ing.htm

5.01 The website of the Embassy of the Republic of Turkey in Washington, accessed on 4 August 2008, noted that:

"The Republic was declared on 29 October 1923. The [Lausanne Peace] Treaty provided the basis for the creation of the climate of peace and stability needed by the country. Turkey immediately embarked on a course of modernization and reform in all walks of life. Despite the fact that the liberation struggle had been waged against major European powers, she proceeded to establish good relations and cooperation with the West, and based her political and legal systems on modern, secular models. The goal as expressed by Mustafa Kemal Atatürk, the leader of the nationalist movement and first President of the Republic, was 'to reach the level of contemporary civilization.' And to achieve this aim, a doctrine for foreign relations was formulated that has held true to this day; in the words of Atatürk, 'Peace at home, Peace in the world'." **[74a] (State and Policy)**

5.02 The same Turkish Embassy website further noted that:

"Whilst the 1982 Constitution continued the basic structure of the 1961 Constitution, it nevertheless made significant changes in several areas. The Republican Senate was abolished in the 1982 Constitution. According to the Constitution, unconditional and unrestricted sovereignty is vested in the nation. The people exercise their sovereignty directly through elections, and indirectly through the authorized organs within the framework of the principles laid down in the Constitution." **[74b] (Constitution and Foundation)**

5.03 The website of the Turkish Constitutional Law edited by Kemal Gözler translated by Erhan Yasar, dated August 2006, stated that:

"In article 1-The Turkish State is a Republic. In article 2- The Republic of Turkey is a democratic, secular and social State governed by the rule of law. In article 7- Legislative power is vested in the Grand National Assembly of Turkey on behalf of the Turkish Nation. In article 8- Executive power and function are exercised and carried out by the President of the Republic and the Council of Ministers in conformity with the Constitution and the laws. In article 10- All individuals are equal without any discrimination before the law, irrespective of language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such considerations." **[94]**

5.04 The Turkish Grand National Assembly website noted in the updated version of the Constitution of the Republic of Turkey the recent changes regarding the qualifications and impartiality of the President as reflected in Article 101 of the Constitution, which was amended on 31 May 2007 that:

"The President of the Republic shall be elected by the public from among the Turkish Grand National Assembly members who are over 40 years of age and

have completed higher education or from among ordinary Turkish citizens who fulfill these requirements and are eligible to be deputies. The president's term of office shall be five years. The President of the Republic can be elected to two terms at most. Nomination of a candidate for the Presidency of the Republic from among the members of the Turkish Grand National Assembly or from outside of the Assembly shall require a written proposal by 20 members of the Assembly." **[109]**

See also Section 15:01 Freedom of Speech and Media

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6 POLITICAL SYSTEM

THE TURKISH GRAND NATIONAL ASSEMBLY (TGNA)

6.01 'Turkey Interactive 2007', prepared by the Turkish News Agency for the Office of the Prime Minister of Turkey, noted that:

"According to Article 7 of the Constitution, legislative power is vested in the Turkish Grand National Assembly (TGNA) on behalf of the Turkish Nation and this power cannot be delegated. The TGNA comprises 550 deputies designated in elections held every five years. The Parliament can decide to hold early elections, to postpone the elections for one year in case of war or to renew the elections before its five-year term is completed (early elections). The Parliament carries out its activities through commissions in accordance with the Constitution and the Rules of Procedure which are drawn up by the TGNA itself." **[36a] (p141-142) (Fundamental Bodies of the State)**

6.02 The Turkish Grand National Assembly website accessed 4 August 2008 noted in the updated version of the Constitution of the Republic of Turkey the recent changes regarding the Right to Vote, to be Elected and to Engage in Political Activity as reflected in Article 67 of the Constitution, amended on 31 May 2007, that:

"In conformity with the conditions set forth in the law, citizens have the right to vote, to be elected, and to engage in political activities independently or in a political party, and to take part in a referendum… However, the conditions under which the Turkish citizens who are abroad shall be able to exercise their right to vote, are regulated by law…All Turkish citizens over 18 years of age shall have the right to vote in elections and to take part in referenda. The exercise of these rights shall be regulated by law. Privates and corporals serving in the armed services, students in military schools, and convicts in penal execution excluding those convicted of negligent offences cannot vote." **[109]**

NATIONAL SECURITY COUNCIL (MGK) OR (NSC)

6.03 The website of the Secretariat General of the National Security Council, accessed 4 August 2008, noted that:

"The National Security Council shall be composed of the Prime Minister, the Chief of the General Staff, Deputy Prime Ministers, Ministers of Justice, National Defence, Internal Affairs and Foreign Affairs, the Commanders of the Army, Navy and Air Forces and the General Commander of the Gendarmerie, under the chairmanship of the President of the Republic. Depending on the agenda, related Ministers and persons may be invited to the meetings of the Council for their views. (As amended on 3.10.2001-4709/32) The National Security Council shall submit its advisory decisions about the formulation, determination and implementation of the national security policy of the State and its opinions about the maintenance of the necessary coordination, to the Council of Ministers. The Council of Ministers shall evaluate decisions of the

National Security Council concerning the measures it deems necessary for the preservation of the existence and independence of the State, integrity of the country and peace and security of the society. The agenda of the National Security Council shall be determined by the President of the Republic taking into account the proposals of the Prime Minister and the Chief of the General Staff. In the absence of the President of the Republic, the National Security Council shall meet under the chairmanship of the Prime Minister. The organisation and the duties of the Secretariat General of the National Security Council shall be regulated by the Law. No. 2945 of September 11, 1983." **[110] (Constitutional Situation)**

6.04 The Secretariat General of the National Security Council website further noted that:

"In accordance with the article No.118 in the Constitution, the National Security Council was established. (Amended in the article No: 15th January, 2003-3789/1) The National Security Council, chaired by the President, consists of the Prime Minister, the Chief of General Staff, the Ministry of National Defense, the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Land Forces Commander, the Naval Forces Commander, the Air Forces Commander and General Commander of the Gendarmerie. The Secretary General of the National Security Council participates in the meetings however does not have the right to vote." **[110] (Law of the NSC and the Secretariat General of the NSC)**

6.05 The *Turkish Daily News* on 1 December 2004, in 'MGK opens Up' reported that:

"In line with the last few governments' efforts to harmonize with the EU, the MGK was transformed to a more advisory body over the last few years. Included in the changes made to the council since 2001, is the increase in the number of council members in order to eliminate the majority previously held by military officers. Furthermore, on Oct. 3, 2001, an amendment replaced the inclusion, 'The government needs to consider MGK decisions as a priority,' with, 'the government needs to consider MGK decisions.' In August 2003, bi-monthly meetings replaced monthly meetings." **[23c]**

6.06 The European Commission Turkey 2007 Progress Report, published 6 November 2007, noted that:

"The National Security Council (NSC) continued to meet in line with its revised role. Ambassador Burcuoğlu was appointed as new Secretary-General in September. The total staff of the NSC decreased from 408 to 224, and the number of military personnel from 26 to 12. However, the armed forces continued to exercise significant political influence… The 1997 secret protocol on Security, Public Order and Assistance Units (commonly called EMASYA) remains in force. The protocol, signed by the General Staff and the Ministry of Interior, allows for military operations to be carried out for internal security matters under certain conditions without a request from the civilian authorities." **[71c] (p9)**

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LOCAL GOVERNMENT

6.07 The Netherlands Ministry of Foreign Affairs, Official general report on Turkey (January 2002) noted that Turkey is divided into 81 provinces (il), each headed by a provincial governor (vali). Provinces are subdivided into districts (ilçe), administered by a district governor (kaymakam). Districts may be further broken down into subdistricts (bucak). Governors are appointed for a number of years by the central authorities in Ankara, to which they are directly accountable via a chain of responsibility extending from district governor to provincial governor and on to the central authorities in Ankara. The role of governors is to represent the central authorities in the provinces. **[2a]**

6.08 The Ministry of Interior's, General Directorate of the administration of Provinces report on 'Civil Administration Units Municipalities Villages 2002' noted that:

"Local government administrative divisions and local government units include the following:
Number of Civil Administrative Divisions (MÜLKİ İDARE BÖLÜMLERİ SAYISI)
İl/Province 81
İlçe/Sub -province 850
Bucak/District 688

"Number of Local Government Units (MAHALLİ İDARE BİRİMLERİ SAYISI)
Belediyeler/Municipalities 3216
Büyükşehir Belediyesi/Metropolitan municipalities 16
İl Merkezi Olan Belediyeler/Province downtown municipalities 65
Büyükşehir İlçe Belediyesi/Metropolitian subprovince municipalities 58
Büyükşehir Alt Kademe Belediyesi/Metropolitian subdistrict municipalities 31
İlçe Merkezi olan Belediyeler/ Subprovince center municipalities 792
Bucak Merkezi Olan Belediyeler/District center municipalities 335
Kasaba Belediyesi/ Subdistrict municipalities 1919
Köyler/Villages 35118" **[111]**

6.09 The Netherlands Ministry of Foreign Affairs January 2002 report further stated that:

"Every village or neighbourhood has its own head, often known by the name 'muhtar'. The muhtar acts as an intermediary between the population and the authorities, being the sole keeper of address records. The only official document that a muhtar can issue is a residence certificate (ikametgâh ilmühaberi). In theory, anyone taking up residence in or leaving a particular neighbourhood or village is supposed to report this to the local muhtar. In practice, that is often not done, with the muhtar not being approached until a need arises for a certificate of residence somewhere." **[2a] (p20)**

6.10 The United Nations Online Network in Public Administration and Finance (UNPAN) in their report 'Administrative Reform in the Mediterranean Region Summary of Turkey' 2002, stated that:
"Villages are corporative entities made up of at least 150 people with property in common (land, grazing areas, schools).The main administrative entity is the

Village Assembly, which chooses its chief (Muhtar, in charge for 5 years) and the Council members. The Council issues recommendations regarding the village's affairs and plans its activities. The head of the village presides over the village's projects and services." **[112] (p5)**

6.11 The *Zaman* newspaper reported on 2 October 2007 that in 2006, the Istanbul Governor's Office required demographic records from 958 muhtars in Istanbul. According to the result, the population of Istanbul is 33 million; many people have registered with more than one muhtar. With the use of the Muhtarlık Otomasyon Sistemi (Muhtarlik Otomation System - MOS), the Governor's Office aims to increase the efficiency and accuracy of muhtar registeration and service system reform. **[84a]** In contrast to the number of people registered, The *Hurriyet Daily News* reported that "Turkey's most populous city, Istanbul's population is around 12.6 million and accounts for 17.8 percent of Turkey's population. Istanbul's population increased by 123,328 in 2008 compared to 2007." **[70c]**

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Human Rights

7 INTRODUCTION

7.01 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"The government generally respected the human rights of its citizens; however, serious problems remained in several areas. During the year human rights organizations documented a rise in cases of torture, beating, and abuse by security forces. Security forces committed unlawful killings; the number of arrests and prosecutions in these cases was low compared with the number of incidents, and convictions remained rare. Prison conditions remained poor, with problems of overcrowding and insufficient staff training.Violence against women, including honor killings and rape, continued to be a widespread problem. Child marriage was a problem. Police corruption contributed to trafficking in women and children to, from, and within the country for sexual exploitation." **[5g] (Introduction)**

7.02 The Human Rights Watch (HRW) World Report 2008, published on 14 January 2009, stated:

"A grave political crisis in 2008 halted progress in human rights reforms in Turkey for much of the year. The ruling Justice and Development Party (AKP) narrowly escaped closure in July, with the Constitutional Court instead fining it for anti-secular activities. The government failed to honor its post-election pledge to engage in meaningful consultation on a new constitution, needed to strengthen respect for rights. With reform stalled, the protection of human rights continues to be eroded. Human rights defenders and journalists critical of the state face prosecution, although they continue to raise their voices loudly. Police abuse increased, with particular concern for excessive use of force at public demonstrations and fatal shootings of civilians. Widespread impunity for abuses by the police and other security forces remains." **[9e]**

7.03 The European Commission (EC) Turkey 2008 Progress Report, published on 5 November 2008 noted that

"There have been no developments on the institutions monitoring and promoting human rights, such as the Human Rights Presidency, which lack independence and resources. The Law on the establishment of the ombudsman is still before the Constitutional Court following the veto by the President of the Republic in November 2006. The Constitutional Court ordered a stay of execution of the Law, but has yet to give its verdict." **[71d] (p68)**

7.04 The EC 2008 Progress report also noted that

"There has been no progress on limiting the immunity of Members of Parliament and there is no legislation in place on election campaign financing. The European Court of Human Rights noted in a ruling that that no objective criteria had been set to define the conditions under which immunity could be

lifted… There have been no developments as regards ratification of human rights instruments. The Optional Protocol to the UN Convention against Torture (OPCAT), signed in September 2005, has not been ratified… Turkey has not ratified three additional Protocols to the European Convention on Human Rights (ECHR)." **[71d] (p11)**

7.05 The EC 2008 Progress report further noted that "Several State-sponsored bodies have the task of ensuring the promotion and enforcement of human rights. These include the Human Rights Presidency under the Prime Minister's office and the Human Rights Boards (931 in all). The latter have the task of visiting places of detention and State-sponsored social services." **[71d] (p11)**

7.06 The EC 2008 Progress report further noted that: "Full respect for and protection of language, culture and freedom of association, assembly, expression and religion and effective participation in public life for all citizens irrespective of their background or origin, in accordance with the principles laid down in the Framework Convention for the Protection of National Minorities and in line with best practice in Member States, have yet to be fully achieved." **[71d] (p25)**

7.07 The EC 2008 Progress report also noted that:

"Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages. The repeated requests of the OSCE High Commissioner on National Minorities (HCNM) to follow up on his last visit to Turkey of December 2006 were not accommodated. There is a need to start a dialogue between Turkey and the HCNM on issues such as the participation of minorities in public life and broadcasting in minority languages. This would facilitate Turkey's further alignment with international standards and best practice in EU Member States." **[71d] (p25**

7.08 The EC 2008 Progress report further stated that: "Management of minority schools, including the dual presidency, remains an issue, pending an implementing regulation. Work is under way to remove discriminatory language from textbooks…Overall, Turkey has made no progress on ensuring cultural diversity and promoting respect for and protection of minorities in accordance with European standards." **[71d] (p25)**

7.09 A *Bianet* article 'Protection of The Violent Police Officers Continue' published 11 December 2008 noted that: "Although Justice Minister Şahin, Police Chief Cerrah and the police educators say that the police officers should show their identities when asked, the citizens still get beaten up for asking their identities and the authorities still make statements protecting these police officers and file suspicious lawsuits against the victims." **[102q]**

7.10 The Freedom House report 'Freedom in the World 2008', published on 2 July 2008, described Turkey as 'partly free'. Using the following scale of 1 (being the most free) to 7 (being the least free), Freedom House assessed Turkey's political rights as 3 and civil liberties as 3. The report stated that

"Turkey struggles with corruption in government and in daily life. The AK Party originally came to power with promises to clean up government corruption, and it has adopted some anticorruption measures. However, enforcement is lacking, and a culture of tolerance of corruption pervades the general population. Parliamentary immunity prevents the prosecution of most politicians. Government transparency has improved in recent years through EU-related reforms. Turkey was ranked 64 out of 180 countries surveyed in Transparency International's 2007 Corruption Perceptions Index." **[62a]**

See also Section 17 - Corruption

7.11 The International Federation for Human Rights (FIDH) undertook a mission in Istanbul, Turkey, from 9-11 February 2008 and reported that:

"FIDH and its member organisation the Human Rights Association (İnsan Hakları Derneği, IHD) express their deep preoccupation at the continuous human rights violations in the South-Eastern provinces. The organisations are particularly preoccupied by the bombing of civilian areas, in violation of fundamental principles of international human rights and humanitarian law. The organisations repeat their call to the authorities for a political and pacific settlement of the Kurdish Question, and urge the government to open talks with Kurdish organisations and civil society in this respect." **[72a]**

7.12 A *Bianet* article 'Human Rights Watch Leaves the Meeting with the Human Rights Minister Unsatisfied', published 10 December 2008, noted that:

"Kenneth Roth, administrator of the Human Rights Watch (HRW), described his experience with Çiçek, minister of the human rights, during his meeting to introduce his report about the police violence as meeting with a minister assigned to violate the human rights.

"Roth met with three ministers about the report: Cemil Çiçek, State Minister in charge of the issues related to human rights, Beşir Atalay, Minister of Interior, Mehmet Ali Şahin, Minister of Justice. According to Roth, Çiçek denies even the existence of the problem and when reminded of the police violence cases, describes this as an outcome of the psychology of the police officer up against terrorism… Atalay, Interior of Minister, was more constructive, more open to the problem, willing to look for a solution…

"Roth noted that Minister Şahin also agreed that the problem was not with the law about the police violence, but its implementation; however, especially the arrangement regarding using deadly force is open to all kinds of violations." **[102r]**

7.13 The Office of the High Commissioner for Human Rights (OHCHR) in their country visit to Turkey dated 9 to 20 October 2006, noted that:

"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." **[20e]**

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8 SECURITY FORCES

8.01 The website for the Office of the Prime Minister of Turkey in their 'Turkey Interactive 2007', prepared by the Turkish News Agency and accessed 4 August 2008, noted that "The enforcement of law and order and security in the country is under the jurisdiction of the general security organizations, namely the gendarmerie, the police forces and the coast guard command. All these three agencies are attached to the Ministry of the Interior." **[36a] (p167) (Internal Security)**

8.02 The Freedom House report, 'Countries at the Crossroads 2007 – Turkey', noted that:

"The military holds a special place in the Turkish republic. Since Turkey's first military coup, in 1960, it has acted as the guarantor of Turkey's secularism, territorial integrity, and government functioning. While it has never stayed in power long, it used the first coup, and subsequent ones in 1971 and 1980, to increase its autonomy and enhance its role during civilian rule. Turkish generals have expressed opinions on everything from judicial decisions to draft bills in the National Assembly to EU membership, and those opinions have seldom been ignored altogether. After the Welfare Party came to dominate the ruling coalition in 1996, leading to increased fundamentalism, the military forced its removal." **[62c] (p16)**

8.03 The Freedom House report, 'Countries at the Crossroads 2007', further stated that:

"The EU continues to criticize Turkey for lack of civilian control of the military. Turkey's EU-inspired reforms have confined the once-powerful National Security Council (NSC) to an advisory role with a civilian at its head, removed military members from political bodies such as the higher education council and RTUK, and increased transparency and parliamentary oversight of military expenditures. Moreover, the reforms have been accompanied by increased space for open public critique of the military. However, the military is still not entirely subservient to the civilian ministry of defense, and it maintains autonomy in its strategic decision making. High-ranking military officers continue to voice opinions on domestic and foreign policy issues; in October 2006 the chief of staff accused the government of encouraging Islamic fundamentalism. Meanwhile, public trust in the military is strong, and military schools are among the best in the country, which contribute to the continued power and prestige of this institution." **[62c] (p16-17)**

INTELLIGENCE AGENCY (MIT)

8.04 As stated on the website of the National Intelligence Organisation (Milli Istihbarat Teşkilati. - MIT), accessed 5 August 2008:

"The Turkish National Intelligence Organization was founded as a body subordinate to the 'Prime Ministry', under the law no 644 dated 6 July 1965. This law after being in force for 18 years, has been replaced by Law no 2937 titled as the law on the State Intelligence Services and the Turkish National

Intelligence Organisation' as of January 1 1984 as a result of the efforts paid to eliminate any deficiencies, troubles and gaps that were come across during the practice of the previous law and to adapt to the rapidly changing and improving world conditions." **[88a] (Section on Duties, Powers and Responsibilities of the MIT)** "The objective of this Law is to organize the principles and methods regarding the procurement and handling of the State Intelligence as well as the ones regarding the organization, duties and functions of the Turkish National Intelligence Organization. The Undersecretariat of the Turkish National Intelligence Organization has been established, being directly subordinate to the Prime Minister." **[88b] (State Intelligence services and the Turkish National Intelligence Organisation)**

8.05 Jane's Sentinel Country profile, updated 7 May 2008, noted that: "The primary task of gathering intelligence on threats to the security of the state is assigned to the National Intelligence Organisation, known by its Turkish acronym as MIT. It has been involved in gathering both domestic and foreign intelligence… MIT also has a counter-intelligence role, being charged with the mission of countering foreign intelligence activities. The organisation does not have police powers." **[81c]**

POLICE

8.06 'Turkey Interactive 2007', prepared by the Turkish News Agency for the Office of the Prime Minister of Turkey and accessed 4 August 2008, noted that:

"The police force carries out its activities under the Directorate General of Security and includes central and provincial organisations. The area of responsibility of the Turkish police is restricted by the municipal borders. Outside these areas, police functions are carried out by the gendarmerie. **[36a] (p167) (Internal Security)** The Turkish Police Force, organized across the country in 1,180 stations, 750 district and 81 provincial directorates excluding the headquarters in Ankara, perform its functions by approximately 190,000 personnel, almost 170,000 of them working in security services. Around 10,000 women serve in the police force. The force recruits the graduates of the Police Academy, offering four years of higher education and training, for managerial posts." **[36a] (p169) (Internal Security)**

8.07 The European Commission Turkey 2008 Progress Report, published 5 November 2008, recorded that: "Amendments to the law on the duties and legal powers of the police, adopted in 2007, provide that the police are not entitled to use force unless confronted with resistance. These amendments, together with the instructions given to members of the security forces, appear to align the Turkish legislation with the ECHR standards. However, there are concerns that the implementation of this law has resulted in cases of ill-treatment during routine identity checks. Strict implementation of the amended provisions needs to be monitored by the Turkish authorities in order to prevent human right violations." **[71d] (p13)**

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8.08 The US State Department (USSD) report 2007 noted that "On February 6, parliament amended the Law on the Duties and Competencies of Police to significantly expand the authority of security forces to search and detain a suspect. Under the amended law, police and Jandarma may compel a citizen to declare his identity without any cause. In a June 5 press release, the Human Rights Association (HRA) stated that the expanded authority was contrary to legal and civil rights. On June 22, the newspaper *Radikal* noted a rise in mistreatment and torture allegations in Istanbul following enactment of the law." **[5g] (Section 1d)**

8.09 The US State Department (USSD) report 2007 report noted that "During the year [2007] human rights organizations documented a rise in cases of torture, beating, and abuse by security forces. Security forces committed unlawful killings… There continued to be reports of security forces fatally shooting civilians who refused to obey a warning to stop… Courts investigated many allegations of abuse and torture by security forces during the year; however, they rarely convicted or punished offenders. When courts did convict offenders, punishment generally was minimal and sentences were often suspended. Authorities typically allowed officers accused of abuse to remain on duty and, in occasional cases, promoted them during their trials, which often took years." **[5g] (Section 1-1d)**

8.10 The same USSD 2007 report further noted that "The Ministry of Justice reported that it opened 45 torture cases during the year, involving 298 suspects and a total of 178 victims. The suspects comprised 263 police, 15 Jandarma, and 20 other public servants. The justice ministry reported that it opened 34 excessive force cases during the year, involving 65 suspects and 49 victims. The suspects comprised 56 police, seven Jandarma, and two other public servants." **[5g] (Section 1c)**

8.11 The Amnesty International (AI) Annual Report 2008 stated that:

"Investigations into human rights violations perpetrated by law enforcement officials remained flawed and there were insufficient prosecutions… In June, parliament amended the Law on the Powers and Duties of the Police, giving police further powers to use lethal force by allowing them to shoot escaping suspects if they ignore a warning to stop. In April, all four police officers tried for killing Ahmet Kaymaz and his 12-year-old son Uğur outside their home were acquitted. The officers said that the deaths were the result of an armed clash, but forensic reports showed that both victims had been shot at close range several times." **[12e]**

8.12 The Amnesty International (AI) Annual Report 2008 further stated that:

"Allegations of torture and other ill-treatment continued, especially outside official places of detention. In June, Mustafa Kükçe died after being detained in several different police stations in Istanbul. Relatives who identified his body said that it was apparent that he had been tortured before his death. No case was brought against police officers. Lawyer Muammer Öz was allegedly beaten by police officers while drinking tea with family members in the Moda district of

Istanbul. An official medical report failed to show that his nose had been broken in the attack. Muammer Öz told Amnesty International that police beat him with batons and their fists and told him that they would never be punished." **[12e]**

8.13 The Human Rights Watch (HRW) World Report 2008, published on 14 January 2009, stated that:

"Police torture and ill-treatment is on the rise since 2007. It occurs during arrest, outside places of official detention, and during demonstrations, as well as in detention centers. There were continuing reports of ill-treatment and cruel, inhuman, and degrading conditions in prisons, and of fatal shootings of civilians by police officers. Engin Ceber, age 29, died in a hospital in Istanbul on October 10 after being beaten in police custody and in prison." **[9e]**

8.14 The same HRW 2008 World report further noted that:

"During banned Newroz (Kurdish new year) celebrations in March, police used excessive force, including indiscriminate beatings, against demonstrators and children; and two people in Van and one in Yüksekova were shot dead. Police beat demonstrators indiscriminately at a May Day protest in Istanbul, and used excessive force to disperse all peaceful assembly in and around the offices of the trade union confederation DİSK. The absence of a meaningful domestic investigation into the violence precipitated DİSK to apply in August to the European Court of Human Rights. The application was pending at this writing." **[9e]**

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OTHER GOVERNMENT FORCES

Jandarma / Gendarmerie

8.15 Jane's Sentinel Country profile, updated 7 May 2008, noted that "The Gendarmerie (Jandarma) is a paramilitary force that carries out police functions in rural regions. It is charged with the preservation of public order and internal security, including border security, in an area which covers over 91 per cent of the territory of Turkey. The General Command headquarters is located in Ankara… The force has its own intelligence section, Jandarma Istihbarat ve Terörle Mücadele (Gendarmerie Intelligence and Anti-Terror or JITEM), which is primarily used for intelligence gathering against the PKK. Until recently there was no official acknowledgment that JITEM existed, allowing members of the organisation to operate without fear of legal sanction." **[81c]**

8.16 'Turkey Interactive 2007', prepared by the Turkish News Agency for the Office of the Prime Minister of Turkey and accessed 4 August 2008, noted that "The Gendarmerie performs its duties in areas outside the municipal borders and in district centers where there is no police force. Approximately 24 million citizens, corresponding to almost 33% of the population, live in the responsibility areas of the gendarmerie and this figure increases to 48 million people (65% of the

population) during summertime... Every province in Turkey has a gendarmerie provincial command administering a number of gendarmerie district commands equal to the number of districts." **[36a] (p170)**

8.17 As recorded on the website of the General Command of Gendarmerie, updated on 6 August 2008: "The Gendarmerie of The Republic of Turkey, which is responsible for the maintenance of safety and public order as well as carrying out other duties assigned by laws and regulation, is an armed security and law enforcement force, having military nature…In accordance with Act No 2803 on 'The Organization, Duties and Powers of The Gendarmerie', the duties of the gendarmerie fall in four main points as administrative, judicial, military and other duties…The administrative duties cover the activities preventing crime in order to perform the protection, watching, safety and public order." **[99] (Section on Duties)**

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Village guard

8.18 In correspondence from the Foreign and Commonwealth Office dated 2 July 2007 regarding the Laws amending the village law no: 5673 and its adoption date 27 May 2007, it was noted that:

"ARTICLE 1- The second paragraph of the Village Law of 18/3/1924 with no: 442 has been amended as follows;
In provinces to be determined by the Cabinet; in cases where circumstances which call for declaration of state of emergency and where severe signs of violent actions arise in villages or in their neighbourhood, or in case of any infringement of life and property of the villagers for whatsoever reason, it can be decided upon the proposal of the Governor and approval of the Minister of Interior to appoint enough number of temporary village guards. The number of temporary village guards to be appointed under these circumstances can not exceed 40.000. The Cabinet shall be entitled to increase this number by up to fifty per cent. In case the circumstances which call for appointment of village guards are no more applicable or in case of administrative necessity, the appointment of temporary village guards can be ceased in line with the due procedures regarding such appointments." **[4a]**

8.19 In the same correspondence the FCO further noted that, "The temporary village guards shall be paid throughout the course of the service a monthly salary equivalent to a multiplication of monthly coefficient applicable to the salaries of public officers, by an indicator of 11.500…The boarding of the temporary village guards who participate in operations along with the security forces shall be born by the units under which those security forces operate and from the budget of these units… Additonal article16- The duties of temporary village guards who have completed the age of 55 shall be terminated… Being convicted from a terrorist offense, temporary village guards or their widow(er)s shall not be able to receive any pension." **[4a]**

8.20 The US State Department (USSD) report 2007 noted that "On May 27, parliament passed a law overhauling the village guard system. The law limits the total number of village guards under normal circumstances to 40,000; provides that the Council of Ministers may increase this number by up to 50 percent; provides continued employment for current guards; establishes a mandatory 55-year retirement age; provides a partial salary for early retirement; provides for a pension to guards who served more than 15 years; and requires the Ministry of the Interior to establish procedures for hiring, firing, training and otherwise regulating the guard system." **[5g] (Section 1d)**

8.21 The USSD 2007 report noted that "According to government officials, the law is intended to gradually phase out the system while providing social support for the 63,000 current village guards." **[5g] (Section 1d)**

8.22 The European Commission Turkey 2007 Progress Report, published 6 November 2007, recorded that "No steps have been taken to abolish the system of village guards… The village guard system still has to be phased out." **[71d] (p28)**

8.23 Jane's Sentinel Country profile, updated 21 January 2008, noted that "The Village Guards, formally known as 'Temporary Village Guards', were set up in 1985 as a local defence force in areas where a state of emergency had been declared due to the PKK insurgency. The majority are ethnic Kurds. The original idea was that they would patrol their own villages, but they were also used in offensive military operations against the rebels. The Village Guards usually operate alongside units from the Gendarmerie and/or regular army, often using their knowledge of the local terrain to serve as guides and their language skills to facilitate intelligence gathering, as well as participating in combat." **[81c]**

8.24 Jane's Sentinel Country profile, updated 21 January 2008, further noted that "they receive arms and basic training from the Gendarmerie and come under the jurisdiction of the Ministry of the Interior, which also pays their wages. As of 2007, some 58,000 Village Guards were deployed in 35 eastern and south-eastern Anatolian provinces… In addition to full-time Village Guards, there are also around 25,000 Volunteer Village Guards who have been provided with arms by the Turkish state to protect their villages in the event of attack by the PKK. However, the Volunteer Village Guards neither receive a wage nor participate in offensive operations against the PKK." **[81c]**

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Torture

8.25 According to the Turkish Constitution, the use of torture is prohibited, everyone has the right to life and the right to protect and develop his material and spiritual entity. Article 17 states that "no-one shall be subjected to torture or ill-treatment; no-one shall be subjected to penalty or treatment incompatible with human dignity." **[36e]**

8.26 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"According to the HRA (Human Rights Association) and Mazlum-Der, there were 451 incidents of torture in the first six months of the year. The HRF reported that during the year 452 persons applied to 'HRF's centers for assistance. Of these, 248 cases involved torture or abuse inflicted during the year; the rest involved incidents that occurred previously. HRF stated that there were 10,449 credible reports of torture or abuse from 1990 to 2005. A number of human rights observers claimed that only a small percentage of detainees reported torture and abuse because they feared retaliation or believed that complaining was futile." **[5g] (Section 1c)**

8.28 The Grand National Assembly's Commission for Inspection of Human Rights published their 2009 Inspection report which published the statistics on official investigations into personnel accused of torture from 2003 to 2008:

Year	Number of personnel officially investigated	Number of cases opened	Number of cases ongoing	Cases dismissed	Acquittals	Number of personnel punished	Decision type	Number of people involved in ongoing cases
2008	14	-	-	14	-	-	-	-
2007	93	4	3	79	1	-	-	12
2006	53	4	3	34	5	-	-	14
2005	79	5	3	50	9	-	-	20
2004	85	8	4	50	12	-	-	23
2003	107	14	1	63	37	-	-	7
Total	431	35	14	290	64	-	-	76

[117]

8.29 The 2009 Inspection report added that "As the illustration above shows, from 2003 to 2008, individual cases were opened against 35 of the 431 Istanbul police personnel against whom official investigations were started for claims of torture. 14 of these cases are still ongoing and 64 people have been acquitted, 290 had their cases dismissed and 76 persons have been tried. No personnel at all have been punished. This situation necessarily opens the way to doubts regarding the effectiveness of the investigations." **[117] (p61)**

8.30 The 2009 Inspection report further noted that:

"From 2003 to 2008, 448 official investigations were launched for the offence of Exceeding of Limits concerning the Maltreatment of Other Persons or the Use of Force. In these investigations concerning 1,588 police officers or commanders, 256 indictments were served, decisions were made regarding 963 of these personnel that there were Insufficient Grounds to Prosecute, and 188 of these personnel are still involved in the trial process. The number of personnel punished is 19, or approximately 4%." **[117] (p77)**

8.31 The Human Rights Watch (HRW) World Report 2008, published on 14 January 2009, stated:

"Turkish courts continued to show excessive leniency toward police and other members of the security forces charged with abuse or misconduct, contributing to impunity, the persistence of torture, and the unwarranted resort to lethal force. There was no progress in bringing to justice members of security forces responsible for the deaths of 30 prisoners during a series of prison transfers in December 2000. Two soldiers also died during the operation. In June 2008 the trial of soldiers for illtreatment and of guards for misconduct during transfer from Bayrampaşa prison, where 12 of the prisoners died, exceeded the statute of limitations and collapsed." **[9e]**

8.32 The same HRW World 2008 report also noted that:

"On October 20, 2008, the "Ergenekon" trial began. Over 100 defendants—including retired military and gendarmerie personnel, figures associated with organized crime, journalists, and academics—are charged with participating in an ultranationalist conspiracy to foster a military coup through civil disturbance, violent attacks, and planned assassinations. The criminal investigation was triggered by the June 2007 discovery of hand grenades in the Istanbul house of a retired army officer. Related grenades had been used in two attacks on the newspaper Cumhuriyet in May 2006, perpetrated by the same gang responsible for the April 2006 attack on the Council of State that killed a judge. While there are doubts that the criminal justice system is sufficiently empowered or independent to deal effectively with the case, it provides an unprecedented opportunity for Turkey to confront the negative role in political life played by elements of the military and state." **[9e]**

8.32 The European Commission (EC) Turkey 2008 Progress Report published 5 November 2008 recorded that: "During the reporting period, the European Court of Human Rights (ECtHR) delivered a total of 266 judgments finding that Turkey had violated the ECHR. Similarly to last year, the total number of new applications to the ECtHR continued to increase, with 3,705 applications during the reporting period. The majority of these new applications concerned the right to a fair trial and protection of property rights. Few of them concerned violations of the right to life or torture and ill-treatment." **[71d] (p11)**

8.33 The EC 2008 Progress report on Turkey also noted that: "The legal safeguards introduced by the government's zero tolerance policy on torture are having a positive effect. However, the number of appeals to NGOs concerning cases of torture and ill-treatment, in particular outside official places of detention, has increased. Pending ratification of the Optional Protocol to the UN Convention against torture, there is no independent national mechanism in place for monitoring places of detention. Furthermore, more efforts are needed to fight impunity." **[71d] (p68-69)**

See access to justice Annex D.

8.34 The EC 2008 Progress report on Turkey further noted that:

"However, the number of applications to NGOs in relation to cases of torture and ill-treatment has increased, in particular outside official places of detention, notably during apprehension, transfer, or in the open with no detention registered. Furthermore, there are cases where the legal safeguards in place failed to prevent or stop the occurrence of torture and ill-treatment while in custody or in prison. These developments are a matter of concern." **[71d] (p13)**

TURKISH ARMED FORCES (TÜRK SILAHLI KUVVETLERI, TSK)

8.35 The Turkish General Staff website, updated on 13 June 2008, noted:

"The Armed Forces of the Turkish Republic having great geopolitical and geostrategic importance comprise the Army, Navy and Air Force that are subordinate to the Turkish General Staff. The General Command of Gendarmerie and the Coast Guard Command, which operate as the parts of internal security forces in peacetime, are subordinate to the Land and Naval Forces Commands, respectively in wartime… General Hilmi Özkok the 24th Commander of the Turkish Armed Forces retired on 30 August 2006 and the 25th Commander of the Turkish Armed Forces is now Yaşar Büyükanıt." **[106]** The 26th new Commander of the Turkish Armed Forces is now Ilker Başbuğ. **[115]**

8.36 As recorded in Europa World online, Turkey: Defence (website accessed on 7 August 2008): "The total strength of the active armed forces assessed at November 2007 was 510,600 (including 359,500 conscripts), comprising an army of 402,000, a navy of 48,600 and an air force of 60,000. There was a gendarmerie numbering 150,000 and a coast guard of 3,250 (including 1,400 conscripts). Reserve forces totalled 378,700 in the armed forces and 50,000 in the gendarmerie." **[1b] (Turkey: Defence)**

Discrimination in the armed forces

8.37 The War Resisters' International 2005 document stated that "There have been regular reports of Kurdish conscripts in particular being subjected to discriminatory treatment, especially when they are suspected of having separatist sympathies. Different sources make different assessments of the extent to which Kurdish conscripts face discriminatory treatment within the armed forces." **[53a] (Section on Draft evasion)**

8.38 An Amnesty International public statement, dated 8 February 2007, stated: "Amnesty International is deeply concerned at reports that on 26 January 2007 conscientious objector Halil Savda was ill-treated by military personnel in the disciplinary ward of the military barracks in Tekirdağ where he had originally been summoned to perform military service." **[12f]**

See also Section 9:10 Conscientious objectors (Vicdani Retci)

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Extra-judicial killings

8.39 For the year 2007, the Human Rights Association (HRA/IHD) Summary table for Human Rights Violations recorded:

EXTRA JUDICIAL EXECUTIONS	Deaths	Wounded
Killed and injured by security forces in Stop Warnings, and violation of authority on arm use by officials	29	23
Killed and injured by Village Guards	5	4
Total	34	27

[73b]

8.40 The Human Rights Association further noted the human rights situation from 1999 to 2007 as:

Human Rights Situation in some Rights Categories between 1999 and 2007

Violations	1999	2000	2001	2002	2003	2004	2005	2006	2007
Unknown killings	212	145	160	75	50	47	1	20	42
Doubtful deaths/deaths in custody because of extra judicial execution/torture paid guard village	205	173	55	40	44	47	89	130	66
Death in clashes	857	147	92	30	104	240	496	345	424
Torture and Ill-treatment	594	594	862	876	1202	1040	825	708	678
People who taken into custody	50318	35007	44181	31217	12406	9711	2702	5560	7197
Arrests	2105	1937	2955	1148	1196	774	621	1545	1440

[73a]

8.41 The Amnesty International (AI) report 'No justice for victims of torture and killings by law enforcement officials', noted 5 July 2007 that:

"Torture, ill-treatment and killings continue to be met with persistent impunity for the security forces in Turkey, Amnesty International said in a report published today. The investigation and prosecution of serious human rights violations committed by officers of the police and gendarmerie are flawed and compounded by inconsistent decisions by prosecutors and judges. As a result, justice for the victims of human rights violations is delayed or denied. The criminal justice system needs reform. It needs to firmly put the protection of the human rights of citizens above that of the perceived interests of state institutions and officials." **[12a]**

8.42 The Human Rights Watch (HRW) World Report 2008, published on 14 January 2009, noted:

"Against a background of escalating armed clashes between the military and the Kurdistan Workers' Party (PKK), attacks on civilians continued. Attacks included a suspected PKK bombing in Diyarbakır on January 3, killing six (four of them children); bombings on July 27 in Istanbul, killing 17; and on July 9 outside the US consulate in Ankara, killing six. In the latter two cases the identities of the perpetrators remain unclear." **[9e]**

See also Section 9: Military service

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9 MILITARY SERVICE

9.01 According to Article 1 of the Military Act No.1111 (1927), every male Turkish citizen is obliged to carry out military service. **[21] (p1)** The length of military service is 15 months. University graduates may perform 8 months' military service, or 12 months if they are trained to become reserve officers. All men between the ages of 19 and 40 are liable for military service. Men who have not fulfilled their military service by the age of 40 and who have not been legally exempt from service, may still be called up after the age of 40. **[53a]**

9.02 'Refusing to Bear Arms: A world-wide survey of conscription and conscientious objection to military service', (Turkey: 2005 update), by War Resisters' International states:

"Different military service regulations apply for Turkish citizens who are living abroad. They can postpone their service up to the age of 38, for a period of three years at a time. Turkish citizens living abroad may also partially buy themselves out of military service by paying a sum of 5,112 Euros. However, in this case they still need to perform a one-month military service. Turkish citizens who live abroad and who possess dual nationality may get legally exempt from service, on the condition that they lived abroad before the age of 18 and that they performed military service in another country. Exemption on this ground is only possible if the length of military service that has been performed in another country is considered to be comparable to the length of service in Turkey." **[53a]**

9.03 An article 'Lower House Seeking to Abolish Military Service in Turkey' published in the NIS News bulletin in The Hague, dated 22 March 2007, stated that:

"The Lower House is pressing for Dutch citizens of Turkish origin to be exempted from national service in Turkey. The current policy is harmful for integration; in the view of a large majority...Turkey has a compulsory national service period of fifteen months. Turks living abroad can buy off this obligation for 5,112 euros. After that, they still have to serve a reduced national service period of three weeks in Turkey...The Dutch army and the police give interest-free loans to soldiers and policemen of Turkish origin who wish to buy off their obligation. They are given paid leave for the three-week course. Similar financial support for employees is provided by five of the twenty largest local authorities. In this way, Turkey receives 12 million euros a year from Dutch citizens who buy off their national service obligation, TV programme Netwerk reported on Tuesday." **[76]**

DEFERRING MILITARY SERVICE

9.04 In the journal of *Turkish Weekly*, November 2004, an article on 'Turkish Citizenship Policy since 1980' by Assc. Prof. Dr. Bulent Cicekli noted that:

"… Turkish nationals acquiring another foreign nationality upon their will without obtaining the required permission or those persons abroad avoiding to perform military service within statutory limits despite official notification and so on may receive the sanction of dismissal (kaybettirme) (Article 25)...

"In addition to the amendments made in the Nationality Act, the facilities given to dual nationals in relation to military service constitute further incentives in favour of dual nationality. On the basis of principles to be determined by the decision of the Council of Ministers, Turkish citizens who are born or residing abroad or who have immigrated to a foreign country before the age of majority and who have also acquired the nationality of the state of residence shall be exempted from the obligation to perform military service upon their request, provided that they produce documents to the effect that they have performed military service in the other country, which they are the citizens of." **[113a]**

9.05 The same article by Prof. Dr. Bulent Cicekli further noted that:

"Whereas in cases where military service is not obligatory as in the UK, the dual citizen is still under the obligation of performing military service…
Thus, those who are nationals of another state as well as of Turkey shall be exempted in Turkey from the obligation to perform military service in case they have performed military service in the other country of nationality. This too clearly functions as an incentive in favour of dual nationality.
With the second amendment realised by the Act No. 4112, the requirement of performing compulsory military service is no longer made a condition for permission to renounce Turkish nationality...
Renunciation of Turkish nationality is subject to the permission of the Council of Ministers under the following conditions:

a) Having sound mind and majority,
b) Having performed or been regarded to have performed compulsory military service. It is possible that the Ministry of Defence gives permission regarding those whose exemption from the condition of performing compulsory military service is viewed as indispensable. However, the person having renounced Turkish nationality in this manner is obliged to perform military service in case he is re-naturalised.

It is a very significant indicator of the citizenship policy not to require anymore the performance of military service in relation to the permission for renouncing nationality. Taking into account the fact that a significant portion of persons who reside abroad and may be able to request permission for renouncing nationality will be a young and male population, this importance shall be much better appreciated." **[113a]**

9.06 According to Article 35 of the Military Act No.1111 (1927) a number of provisions allow people liable to military service to defer their service, principally for educational reasons. In accordance with Article 35c, military service for those attending a school in Turkey or abroad is deferred until the end of the year in which they reach 29. Under Article 35e, the military service of university graduates who attend a postgraduate programme is deferred until the end of the year in which they reach the age of 33. Furthermore, for those post-graduate students whose studies in local or foreign post-graduate programmes are proved to be an innovation or development in the respective field of study, military service is postponed to the end of the year in which they reach the age of 36. **[21] (p13-14)**

9.07 As recorded on the website of the Turkish Ministry of National Defence (undated, website accessed on 13 February 2006):

"All recruitment procedures of our citizens, (residing abroad with the title of employee, employer, craftsmen or any other profession having the working or residence permit), such as final military roll call, summons and conscription can be postponed by the Ministry of National Defence until the end of the year they completed the age of 38 (until December 31st of the year they completed the age of 38)…The military service of the undergraduate and postgraduate students who work as part time workers and as workers who are not subject to income tax and whose residence and working permit are given due to their status as students, can not be deferred." **[100] (Section on Deferments)**

9.08 The Turkish government has never considered introducing legislation on conscientious objection. A brochure published by the armed forces in 1999 in fact stated: "In our laws there are no provisions on exemption from military service for reasons of conscience. This is because of the pressing need for security, caused by the strategic geographic position of our country and the circumstances we find ourselves in. As long as the factors threatening the internal and external security of Turkey do not change, it is considered to be impossible to introduce the concept of 'conscientious objection' into our legislation." **[53a]**

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EVASION OF MILITARY SERVICE AND PUNISHMENT

9.09 As recorded in the report 'Refusing to Bear Arms: A world-wide survey of conscription and conscientious objection to military service', (Turkey: 2005 update), by War Resisters' International:

"Draft evasion (asker kacagi) and desertion are widespread. The exact number of draft evaders is not known, but the number is estimated to be approx. 350,000. Draft evasion is prompted by the risk of being sent to serve in South Turkey and poor conditions and human rights violations within the armed forces…Draft evasion and desertion are punishable under the Law on Military Service and the Turkish Military Penal Code. Turkish law actually makes a distinction between evasion of military registration, evasion of medical examination, evasion of enlistment and desertion. According to Article 63 of the Penal Code, draft evasion is punishable (in peacetime) by imprisonment of:

- One month for those who report themselves within seven days;
- Three months for those who are arrested within seven days;
- Between three months and one year for those who report themselves within three months;
- Between four months and 18 months for those who are arrested within three months;
- Between four months and two years for those who report themselves after three months;
- Between six months and three years for those who are arrested after three months;

- Up to ten years' imprisonment in the case of aggravating circumstances, such as self-inflicted injuries using false documents (Articles 79-81 of the Penal Code).

"Desertion is punishable under Articles 66-68 of the Penal Code with up to three years' imprisonment. Deserters who have fled abroad may be sentenced to up to five years' imprisonment, and up to ten years in case of aggravating circumstances (Article 67)." **[53a] (Section on Draft evasion)**

9.10 As recorded in the 2005 updated report by War Resisters' International: "There have been regular reports of Kurdish conscripts in particular being subjected to discriminatory treatment, especially when they are suspected of having separatist sympathies." **[53a] (Section on Draft evasion)**

CONSCIENTIOUS OBJECTORS (VICDANI RETCI)

9.11 As noted in the Amnesty International public statement 'Alleged ill-treatment of conscientious objector by military personnel must be investigated', of 8 February 2007:

"In Turkey it is compulsory for all men between the ages of 19 and 40 to do military service for 15 months. Amnesty International is concerned that the right to conscientious objection is not legally recognized by the authorities, and provisions do not exist for an alternative civilian service for conscientious objectors. International human rights standards recognize the right to conscientious objection." **[12f]**

9.12 The Amnesty International 2008 report stated that "Conscientious objection to military service was not recognized and no civilian alternative was available. Persistent conscientious objector Osman Murat Ülke was again summoned to serve the remainder of his prison sentence for failing to perform military service. In seeking to punish him, Turkey remained in defiance of the 2006 judgment of the European Court of Human Rights in the Ülke case, which required Turkey to implement legislation to prevent the continuous prosecution of conscientious objectors." **[12e]**

9.13 The European Commission 2008 report, published 5 November 2008, noted that "Turkey has not adopted legal measures to prevent repetitive prosecution and conviction of conscientious objectors." **[71d] (p12)** "Judicial proceedings against conscientious objectors have continued and there have been frequent allegations of ill-treatment of conscientious objectors in prison. Furthermore, public statements on the right to conscientious objection have led to convictions." **[71d] (p19)**

9.14 In a *Bianet* article published 9 January 2008, it was recorded that "Sanar Yurdatapan, spokesperson for the Initiative against Crimes of Thought, was yesterday (8 January) awarded 2,000 Euros in damages and 1,500 Euros legal costs by the European Court of Human Rights (ECHR). Yurdatapan had been sentenced to two months imprisonment for a statement in support of conscientious objector Osman Murat Ülke." **[102h]**

See also Section 8:41 Discrimination in the armed forces

POSTING AFTER COMPLETION OF BASIC TRAINING

9.15 The Netherlands report 2001 stated that "Every conscript's unit for posting after his basic training is determined by computer by the Directorate for the Recruitment of Conscripts in the Ministry of Defence. The place of subsequent posting depends upon the basic training undergone, the place of registration and possible criminal record." **[2b] (p19)** "Anyone who has been convicted of theft is therefore very unlikely to be placed in a unit responsible for managing an arms depot. Among others, spokesmen for the Turkish human rights association IHD and various military sources say that they do not believe that a record of past criminal offences, whether or not of a political nature, results in an extra-harsh posting by way of additional punishment…. Spokesmen for the IHD also consider it unlikely that conscripts are screened on the basis of ethnic origin or religious or political convictions for the purpose of deciding on subsequent postings." **[2b] (p21)**

9.16 The War Resisters' International Refusing to bear arms 2005 revised report noted that "All conscripts may be sent to serve in South Eastern Turkey as postings of conscripts are usually decided at random by computer. There is a sizeable group of conscripts of Kurdish origin who refuse to perform military service because they do not want to fight against their own people. Many Kurdish draft evaders have, in fact, left Turkey and applied for asylum abroad." **[53a] (Section on Draft evasion)**

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10 JUDICIARY

See also Annex D, Administration of justice.

Organisation

10.01 The US State Department Country Report on Human Rights Practices 2007, Turkey (USSD Report 2007), published on 11 March 2008, noted:

"The judicial system is composed of general law courts; specialized heavy penal courts; military courts; the Constitutional Court, the nation's highest court; and three other high courts. The High Court of Appeals hears appeals for criminal cases, the Council of State hears appeals of administrative cases or cases between government entities, and the Audit Court audits state institutions. Most cases were prosecuted in the general law courts, which include civil, administrative, and criminal courts. In 2004 parliament adopted legislation providing for the establishment of regional appeals courts to relieve the high court's caseload and allow the judiciary to operate more efficiently. The Ministry of Justice reported that none of the regional appeals courts were operational at year's end and that the project has been postponed until 2010.

"The Constitutional Court examines the constitutionality of laws, decrees, and parliamentary procedural rules and hears cases involving the prohibition of political parties. If impeached, ministers and prime ministers can be tried in the Constitutional Court. However, the court cannot consider "decrees with the force of law" issued under a state of emergency, martial law, in time of war, or in other situations as authorized by parliament.

"Military courts, with their own appeals system, hear cases involving military law for members of the armed forces. Military courts can also hear cases involving crimes committed by both civilians and military personnel." **[5?] (Section 1e)**

10.02 The European Commission (EC) 2008 Progress report published 5 November 2008 stated that: "The Ministry of Justice has been working on a draft judicial reform strategy, which it presented in spring 2008. The document is comprehensive and covers issues related to the independence, impartiality, efficiency and effectiveness of the judiciary, enhancement of its professionalism, the management system and measures to enhance confidence in the judiciary, to facilitate access to justice and to improve the penitentiary system." **[71d] (p9)**

10.03 According to the Turkish law today, the courts are divided into "courts of justice", administrative courts, military courts and Constitutional court. Except the Constitutional Court, they are further divided into lower and higher courts. The power of the judiciary is exercised by Judicial (Criminal) and Administrative Military Courts. These Courts render their verdicts in the first instance, and the superior courts examine the verdict for the last and final ruling. The superior courts are: the Constitutional Court, The Court of Appeals, the Council of State, the Military Tribunal of Appeals, the Supreme Military Administrative Court, the

Court of Jurisdictional Dispute, the Court of Accounts and the Supreme Council of Judges and Public Prosecutors. **[18]**

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CIVIL COURTS

Civil Courts of the Peace (Sulh Hukuk Hakimliği)

10.04 This is the lowest civil court in Turkey with a single judge. There is at least one in every ilce (district). Its jurisdiction covers all kinds of claims where the amount does not exceed 2,000,000 Turkish Liras for the time being; claims of support, requests or minors for permission to marry or to shorten the waiting period of marriage, eviction cases for rentals by lease and all cases assigned to the court by the Code of Civil Procedure and other laws. There are 846 Civil Courts of the Peace in Turkey. **[18]**

Civil Courts of First Instance (Asliye Hukuk Hakimliği)

10.05 This is the essential and basic court in Turkey. Its jurisdiction covers all civil cases other than those assigned to the civil Courts of the Peace. There is one in every il and ilce, and sometimes divided into several branches according to the need and necessity. There are 958 such Courts in Turkey. **[18]**

Commercial Courts (Asliye Ticaret Mahkemesi)

10.06 The Commercial Courts are the specialized branches of all Civil Courts of First Instance, having jurisdiction over all kinds of commercial transactions, acts and affairs relating to any trading firm, factory, or commercially operated establishment. **[18]**

10.07 The Commercial Courts consist of three judges, one presiding judge, and two members. At present, 35 Commercial Courts exist in commercial centers, throughout Turkey. Where there are no Commercial courts, the Civil Courts of First Instance perform the functions of the Commercial Courts. The competence of the Commercial Courts is clearly described under Article 5 of the Commercial Code. **[18]**

The Court of Cassation (Yargitay)

10.08 The highest appellate court in Turkey is called the Court of Cassation. It is divided into 30 chambers according to their particular specialized field. There are 20 civil chambers, 10 penal chambers. Each chamber is a five-judge court with a presiding judge and four members. One elected judge by the all judges of the Court of Cassation presides over the entire Court as general President. **[18]**

10.09 All final judgments are appealable, except those less than 400,000 Turkish Liras and, in penal cases, judgments concerning fines up to 2,000,000 Turkish Liras, judgments of acquittal from an offense involving fines not exceeding

10,000,000 Turkish Liras, and judgments which are described in the Criminal Code or other codes as final. **[18]**

10.10 A letter from the British Embassy in Ankara dated 22 April 2005 noted that the Yargitay only confirms or cancels court verdicts and does not conduct retrials. **[4d]**

PENAL COURTS

Penal Courts of the Peace (Sulh Ceza Hakimliği)

10.11 This is the lowest penal court with a bench of one judge. There is one in every ilce, but it is sometimes divided into several branches according to the need and population. There are 840 such Courts in Turkey. They have jurisdiction over penal and municipal misdemeanors and all acts assigned by the Criminal Code, the Code of Criminal Procedure, the Code on the Application of the Criminal Code, and by other laws according to the assignment or to the degree of punishment stated by them. **[18]**

Penal Courts of First Instance (Asliye Ceza Hakimliği)

10.12 Among the penal courts, this Court with a single judge handles the essential local criminal work. Its jurisdiction covers all penal cases excluded from the jurisdiction of the Penal Court of the Peace and the Central Criminal Court. There is one in every il and in every ilce, sometimes divided into several branches according to the need and population. Therefore, at the moment there are 899 such Courts in Turkey. **[18]**

Central Criminal Courts (Ağır Ceza Mahkemesi) (commonly referred to as 'Heavy Penal Courts')

10.13 This court consists of a presiding judge and two members with a public prosecutor. Offenses and crimes involving a penalty of over five years of imprisonment, or capital punishment are under the jurisdiction of this Court of which there is one in every il. But it is sometimes divided into several branches according to the need and population. There are 172 Central criminal courts throughout Turkey. **[18]**

State Security Courts (Develet Güvenlik Mahkernesi)/Regional Serious Felony Courts (sometimes referred to as 'Specialised Heavy Penal Courts')

10.14 As noted in the European Commission Regular Report on Turkey's progress Towards Accession 2004, the State Security Courts have been abolished and replaced by Regional Serious Felony Courts (also referred to as Heavy Penal Courts). According to the previous law, State Security Courts used to handle the criminal offenses described in Article 9 of the said law which were about the security of the state. They consisted of a presiding judge and two members with a public prosecutor. There were 12 such Courts throughout Turkey. **[18]**

See also Court of Cassation, paragraph 10.8 above

Other courts

Execution Investigation Authority (Icra Tetkik Hakimliği)

10.15 A court with a single judge which has jurisdiction over disputes arising during the execution of all civil sentences and judicial decrees; over all acts obstruction or rendering difficult the execution of all civil sentences and judicial decrees. There is one such Court in every ilce in Turkey. **[18]**

Other Lower Courts

10.16 In addition to the ordinary courts, there are 72 courts in Turkey which handle labor disputes; 443 courts which handle land registrations and surveys and 6 courts which handle traffic disputes. There are also 5 juvenile courts in Turkey. **[18]**

Intermediate Courts of Appeal

10.17 As recorded in the European Commission 2005 report: "The Law Establishing the Intermediate Courts of Appeal came into force on 1 June 2005. The establishment of the Courts of Appeal will substantially reduce the case load of the Court of Cassation and enable it to concentrate on its function of providing guidance to lower courts on points of law of general public importance. The Law provides that the Courts are to be established within two years of its entry into force." **[71b] (p16)**

ADMINISTRATIVE COURTS

The Council of State (Danıştay)

10.18 The highest court for controversies arising from governmental or public services and action, and for general administrative disputes, having judicial and administrative function, is the Council of State. It is the final court for cases under its own jurisdiction and a court of appeal for the decisions given by subordinate administrative courts. The Council of State has 10 judicial chambers. **[18]**

Subordinate Administrative Courts (Idare ve Vergi Mahkemeleri)

10.19 According to the law, first tier of administrative courts in Turkey are established on regional bases. The courts founded at the regions are, administrative courts (idare Mahkemeleri) and tax courts (vergi mahkemeleri). There are 22 administrative courts and 33 tax courts in Turkey. **[18]**

Supreme Military Administrative Court (Askeri Yüksek Idare Mahkemesi)

10.20 The jurisdiction of the Supreme Military Administrative Court covers cases arising from administrative acts and actions made by military authorities and also cases arising from administrative acts and actions made by civilian authorities but involving military personnel and relation to military services. The Supreme Military Administrative Court is divided into 2 chambers. **[18]**

MILITARY COURTS

Military Criminal courts (Askeri Ceza Mahkemesi)

10.21 The INTERPOL website, last modified 4 August 2008, stated in their Turkey Judicial system section that:

"Military justice is carried out through the Military courts and military disciplinary courts. These courts, unless the contrary is stated in the law, have jurisdiction to try military personnel for military offences, for offences committed by them against other military personnel or in military places, or for offences connected with military service and duties. Military High Court of Appeals is the last instance for reviewing decisions and judgments given by military courts." **[34a]**

10.22 The International Helsinki Federation (IHF) for Human Rights 2007 Turkey report noted "In a positive development, amendments to the military penal code adopted in June restricted the competence of military courts to try civilians unless they are involved in crimes committed together with military personnel. The amendments also allowed for retrials by military courts in cases where the European Court of Human Rights (ECtHR) finds a breach of the European Convention in relation to a trial before such courts." **[10c]**

The Military Criminal Court of Cassation (Askeri Yargitay)

10.23 As noted by the Turkish Embassy website, accessed 8 August 2008 "According to the law, this court functions as the court of appeal of all decisions and judgments given by Military courts. It is divided into five chambers." **[74c] (The Court System)**

See also Supreme Military Adminstrative Court, paragraph 10.20 above

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THE CONSTITUTIONAL COURT (ANAYASA MAHKEMESI)

10.24 As recorded by the Embassy of the Republic of Turkey website, accessed 8 August 2008 "The Constitutional Court consists of 11 regular members and four alternate members. All judges of the Constitutional Court hold office until they retire at the age of 65 like all other judges in Turkey." **[74c] (The Court System)**

10.25 The United States Department of State (USSD) 2007 report, published 8 March 2008, stated that "The Constitutional Court examines the constitutionality of laws, decrees, and parliamentary procedural rules and hears cases involving the prohibition of political parties. If impeached, ministers and prime ministers can be tried in the Constitutional Court. However, the court cannot consider 'decrees with the force of law' issued under a state of emergency, martial law, in time of war, or in other situations as authorized by parliament." **[5g] (Section 1e)**

INDEPENDENCE

10.26 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"The law provides for an independent judiciary; however, the judiciary was occasionally subject to outside influence. There were reports of judicial corruption. The law prohibits the government from issuing orders or recommendations concerning the exercise of judicial power; however, the government on occasion launched formal investigations against judges who had spoken critically of the government or state structure. The government and several high-ranking military officers on several occasions issued announcements or directives about threats to the Turkish state, which could be interpreted as general directions to the judiciary." **[5g] (Section 1e)**

10.27 The 2007 USSD report further noted:

"The High Council of Judges and Prosecutors was widely criticized for undermining the independence of the judiciary. The justice minister serves as chairman of the seven-member High Council, and the Ministry of Justice undersecretary also serves on the council. The 'council's rules stipulate that one of these two officials must preside over meetings. The High Council selects judges and prosecutors for the higher courts and is responsible for oversight of the lower courts. The High Council is located in the Ministry of Justice and does not have its own budget. While the constitution provides for job security through tenure, the High Council controls the careers of judges and prosecutors through appointments, transfers, promotions, reprimands, and other mechanisms." **[5g] (Section 1e)**

10.28 The European Commission 2008 Progress report published 5 November 2008 recorded that

"As regards the independence of the judiciary, the selection procedure laid down in the Law on judges and prosecutors was amended in December 2007. These amendments transferred into law the provisions of the relevant June 2007 regulation of the Ministry of Justice. They include specific selection criteria and a transparent scoring system and are, therefore, considered an improvement. However, criticism has been voiced by bar associations and academics that the new selection criteria are open to subjective interpretation." **[71d] (p66)**

10.29 The EC 2008 progress report further noted that "As a result of the November 2007 examinations, the Justice Academy recruited 387 candidate judges and prosecutors. Another 397 were recruited following the March 2008 examinations. Three more examinations were planned in 2008. However, in response to an appeal by YARSAV in March 2008, the Council of State suspended the recruitment of a number of candidate judges and prosecutors. The Council of State decided that the assessment protocol signed between the Ministry of Justice and the Student Selection and Placement Centre outlining the procedure for the examination does not comply with the legislation in force. The Council of State is due to issue its final decision on the case." **[71d] (p66)**

10.30 The EC 2008 Progress report also added that "Overall, the work to date on the draft judicial reform strategy has been a positive development… However, concerns remain as regards the independence and impartiality of the judiciary. Reforms in the area of the judiciary are a priority of the Accession Partnership." **[71d] (p10)**

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FAIR TRIAL

10.31 The International Helsinki Federation (IHF) for Human Rights 2007 Turkey report, published 27 March 2007, noted:

"Both the government and the military maintained their influence on the judiciary, and corruption remained widespread in the judiciary. Violations of fair trial and due process rights continued to be frequently reported. With respect to terrorist suspects, Amnesty International documented a range of violations, including failure to investigate allegations of torture and ill-treatment; the admission of statements made under duress as evidence; denial of equality of arms and the right to an effective defense; and excessively long pre-trial detention and protracted criminal proceedings. A considerable number of people charged with terrorism-related crimes, some of whom had been arrested as far back as in 1993, remained in detention in maximum security prisons pending trial." **[10c]**

10.32 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"There is no jury system; a judge or a panel of judges decides all cases. Trials are public. The law requires bar associations to provide free counsel to indigents who request it from the court and bar associations across the country did so in practice. Defendants have the right to be present at trial and to consult with an attorney in a timely manner. Defendants or their attorneys can question witnesses for the prosecution and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and the right to appeal." **[5g] (Section 1e)**

10.33 The USSD 2007 report continued:

"The law provides for the right to a speedy trial; however, at times trials lasted for years. Proceedings against security officials often were delayed because officers did not submit statements promptly or attend trials. In several cases such delays extended beyond the statute of limitations, causing the trial to end without a verdict. The law prohibits the use of evidence in court obtained by torture; however, prosecutors in some instances failed to pursue torture allegations, and exclusion of evidence occurred only after a separate case on the legality of the evidence was resolved. In practice a trial based on a confession allegedly coerced under torture could proceed, and even conclude,

before the court had examined the merits of the torture allegations." **[5g] (Section 1e)**

10.34 The Amnesty International report 2008 stated that "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." **[12e] (Section Fair Trial)**

10.35 The European Commission 2008 report, published 5 November 2008, noted that:

"With regard to liberty and security and the right to a fair trial, reports indicate that in urban areas most detainees have access to a lawyer immediately after detention. In rural areas, however, in particular in the south-east of the country, there have been cases where defendants have not had access to a lawyer on terms equivalent to those in urban areas. In courts, professional interpretation in languages other than Turkish remains an issue of concern." **[71d] (70-71)**

10.36 The EC 2008 Progress report also noted that "During the reporting period, the European Court of Human Rights (ECtHR) delivered a total of 266 judgments finding that Turkey had violated the ECHR. The majority of these new applications concerned the right to a fair trial and protection of property rights." **[71d] (p11)**

10.37 The Amnesty International report 2008 stated that "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." **[12e] (Section Attacks by armed groups)**

10.38 The AI 2008 further stated that "The Şemdinli bombing trial 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." **[12e] (Section Interference in justice system)**

See section 11: Arrest and detention, subsection Legal Rights

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PENAL CODE

Text of Penal Code

10.39 The English translation of the Turkish Penal Code was produced as part of a project funded by the British Embassy in Ankara and supported by the Ministry of Justice of the Republic of Turkey and a hard copy is available on request. **[4m]**

10.40 The European Commission Progress report 2008, published 5 November 2008, stated: "A new Law on witness protection was adopted, with adequate provisions to guarantee the confidentiality of their identity and their security. This is expected to improve the chances of convictions in organised crime cases… One important point is that the strategy against organised crime, in line with EU best practice, needs to be followed up by a specific action plan and implemented accordingly." **[71d] (p74)**

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11 ARREST AND DETENTION

LEGAL RIGHTS

11.01 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." **[20e]**

11.02 The Report of the UK Border Agency Fact Finding Mission 11 – 20 February 2007 includes general information on Arrest, Detention and Mistreatment obtained from interviews with a number of sources. 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 7days. However, detention could never exceed 7 days. **[59] (S10.8)**

11.03 The OHCHR United Nations report of the Working Group on Arbitrary Detention who visited Turkey 9 - 20 October 2006, in their press release stated how the entry into force on 1 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. **[20f] (Press release)**

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11.04 The United States Department of State (USSD) 2007 report, published 11 March 2008, noted: "The law provides that detainees are entitled to immediate access to an attorney and to meet and confer with an attorney at any time. The government scaled back its law that allows for provision of a public attorney to indigent defendants in all criminal cases. The amended law requires the government to provide indigent detainees with a public attorney in criminal cases where the defendant faces a penalty of more than five years in prison." **[5g] (Section Arrest and Detention)**

11.05 As noted in a letter from the British Embassy in Ankara to the Home Office, dated 28 September 2005:

"A new Code on Criminal Procedure (CCP) came into force on 1 June 2005. As part of the new CCP, 'judicial controls' [reporting conditions] were introduced which allow courts to impose a number of restrictions on suspects or defendants in criminal cases. This includes the condition of reporting regularly, within the time limits indicated, to a place specified by the judge.

"As mentioned in this letter Article 109 and article 110 of the CCP set out the detail of 'judicial controls':

"A109 – Judicial supervision
(1) Where there are reasons for arrest as specified in Article 100 and where an investigation is being conducted with regard to an offence necessitating imprisonment, with an upper limit of 3 years or less, a decision may be taken to place the suspect under judicial supervision instead of placing him under arrest.
(2) Judgements in favour of judicial supervision may also be applied to cases for which the law prohibits arrest.
(3) Judicial supervision may involve the imposition of one or more of the following obligations upon the suspect:
  (a) not to go abroad,
  (b) to appear regularly within the time limits indicated at places specified by the judge,
  (c) to obey the summons of authorities or persons specified by the judge, and where necessary to comply with supervisory measures regarding the persons occupational activities or the pursuit of his education,
  (d) not to be permitted to drive any or certain vehicles, and where necessary to leave his driving licence at a government office in return for a receipt,
  (e) to undergo and accept medical care or treatment or examination, for detoxification purposes, particularly with respect to narcotics, stimulants or volatile substances or alcohol dependency and including hospitalization,
  (f) to deposit an amount of money as a security, as determined by the judge at the request of the public prosecutor, after taking into account

the financial circumstances of the suspect and deciding if it is to be paid in more than one instalment,

(g) not to possess or carry weapons, and if necessary to leave any weapons in his possession at a judicial depository, in return for a receipt,

(h) to provide real and personal security for monies needed to secure the rights of the injured party, concerning which the judge, at the request of the public prosecutor, shall specify the amount and time limit for payment,

(i) to provide assurances that he will pay alimony regularly, in accordance with any court verdict, and that he will fulfil his obligation towards his family.

(4) In applying subsection (b) above, the judge or the prosecutor may permanently or temporarily allow the suspect to drive vehicles as part of his occupational activities.

(5) Any time spent under judicial supervision may not be deducted from a sentence by reason of being considered as a restriction of personal liberty. This provision shall not apply to cases listed under subsection (e) of this Article.

"A110 – Judicial supervision decisions and administration by the authorities

(1) A suspect may be put under judicial supervision at the request of the public prosecutor, and according to the decision of a Justice of the Peace.

(2) The judge, at the prosecutors' request, may impose one or more additional judicial supervision conditions; he may also lift or change all or part of the obligations contained in the conditions, or exempt the suspect from fulfilling some of the conditions.

"When it is deemed necessary, the provisions of Article A109 and of the present Article may be used by other designated or competent judicial authorities, in order to pursue prosecution at any level." **[4i]**

See section 10 – Code of Criminal Procedure

WARRANTS AND COURT SUMMONSES

11.06 The United States Department of State (USSD) 2007 report, published 11 March 2008, noted that:

"Warrants issued by a prosecutor are required for arrests unless the suspect is caught in the commission of a crime. A suspect may be detained for 24 hours, with prosecutorial discretion to extend the period to 48 hours, excluding transportation time, before being arraigned by a judge. There is a functioning bail system. After arraignment, the judge may release the accused upon receipt of an appropriate assurance, such as bail, or order detention if the court determines that the accused is likely to flee the jurisdiction or destroy evidence." **[5g] (Section 1d)**

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11.07 The Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)', related that:

"According to Mr. Islambay, law enforcement authorities are required to report to the Public Prosecutor on each case-inquiry. This report – Fezleke – contains all information available on the case, such as the type of the crime, names of witnesses, victims, suspects, date of the crime and so on… According to Mr. Islambay, the attorney is entitled to receive a copy of the documents from the Prosecutors Office and would thus have access to this subject index if verification was required… A person claiming to have been summoned to criminal proceedings or to commencement of sentence should be able to give documentary evidence of that… Both Mr. Islambay and Mr. Turan claimed that persons on the run could not get access to en [sic] (authentic) warrant. He or she (or the attorney) would get a copy of the document at the earliest after detention." **[16] (p22- 23)**

LENGTH OF PRE-TRIAL DETENTION

11.08 The United States Department of State (USSD) 2007, published 11 March 2008, noted that "Lengthy pretrial detention was a problem. The law provides detainees the right to request speedy arraignment and trial; however, judges have ordered that some suspects be detained indefinitely, at times for years, without a trial. Slightly less than half of the prison inmates held during the year were convicts; the other inmates were either awaiting trial or held during trial proceedings." **[5g] (Section 1d)**

RIGHT TO LEGAL ADVICE

11.09 A Human Rights Watch report 'Closing Ranks against Accountability Barriers to Tackling Police Violence in Turkey' published in December 2008, noted that:

"In June 2006 revisions to the Law to Fight Terrorism (Law no. 3713) were introduced. Some of these measures represent a roll-back of gains made toward introducing safeguards against torture. The revised law now allows for the detainee's right to legal counsel from the first moments of detention to be deferred by 24 hours at the request of a prosecutor and on the decision of a judge (article 10/b). Since the introduction of this provision, some of those detained under suspicion of committing terrorist offenses have been denied access to legal counsel for the first 24 hours, though it has not to date become standard practice to apply this measure." **[9c] (p22)**

11.10 The same HRW 2008 report further noted that:

"The immediate right to legal counsel has been one of the major gains of the reform process in Turkey and is set out in the Code of Criminal Procedures (article 149). There are clear risks that a restriction on the right to immediate legal counsel for those suspected of terrorist offenses may reverse the progress made in this area. The European Court of Human Rights has long made clear

that access to a lawyer at the initial stages of police interrogation is critical to safeguarding a detainee' rights." **[9c] (p22)**

11.11 The same HRW 2008 report also noted that "Access to a lawyer in detention and particularly during interrogation is a key basic safeguard against ill-treatment. For years the European Committee on the Prevention of Torture (CPT) had been calling on Turkey to guarantee such a regime in law, and welcomed the introduction of this. Lawyers interviewed by Human Rights Watch considered that the presence of lawyers offering legal counsel to detainees in police and gendarmerie stations had in practice constituted an important means of reducing the likelihood of law enforcement personnel resorting to coercion, or otherwise abusing their position or failing in their duty toward detainees." **[9c] (p15)**

11.12 The HRW 2008 further recorded that "Several lawyers with direct experience of working on torture cases expressed concerns that the change in the law represented the removal of an important safeguard against illtreatment of detainees. It certainly means that Turkey is failing to implement one of the basic rights identified under human rights standards as fundamental to protection against ill-treatment." **[9c] (p15)**

11.13 The UN Report published 18 February 2008 'Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, 2008' stated that:

"According to non-governmental sources, while there are great improvements in this area, there are still cases of lawyers reporting problems in gaining access to detainees. Although lawyers have not reported that the police routinely apply for the 24 hour postponement of access to legal counsel for a detainee provided for in cases that fall under the remit of the Anti-Terror Law, there are indications that the existence of the possibility to do so is undesirable given the continuing, albeit reduced, risk of torture or ill-treatment in places of detention. Torture or ill-treatment is still reported as being most likely to occur in the first 24 hours after arrest." **[20c] (paragraph 680)**

11.14 The same UN 2008 report further added that:

"In 2007 several lawyers have been impeded from meeting in private with detainees, in violation of the law and in cases where there had been no resort to the 24-hour postponement of access to legal counsel provided for in the revised anti-terrorism law of June 2006. Elements of law enforcement agencies continue to demonstrate negative attitudes to lawyers and adopt various tactics that obstruct them from discharging their professional duties. There have been at least three serious cases of violence against lawyers by law enforcement officials, such as the case of Mustafa Rollas. Mr. Rollas, the former head of the Izmir branch of the Human Rights Association, alleged that on 9 September 2007, he was denied access to two clients detained at a police station known as the Fuar Asayiş Ekipler Amirliği in Izmir. When he protested, an altercation ensued during which he was ill-treated and verbally abused by a group of police officers. He was later handcuffed and detained." **[20c] (paragraph 681)**

11.15 The European Commission 2008 Progress report, published 5 November 2008, also noted that "As regards access to justice, reports indicate that in urban areas most detainees have access to a lawyer immediately after detention. In rural areas, however, in particular in the South-East of the country, there have been cases where defendants have not had access to a lawyer on terms equivalent to those in urban areas." **[71d] (p14)**

11.16 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey from 7 - 14 December 2005 and their report, issued on 6 September 2006, noted that:

"However, the delegation heard allegations to the effect that law enforcement officials still do on occasion delay access to a lawyer, so as to enable the person detained to be informally questioned without the presence of a lawyer, prior to the taking of a formal statement (in the lawyer's presence). The CPT must once again recommend that all necessary steps be taken to ensure that the right of access to a lawyer for persons in police/gendarmerie custody, as guaranteed by law, is fully effective in practice as from the outset of custody." **[13a] (paragraph 23)**

11.17 Furthermore the report noted that "A 'Suspect's Rights Form' (SRF) reflecting the latest legal situation was in use in the three Provinces visited. However, many detained persons claimed they had been informed of their rights only some time after having been brought to the detention facility, often after an initial 'informal' questioning session. It was also clear that a copy of the signed SRF was frequently not given to detained persons, despite the requirement in the Regulation on Apprehension that this be done." **[13a] (paragraph 24)**

11.18 The European Commission 2008 Progress report stated that "The rights of detainees are protected by a comprehensive set of safeguards which serve to prevent cases of torture and ill-treatment in custody. This includes medical examinations of detainees in police custody. Efforts are ongoing to ensure compliance with these provisions." **[71d] (p13)**

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MISTREATMENT IN DETENTION

11.19 The European Commission 2008 Progress report, published 5 November 2008, added that "Overall, there have been limited efforts as regards the prevention of torture and ill-treatment. A comprehensive set of safeguards is in place. However, allegations of torture and illtreatment during detention or outside official places of detention are a cause for concern. The efforts to prevent torture and ill-treatment need to be enhanced. The ratification of the OPCAT and the fight against impunity are key in this context." **[71d] (p14)**

11.20 The EC 2008 Progress report also noted that "However, the number of applications to NGOs in relation to cases of torture and ill-treatment has increased, in particular outside official places of detention, notably during apprehension, transfer, or in the open with no detention registered.

Furthermore, there are cases where the legal safeguards in place failed to prevent or stop the occurrence of torture and ill-treatment while in custody or in prison. These developments are a matter of concern." **[71d] (p13)**

11.21 The Report of the UK Border Agency Fact Finding Mission (UKBA FFM) 11 – 20 February 2008 includes general information on Arrest, Detention and Mistreatment obtained from interviews with a number of sources. According to a 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. **[59] (S9.3)**

See Section 12 – Prison Conditions

11.22 Mr Firat the Director of EU Affairs at the Justice Ministry told the UKBA FFM 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. **[59] (S10.4)**

11.23 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 that there might be some allegations of assault in detention centres, but such cases would be immediately investigated and punished. **[59] (S10.7)**

11. 24 Mr Hüsnü Öndül - Chairman of the Human Rights Association (İnsan Hakları Derneği 'İHD') told the UKBA FFM 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 Öndül estimated that about 3-4 cases might have been the subject of these forms of mistreatment. **[59] (S4.3)**

11.25 When asked about the nature of the mistreatment individuals experienced in detention or in prison at the hands of police officials, Mr Öndül 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 Öndül also said that police officials carried out various methods of mistreatment towards individuals of different sexual persuasions, such as transsexuals. **[59] (S4.4)**

11.26 In terms of trends in the incidents of mistreatment and locations where it took place, Mr Öndül 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. **[59] [S4.5]**

11.27 Mr Öndül said that 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. **[59] (S4.7)**

11.28 In Mr Öndül'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. **[59] (S4.10)**

11.29 Mr Beyter, Chairman of Mazlum Der told the UKBA FFM 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. **[59] (S5.6)**

11.30 The UN report 'Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, 2008' published 18 February 2008, stated that:

"According to non-governmental sources, the use of audio- and video-taping equipment (and CCTV) in all areas of detention centres would be an important safeguard. However, in several cases reported to NGOs, the police have maintained that video or CCTV records were unavailable in the room where the alleged torture or ill-treatment occurred. In the case of the fatal shooting in police custody of Nigerian asylum seeker Festus Okey in Istanbul on 7 September 2007, the police insist that there were no cameras in the room where the incident occurred. The Government informed that the trial of the police officer, who has been accused of murdering Festus Okey, is ongoing at the 7th Criminal Court of First Instance of Beyoğlu (Registry No. 2007/308)." **[20c] (p137)**

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11.31 The Amnesty International 2007 report noted that "There were continued reports of torture and illtreatment 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." **[12c]**

See section 8 – Security Forces

LEGISLATION (FRAMEWORK AND IMPLEMENTATION) TO PREVENT MISTREATMENT IN PRISONS AND DETENTION

11.32 The Report of the UK Border Agency Fact Finding Mission (UKBA FFM) to Turkey 11 – 20 February 2008, notes that 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. **[59] (1)**

11.33 A government circular issued to Provincial governors regarding the application of the 'zero tolerance' 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." **[59] (21) (Translation)**

11.34 The Grand National Assembly's Commission for Inspection of Human Rights published their 2009 Inspection report which noted that:

"Turkey is a signatory of the Universal Declaration of Human Rights adopted on 10 December 1948 by the United Nations General Assembly, the Convention for the Protection of Human Rights and Fundamental Freedoms, dated 4 November 1950 and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, dated 10 February 1984. Turkey has also signed up to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment dated 26 November 1987." **[117] (p 6-7)**

See section Mistreatment in Detention 11.19

Relevant Provisions in Law

11.35 The 2009 Inspection report also noted that:

> "Provisions within the Constitution of the Republic of Turkey Protecting Individual's Right to Life, Not to Be Subjected to Torture and Right to Personal Liberty and Security.
> **Article 17** of our Constitution headed Personal Inviolability, Material and Spiritual Entity of the Individual provides the following:
> "Everyone has the right to life and the right to protect and develop his material and spiritual entity. Individual's bodily integrity cannot be infringed nor can he be subjected to medical experiments save for medical necessities and situations permitted by law. No one can be subjected to torture or ill treatment. No one can be subjected to a punishment or other treatment that is not compatible with human dignity.
> **Article 19** of our Constitution headed Personal Liberty and Security of the Individual provides the following: "Everyone has the right to liberty and security of person. No one shall be deprived of his or her liberty except in the following cases where procedure and conditions are prescribed by law." **[117] (p2)**

11.36 The 2009 Inspection report also noted that:

> "The arrest or detention of a person shall be notified to next of kin immediately. Persons under detention shall have the right to request trial within a reasonable time or to be released during investigation or prosecution. Persons deprived of their liberty under any circumstances are entitled to apply to the appropriate judicial authority for speedy conclusion of proceedings regarding their situation and for their release if the restriction placed upon them is not lawful. Damage suffered by persons subjected to treatment contrary to the above provisions shall be compensated by the State." **[117] (p3-4)**

11.37 The 2009 Inspection report also noted that "Provisions of the Turkish Penal Code relating to the offences of torture and ill treatment Article 94 of the Turkish Penal Code states; [1] Any civil servant who inflicts on a person such treatment that is inhuman and causes that person to feel physical and mental pain and adversely effect that person's ability to execute his free will and makes him feel humiliated will be punished with a term of imprisonment between three and twelve years." **[117]**

11.38 Mr Öndül 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. **[59] (S4.2)**

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GOVERNMENT AND OTHER INITIATIVES TO PREVENT MISTREATMENT IN PRISONS AND DETENTION

11.39 The Grand National Assembly's Commission for Inspection of Human Rights decided to carry out unannounced inspections of police stations following media allegations and reports of torture and ill treatment. The Inspection report published in 2009 stated that:

"The aims of the inspections are to forward the awareness that formed among enforcers as well as the general public as a direct result of the 'zero tolerance for torture' policies of the governments and to determine ways in which to prevent such violations of human rights and measures that need to be taken to that end." **[117]**

11.40 The 2009 Inspection report further stated during the inspection that:

"The Commission examined the room and cells monitored by the MOBESE at the Provincial Police Headquarters. It was stated and observed that there were mobile apparatuses for the Mobile Police Station system at 120 police stations in Istanbul. Examination was conducted of the MOBESE system, which is in operation in 39 boroughs of the province of Istanbul, and which permits [police] to monitor the streets and roads using the cameras located in particular sites in boroughs… It was stated and observed that there are 29 cells in the ground floor of the Provincial Police Headquarters and that these cells are observed and monitored 24 hours a day by camera, and that care was taken to ensure there were no blind spots… Fingerprinting procedures are carried out in the scene-of- incident examination room." **[117] (p26-27)**

11.41 The 2009 Inspection report also further noted that "Men and women are not placed in the same location in the cells. There are separate cells for each sex, and there is [are] even a sufficient number of cells to accommodate people of a third gender, and these people are kept separately in the cells… The interior of the cells and the people held in the cells are monitored by camera but also with the naked eye. The interior is sound insulated. Only officers and lawyers are permitted to enter the detention area, and even relatives are not permitted to enter… During the course of the examination, no instruments of torture were discovered in the police station, the storage area or annexes thereto." **[117] (p27-28)**

11.42 Mr Sedat Ozcan, of the Human Rights Division of the General Security Directorate, told the UKBA FFM 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. **[59] (S16.3)**

11.43 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. **[59] (S16.8)**

11.44 The European Commission 2008, published 5 November 2008, reported that: "in urban areas most detainees have access to a lawyer immediately after detention. In rural areas, however, in particular in the south-east of the country, there have been cases where defendants have not had access to a lawyer on terms equivalent to those in urban areas. In courts, professional interpretation in languages other than Turkish remains an issue of concern." **[71d] (p70)**

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12 PRISON CONDITIONS

12.01 The UN, Report of the Working Group on Arbitrary Detention Addendum 2007 published 7 February 2007, 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." **[20b]**

12.02 The International Centre for Prison Studies' Prison Brief for Turkey (website information last modified on 30 July 2008), stated that in 2007 the number of establishments / institutions was 458. The official capacity of prison system was 90,558 (April 2008) while the occupancy level was 105.5 per cent (April 2008). The total prison population (including pre-trial detainees/remand prisoners) totalled 95,551 (April 2008 Ministry of Justice) with female prisoners at 3.4 per cent (March 2008). **[78]**

12.03 The EC 2008 Progress report also noted that "The physical infrastructure of prisons continued to improve. Twelve new prisons have been completed and a further 22 new prisons are under construction… The total number of prisoners is 95,551 for a total prison capacity of 90,558. Prisons in big cities are especially faced with the problem of overcrowding. Implementation of the circular on high-security F-type prisons has failed to remedy the shortcomings as regards communal activities for inmates. Proper implementation of the circular depends on increasing the numbers and training of staff, and making more rooms available for the activities of different groups of prisoners." **[71d] (p14-15)**

12.04 The EC 2008 Progress report also added that "Provisions allowing solitary confinement of persons sentenced to aggravated life imprisonment remain in force. In its 2006 report on Turkey, the Council of Europe Committee for the Prevention of Torture indicated that such rules need to be applied for as short a time as possible and must be based on an individual risk assessment of the prisoner concerned. Cases of ill-treatment by prison staff have been reported, but few lawsuits have been launched to probe these allegations." **[71d] (p15)**

12.05 The Amnesty International 2008 report covering events from January to December 2007, noted that "Harsh and arbitrary punishments continued to be reported in 'F-type' prisons. A circular published in January granting greater rights to prisoners to associate with one another remained largely unimplemented. Some prisoners were held in solitary confinement and small-group isolation. Widespread protests called for an end to the solitary confinement of PKK leader Abdullah Öcalan, and for an investigation into his treatment." **[12e] (Prison conditions)**

12.06 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"Prison conditions generally improved during the year but facilities remained inadequate. Underfunding, overcrowding, and insufficient staff training were problems…On March 25, Ahmet Ersin, a member of parliament from Izmir and member of the 'parliament's Human Rights' Committee, complained to the press about overcrowding in Turkish prisons. Ersin gave the example of 'Izmir's Buca Prison, which had a capacity of 1,300 but housed 2,500 prisoners…According to the medical association, there were insufficient doctors, and psychologists were available only at some of the largest prisons. Several inmates claimed they were denied appropriate medical treatment for serious illness.

"Despite the existence of separate juvenile facilities, at times juveniles and adults were held in adjacent wards with mutual access. Observers reported that detainees and convicts occasionally were held together. Occasionally inmates convicted for nonviolent, speech-related offenses were held in high-security prisons." **[5g] (Section 1c)**

12.07 Amnesty International published an article on 20 October 2008, reporting that:

"The Turkish Minister of Justice has accepted the responsibility of the state in the case of Engin Çeber who died after being held at the Metris Prison in Istanbul. In the statement, Mehmet Ali Şahin apologized to the man's relatives. Twenty-nine-year-old Engin Çeber was arrested along with others on 28 September… Engin Çeber was alleged to have been stripped naked, kicked and beaten repeatedly with wooden truncheons during the course of his detention in police detention and prison custody. His lawyer said that he was transferred to hospital on 7 October due to the injuries he had sustained. He died from his injuries in the afternoon of 10 October." **[12g]**

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E AND F-TYPE PRISONS

12.08 It was noted by the Canadian Immigration and Refugee Board (IRB) in 'Turkey: Prison conditions and the treatment of prisoners in civilian and F-type prisons, including the prevalence of torture and the state response to it', dated 7 June 2007, that:

"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 (ibid.). Various sources note that conditions in Turkish prisons have been improving, although there are areas that remain inadequate. According to the European Union (EU), the lack of communal activities, problems regarding prisoner-staff interaction, limited medical and psychological care and the high prisoner-to-cell ratio are the principle areas of concern. The Human Rights Association of

Turkey (IHD) recorded a total of 2,764 violations of human rights in Turkish prisons, including:

- 44 violations of rights of health
- 491 arbitrary and ill-treatments
- 88 violations of sending to medical
- 615 violations of right of communication
- 1 preventing meetings with lawyers
- 1,525 disciplinary punishments, including 57 cell punishments, 588 bans on family interviews; 391 prohibitions on publishing; and 489 prohibitions on social activities. (IHD, 27 Feb. 2007)." **[7r]**

12.09 The same IRB, dated 7 June 2007, further stated that "F-type prisons were created in 2000 by the Turkish government to house prisoners in cells alone or with only two fellow inmates. The F-type prison was a response to the frequent prison mutinies and hostage situations that characterized previous housing arrangements in which dozens of prisoners were kept in the same cell (ibid.). There are an estimated 2,000 convicts held in F-type prisons in Turkey today." **[7r]**

12.10 It also noted that "F-type prisons have received criticism from human rights organizations, and a number of activists have called for their abolition. According to the Turkish Medical Association (TTB), the Union of Turkish Bars (TBB) and the Association of Engineers and Architects (TMMOB), F-type prisons are geared to break prisoners psychologically through isolation. Since 20 October 2000, some 122 prisoners in F-type prisons have died from hunger strikes they were leading in protest of their treatment. The EU has complained that solitary confinement for prisoners sentenced to aggravated life imprisonment is too extensive. In addition, the CPT's delegation formed an overall positive impression of the quality of the staff assigned to the above-mentioned F-type establishments, although it found that interactions between prison staff and inmates could be improved." **[7r]**

12.11 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey from 7 - 14 December 2005 and their report, issued on 6 September 2006, noted that:

"In contrast to all the other prisons visited in December 2005, the delegation heard numerous allegations of the ill-treatment by staff of inmates at Adana E-type Prison. These allegations emanated from both prisoners at the establishment and from persons who had previously been held there. The ill-treatment alleged related for the most part to slaps, punches and kicks, as well as verbal abuse; however, some allegations of falaka [beating the soles of the feet] were also received. NGO representatives met by the delegation in Adana, including members of the Bar Association, also expressed concern about the situation in the E-type Prison. The general picture that emerged was of an establishment in which a very strict code of behaviour was enforced, with any breach – no matter how minor – likely to meet with physical chastisement. Such methods are unacceptable; any prisoner considered to display disobedience should be dealt with only in accordance with prescribed disciplinary procedures. Moreover, Adana E-type Prison was grossly overcrowded at the time of the December 2005 visit, with some 950 prisoners for a capacity of 450. To give an

example of the practical effects of this situation, in one unit the delegation found 22 prisoners sharing an upstairs dormitory of some 24, ten of them sleeping on the floor on mattresses." **[13a] (paragraph 41)**

12.12 The CPT September 2006 report noted that:

"The CPT has never made any criticism of material conditions of detention in F-type prisons, and the facts found during this most recent visit confirmed that they are of a good standard. However, the Committee has repeatedly stressed the need to develop communal activities for prisoners outside their living units; it is unfortunately very clear from the information gathered in December 2005 that the situation in this regard remains highly unsatisfactory. In each of the three F-type prisons visited, the considerable potential of the facilities for activities was far from being fully exploited. a state of affairs openly acknowledged by the staff of the establishments. Admittedly, the continuing reluctance on the part of most prisoners to make use of the workshops was largely responsible for the gross underuse of these particular facilities. However, the very limited possibilities for association (conversation) periods and sport - activities in which an increasing number of prisoners wished to engage - must have another explanation." **[13a] (paragraph 43)**

12.13 The CPT September 2006 further noted that:

"According to the relevant regulations prisoners who so wish, can be brought together in groups of up to ten persons for five hours conversation per week. However, this already modest amount of association time was far from being offered in Adana (or elsewhere). Prisoners, in groups of up to nine, had five to six one hour conversation sessions per month. As for sport, prisoners wishing to take part in this activity were being offered four sessions per month (two in the gym and two in the outdoor sports facility).The Prison Director indicated that access to sport would amount to some two hours per week; however, from the activity programmes seen by the delegation, most of the sessions lasted one hour. In contrast, those few prisoners (about a dozen) who went to the two workshops which were operating spent a considerable amount of time engaged in the activities concerned. Those going to the pottery workshop had access to it for up to 10 hours per week, and prisoners attending the drawing workshop could spend there up to 25 hours a week. The only other regular weekly out-of-unit activities consisted of family visits (one hour), and telephone calls (10 minutes). Apparently, no prisoners requested to go to the library, a state of affairs which the CPT finds difficult to comprehend. To sum up, a typical prisoner in Adana F-type Prison would spend at best scarcely 5 hours a week outside his living unit." **[13a] (paragraph 44)**

12.14 The CPT 2006 report further stated that:

"The situation in Tekirdağ F-type Prison No 1 was rather similar, though the groups of prisoners taking part in association and sport tended to be smaller than in Adana. Workshop activity was greater than at Adana, with more than 50 prisoners attending six workshops; certain of these prisoners spent up to 30 hours per week in the workshop concerned. A small number of prisoners

attended religious classes on a weekly basis, and access to the library was apparently possible, also on a weekly basis…" **[13a] (paragraph 45)**

12.15 The CPT 2006 continued:

"The Director of each of the F-type prisons visited argued that the limited number of staff at their disposal was a major obstacle in developing activities. The need to keep so many prisoners separate from others for their 'life security' was another inhibiting factor. The CPT does not underestimate these difficulties (though as regards staff resources it remains to be seen whether the problem relates to numbers or is rather one of the manner of deployment of the existing resources). However, the Committee is also convinced that one of the underlying causes of the present situation is a continuing failure on the part of the prison authorities to display a sufficiently proactive, enterprising approach vis-à-vis this subject. The situation observed to date by the CPT in F-type prisons amounts to a missed opportunity. Capable of being rightly regarded as a model form of penitentiary establishment, they currently remain open to the accusation of perpetuating a system of small-group isolation…"
[13a] (paragraph 47)

12.16 The CPT 2006 report also elucidated that:

"In the same way as during previous visits to Turkey, the information gathered during the December 2005 visit revealed serious problems related to the availability of health-care resources in prisons and the training provided to doctors called upon to work in such establishments. After having been vacant for some nine months, the post of prison doctor at Tekirdağ F-type Prison No 1 had finally been filled a few weeks before the CPT's visit. However, the doctor concerned had only graduated from medical school in the summer of 2005. At Tekirdağ F-type Prison No 2, the post of prison doctor had been vacant for six months. To fill the gap, doctors came on temporary rotation from the local State Hospital Emergency Department, the doctor in the establishment at the time of the delegation's visit having been there for three weeks." **[13a] (Paragraph 55)**

12.17 The CPT also clarified that:

"Healthcare services were if anything even more poorly resourced at other prisons to which the delegation went during the visit. For example, at Adana E-Type Prison, there was only one doctor for almost 1,000 prisoners, and at Bayrampaşa Closed Prison only three doctors for more than 3,000 prisoners. As for Van M-type Prison (an establishment accommodating 275 prisoners at the time of the visit, but which had held more than 400 in the recent past), it had been without a full-time doctor for almost two years. Responding to an appeal from the Prison Director, the former prison doctor (who had resigned from the prison service) attended the establishment twice a week." **[13a] (paragraph 55)**

12.18 The CPT 2006 further stated that:

"In Tekirdağ F-type Prisons No 1 and 2, the delegation encountered a small number of prisoners who had been placed in single cells on psychiatric grounds. None of them were receiving the care required by their state of health. In this connection it should be noted that neither of the doctors assigned to the

establishments had any competence or experience in treating psychiatric disorders, and there were no consultations at the prisons by visiting psychiatrists. The delegation formed the view that the mental state of at least one of the prisoners concerned – held in a single cell in an otherwise completely empty block at Tekirdağ F-type Prison No. 2 – was such that he should be placed in a secure psychiatric establishment." **[13a] (paragraph 52)**

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MILITARY PRISONS

12.19 As noted by the Canadian Immigration and Refugee Board in 'Turkey: Conditions in military prisons', dated June 2003:

"Information on Turkish military prisons is scarce and limited to scattered references often lacking in details about the prisons and the conditions in them. The Research Directorate was able to find references in publicly available documents to a few military prisons located across Turkey. Mamak Military Prison in Ankara, Mamak Military Prison in Eskisehir, Mamak Military Prison in Adana, Diyarbakir Military Prison, Umraniye Military Prison in Istanbul, Military Prison in Izmir, Edirne Military Prison, Metris Military Prison in Istanbul, Maltepe Military Prison in Istanbul, Davutpasa Military Prison, Davutpasa Military Prison in Izmir, Edirne Military Prison, Hasdal Military Prison, Gelibolu Military Prison, Kartal Military Prison in Istanbul and Selimiye Military Prison." **[7g]**

12.20 As noted by the Canadian Immigration and Refugee Board in 'Turkey: Treatment of prisoners and conditions in military prisons', dated 29 May 2007:

"In July 2005, a soldier named Murat Polat died of injuries he sustained at a military prison in Adana at the hands of 29 military officers. The 20-year old soldier was allegedly tortured and beaten by dozens of officers and conscripts in the prison, where he was serving a sentence for desertion and theft." **[7h]**

MONITORING OF PRISON CONDITIONS

12.21 The EC 2008 Progress report, published 5 November 2008, noted that "The Human Rights Presidency, lacks independence and resources. The Law on the establishment of the ombudsman is still before the Constitutional Court following the veto by the President of the Republic in November 2006. The Constitutional Court ordered a stay of execution of the Law, but has yet to give its verdict." **[71d] (p68)**

12.22 The Human Rights Presidency 2007 report on Human Rights, published 2 July 2008, noted that:

"Punishment execution institutions and prisons are inspected by 'Councils of Punishment Execution Institution and Prison Monitoring' which include representatives of civil society organizations. Law about Change in the Law of

Councils of Monitoring Punishment Execution Institutions and Prisons dated 20.11.2007 and numbered 5712 was published in Official Newspaper dated 04.12.2007 and numbered 2670 and invoked. With this new law, number of members in these monitoring councils were increased from five to five principal and three backup members. It is compulsory that one of the principal members is selected from women. Concrete activities are carried out for elimination of deficiencies identified by these Councils. Declaration of the reports of these Councils to the public is necessary in order to achieve transparency." **[79] (p31)**

12.23 The same Human Rights Presidency 2007 report also noted that "Prisons are also visited by delegations gathered by Province and Sub-Province Human Rights Boards. These visits are allowed in some provinces, whereas they are not in others. These visits should be allowed in all provinces, which is a necessity of the democratic state and the transparency principle. Regulation should be reviewed if necessary." **[79] (p31)**

12.24 The Human Rights Presidency 2007 report also noted that "According to the arrangement sent to all Province and Sub-province Human Rights Councils of Turkey by the Prime Ministry Human Rights Presidency…these delegations carry out visits to these detentions centers, with or without notice, every month and prepare reports after these visits. These reports are sent to Prime Ministry Human Rights Presidency every 3 months. Detention Centers within the General Command of Gendarmerie that were out of standards were closed and standard temporary prisons of sub-provinces and centers were started to be used instead of these. Among 2456 temporary prisons within this Command, 1638 were brought into standards, and studies for bringing others into standards also are being continued." **[79] (p32)**

12.25 The same Presidency 2007 report also noted that "trainings [sic] for other personnel like prison employees were held. These activities are considered positive for achieving universal standards about human rights." **[79] (p30)**

12.26 The United States Department of State (USSD) 2007 report, published 11 March 2008, noted that:

"The government has permitted prison visits by representatives of some international organizations, such as the European Committee to Prevent Torture and the CPT, though it was unclear at 'year's end the extent to which such visits occurred during the year. The CPT reported on its Web site that it performed an ad hoc visit in May to visit Imrali Island, where PKK leader Abdullah Ocalan was detained, and visited psychiatric facilities in 2006. Domestic NGOs did not have access to prisons. Domestic human rights organizations and activists reported that prison monitoring boards composed of government officials and private individuals were ineffective." **[5g] (Section 1c)**

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13 DEATH PENALTY

13.01 The Hands Off Cain website,access 7 January 2009 recorded that: "The death penalty has been fully abolished by a package of constitutional and legislative amendments. Constitutional amendments of May 7, 2004 removed all reference to the death penalty from the Constitution. In addition, legislative amendments of July 21, 2004 abolished the death penalty in all circumstances. On November 12, 2003, Turkey ratified Protocol No. 6 to the European Convention on Human Rights (ECHR), concerning the abolition of the death penalty in peacetime. In addition, Turkey signed Protocol No. 13 to the ECHR on January 9, 2004 and the Second Optional Protocol to the ICCPR on April 6, 2004. On October 6, 2005, Turkey's Parliament passed the Protocol No. 13 to the ECHR, concerning the abolition of the death penalty in all circumstances." **[41]**

13.02 As outlined in the May-June 2005 issue of Newspot (published on the website of the Office of the Prime Minister, Directorate General of Press and Information) in an article on the new Turkish Penal Code: "The new Turkish penal code went into effect on June 1 [2005], along with the penal procedures and the law on the execution of sentences. The new penal code changes the duration and number of penalties in certain cases…Terrorist Abdullah Öcalan and similar criminals will remain in prison indefinitely." **[36d]**

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14 POLITICAL AFFILIATION

FREEDOM OF POLITICAL EXPRESSION

14.01 The European Commission 2008 Progress report, published 5 November 2008, stated that:

"On 14 March 2008 the Chief Public Prosecutor applied to the Constitutional Court for the governing AK party to be dissolved and for 71 former and present party officials, including the President of the Republic and the Prime Minister, to be banned from being member of a political party for five years. The charges brought against the party alleged that it was a focal point for anti-secular activities. On 30 July, the Constitutional Court fell short of the required majority to close down the party, but considered that the latter had carried out activities against the secular principles of the Republic. It thus ordered that 50% of the government funds due in 2008 be cut off." **[71d] (p6)**

14.02 The EC 2008 Progress report also stated that:

"Pursuant to Articles 68 and 69 of the Constitution and to the relevant provisions of the Law on political parties, on 16 November 2007 the Chief Public Prosecutor at the Court of Cassation applied to the Constitutional Court for closure of the Democratic Society Party (DTP). He also requested that 221 former and present members of the party be banned from being member of a political party for five years. The party is accused of engaging in activities against the unity and integrity of the country. This case is pending before the Constitutional Court." **[71d] (p6)**

14.03 The Human Rights Watch (HRW) World 2008 report published 14 January 2009 also noted that "Turkey's chief prosecutor launched a case in March to close down the ruling party on the grounds that it engaged in unconstitutional anti-secular activities, citing statements by the AKP leadership and the government's attempt in February, by parliamentary vote, to lift the constitutional ban on wearing the headscarf at university campuses." **[9e]**

14.04 The same HRW 2008 World report further noted that "The European Union and Council of Europe warned that closure of the party on the basis of the evidence presented would be a major blow to democracy. It would also have violated freedom of expression, association, and the right to political participation. The court ruled on July 30 that the AKP had engaged in anti-secular activity, but fell one vote short of closing the party; the penalty imposed instead was to cut its treasury funding." **[9e]**

14.05 The United States Department of State (USSD) 2007 report, published 11 March 2008, noted that:

"The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. However, the government restricted the activities of a few political parties and leaders. The

2007 parliamentary elections were held under election laws that the Organization for Security and Cooperation in Europe (OSCE) found established a framework for democratic elections in line with international standards. The law requires a party receive at least 10 percent of the valid votes cast nationwide to enter parliament." **[5g] (Section 3 Right of Citizens to Change their Government)**

14.06 The OSCE's Office for Democratic Institutions and Human Rights (OSCE / ODIHR) in an assessment report for the Turkish parliamentary elections which took place on 22 July 2007, noted that:

"The overall conduct of the elections represents a notable achievement against a background of political tensions which arose in the spring of 2007, following the failure by parliament to elect a new president. The elections demonstrated the resilience of the election process in Turkey, characterized by pluralism and a high level of public confidence…The registration of political parties and independent candidates was generally inclusive, offering voters a wide and genuine choice. Parties had sufficient ability to convey their messages to the voters, although the campaign took place in a polarised atmosphere.

"Turkey has a comprehensive legal framework for elections, conducive overall to the delivery of a democratic process. However, political campaigning, and in a broader context freedom of expression, are constrained by a number of restrictions in the Penal Code, Law on Political Parties, and media laws which create the potential for uncertainty and scope for arbitrary interpretation." **[14a] (Executive Summary)**

14.07 The same OCSE report also noted that:

"Additionally, aspects of the legislation could be reviewed in order to enhance transparency and ensure equitable conditions for all election contestants…The 10 percent threshold for political party representation in the allocation of seats in the TGNA is unusually high and remains the highest in the OSCE region. The OSCE/ODIHR noted the positive efforts made to enhance the participation of Turkish citizens of Kurdish origin in political life. Legislation, however, continues to prohibit the use of languages other than Turkish in the election campaign." **[14a] (Executive Summary)**

14.08 The OCSE report further noted that "Political parties eligible for seat allocation are those which are registered to contest the election and which receive at least 10 percent of the valid votes cast nationwide. The size of the threshold in Turkey is unusually high and is the highest in the OSCE region. Candidates may compete as individuals and are not subject to the 10 percent threshold." **[14a]**

See also paragraph 19:22 Pro-Kurdish Political Parties

14.09 The European Commission 2008 Progress report, published 5 November 2008, noted that "Overall, with the amendment of Article 301 there has been some progress in the efforts to strengthen the safeguards for freedom of expression, which is a priority of the Accession Partnership. However, only a consistent

track record of implementation will show whether or not the revised article is adequate." **[71d] (p16)**

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FREEDOM OF ASSOCIATION AND ASSEMBLY

14.10 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"The law provides for freedom of association; however, there continued to be several restrictions on this right in practice. Under the law, associations need not notify authorities before founding an association, but still must provide such notification before interacting with international organizations, and/or receiving financial support from abroad, and provide detailed documents on such activities. Representatives of associations said this placed an undue burden on their operations." **[5g] (Section 2b)**

14.11 The USSD 2007 report also noted that "Foreign associations wishing to conduct programs in the country were required to submit detailed reports to the government on each activity, despite the fact that local partners were required to report on the same projects. According to the Third Sector Foundation of Turkey, an NGO advocacy organization, the criteria for NGOs to obtain public benefit status, entitling them to certain tax exemptions, were restrictive and complicated. Applications for public benefit status must be approved by the Council of Ministers. The law does not allow applicants to appeal if their petitions are rejected. Unlike the previous year no organizations were closed by the government or courts." **[5g] (Section 2b)**

14.12 The EC 2008 Progress report also noted that:

"As regards freedom of assembly and association, including the right to form political parties and the right to establish trade unions, the legal framework for freedom of assembly is broadly in line with European standards. However, banned demonstrations have sometimes resulted in use of excessive force against demonstrators. The legal framework for freedom of association improved with the adoption of the amendments to the Law on foundations in February 2008. However, the obligations imposed by the Law on associations to notify the authorities before receiving financial support from abroad and to provide detailed documents on such support continue to place a burden on associations." **[71d] (p69)**

14.13 The USSD 2007 report also noted that: "Members of the Judges and Prosecutors' Union (YarSav) faced legal pressure to close down the organization. The organization at various times criticized the Ministry of Justice for selecting employees based on their personal beliefs. On August 17, Ankara Governor Kemal Onal applied to the Ankara chief prosecutor and Council of State to dissolve the organization because it allegedly violated the constitution and the Law on Associations. The Council of State denied the request. At 'year's end the organization continued to operate." **[5g] (Section 2b)**

14.14 As noted in the Human Rights Watch (HRW) 2008 World Report, published 14 January 2009:

"Critical and open debate increased, even as restrictions on free speech continue. In May the government made what amount to cosmetic amendments to article 301 of the 2005 Penal Code criminalizing statements that 'publicly denigrate Turkishness' or state institutions, following intense pressure from the European Union. While the Ministry of Justice must now grant permission for investigations under article 301, in a number of cases it did so in 2008." **[9e]**

14.15 The IHD (Human Rights Association) 2007 Summary Sheet on Human Rights Violations in Turkey recorded that 34 meetings and demonstrations were intervened by security forces; 29 investigations were opened against 638 people and 17 cases were opened in 2007 against 353 people. 16 cases opened before 2007 against 359 were postponed to 2008. In 5 concluded cases, 111 people were sentenced to 170 years and 3 months imprisonment, fines totalled 9879 YTL and cases against 49 people were dropped. **[73b] (Violations against freedom of meeting and demonstration)**

14.16 As noted by the Canadian Immigration and Refugee Board in 'Turkey: Situation and treatment of members, supporters and sympathizers of the Democratic Society Party', dated 7 June 2007:

"Amnesty International (AI) reports that in October 2006 a trial began involving 56 mayors belonging to the DTP, who were accused by the Turkish government of supporting the PKK after they had sent a letter to the Danish Prime Minister requesting that the Denmark-based Kurdish television station, Roj TV, not be shut down (AI 2007; EurasiaNet 4 May 2007). As of April 2007, the trial was ongoing, and the convicted mayors could expect up to 15 years' imprisonment if convicted (Anadolu Agency 4 Apr. 2007; RSF 9 Apr. 2007; AFP 6 Apr. 2007). Further information could not be found among the sources consulted by the IRB." **[7i]**

14.17 The Minority Rights Group International (MRG) report on 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that:

"The amendments made to the Law on Associations in November 2004 lifted many of the restrictions on the freedom of association. Most importantly, the establishment of associations is no longer subject to prior authorization. The reforms also created more space for minorities to exercise their freedom of association, inter alia by setting up associations to develop their culture. Following these reforms, some minorities, such as Roma, Caucasians and Assyrians, have set up such associations. Associations are allowed to use minority languages in non-official correspondence. However, the law retains a ban on the establishment of associations to realize purposes prohibited under the Constitution. The over-inclusive reading of this principle by Turkish prosecutors and judges in the past has resulted in the inclusion among prohibited purposes, inter alia, of the advocacy of peaceful solutions to the Kurdish problem." **[57c] (p23)**

14.18 The MRG 2007 report also stated that "Indeed, on 21 August 2007, MuratÖztürk, President of the Ağrı branch of the pro-Kurdish Democratic Society Party (Demokratik Toplum Partisi-DTP) was convicted to one year imprisonment under Article 7(2) of the anti-terror law for a speech he made inthe Newroz celebrations on 21 March 2007." **[57c] (p23)**

14.19 The above MRG 2007 report also stated that:

"Kurdish politicians face continuing prosecutions for their activities. In February and March 2007, a series of arrests, searches, seizures and prosecutions have been launched against leaders of the DTP, the latest of successive pro-Kurdish political parties. On 18 February, İbrahim Sungur and Abdulvahap Turan, President of the Van branch and member of the DTP respectively, were arrested for making propaganda for the PKK during a police raid on the party headquarters in Van. On 23 February, Hilmi Aydoğdu, the President of the Diyarbakır branch, was arrested on the basis that he violated Article 216 by allegedly stating in an interview that his party would 'consider any future attack on Kerkuk [in Iraq] as an attack on Diyarbakır'." **[57c] (p27)**

14.20 The MRG 2007 report further noted that:

"The ban against the use of minority languages has resulted in frequent prosecutions against individuals for speaking Kurdish. The former president and 12 executives of the pro-Kurdish Party for Rights and Liberties (Hak ve Özgürlükler Partisi, HAK-PAR) were sentenced in February 2007 to six months to one year in prison for making speeches in Kurdish during their party congress and sending invitations in Kurdish to the President, Prime Minister and the President of the Parliament. The court also decided to call on the prosecutor to file a case for the dissolution of the party. A similar case for the formal closure of the Democratic People's Party (Demokratik Halk Partisi, DEHAP) is pending before the Constitutional Court." **[57c] (p27)**

See also Section 19 Ethnic Groups

14.21 The Freedom House report 'Countries at the Crossroads 2007', stated that:

"Turkish laws establish a framework for democratic elections generally in line with international standards, although with certain restrictions. A party can be shut down if its program is not in agreement with the constitution, and this can be widely interpreted to include support for Kurdish insurgents and opposition to state pillars such as secularism and the military. Restrictions are used to target certain groups. While even small gatherings can face difficulties, the most extreme example is the Kurdish Democratic 'People's Party (DEHAP), which is accused of being the political arm of the Kurdistan Workers' Party (PKK) – recently renamed Kongra-Gel and considered a terrorist organization by the Turkish government as well as by the EU and the United States. DEHAP has faced continual legal battles and arrests. Still, DEHAP does not represent the interests of most Kurds, who, when living outside the southeast, are generally more integrated and participate in mainstream politics." **[62c] (Accountability and Public Voice)**

See also Section 5 - Constitution of the Republic of Turkey, Articles 68 - Forming Parties, Membership and Withdrawal from Membership in a Party.

14.22 The EC 2008 Progress report further noted that:

"There has been some progress on strengthening the safeguards for freedom of expression in Turkey. In April, Parliament adopted amendments to Article 301 of the Criminal Code that, among other things, introduce a requirement for permission from the Ministry of Justice to launch a criminal investigation. However, the legal restrictions on freedom of expression remain a cause for concern. Efforts need to be enhanced and consolidated with a view to ensuring full respect of freedom of expression, in law and in practice, in line with the ECHR and the case law of the ECtHR." **[71d] (p69)**

See section 10.13 – Constitutional Court

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15 FREEDOM OF SPEECH AND MEDIA

15.01 The European Commission 2008 Progress report, published 5 November 2008, stated that:

"In April, the Turkish parliament adopted amendments to Article 301 of the Turkish Criminal Code with the intention of strengthening the safeguards for freedom of expression in Turkey. The amendments changed the wording of the article 9, lowered the upper limit of the penalty and abolished the higher penalty for insults in a foreign country. Furthermore, the amendments introduce a requirement for permission to be obtained from the Justice Minister in order to launch a criminal investigation. A circular on implementation of the amended article was issued on 9 May 2008." **[71d] (p15)**

15.02 Reporters without Borders in an article 'Freedom of expression still in danger in Turkey despite article 301 reform', published on 5 May 2008, noted that: "Amendments to a law punishing insults to Turkish identity which the Turkish parliament adopted on 30 April are 'cosmetic and insufficient,' Reporters without Borders said today. Furthermore, this reform concerns only article 301. Any real improvement in freedom of expression in Turkey would have to include a thorough overhaul of all the laws and regulations that restrict it. The limited nature of this reform highlights the size of the problem that free speech poses to the Turkish authorities." **[11d]**

15.03 The Reporters without Borders article further noted that "According to justice minister Mehmet Ali Sahin, 1,189 people were taken before a court in the first quarter of 2007 alone for article 301 violations. Nobel prize-winning novelist Orhan Pamuk and Armenian-Turkish newspaper editor Hrant Dink, who was murdered by ultranationalists in Istanbul on 19 January 2007, were among those prosecuted under the article." **[11d]**

15.04 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"The law provides for freedom of speech and of the press; however, the government continued to limit these freedoms in occasional cases. The government intimidated journalists into practicing self-censorship. The government, particularly the police and judiciary, limited freedom of expression through the use of constitutional restrictions and numerous laws, including articles of the penal code prohibiting insults to the government the state, 'Turkishness' Ataturk, or the institutions and symbols of the republic. Other laws, such as the Anti terror Law and laws governing the press and elections also restricted speech." **[5g] (Section 2a)**

15.05 The IHD (Human Rights Association) 2007 Summary Table on Human Rights Violations in Turkey recorded that 11 people were tried under section 159 of the Turkish Penal Code and section 301 of the new Turkish Penal Code in 24 cases. Under article 125 on insult there are 10 people showing as being tried and under article 215 on praise a crime or a criminal a total number of 43 cases were opened in 2007. A total of 39 cases under article 215 were opened before

2007 and continue in this period. **[73b] (Investigations against those who expressed their opinions)**

15.06 In the year 2008, Turkey ranked 106 (out of 195 countries) in the Freedom House Table of Global Press Freedom Rankings and the status of its press was considered 'partly free'. **[62b]** In the Reporters without Borders (RSF) 'Worldwide Press Freedom Index 2008', the ranking of Turkey in 2008 was 103 out of 173 countries (ranging from one for the most free to 173 for the least free). The previous ranking for Turkey in 2007 was 101 out of 169. **[11a]**

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JOURNALISTS

15.07 The *Bianet* article, published 1 December 2008, noted that: "According to the report published by the Media Monitoring Desk of the Independent Communications Network (BIA) for the period of July-August-September 2008, total of 116 people, 77 of whom are journalists, were prosecuted in the 73 freedom of expression cases. The 32 page long report presents the violations under the following headings: 'Attacks and Threats', 'Custodies and arrests', 'Cases and Attempts', 'Arrangements and seeking of rights', 'European Court of Human Rights', 'Reactions to censorship and monopolizations', and 'RTÜK Implementations'." **[102h]**

15.08 The *Bianet* article 'Turkish Journalist Faces Threats in Belgium for Writing against Nationalist Remarks', published 12 December 2008, noted that "Belgian authorities were forced to put journalist Doğan Özgüden under protection because of the violence and lynch threats he found himself facing due to the publications he made in his site against the nationalist comments of Vecdi Gönül, the Minister of National Defense… Özgüden had announced at his site İnfo-turk.be National Defense Minister Vecdi Gönül's praise of the forced deportation of the Greeks and Armenians right around the time of the formation of the Turkish national state in the 1920s." **[102c]**

15.09 In another article posted by *Bianet*, published 11 December 2008, it was reported that "Temel Demirer, who is on trial under article 301 of the Penal Code (TCK) because of the permission granted by Mehmet Ali Şahin, Minister of Justice, said the minister was distorting his words. Demirer is accused of 'denigrating the Turkish Republic' and 'inciting to hatred and hostility' for saying that Hrant Dink was not only killed for being an Armenian, but for recognizing the genocide as well.

"The Justice Minister had claimed that Demirer's words were inviting everyone to commit crime against the state by calling the state murderer, having a negative influence on people." **[102g]**

15.10 Reporters without Borders (RSF) posted an article 'Thirteen year jail term requested for provincial newspaper editor who accused prosecutor of bias' on 2 December 2008, stating that:

"Reporters without Borders deplore the 13-year prison sentence which a prosecutor in Gerger, in the southeastern province of Adiyaman, requested on 2 December for Haci Bogatekin, the owner and editor of the local fortnightly Gerger Firat, for an article accusing another local prosecutor of bias. A four-and-a-half-year sentence was also requested for the editor of a website that posted the article.

"Bogatekin's 2 December court appearance was the seventh time he has gone before a judge in Gerger in this case, in which he is charged with trying to influence the course of a trial and with insulting and defaming Sadullah Ovacikli, a local prosecutor." **[11b]**

15.11 Reporters without Borders (RSF) in their 2008 annual report also noted that:

"The EU's annual progress report on Turkey's application to join the EU said very serious efforts were still needed to improve freedom of expression. Justice Minister Mehmet Ali Sahin said on 6 November the government would amend article 301 and that the cabinet would give priority to proposals based on calls from civil society groups. Prime Minister Erdogan made similar promises a year earlier." **[11c]**

15.12 The Committee to Protect Journalists (CPJ) in their 2007 report 'Attacks on the Press in 2007 – Turkey' noted that "In the last 15 years, 18 other Turkish journalists have been killed for their work, many of them murdered, making it the eighth-deadliest country in the world for journalists, CPJ research shows. The last killing was in 1999. More recently, journalists, academics, and others have been subjected to pervasive legal harassment for statements that allegedly insult the Turkish identity, CPJ research shows." **[15a]**

15.13 The same CPJ 2007 report also noted that: "In July 2006, 'Turkey's High Court of Appeals upheld a six-month suspended prison sentence against Dink for violating Article 301 of the penal code in a case sparked by complaints from nationalist activists. His prosecution stemmed from a series of articles in early 2004 dealing with the collective memory of the Armenian massacres of 1915-17 under the Ottoman Empire. Armenians call the killings the first genocide of the 20th century, a term that Turkey rejects." **[15a]**

15.14 The European Commission 2008 Progress report, published 5 November 2008, noted that "Overall, with the amendment of Article 301 there has been some progress in the efforts to strengthen the safeguards for freedom of expression, which is a priority of the Accession Partnership. However, only a consistent track record of implementation will show whether or not the revised article is adequate." **[71d] (p16)**

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PRINT MEDIA

15.15 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"Turkey had an active print media independent of state control. There were hundreds of private newspapers that spanned the political spectrum… Most media were owned by large, private holding companies that had a wide range of outside business interests; the concentration of media ownership influenced the content of reporting and limited the scope of debate. Observers noted that media conglomerates increasingly used media as a tool to build pressure against government policies." **[5g] (Section 2a)**

15.16 The USSD 2007 report noted that:

"Prosecutors harassed writers, journalists, and political figures by bringing dozens of cases to court each year under various laws that restrict media freedom; however, judges dismissed many of these charges. Police harassed and beat journalists during at least one demonstration. Authorities ordered raids of newspaper offices, closed newspapers temporarily, issued fines, or confiscated newspapers for violating speech codes. Despite government restrictions, the media criticized government leaders and policies daily and in many cases adopted an adversarial role with respect to the government." **[5g] (Section 2a)**

THE HIGH BOARD OF RADIO AND TELEVISION (RTÜK)

15.17 The United States Department of State (USSD) 2007 report, published 11 March 2008, noted that:

"The government owned and operated the Turkish Radio and Television Corporation (TRT). According to the High Board of Radio and Television (RTUK), there were 213 local, 16 regional, and 23 national officially registered television stations and 952 local, 102 regional, and 36 national radio stations. Other television and radio stations broadcast without an official license. The wide availability of satellite dishes and cable television allowed access to foreign broadcasts, including several Kurdish-language private channels." **[5g] (Section 2a)**

15.18 The USSD 2007 report noted that:

"The government maintained significant restrictions on the use of Kurdish and other minority languages in radio and television broadcasts. RTUK regulations limited minority-language news broadcasts to 45 minutes per day, with no time restrictions for minority-language cultural shows or films. RTUK regulations required non-Turkish-language radio programs be followed by the same program in Turkish and that non-Turkish-language television programs have Turkish subtitles. Start-up Kurdish broadcasters reported that these were onerous financial obligations that prevented their entry into the market. The

state-owned TRT broadcasting company provided limited national programming in Kurdish and three other minority languages." **[5g] (Section 2a)**

See section 19 – Kurdish Language

15.19 The European Commission 2008 Progress report, published 5 November 2008, recorded that "Following the June 2008 amendments to the relevant Law, TRT - the public service broadcaster - is allowed to broadcast nationally all day long in languages other than Turkish. Since 2004 this has only been possible for half a day. An appeal against the Law is pending before the Constitutional Court. Furthermore, a new local radio channel, Muş FM, has received authorisation to broadcast in Kurdish. However, the launching of a channel broadcasting in languages other than Turkish has been delayed on several occasions." **[71d] (p25-26)**

15.20 The EC 2008 progress report also noted that "Some progress can be reported, the Turkish Grand National Assembly amended the Turkish Radio and Television Corporation (TRT) Law allowing broadcasts in languages other than Turkish (See Political criteria). RTÜK promoted selfregulation by broadcasters and enhanced its administrative capacity to fulfil its monitoring duties. Since August 2008, RTÜK decisions are accessible to the public." **[71d] (p50)**

15.21 The EC 2008 Progress report further added that: "The Law on the establishment of radio and television broadcasts still poses problems in terms of non-discrimination on the grounds of nationality, definitions, jurisdiction, freedom of reception and retransmission, major events, promotion of European and independent works and administration of the broadcasting sector, RTÜK has not reallocated frequencies or reviewed temporary licences. RTÜK established a regular dialogue with the broadcasters and enhanced the transparency of its decisions. However, further measures are needed in order to strengthen the functionality of the regulator." **[71d] (p50-51)**

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INTERNET

15.22 The United States Department of State (USSD) 2007 report, published 11 March 2008, stated that "Limitations on freedom of expression expanded to the Internet, as Turkish courts on several occasions ordered telecommunications providers to block access to Web sites… The Internet was widely available in the country. It is used in schools, libraries, private internet cafes and other public locations, and the government encouraged its use." **[5g] (Section 2a)**

15.23 The European Commission 2008 Progress report, published 5 November 2008, stated that "Some progress can be reported in the field of electronic communications and information technologies. As of June 2008, the total number of fixed subscribers is around 18 million with a penetration rate of roughly 25%. The total number of mobile subscribers reached to 63.6 million

with a penetration rate of 90%. The number of Internet subscribers reached to approximately 5.4 million, 5.3 million of which are broadband (ADSL) subscribers." **[71d] (p 50)**

15.24 The EC 2008 Prgress report also noted that "Turkey continued its alignment by introducing new regulations on access and interconnection based on the 2002 EU framework, on operators with significant market power (SMP) on the reference interconnection offer (RIO)… However, the Electronic Communications Law which would provide the basis for alignment with the EU framework did not enter into force after its adoption by the Parliament. The Turkish President vetoed four articles on the administrative and financial conditions for the regulatory authority and the draft is back in Parliament for discussion." **[71d] (p50)**

15.25 The Freedom House report 'Freedom of the press 2007' noted that: "An estimated 13 percent of the Turkish population was able to access the internet in 2005, and the government refrains from restricting the internet beyond the same censorship policies that it applies to other media." **[62e]**

15.26 The Freedom House, Countries at the Crossroads, Turkey – 2007 noted that "Internet freedom can also be affected; a court ordered Turkey's main internet provider to ban access to video-sharing website YouTube in March as a result of a video making fun of Ataturk. A draft bill on internet crimes would ban access to Turkish websites with content related to crimes defined under the new anti-terror law (see section 'Rule of Law')." **[62c]**

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16 HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

OVERVIEW

16.01 The European Commission 2008 Progress report, published 5 November 2008, noted that: "There have been no developments on the institutions monitoring and promoting human rights, such as the Human Rights Presidency, which lack independence and resources. The Law on the establishment of the ombudsman is still before the Constitutional Court following the veto by the President of the Republic in November 2006. The Constitutional Court ordered a stay of execution of the Law, but has yet to give its verdict. Finally, Turkey has given no firm commitment on participation in the Fundamental Rights Agency." **[71d] (p68)**

16.02 The EC 2008 report further noted that: "During the reporting period, the European Court of Human Rights (ECtHR) delivered a total of 266 judgments finding that Turkey had violated the ECHR. Similarly to last year, the total number of new applications to the ECtHR continued to increase, with 3,705 applications during the reporting period. The majority of these new applications concerned the right to a fair trial and protection of property rights. Few of them concerned violations of the right to life or torture and ill-treatment." **[71d] (p11)**

16.03 The EC 2008 Progress report further noted that: "Turkey abided by the final judgment of the ECtHR in the majority of cases. However, a considerable number of ECtHR judgments are awaiting enforcement by Turkey. This is sometimes because general legislative measures are required. For instance, the legal provision preventing the re-opening of domestic proceedings in certain circumstances following a judgment by the ECtHR remains in force." **[71d] (p12)**

16.04 The US State Department (USSD) report 2007, published on 11 March 2008, reported that:

"A number of domestic and international human rights groups operated in many regions but faced government obstruction and restrictive laws regarding their operations, particularly in the southeast. Government officials were generally uncooperative and unresponsive to their views. Human rights organizations and monitors, as well as lawyers and doctors involved in documenting human rights violations, continued to face detention, prosecution, intimidation, harassment, and formal closure orders for their legitimate activities. Human rights organizations reported that official human rights mechanisms did not function consistently and failed to address grave violations." **[5g] (Section 4)**

16.05 The USSD 2007 also added that: "The Human Rights Association (HRA) had 34 branches nationwide and claimed a membership of approximately 14,000. The HRA reported that prosecutors opened dozens of cases against HRA branches during the year. The HRF, established by the HRA, operated torture rehabilitation centers in Ankara, Izmir, Istanbul, Diyarbakir, and Adana and served as a clearing house for human rights information. Other domestic NGOs included the Istanbul-based Helsinki Citizens Assembly, the Ankara-based

Turkish Democracy Foundation, the Turkish Medical Association, human rights centers at a number of universities, and Mazlum-Der." **[5g] (Section 4)**

16.06 The USSD 2007 report further noted that:

"In January the Istanbul 'governor's office, with no prior notice, froze three of the bank accounts of Amnesty 'International's (AI's) Turkey branch, worth approximately $62,600 (75,000 lira). In May AI filed civil cases against two local government authorities, the Beyoglu district 'governor's office and the Istanbul 'governor's office, for failing to respond to 'AI's administrative queries related to the seizure. On May 30, the Beyoglu district 'governor's office issued a decision that AI had participated in 'unauthorized fund raising.' The decision did not specify what AI actions violated the law. In a June 22 public statement, AI stated that it does not seek or accept money from governments or political parties for its work but that its funding depends on the contributions of its worldwide membership and fundraising activities, including street fundraising or 'face-to-face' activities. The statement noted AI feared the incident could have been 'a tactic of government harassment intended to impede legitimate fundraising activities.' At 'year's end AI had not received an official explanation as to what activities violated the law, and the civil case continued." **[5g] (Section 4)**

16.07 The Human Rights Watch July 2007 Human Rights Concerns in the Lead up to July Parliamentary Elections report stated that: "On July 11, human rights defender Eren Keskin received a one-year sentence converted to a fine (US$3,400) under article 301. Çerkezköy Penal Court of First Instance convicted her for a speech made on February 20, 2005, at an event organized by the Çerkezköy district headquarters of the Kurdish party DEHAP during which Keskin had referred to Turkey's dirty history and used the word Kurdistan." **[9f]**

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HUMAN RIGHTS ADVISORY BOARD (IHDK), HUMAN RIGHTS PRESIDENCY AND HUMAN RIGHTS BOARDS AND COUNCILS

16.08 The European Commission 2008 report, published 5 November 2008, noted that "Several State-sponsored bodies have the task of ensuring the promotion and enforcement of human rights. These include the Human Rights Presidency under the Prime Minister's office and the Human Rights Boards (931 in all). The latter have the task of visiting places of detention and State-sponsored social services." **[71d] (p12)**

16.09 Freedom House, in their report Countries at the Crossroads Turkey – 2007 noted that:

"Many of the EU harmonization reforms that Turkey has passed since 2001 have been specifically geared toward protection of civil liberties, including increased minority and 'women's rights, broadened freedom of association and

religion, stronger measures to protect against and prosecute torture, and a more democratic penal code. Moreover, the government is watching implementation closely. It has set up rights-monitoring boards to receive complaints and conduct independent monitoring of police stations to help prevent torture. A Parliamentary Human Rights Investigation Committee now investigates abuses, and police, judges, and public prosecutors receive human rights training. Long-term detention has been effectively curbed by reforms. Turkey ratified a European Convention protocol abolishing the death penalty in February 2006. Nevertheless, problems remain, particularly (although not entirely) with implementation." **[62c]**

16.10 In correspondence from the Foreign and Commonwealth Office, dated 5 February 2007, it was noted that:

"Membership of the Human Advisory Board consists of academics, civil society, public sector organisations, representatives of professional organisations. The Board reports directly to the Minister for Human Rights (Gul). Their role as expert advisory committee to assist the government in its implementation of reforms. The Human Rights Boards/Councils membership consist of the 850 county level boards reporting to 81 provincial boards. They are responsble in turn to the Presidency. Each has at least 16 members, including at least 3 associations or foundations, representatives of local government, local press, trade unions, chambers of commerce, doctors, bar association, universities, political parties (only those represented in Parliament), and provincial general assembly. Their role is to provide an organised structure of semi-independent bodies to research, document and champion human rights abuses at a local level. The boards feed into the human rights presidency and use the same application form" **[4c]**

16.11 The *Turkish Daily News* of 7 January 2007 reported that:

"An advisory board established to give civil society a say in efforts to improve human rights has not been called for a meeting since October 2004. The 27-month-long break of the Human Rights Advisory Board (İHDK) has been questioned by former members of the board, while sources close to the Prime 'Ministry's Human Rights Presidency (BİHB) -- the body to which the board is attached -- offered the 'board's 'clumsy structure,' consisting as it does of 94 members, as a reason for not convening a meeting... According to the former head of the board, legal specialist Professor İbrahim Kaboğlu, who resigned in February 2005, 'The absence of a call for a meeting merely, and unfortunately, displays the insincerity of the government as well as its superficiality regarding the issue of human rights'." **[23b]**

16.12 The European Commission 2008 report recorded that "The Human Rights Advisory Board – a body representing NGOs, experts and ministries – has not been operating since the publication of a report on minority rights in October 2004." **[71d] (p12)**

16.13 Information obtained from correspondence on 5 February 2007 from the Foreign and Commonwealth Offices in Ankara regarding the Human Rights Presidency and Human Rights Boards / Councils stated that:

"Membership: The Presidency is a civil service department.
"Role: The Presidency reports directly to the deputy permanent undersecretary equivalent at the Prime Ministry, but is indirectly under the authority of the Minister for Human Rights. It is established by the Article 2 of law (no. 4643) and has a number of responsibilities:

"To co-ordinate the work of public bodies on human rights issues
"To follow and assess developments in human rights, ensuring that Turkey is in line with international standards
"To co-ordinate and assess pre-service internments on human rights issues and in-service human rights training for govt departments
"To investigate human rights abuses (it has a standard application form for investigation), assess and advise on preventative measures
"To act as the secretariat within the prime ministry for other groups/councils working on similar issues (e.g. the advisory board)." **[4c]**

16.14 The Human Rights Presidency website's 'Statistics concerning applications on human rights violation claims: (2004-2007)' stated that:

"Province and sub-province boards entitled 'Implementation Barometrical' have restructured in order to provide services to all citizens. Thus, Boards consist of NGO's representatives rather than state personals. [sic] In other words, in accordance with current structure, just 2 members are state personnel out of min 16.

NGO's representatives who work for boards are as follows:
- Minimum 3 associations and foundations carry out activities in human rights.
- Demarche's representative
- Local press representatives
- Trade Union' representatives
- Chamber of commerce and industry' representative
- Chamber of MD's representative
- Bar' representative
- University' representative
- Political parties who have group in Parliament.
- Province General Council' representative
- Mayor

"In 2004, 2005, 2006 and 2007 a total of 4516 persons have applied to the Human Rights Presidency of the Prime Ministry (1773) and the Provincial (2595) and Sub-provincial (148) Human Rights Councils throughout Turkey. As an individual may claim the violation of more than one right, the number of rights claimed to be violated amount to 6787." **[79a]**

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REFORM MONITORING GROUP

16.15 As confirmed by the British Embassy in Ankara on 5 February 2007, the membership of the (EU) Reform Monitoring Group consists of senior officials and ministers from the Prime Ministry and key government departments. The role of the Reform Monitoring Group oversees the passage of all reforms relating to the EU Accession Process, including the planning and timetabling of such reforms. Its role is therefore much broader than human rights, but it does oversee the passage and implementation of human rights related legislation. **[4c]**

16.16 The Turkish Industrialists' and Businessmen's Association (TUSIAD) report 'Turkey in Focus 2004' noted that "In September 2003, AKP leaders launched the Reform Monitoring Group, comprised of Foreign, Justice and Interior Ministers. The monitoring group is designed to ensure the implementation of new laws and regulations concerning human rights and civil liberties. The Reform Monitoring Group, in addition to the newly established European Union Communications Group, regularly informs the embassies of the EU member countries of Turkey's progress in implementing key reforms." **[26a]**

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PARLIAMENTARY HUMAN RIGHTS COMMISSION AND PARLIAMENTARY HUMAN RIGHTS INVESTIGATION COMMITTEE

16.17 A letter dated 5 February 2007 from the British Embassy in Ankara noted that the Parliamentary Human Rights Commission (PHRC) is comprised of MPs only. The PHRC's role is to oversee all aspects of human rights in Turkey, including petitions to Parliament on human rights issues, and Turkey's response to international human rights issues (e.g. the bombing of Lebanon, invasion of Iraq). In addition to its scrutiny role, it carries out research visits abroad and in Turkey, makes visits to prisons and police stations, etc. **[4c]**

16.18 The United States Department of State (USSD) 2007 report, published 11 March 2008, recorded that: "The parliamentary Human Rights Committee, which has a mandate to oversee compliance with the human rights provisions of domestic law and international agreements, investigated alleged abuses, prepared reports, and carried out detention center inspections. Human rights organizations reported that the purely advisory role limited its efficacy. On October 2, the committee sent a multiparty delegation to Sirnak Province in southeastern Turkey to investigate the September 29 [2007] attack on a minibus that resulted in the deaths of 12 Turkish citizens. The government had claimed PKK terrorists were responsible, but the DTP questioned that immediate assumption. On October 19, the committee adopted the 'delegation's conclusion that the PKK carried out the attack. DTP MP Akin Birdal expressed reservations about the conclusion." **[5g] (Section 4)**

MINISTRY OF INTERIOR'S INVESTIGATION OFFICE

16.19 A letter from the British Embassy in Ankara, dated 5 February 2007, noted that the Ministry of Interior's Investigation Office was made up of Civil Servants and

their role was to deal specifically with the investigation of allegations against the police. Anyone can make a complaint via the on-line application form. **[4c]**

16.20 The European Commission 2005 report recorded that:

"The Ministry of Interior's Investigation Office, which was established in February 2004, has received 1,003 complaints of human rights abuses from the public. These complaints are assessed by inspectors, who follow them up with the relevant authorities within the ministry at local or central level. Most complaints received have been made against the police. To date, on only one occasion has a complaint led to disciplinary action being taken against a public official. This Office has also carried out inspections of a number of the provincial police disciplinary boards and has inspected detention procedures and places of detention in 26 provinces." **[71b] (p21)**

See section 8 – Security Forces

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PRISON INSPECTION COMMITTEES AND PRISON MONITORING BOARD

16.21 A letter from the British Embassy in Ankara, dated 5 February 2007, noted that the Prison Inspection Committees and Prison Monitoring Board membership is also set up by law. Their remit does not include military prisons. Each has 5 members, serving a 4 year term. Members must be over the age of 35 and professionally qualified in fields such as law, medicine, psychology, education etc. They cannot be members of a political party. They observe prison conditions, regimes, internal security etc in situ and write reports at least every 3 months which goes to the Justice Ministry and the Parliamentary Human Rights Commission. **[4c]**

16.22 The European Commission 2008 report also recorded that "Greater transparency was introduced to the operations of the Penal Institutions and Detention Houses Monitoring Boards. These boards carry out regular visits to prisons and the findings of their reports are now publicly accessible. Furthermore, the Law provides for the publication of an annual report on the activities of the Penal Institutions and Detention Houses Monitoring Boards. However, the national framework for prison monitoring falls short of the requirements of the OPCAT." **[71d] (p14)**

See section 12 – Prison conditions

THE GENDARMES INVESTIGATION AND EVALUATION CENTRE FOR HUMAN RIGHTS ABUSE ISSUES (JIHIDEM)

16.23 As noted on the JIHIDEM website (updated on 15 August 2008):

"Recently human rights has become a very important issue in Turkey, as in other countries… The Gendarmerie Human Rights Violations' Investigation and Evaluation Center (JIHIDEM) has been founded to investigate and evaluate complaints and applications about the allegations of human rights violations taking place in the Gendarmerie area of responsibility or while carrying out the duties related to Gendarmerie. This is to investigate any allegation about human rights violation, commence a judicial or administrative inspection in case that the allegations are true, inform of applicants about the results or developments of the procedures and ensure that the public will be notified about the current developments." **[104] (The Aim of the JIHIDEM)**

16.24 The JIHIDEM website (updated on 15 August 2008) further stated that in their Human Rights 'Violations' Investigation and Evaluation Centre:

"The main mission is to receive complaints and applications about human rights violations forwarded to JIHIDEM by means of various ways (telephone, fax, mail, petition, personal application etc). To evaluate whether or not the complaints and applications received are within the scope of human rights violations. To investigate allegations, and to initiate judicial and administrative investigations in accordance with legal procedures. Furthermore to reply complaints and applications after investigation and to prepare reports about the replies given to the complaints and applications and statistical information about those replies and finally inform the public about activities of JIHIDEM." **[104] (The Mission of the JIHIDEM)**

16.25 The JIHIDEM website further added that "Applications can be made directly in person or by telephone, mail, petition, fax, and internet." **[104] (Application Ways)**

See section 8 – Security forces

16.26 According to information on human rights monitoring provided by the Turkish Embassy in London in August 2004, "The Gendarmes Investigation and Evaluation Centre for Human Rights Abuse Issues (JIHIDEM) became operational on 26 April 2003 within the Gendarmes General Command Headquarters and operating on a 24 hour basis in order to systematically deal with or answer complaints regarding human rights abuse issues that might arise whilst gendarmes are fulfilling their duties." **[60a] (p10)**

16.27 According to the information from the Turkish Embassy:

"Within a year of its establishment JIHIDEM received 221 applications of which 65 were deemed to be within the human rights abuse definition of JIHIDEM, 73 were not within its definition and were directly related to Gendarmes' actions and that 83 were not related to Gendarmes at all. Among the 65 applications that were investigated 19 were for ill treatment, 16 were for ill treatment/unjust custody, 12 for non-effective investigation, 6 for unjust custody, 5 for being pressurised to withdraw complaints, 3 for torture, 2 for not abiding with a suspect's custody rights, 1 for the abuse of a person's right to life and 1 for the abuse of a person's private life." **[60a] (p11)**

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EUROPEAN COURT OF HUMAN RIGHTS (ECTHR)

16.28 The European Commission 2008 Progress report, published 5 November 2008, recorded that:

"During the reporting period, the European Court of Human Rights (ECtHR) delivered a total of 266 judgments finding that Turkey had violated the ECHR. Similarly to last year, the total number of new applications to the ECtHR continued to increase, with 3,705 applications during the reporting period. The majority of these new applications concerned the right to a fair trial and protection of property rights. Few of them concerned violations of the right to life or torture and ill-treatment. Turkey abided by the final judgment of the ECtHR in the majority of cases. However, a considerable number of ECtHR judgments are awaiting enforcement by Turkey." **[71d] (p11-12)**

16.29 The EC 2008 Progress report also recorded that:

"This is sometimes because general legislative measures are required. For instance, the legal provision preventing the re-opening of domestic proceedings in certain circumstances following a judgment by the ECtHR remains in force. The Committee of Ministers of the Council of Europe indicated that continuation of this situation amounts to a manifest breach of Turkey's obligation under the ECHR. Furthermore, Turkey has not adopted legal measures to prevent repetitive prosecution and conviction of conscientious objectors." **[71d] (p12)**

16.30 The EC 2008 progress report further noted that:

"Overall, Turkey has continued to make progress on the execution of ECtHR judgments. However, further efforts are needed in this context. Furthermore, there has been no progress on ratification of international human rights instruments, including in particular OPCAT." **[71d] (p12)**

16.31 In a *Bianet* article published 20 March 2008, it was noted that "Turkey has been sentenced to paying 1,000YTL compensation in an appeal brought by two human rights activists from the Izmir branch of IHD. Considering the case brought by Ecevit Piroglu and Mihriban Karakaya, representatives from the Izmir branch of the Human Rights Association (IHD), the European Court of Human Rights (ECHR) has decreed that Turkey did not respect the right to defense, attempted to close the IHD branch without any justification, and violated the right to the freedom of expression." **[102w]**

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17 CORRUPTION

17.01 Transparency International ranked Turkey 58th out of the 180 countries (ranging from the least corrupt, ranked one to the most corrupt, ranked 180) in its Corruption Perception Index for 2008. Turkey obtained a score of 4.6 in 2008 and 4.1 in 2007 – an improvement from the 3.8 in 2006. **[55a]**

See also Section 7: Introduction

17.02 The Freedom House report 'Countries at the Crossroads, Turkey – 2007' noted that:

"Turkey continues to struggle with substantial corruption in government and in daily life. The AKP rose to power, despite (or perhaps because of) being relatively unknown, in part due to the corruption and economic mismanagement of previous governments. Turkey has signed a series of international corruption conventions; the UN Convention against Corruption entered into force in June 2006. However, the 'AKP's commitment to fighting corruption has been cast in doubt by lack of follow-through. Perhaps even more so than with other reforms, the anticorruption framework has not translated into individuals changing their behavior, although with time it may have more significant effects... Upon taking office the AKP instituted an urgent action plan that included anticorruption measures. However, although it formed a ministerial committee closely connected to the government, it never established a single, independent anticorruption committee, nor has the draft anticorruption law been passed." **[62c]**

17.03 The European Commission 2008 Progress report, published 5 November 2008, noted that:

"Turkey has implemented one third of the recommendations made in Group of States against Corruption (GRECO) 2005 joint first and second round evaluation report. It has made efforts to ensure practical implementation of the existing anti-corruption legislation, inter alia by enhancing training on corruption detection and investigation for law enforcement officers, establishing guidelines on seizure and confiscation and developing systems for monitoring the impact of anti-corruption measures. However, the Government failed to prepare a comprehensive anti-corruption strategy. Policy making in this field has not received adequate political support." **[71d] (p10)**

17.04 The EC 2008 progress report also noted that: "several of GRECO's most important recommendations have not been addressed, such as the recommendation to entrust an oversight body, involving civil society, with the responsibility of overseeing implementation of national anti-corruption strategies and of proposing new strategies. Corruption incidents, involving in particular real estate agencies, local government and universities, were frequently reported by the media. As a result, law enforcement agencies have conducted a series of high-profile corruption investigations in various agencies." **[71d] (p11)**

17.05 The EC 2008 Progress report further noted that: "There has been no progress on limiting the immunity of Members of Parliament and there is no legislation in place on election campaign financing. The European Court of Human Rights noted in a ruling that that no objective criteria had been set to define the conditions under which immunity could be lifted. No progress has been made regarding new legislation on the Court of Auditors. There has been no progress on strengthening Parliamentary oversight over public expenditure." **[71d] (p11)**

17.06 The EC 2008 report also stated that: "Overall, there has been limited progress in the area of anti-corruption. Corruption remains a widespread issue. There has been limited progress towards strengthening the legal framework and institutional set-up to fight corruption. The continuing absence of an overall strategy, action plan and coordination mechanism is a cause for continuing concern in this area. Turkey needs to develop a track record of investigations, prosecutions and indictments of allegations of corruption." **[71d] (p11)**

17.07 The USSD report 2007 reported that: "The law provides criminal penalties for official corruption; however the government did not implement the law effectively, and officials engaged in corrupt practices with impunity. The World Bank Worldwide Governance Indicators reflected that corruption was a problem." **[5g] (Section 3)**

17.08 The USSD 2007 report also noted that:

"On May 10, a Turkish military court sentenced General Erdem Erdagi to 11 months and 25 days in prison for misusing his authority by accepting a bribe for the award of a military construction tender during his command in 2002-04 of the 8th Corps in Elazig. The sentence, the first for an active-duty officer, was five days short of the 12-month sentence that would trigger dismissal from the military. General Erdagi was charged together with a number of lower-ranking officers during a crackdown on corruption in 2003 and 2004 that led to the 2006 conviction of former naval admirals Ilhami Erdil and Aydin Gurul. Both officers filed appeals. In July 2006 the military court of appeals approved the verdict on Erdil but, based on health reasons, execution of the punishment was postponed. However, on July 3, authorities imprisoned Erdil." **[5g] (Section 3)**

17.09 The USSD 2007 report further noted that "Opposition party members criticized the ruling AKP for refusing to lift the immunity of AKP parliamentarians suspected of corruption and other abuses. Government officials are required by law to declare their property every five years. The law provides for public access to government information; however, the government occasionally rejected applications on national security and other grounds, and there were no opportunities to appeal. Human Rights Foundation (HRF) reported that four of its five requests for information from the Ministries of Justice and Interior and the Statistics Institute were denied." **[5g] (Section 3)**

See section 30 – Forged and Frauduently obtained official documents

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18 FREEDOM OF RELIGION

OVERVIEW

18.01 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"The constitution and laws provide for freedom of religion, and the government generally respected this right in practice; however, the government imposed significant restrictions on Muslim and other religious groups.

"The constitution establishes the country as a secular state and provides for freedom of belief, freedom of worship, and the private dissemination of religious ideas; however, other constitutional provisions regarding the integrity and existence of the secular state restrict these rights.

"The government oversees Muslim religious facilities and education through its Directorate of Religious Affairs (Diyanet), which is under the authority of the Prime Ministry. The Diyanet regulates the operation of the 'country's 77,777 registered mosques and employs local and provincial imams, who are civil servants. A few groups, particularly Alevis, claimed that the Diyanet reflected mainstream Sunni Islamic beliefs to the exclusion of other beliefs; however, the government asserted that the Diyanet treated equally all who request services." **[5g]**

18.02 The USSD 2007 report noted that: "the law protects only three officially recognized minorities-–Armenian Orthodox Christians, Jews, and Greek Orthodox Christians-–and not the vast number of other ethnic and religious minorities, including Alevis, Ezidis, Assyrians, Kurds, Caferis, Caucasians, Laz, and Roma. The report stated that these excluded minorities were prohibited from fully exercising their linguistic, religious, and cultural rights." **[5g]**

18.03 The Minority Rights Group International (MRG) report on 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that:

"The Constitution guarantees equal protection before the law, irrespective of 'philosophical belief, religion and sect'. It also enumerates secularism among the fundamental characteristics of the republic. However, there are a few constitutional provisions which infringe on religious freedom and go against the principle of secularism. Religion classes at primary and secondary schools are compulsory. Article 42 requires this education to be conducted under the 'supervision and control of the state'. Article 136 provides constitutional protection to the Diyanet, which follows the Sunni Hanefi version of Islam... The Treaty of Lausanne protects the religious freedom of non-Muslim minorities and grants them the right to have religious education and instruction.184 In practice, however, this protection is restricted to Rums, Armenians and Jews only, leaving out other non-Muslim minorities." **[57c] (p19)**

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18.04 The same MRG 2007 report also noted that: "The ban on the training of clergy, the absence of operative Christian theological schools, and the citizenship criterion imposed on clergy eligible to provide religious services in Turkey creates a shortage of priests. Currently, there are only 31 Rum Orthodox priests providing services in 90 churches. The Rum Orthodox theological seminary in the island of Heybeliada (Halki) remains closed." **[57c] (p20)**

18.05 The MRG 2007 report further added that: "The Alevi-Bektaşi Federation has also resorted to courts in cooperation with a number of national and international Alevi organizations in support of a petition filed with the ECtHR by an Alevi parent arguing that compulsory religious instruction violates Article 9 of the ECHR. In its first decision on these classes, the ECtHR found there had been a violation of the right to education under Article 2 of the 1st Protocol to the ECHR." **[57c] (p20)**

18.06 The 2007 MRG report also recorded that: "Another step taken with the stated purpose of protecting the religious freedom of Muslim minorities has been the abolition in April 2006 of the mandatory indication of religion in ID cards, which enables citizens to petition the registry office to have no reference to their religious affiliation in their IDs. However, the state continues to ask citizens to declare their religion." **[57c] (p20)**

18.07 The Freedom House report 'Countries at the Crossroads, Turkey – 2007' also noted that: "Although their rights are generally respected, freedom of religion is difficult for non-Muslims. Moreover, there are many other groups that likewise do not belong to the dominant Sunni Muslim sect and that have less protection. Other Christian and Muslim sects – including Alevis, who practice a combination of Islam and pre-Islamic religion – as well as mystical religious-social orders, have no legal status, and some of their activities are banned." **[62c]**

18.08 The USSD 2008 report on Religious Freedom published 19, September 2008 further reported that:

"The Constitution establishes compulsory religious and moral instruction in primary and secondary schools. Religious minorities are exempted; however, a few religious minorities--such as Protestants--faced difficulty obtaining exemptions, particularly if their identification cards did not list a religion other than Islam. The Government claims that the religion courses cover the range of world religions, but religious minorities asserted the courses reflect Hanafi Sunni Islamic doctrine." **[5e] (Section II)**

18.09 The European Commission 2008 Progress report, published 5 November 2008, further noted that:

"Attacks against non-Muslim clergy and places of worship have been reported in a number of provinces. Missionaries continue to be portrayed and/or perceived as a threat to the integrity of the country and to the Muslim religion. The Turkish Alliance of Protestant Churches submitted a report to Parliament's Human Rights Committee on the state of religious minorities in Turkey. This report pointed out that non-Muslim groups in the country had been the targets

of attacks, provided a list of such incidents and noted that no suspects had been arrested. Implementation of the Ministry of Interior circular of 19 June 2007 on freedom of religion of non-Muslim Turkish citizens has not yet had the desired effects." **[71d] (p19)**

18.10 The European Commission 2008 report also noted that"The court case on the killing of three Protestants in Malatya in April 2007 continued. A leading defence lawyer was provided with protection after receiving threats. A limited number of court decisions have ruled against use of threats or insults against representatives of non- Muslim minorities." **[71d] (p18)**

18.11 The EC 2008 report further noted that:

"Non-Muslim communities – as organised structures of religious groups – still face problems due to lack of legal personality. Restrictions on the training of clergy remain. Turkish legislation does not provide for private higher religious education for these communities and there are no such opportunities in the public education system. The Halki (Heybeliada) Greek Orthodox seminary remains closed. There have been reports of foreign clergy who wish to work in Turkey facing difficulties in obtaining work permits. The Ecumenical Patriarch is not free to use the ecclesiastical title Ecumenical on all occasions. In January 2008, Prime Minister Erdogan declared that use of the title 'ecumenical' should not be a matter on which the State should rule." **[71d] (p19)**

18.12 The European Commission 2008 report also noted that:

"As regards the Alevis, the government announced an initiative aimed at improving dialogue with this community and addressing its concerns. In what was noted as a first decision of its kind in the country, a municipal council recognised a Cem house as a place of worship and applied mosque tariffs to its water charges. However, the government's initiative has not been followed through. Overall, Alevis continue to face the same problems as before, in particular as regards education and places of worship. This has led an AKP Alevi MP to resign from the position of Advisor to the Prime Minister on Alevi issues." **[71d] (p18)**

18.13 The EC 2008 report further stated that: "Overall, there has been some progress, in particular as regards adoption of the Law on foundations. However, the implementation of the Law, together with the resolution of the outstanding property-related issues regarding non-Muslim minorities remains a challenge." **[71d] (p19)**

See also Section 18.19 on Alevis

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HEADSCARVES

18.14 The USSD 2008 report on International Religious Freedom – Turkey, published 19 September 2008, noted that:

"In February 2008 the Government enacted constitutional amendments intended to lift the ban on the wearing of headscarves in universities. Opposition parties immediately appealed the amendments to the Constitutional Court, arguing that the amendments undermine the secular state. Conflicting interpretations of whether the amendments were binding led to universities independently determining whether or not to apply a ban. In the past, university students who wore head coverings at public universities were officially not permitted to register for classes, although some faculty members permitted students to wear head coverings in class. The Constitutional Court annulled the amendment on June 5, reinstating the ban on wearing headscarves in universities." **[5e] (Restrictions on Religious Freedom)**

18.15 The USSD 2007 report on Human Rights Practices further noted that:

"Authorities continued to enforce a long-term ban on the wearing of headscarves at universities and by civil servants in public buildings. Women who wore headscarves and persons who actively showed support for those who defied the ban were disciplined or lost their jobs in the public sector. Students who wore head coverings were not permitted to register for classes, although some faculty members permitted students to wear head coverings in class. Some wore wigs instead.

"In 2005 the ECHR Grand Chamber upheld a 2004 ECHR ruling that the ban on Islamic headscarves in the country's universities was lawful." **[5g]**

18.16 The Kurdish Human Rights Project (KHRP) in their 2007 (12) legal review publication on legal developments stated that:

"In the case Leyla Sahin vs Turkey, - the applicant alleged that a ban on wearing the Islamic headscarf in higher-education institutions in Turkey violated her rights and freedoms under Articles 8, 9, 10 and 14 ECHR, and Article 2 of Protocol No. 1. The applicant spent four years studying medicine at the University of Bursa. She wore the Islamic headscarf during this time. On 23 February 1998 the Vice-Chancellor of Istanbul University issued a circular regulating students' admission to the university campus. It said that students who wear the Islamic headscarf and students with beards must not be admitted to lectures, courses or tutorials and threatened disciplinary measures if students with headscarves refuse to leave the university premises… the applicant was denied access to a written examination, enrolment in a course and admission to a lecture because she was wearing the Islamic headscarf." **[6a] (p124-125)**

18.17 The KHRP 2007 legal review further added that: "In its judgement on the merits the chamber of the ECtHR qualified the wearing of a headscarf as a manifestation of a religion. The court found that the impugned measure primarily pursued the legitimate aims of protecting the rights and freedoms of others and protecting public order. The Court stated also that it does not lose

sight of the fact that there are extremist political movements in Turkey which seek to impose on society as a whole their religious symbols and conception of a society founded on religious precepts. According to the Court, the regulations have to be viewed in that context and constitute a measure intended to reserve pluralism in the university. The ECtHR concluded that having regard in particular to the margin of appreciation left to the contracting States, there has been no breach of the European Convention of Human Rights." **[6a] (p125-126)**

See also Section 22: Women

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ALEVIS

18.18 The Minority Rights Group International (MRG) report on 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that:

"Alevi is the term used for a large number of heterodox Muslim Shi'a communities with different characteristics. Technically falling under the Shi'a denomination of Islam, yet following a fundamentally different interpretation than the Shi'a communities in other countries as well as the Caferis in Turkey, Alevis constitute the largest religious minority in Turkey. They differ considerably from the Sunni Muslim majority in their practice and interpretation of Islam. Linguistically, they consist of four groups: Azerbaijani Turkish, Arabic, Turkish and Kurdish (both Kurmanci and Zaza). The last two categories constitute the largest Alevi groups. The number of Alevis is a matter of contention. Estimates range from around 10 per cent to as much as 40 per cent of the total population. An academic study launched in November 2006 estimates that Alevis are around 11.4 per cent of the population." **[57c] (p12)**

18.19 The Canadian Immigration and Refugee Board noted in its reponse to information request (RIR) 'Situation of Alevis', dated 27 May 2008, that:

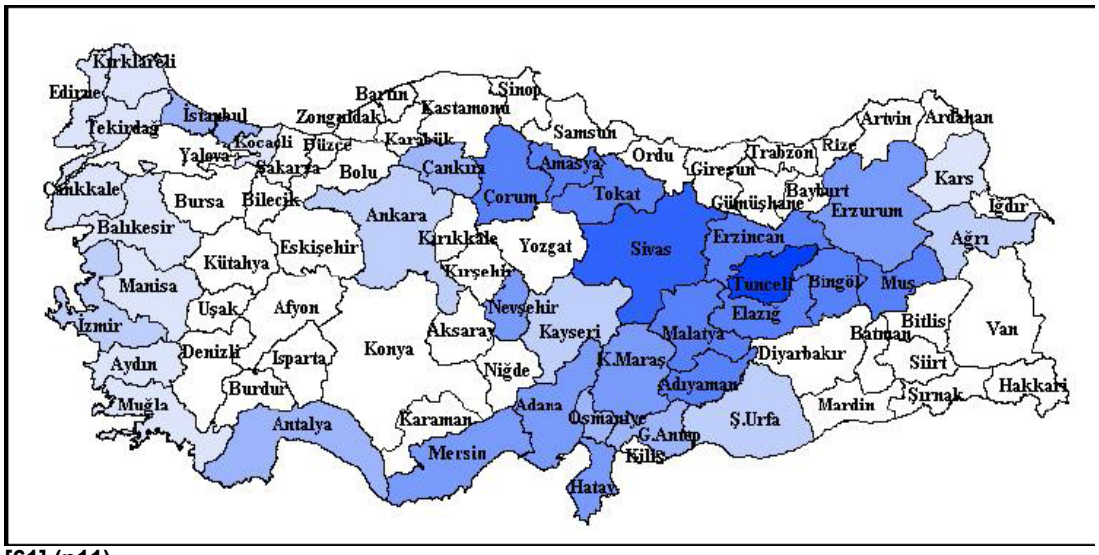
"Turkey's largest religious minority, the Alevis, practise a form of Shia Islam that significantly distinguishes their form of worship from that of the Sunni Muslim majority. No official figures on Turkey's Alevi population exist. Estimates on the proportion of Turkey's population that belongs to the Alevi faith vary widely: estimates range between 10 and 40 percent of the population, but many sources put the total number of Turkey's Alevis at 15 to 20 million (ibid.). The majority of Alevis speak Turkish and live mainly in urban areas. Because cemevis cannot be listed as places of worship according to Turkish zoning laws, municipalities can refuse to grant building licences. Alevi organizations have reported that, due to the difficulty in registering their places of worship, there were approximately 100 cemevis across the country in 2007, which they deemed insufficient.

"The Cem Foundation, Turkey's most prominent Alevi organization is based in Istanbul and advocates for greater religious rights. In August 2005, the Foundation took the government to an administrative court over a package of requests that the state had rejected, including granting cemevis official status

and paying the salaries of Alevi religious leaders who are known as dedes. However, the court ruled against the Foundation (ibid.)." **[7m]**

18.20 The USSD 2007 report stated that: "Academics estimated the Alevi population at 15 to 20 million… Alevi 'cem houses' (places of gathering) have no legal status as places of worship. In May 2006 authorities in the Sultanbeyli municipality of Istanbul reportedly banned the construction of a cem house on the grounds that the Pir Sultan Abdal Association, an Alevi group, had not acquired the necessary construction permits. Association officials said the local mayor and his staff had attended the groundbreaking ceremony and promised not to interfere with the project; however, the municipality reportedly filed a case against the association after it proceeded with construction following the ban. The case was ongoing at 'year's end." **[5g] (Section 2c)**

18.21 A map in the 2006 Eren Özalay report shows the Turkish provinces in blue with a higher concentration of Alevis (more than 10%) and provinces with low proportions of Alevis (less than 10%) in white.



[61] (p11)

18.22 The USSD 2008 report on Religious Freedom recorded that:

"In addition to the Sunni Muslim majority, academics estimate that there are between 10 million and 20 million Alevis, followers of a belief system that incorporates aspects of both Shi'a and Sunni Islam and draws on the traditions of other religious groups indigenous to Anatolia as well. Some Alevis practice rituals that include men and women worshipping together through oratory, poetry, and dance. The Government considers Alevism a heterodox Muslim sect; some Alevis and Sunnis maintain that Alevis are not Muslims." **[5e] (Section I)**

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Beliefs and practices

18.23 In a 2006 report written by Eren Özalay, 'Minorities in Turkey: The identity of the Alevis in Accordance with the EU Legislation', it was noted that: "Another wish of the Alevi authorities is the opening of the tomb of Haci Bektasi Veli in the town Hacibektas for Alevi practice. The tomb being the most sacred place in Anatolia for Alavis, serves as a museum open to all visitors and can not be used for particular Alevi worship. The Alevi authorities are against their kids learning the Sunni Islam tradition as Islam in public schools. The Turkish government has recently passed a regulation to teach the Alevi belief as an Islamic belief in the religion class." **[61] (p18)**

18.24 The Middle East Review of International Affairs (MEDIA), in an article dated 1999 by David Zeidan on the beliefs and practices of 'The Alevis of Anatolia', stated that:

"Alevis belong to the extremist Shi'a branch and like all extreme Shi'a, their reverence for Ali (Muhammad's cousin and son-in-law, and according to the Shi'a tradition, his rightful heir) verges on deification. Alevis accept Ali as the only legitimate successor to Muhammad. Alevis interpret the Quran in an esoteric, allegoric, and symbolic (rather than literal) manner and repudiate the external forms of Islam and its five pillars. In addition to the Quran, Alevis have their own holy books called 'buyruk' that contain doctrine and ritual and are claimed to have been written by important leaders. Alevis also have many liturgical hymns called nefes attributed to Shah Ismail and Pir Sultan Abdal." **[105]**

18.25 The MEDIA article also noted that:

"Observers note that Alevi society is divided into two separate endogamous groups: the ocak are the spiritual and social elite who claim descent from Ali, Hussein, or religious warriors (ghazi) and constitute a priestly caste, and the talips (disciples), the majority lay members. Religious knowledge is passed down orally in the ocak families who were responsible for the religious and social leadership of the community. Alevi rituals (ibadet) are communal, with the aim of fostering unity (birlik) and love (muhabbet) within the community. Alevi rituals differ markedly from Sunni rituals. Alevis, for example fast in the month of Muharram for 12 days in memory of Hussein's death at Karbala." **[105]**

18.26 The MEDIA article further stated that:

"The central ritual of Alevi religious life is the ayn-i cem (cem for short) celebration, which includes a sacrificial meal (lokma), a ritual alcoholic drink, nefes hymns accompanied by music on the saz, dance (sema), and the ritual lighting and extinguishing of candles. In the villages of Anatolia the ayn-i cem takes place only in the absence of distrusted outsiders, and is held at night under great secrecy. The ceremony is held once a year under the leadership of a dede assisted by a rehber is held in a private house and women are included on an equal footing with men. Other Alevi holy days are Nevruz, the Persian New Year celebrated on the 9th March, the Khidirellez day on the 6th May in

honour of Khidr (Elijah, St. George), and the twelve day Muharram fast culminating in Ashura." **[105]**

18.27 The MEDIA article further commented that:

"Alevism does not possess a tradition of authoritative religious scholarship and official carriers of formal learning. Rather, it is more a flowing together of various related movements, doctrines, ideas and rituals. Other differences distinguishing Alevis from Sunnis: the use of wine for religious ceremonial functions; non-observance of the five daily prayers and prostrations (they only bow twice in the presence of their spiritual leader), Ramadan, and the Haj (they consider the pilgrimage to Mecca an external pretense, the real pilgrimage being internal in one's heart); and non-attendance of mosques. Alevis were forbidden to proselytise, and to regenerate themselves internally by paternal descent. To prevent penetration by hostile outsiders, the Alevis insisted on strict endogamy." **[105]**

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Difficulties and problems for Alevis

18.28 In a 2006 report written by Eren Özalay 'Minorities in Turkey: The identity of the Alevis in Accordance with the EU Legislation', it was noted that:

"The problems that the Alevi community faces now are in the areas of political and religious representation and upward mobility in public sector… Under the heading of political representation, Alevis are not satisfied with the Religious Affairs responsible for representing the Muslim population in Turkey. Alevi claim is that the Religious Affairs represent only the Sunni-Orthodox Muslim population. Alevis expect the Cem Houses, the religious gathering places of the Alevis, in the same statue with the mosques, churches and synagogues… The recognition of the Alevi belief in the framework of Islam will also solve the religious representation problem of the Alevis." **[61] (p17-18)**

18.29 The USSD 2008 report on Religious Freedom published 19, September 2008 noted that:

"Alevis freely practiced their beliefs and have built cem houses, although these have no legal status as places of worship and are often referred to as cultural centers. Representatives of Alevi organizations maintained that they often faced obstacles when attempting to establish cem houses. They said there were approximately 100 cem houses in the country, a number that they claimed was insufficient to meet their needs.

"In December 2007 a cem house in the Alevi Catalkaya district of Sivas was reportedly turned into a mosque. The 120 Alevi residents of Catalkaya submitted a petition to the Sivas Governor in protest. At the end of the reporting period, the building was no longer being used as a mosque, and the municipality had removed the imam." **[5e] (Section 2)**

18.30 The USSD 2008 report on Religious Freedom published 19, September 2008 also noted that:

"In 2006 authorities in the Istanbul municipality of Sultanbeyli reportedly halted the construction of a cem house on the grounds that the Pir Sultan Abdal Association, an Alevi group, had not acquired the necessary construction permits. Association officials said the local mayor and his staff had attended the groundbreaking ceremony and had promised not to interfere with the project, but the municipality reportedly filed a case against the association after it proceeded with construction following the ordered cessation. The case continued at the end of the reporting period." **[5e] (Section 2)**

18.31 The USSD 2008 report on Religious Freedom also noted that:

"Alevi children receive the same compulsory religious education as all Muslims, and many Alevis alleged discrimination in the Government's failure to include any of their doctrines or beliefs in religious instruction classes in public schools. During the reporting period, Alevis had more than 4,000 court cases against the Ministry of Education regarding this alleged discrimination. Materials for the proposed new religious course curriculum that includes instruction on Alevism are believed by many Alevis to be inadequate and, in some cases, false." **[5e] (Section 2)**

18.32 The USSD 2008 Religious Freedom further stated that: "Alevis also charged there was bias in the Diyanet, which does not allocate specific funds for Alevi activities or religious leadership. In effect, the Diyanet budget is reserved for the Sunni community, covering the salary of imams and other costs. It does not pay for the cost of utilities of cem houses (places of worship) or facilities not recognized by the Government as places of worship." **[5e] (Section 2)**

18.33 The USSD 2008 report on Religious Freedom published 19, September 2008 further reported that:

"In October 2007 the ECHR ruled in favor of an Alevi father who requested that his daughter be exempt from the religion courses at school; the Court argued that Alevism is distinct from the Sunni understanding of Islam and that the religious courses did not meet European Convention on Human Rights (Convention) criteria of objectivity and plurality. In January 2008 the Government incorporated ten pages of additional instruction on Alevi beliefs and practices in the final year of religious instruction in secondary school. By the end of the reporting period, the ECHR had yet to announce whether these changes aligned the country's religious curriculum with Convention principles.

"In March 2007 the Council of State (Danistay) upheld an Istanbul lower court's 2006 ruling in favor of an Alevi father who requested his son be exempt from religious courses. The lower court's decision had been appealed by the Istanbul Governor's office." **[5e] (Section II)**

See also Section 22.52: Children Education

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NON MUSLIM MINORITIES

18.34 The US State Department (USSD) report 2007, published on 11 March 2008, noted that: "A separate government agency, the General Directorate for Foundations (GDF), regulates a few administratively critical activities of non Muslim religious groups and their affiliated churches, monasteries, synagogues, and related religious property. There are 161 'minority foundations' recognized by the GDF, including Greek Orthodox foundations with approximately 70 sites, Armenian Orthodox foundations with approximately 50 sites, and Jewish foundations with 20 sites, as well as Syrian Christian, Chaldean, Bulgarian Orthodox, Georgian, and Maronite foundations. The GDF also regulates Muslim charitable religious foundations, including schools, hospitals, and orphanages." **[5g]**

18.35 The European Commission 2008 Progress report, published 5 November 2008, stated that: "Turkey's approach to minority rights, which refers to the 1923 Treaty of Lausanne remains unchanged. Without prejudice to the Treaty, the Turkish authorities consider Turkish citizens as individuals with equal rights before the law, rather than as individuals belonging to the majority or to a minority." **[71d] (p25)**

18.36 As noted in the USSD 2008 report on Religious Freedom published 19, September 2008:

"Religious minorities report difficulties opening, maintaining, and operating houses of worship. Under the law, religious services may take place only in designated places of worship. Municipal codes mandate that only the Government can designate a place of worship, and if a religion has no legal standing in the country, it may not be eligible for a designated site. Non-Muslim religious services, especially for religious groups that do not own property recognized by the GDF, often take place on diplomatic property or in private apartments. Police occasionally bar Christians from holding services in private apartments, and prosecutors have opened cases against Christians for holding unauthorized gatherings." **[5e] (Section 2)**

18.37 The US State Department (USSD) report 2007 noted that: "The constitution establishes compulsory religious and moral instruction in primary and secondary schools. Religious minorities are exempted. However, a few religious minorities, such as Protestants, faced difficulty obtaining exemptions, particularly if their identification cards did not list a religion other than Islam. The government claimed that the religion courses covered the range of world religions; however, religious minorities asserted the courses reflected Sunni Islamic doctrine, which they maintained explains why non-Muslims are exempt." **[5g] (Section 2)**

18.38 The USSD 2008 report on Religious Freedom published 19, September 2008 also noted that:

"The authorities continued to monitor the activities of Eastern Orthodox churches but generally did not interfere with their religious activities; however, significant restrictions were placed on the administration of the churches. The Government does not recognize the ecumenical status of the Greek Orthodox Patriarch, acknowledging him only as the head of the country's Greek Orthodox community. High-level government leaders often assert publicly that use of the term 'ecumenical' in reference to the Patriarch violates the 1923 Lausanne Treaty. However, government officials privately acknowledge that Lausanne does not address the issue." **[5e] (Section II)**

18.39 The US State Department (USSD) 2007 report noted that: "Many Muslims, Christians, Jews, and 'Baha'is faced societal suspicion and mistrust. Jews and Christians from most denominations freely practiced their religions and reported little discrimination in daily life. However, religious minorities asserted that they were effectively blocked from careers in state institutions." **[5g] (Section 2)**

See also Section 18.19 Alevis

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Christians

18.40 The USSD 2008 report on International Religious Freedom – Turkey, published 19 September 2008, noted that: "The Constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion, but constitutional provisions regarding the integrity and existence of the secular state restrict these rights." **[5e] (Introduction)**

18.41 The USSD 2008 report on Religious Freedom noted that: "Despite the legality of religious speech and persuasion, the police occasionally prevent Christians from handing out religious literature… No law explicitly prohibits religious speech or religious conversions; nevertheless, many prosecutors and police regarded religious speech and religious activism with suspicion. Police occasionally prevented Christians from handing out religious literature. Proselytizing is often considered socially unacceptable. Christians engaged in religious advocacy were occasionally beaten and insulted. If the advocates were foreigners, they might have been deported, but generally they were able to reenter the country. Police officers may report students who meet with Christian missionaries to their families or to university authorities." **[5e] (Section 2)**

18.42 The USSD 2008 Religious Freedom further noted that: "After the April 18, 2007 killings in Malatya of three Christians, Turkish victim Ugur Yuksel was denied a Christian burial and given an Islamic/Alevitic burial instead. Turkish victim Necati Aydin was buried in a Protestant churchyard in Izmir. The Governor of Malatya was initially hesitant to permit the burial of the German victim in Malatya. He told the German victim's widow that no Christian should be buried in the country's soil." **[5e] (Section 2)**

18.43 The US State Department (USSD) report 2007, published on 11 March 2008, noted that: "Several foreigners who are practicing Christians and have lived with

their families in various cities for many years reported increasing governmental harassment during the year, including denial of residence and work permits that had been granted in previous years, monitoring by jandarma, and receiving threats to themselves and their families. These persons reported that they worshiped in their homes but did not proselytize by distributing bibles, going door-to-door, or undertaking similar activities." **[5g] (section2)**

JEWS

18.44 As recorded in the USSD report on Religious Freedom 2008: "Jews and Christians from most denominations freely practiced their religions and reported little discrimination in daily life; however, citizens who converted from Islam to another religion often experienced some form of social harassment or pressure from family and neighbors." **[5e] (Section 2)**

18.45 The US State Department (USSD) report 2007, published on 11 March 2008, noted that: "The NGO Minority Rights Group International reported on December 11 that millions who belonged to ethnic, linguistic and religious minorities remained unrecognized by the Turkish state, faced discrimination, and were increasingly under threat as a result of a growing wave of violent nationalism. The report noted that the law protects only three officially recognized minorities-–Armenian Orthodox Christians, Jews, and Greek Orthodox Christians." **[5g] (Section 2)**

18.46 The International Helsinki Federation for Human Rights (IHF) report 'A Minority Policy of Systematic Negation', published October 2006, noted that there are around 26,000 Jews in Turkey. The majority of them live in Istanbul, but there also are important Jewish communities in Adana, Ankara, Bursa, Çanakkale, Iskenderun, and Kirklareli. Ninety-six percent of Turkey's Jewish population are Sephardic Jews, while the other 4% are Ashkenazic Jews. **[10d]**

18.47 The Minority Rights Group International (MRG) report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that: "The Jewish community in Turkey dates back to the Roman Empire… Their language is Ladino, a variant of fifteenthcentury Spanish. There is also an ethnic Ashkenazi minority, who speak Yiddish. There are around 23,000 Jews, in Turkey, 600 of whom are Ashkenazi… The vast majority live in Istanbul, around 2,500 in İzmir and the rest in very small numbers elsewhere. There are 19 synagogues in İstanbul, one of which belongs to Ashkenazis." **[57c] (p13)**

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19 ETHNIC GROUPS

19.01 The Minority Rights Group International (MRG) report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that:

"The Penal Code extends its protection to everyone without making 'any distinctions on the basis of race, language, religion, sect, nationality, colour, sex, political or other opinion, philosophical belief, national or social origin, birth, economic and other social status and without extending privileges to anyone'. The Code also penalizes, in Article 216(1), incitement to enmity or hatred on the basis of race, religion, sect or region, where such incitement leads to a clear and imminent threat to national security. Incitement to hatred on the basis of sex or sexual orientation is not criminalized." **[57c] (p29)**

19.02 The MRG 2007 report also noted that: "Advocacy on minority rights is considered as conspiracy against or betrayal of the state by nationalists and some public officials. Most recently, during a press conference, Chief of Staff Yaşar Büyükanıt blamed the EU for creating new minorities in the Republic by calling ethnic and religious communities, such as the Alevis and Kurds, minorities in its reports on Turkey." **[57c] (p29)**

19.03 As noted in the report 'State of the World's Minorities 2008', released on 11 March 2008:

"Turkish attitudes and laws on minorities have progressed considerably over the past decade, but many reforms lie ahead if the country's legal framework and practice are to reach international standards. Minority groups including Alevis, Armenians, Assyrians, Caferis, Caucasians, Kurds, Jews, Laz, Roma, Rum (Greek Orthodox) Christians, and Yezidis still confront systematic repression in today's Turkey. Officially, the government still only recognizes Armenians, Jews and Rum Christians as minorities, but, as used in Turkey, this term denotes clear second-class status. All other groups have faced intense pressure to assimilate." **[57b] (p141)**

19.04 The same State of the World's Minorities report 2008 noted that: "in January 2007 the city council of the old-town section of the multi-ethnic southeastern city of Diyarbakir agreed to provide municipal services in Arabic, Armenian, Assyriac, English and Kurdish, in addition to Turkish, the Ankara-appointed governor of the region removed the council, the old-town mayor, as well as the popular Kurdish mayor of the city. In July, prosecutors introduced charges against the two mayors and 17 council members on charges of 'abuse of office', and they may be jailed for up to three years if convicted." **[57b] (p141)**

See also Section 16.01 Government monitoring of human rights

19.05 The USSD 2007 report also noted that: "On June 14, a Council of State court, abiding by the Ministry of Interior request, decided to dissolve the Sur Municipality of Diyarbakir and dismiss its mayor, Adbullah Demirbas, after the municipality attempted to institute a program to offer multilingual services to its citizens, 72 percent of whom the municipality stated spoke Kurdish as a first

language. On October 19, the Council of 'State's Grand Chamber upheld the decision and rejected defendants' objections to the June 14 decision." **[5g] (Section 2)**

19.06 The EC 2008 Progress report, published 5 November 2008, noted that: "Turkey is a party to the UN International Covenant on Civil and Political Rights (ICCPR). However, its reservation regarding the rights of minorities and its reservation concerning the UN Covenant on Economic, Social and Cultural Rights (ICESCR) regarding the right to education are causes for concern. Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages." **[71d] (p25)**

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KURDS

19.07 The International Helsinki Federation for Human Rights (IHF) report 'A Minority Policy of Systematic Negation', published October 2006, noted that nearly half of the Kurds live in Turkey where, numbering citrca 15 million, they represent about 20% of the country's total population. They are predominantly found in southeastern Turkey, but there is also a prominent Kurdish population in central Anatolia, to the west of Lake Tuz and in districts like Allaca, Çiçekdağı, Yerköy, Emirdağ, Çankırı, and Zile. Many Kurds also live in big cities such as Istanbul, Izmir, Mersin, and Adana. The Kurds speak the Kurdish language, which is comprised of two major dialects and several sub-dialects. The majority of Kurds are Sunni Muslims, while a significant minority are Alevis and other Shia Muslims. **[10d]**

19.08 The Canadian Immigration and Refugee Board also noted in 'Situation of Kurds in western cities such as Ankara, Istanbul, Izmir, Konya and Mersin; resettlement to these cities', dated 29 May 2008, that:

"The situation of Kurds in western cities such as Ankara, Istanbul, Izmir, Konya and Mersin; resettlement to these cities as Turkey's largest ethnic and linguistic minority, Kurds constitute between 10 and 23 percent of the country's population. Kurds are primarily concentrated in eastern and southeastern Turkey, where they form an absolute majority of the population. Since the 1980s, millions of Kurds have either voluntarily or forcibly left south-eastern Turkey and resettled in the major cities of western Anatolia. Previously, in the 1950s, such migration tended to be economically motivated, while beginning in the 1980s, the migration was influenced by conflict between the Turkish Army and Kurdistan Workers' Party, which resulted in over a million Kurds reportedly being evicted from their homes in eastern and southeastern Turkey (ibid.)." **[7n]**

19.09 The Canadian Immigration and Refugee Board further noted that:

"In 2007, Minority Rights Group International (MRG) noted a rise in violence directed at ethnic minorities, who are sometimes not protected by the police. In some cases, authorities have preferred to remove victims of ethnically motivated violence rather than arrest the perpetrators (ibid.)… According to

MRG, following the killing of their leader, whom MRG did not name, a group of ultra-nationalists assaulted 55 Kurds in Izmir's Kemalpasa neighbourhood. The Kurds were reportedly forced to move to Aydin province after municipal authorities informed them that police officers were not in a position to prevent further violence against them (ibid.)." **[7n]**

19.10 The Minority Rights Group International (MRG) report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that

"Kurds are the largest ethnic and linguistic minority in Turkey. The estimated numbers claimed by various sources range from 10 to 23 per cent of the population… Kurds speak Kurdish, which is divided into Kurmanci, Zaza and other dialects. The majority are Sunni Muslims, while a significant number are Alevis. Historically concentrated in eastern and south-eastern region of the country, where they constitute the overwhelming majority, large numbers have immigrated to urban areas in western Turkey." **[57c]**

19.11 As noted in the Minority Rights Group International (MRG) report 'State of the World's Minorities 2008', released on 11 March 2008: "As a large, unrecognized minority, Kurds continue to face systematic marginalization. Around 30,000 people have been killed in fighting between the Turkish military and the Kurdistan Workers Party (PKK) since 1984, and over 1 million people remain displaced in heavily Kurdish south-eastern Turkey… The government continues to conflate any effort to promote Kurdish rights with support for PKK terrorists." **[57b] (p141)**

19.12 The 2007 USSD report noted that "Citizens of Kurdish origin constituted a large ethnic and linguistic group. Millions of the 'country's citizens identified themselves as Kurds and spoke Kurdish. Kurds who publicly or politically asserted their Kurdish identity or publicly espoused using Kurdish in the public domain risked censure, harassment, or prosecution." **[5g] (Section 2)**

19.13 The same 2008 State of the World's Minorities report further noted that: "In February, the president and 12 members of a pro-Kurdish party received 6–12 month sentences for holding their party congress in the Kurdish language. On the basis of a vague 2006 anti-terror law, another Kurdish leader was convicted and sentenced in August for a speech he gave in March… Government harassment also targeted Kurdish media outlets." **[57b] (p141)**

19.14 The USSD 2007 noted: "Although the number was unknown, some minority groups were active in political affairs. Many members of parliament and senior government officials were Kurds. PM Erdogan stated during the year that there were five Kurdish-origin ministers in his cabinet and 75 Kurdish-origin MPs in AKP's parliamentary group." **[5g] (Section 2)**

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Kurdish language

19.15 The same MRG 2007 report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007 added that: "As a result of the reforms, on 7 June 2004, the Turkish Radio-Television Corporation (Türkiye Radyo Televizyon Kurumu, TRT) commenced broadcasts in five minority languages and dialects: Zaza and Kurmanci dialects of the Kurdish language, Arabic, Bosnian and Circassian. TV broadcasts are for 45 minutes five days a week, while radio broadcasts begin at 6 a.m. and last for 30 minutes each day five days a week." **[57c] (p17)**

19.16 The same MRG 2007 report also noted that: "Indeed, RTÜK relied on Article 4(b) in initially suspending for one month in October 2006 the broadcasting of the 'Anatolia's Voice' radio station for playing a song about the Kurdish question and in suspending it without limitation in February 2007. These limitations have been imposed only on regional media, which are usually run by minorities. In August 2004, RTÜK relied on Article 4(a) and (b) in suspending for 90 days the broadcasting of Gün TV and Can TV in Diyarbakır and Hakkari FM radio station." **[57c] (p17)**

19.17 The MRG 2007 report also stated that:

"A circular issued by the Ministry of Interior in September 2003 restricted the scope of the amended law to names containing the letters of the Turkish alphabet only, effectively banning names using the letters q, w and x, common in Kurdish. Thus Kurds are still precluded by law from giving their children Kurdish names which involve these three letters. There is no restriction on the use of these letters for commercial entities, such as Show TV, a national broadcaster, and all keyboards and typewriters in Turkey include these letters, so their use by public officials is feasible." **[57c] (p18)**

19.18 The 2007 MRG report further added that: "Defendants are not provided with a competent interpreter, which particularly affects older Kurds and women, who are not fluent in Turkish. Instead, translation is provided by court clerks or anyone present, who may not necessarily be competent to translate legal proceedings." **[57c] (p19)**

19.19 The Freedom House report 'Countries at the Crossroads 2007 – Turkey', published 25 September 2007, noted that: "Ataturk's emphasis on Turkishness over multiculturalism, has left the Kurds facing restrictions on their language, their culture, and their freedom of expression. The situation has improved with recent reforms, especially the start of Kurdish-language broadcasts. However, 2003 regulations allowing for classes in Kurdish permitted only private courses, and bureaucratic obstacles and financial problems led the last five Kurdish schools to close in 2005. Kurds voicing support for improved rights are targets for arrest." **[62c] (Civil Liberties)**

19.20 The European Commission 2008 Progress report, published 5 November 2008, stated that: "As regards cultural rights, following the June 2008 amendments to the relevant Law, TRT - the public service broadcaster - is allowed to broadcast nationally all day long in languages other than Turkish. Since 2004 this has only

been possible for half a day. An appeal against the Law is pending before the Constitutional Court. Furthermore, a new local radio channel, Muş FM, has received authorisation to broadcast in Kurdish." **[71d] (p25)**

19.21 The EC 2008 progress report further noted that: "However, the launching of a channel broadcasting in languages other than Turkish has been delayed on several occasions… Educational programmes teaching the Kurdish language are not allowed. All broadcasts, except songs, must be subtitled or translated into Turkish. These restrictions make broadcasting in languages other than Turkish cumbersome and non-viable commercially." **[71d] (p26)**

See also Section 15.19 High Board of Radio and Television (RTÜK)

19.22 The EC 2008 report further stated that "The police and the Radio and Television Supreme Council (RTÜK) apply a policy of strict monitoring of broadcasts in Kurdish. Several court cases and investigations against GÜN TV - the only TV channel currently broadcasting in Kurdish - are ongoing, in relation to the wording of Kurdish songs the channel has aired." **[71d] (p26)**

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Teaching in Kurdish

19.23 The Minority Rights Group International (MRG) report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that: "The first private course in Kurdish was opened in the province of Batman on 1 April 2004. Others followed in Diyarbakır, Şanlıurfa, Adana, Istanbul, Van and Mardin. However, the courses were closed down in 2005 because of bureaucratic restrictions and people's reluctance to pay to learn their mother tongue." **[57c] (p16)**

19.24 The same Countries at the Crossroads 2007 report further noted that: "Some very positive steps have been taken to expand media freedom. Perhaps most significantly, a series of recent laws have increasingly allowed broadcasts in minority languages, including Kurdish. The first broadcasts took place in 2004, and in 2006 a ban on local broadcasts as well as limitations on the length of cultural (though not political) programs was lifted." **[62c] (Accountability and Public Voice)**

19.25 The European Commission 2008 Progress report on Turkey noted that: "Children whose mother tongue is not Turkish cannot learn it in the Turkish public schooling system. Under the current legislation such education can be provided only by private educational institutions. However, in the case of Kurdish, courses which had opened following the changes to the law have now closed down. As a result, there are currently no opportunities to learn Kurdish in either the public or private schooling system." **[71d] (p26)**

19.26 The UK Foreign and Commonwealth Human Rights Annual Report 2007, released in March 2008, noted: "Since Turkey was accepted as an EU candidate country the democratic rights of Kurds in Turkey have been

extended. Kurdish CDs and newspapers are now freely available, and limited local and national radio and television are available in Kurdish. However, no further reforms were made in 2007 and serious constraints remain including education in the Kurdish language." **[4g] (p65 Cultural Rights)**

19.27 The above Countries at the Crossroads 2007 report added that: "Some very positive steps have been taken to expand media freedom. Perhaps most significantly, a series of recent laws have increasingly allowed broadcasts in minority languages, including Kurdish. The first broadcasts took place in 2004, and in 2006 a ban on local broadcasts as well as limitations on the length of cultural (though not political) programs was lifted." **[62c] (Accountability and Public Voice)**

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KURDISH OPPOSITION GROUPS

See also Annex B for details of political groups

19.28 The Freedom House report 'Countries at the Crossroads, Turkey – 2007', published 25 September 2007' noted that:

"Restrictions are used to target certain groups. While even small gatherings can face difficulties, the most extreme example is the Kurdish Democratic 'People's Party (DEHAP), which is accused of being the political arm of the Kurdistan Workers' Party (PKK) – recently renamed Kongra-Gel and considered a terrorist organization by the Turkish government as well as by the EU and the United States. DEHAP has faced continual legal battles and arrests. Still, DEHAP does not represent the interests of most Kurds, who, when living outside the southeast, are generally more integrated and participate in mainstream politics." **[62c] (p4 Free and Fair Electoral Laws)**

19.29 The Human Rights Watch 2007 report 'Turkey: Human Rights Concerns in the Lead up to July Parliamentary Elections', published 19 July 2007 stated that "İbrahim Güçlü, spokesman for the Diyarbakır Kurdish Association (Kürd-Der), was charged under article 301 for 'insulting Turkishness and the Turkish Republic' for a speech he made in 2005 about the killing of 33 Kurdish villagers in Van in August 1943 (the so-called Muğlalı incident), on the 62nd anniversary of the killings. On January 24, 2007, the Diyarbakır Court of First Instance No. 5 found Güçlü guilty and sentenced him to 18 months' imprisonment. He has appealed the verdict." **[9f] (p11)**

19.30 The same HRW 2007 report also noted that: "During the past year, in the build-up to the general election, DTP officials in cities throughout Turkey, but especially in the southeast, have been repeatedly prosecuted for speech-related crimes such as 'making propaganda for an illegal organization' (article 7/1 of the Law to Fight Terrorism and article 220/8 of the Turkish Penal Code) or 'publicly praising a crime or criminal' (article 215 of the TPC). Such prosecutions were typically brought for public statements that mentioned the

PKK and referred to its imprisoned leader Abdullah Öcalan with the formal and respectful title of 'Mr' (sayın)." **[9f] (p13)**

19.31 The HRW 2007 report 'Turkey: Human Rights Concerns in the Lead up to July Parliamentary Elections' further noted that:

"On February 26 the Ankara Heavy Penal Court No. 9 sentenced Ahmet Türk and Ayşe Tuğluk, respectively president and vice-president of the DTP, to 18-month prison sentences for the offense of using Kurdish in a leaflet prepared by the DTP Women's Wing on March 8, International Women's Day. They were also punished for 'publicly praising a crime or criminal' for statements in the leaflet relating to Abdullah Öcalan. On March 6 Ahmet Türk was again sentenced to a six-month suspended sentence for 'publicly praising a crime or criminal' for referring to 'Mr' Abdullah Öcalan. The cases are currently under appeal. Both Türk and Tuğluk also face numerous other ongoing prosecutions for similar offenses." **[9f] (p14)**

19.32 The HRW 2007 added that "From late February to early March 2007 several DTP premises in a number of provinces were raided by the security forces. Documents and computers were seized, party members and executives were arbitrarily detained, and some were later charged with speech- and language-related offenses such as those mentioned above." **[9f] (p15)**

19.33 Finally the HRW 2007 report noted that:

"Kurdish political activists charged with speech-related offenses have sometimes been detained pending trial. On February 23 Hilmi Aydoğdu, chair of Diyarbakır DTP, was arrested and imprisoned in Diyarbakır D-type prison for 41 days. He had made a statement opposing possible military intervention in northern Iraq by the Turkish Armed Forces and mentioned in particular the symbolic importance of Kirkuk. Released on bail at his first hearing on April 5, he is currently on trial for 'inciting hatred and enmity among the population' (article 216/1 of the TPC) and faces a possible prison sentence of between one and three years." **[9f] (p15)**

19.34 The Minority Rights Group International (MRG) report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that: "Indeed, on 21 August 2007, Murat Öztürk, President of the Ağrı branch of the pro-Kurdish Democratic Society Party (Demokratik Toplum Partisi- DTP) was convicted to one year imprisonment under Article 7(2) of the anti-terror law for a speech he made in the Newroz celebrations on 21 March 2007." **[57c] (p23)**

19.35 The MRG 2007 report also stated that: "On 19 March 2006, the Ardahan penal court ordered the confiscation of a regional newspaper when it published an ad by the DTP titled 'Invitation to the Newroz Celebration'. According to the court, the use of the word 'Newroz' (rather than Nevruz, its Turkish spelling) was contrary to Article 81(c)." **[57c] (p25)**

19.36 The MRG 2007 report also noted that:

"Kurdish politicians face continuing prosecutions for their activities. In February and March 2007, a series of arrests, searches, seizures and prosecutions have been launched against leaders of the DTP, the latest of successive pro-Kurdish political parties. On 18 February, İbrahim Sungur and Abdulvahap Turan, President of the Van branch and member of the DTP respectively, were arrested for making propaganda for the PKK during a police raid on the party headquarters in Van. On 23 February, Hilmi Aydoğdu, the President of the Diyarbakır branch, was arrested on the basis that he violated Article 216 by allegedly stating in an interview that his party would 'consider any future attack on Kerkuk [in Iraq] as an attack on Diyarbakır'." **[57c] (p25)**

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Hadep

19.37 The Netherlands Ministry of Foreign Affairs 2002 reported that:

"The pro-Kurdish HADEP [People's Democracy Party], was established in 1994 as a successor to the successively banned HEP, DEP and ÖZDEP…. HADEP campaigns for greater cultural rights for Kurds and a peaceful solution to the Kurdish issue. It has kept to that position by never resorting to violence. The party runs local branches in many provinces and districts, as well as women's and youth wings in a large number of localities. The Turkish authorities regard HADEP as the PKK's political wing. They therefore view this party with suspicion. The HADEP has no direct ties with the PKK, but relies largely on the same supporters." **[2a] (p131)**

19.38 As reported by the BBC on 13 March 2003:

"Turkey's constitutional court has banned the country's main pro-Kurdish party [HADEP] for alleged links with rebel groups… The court also banned 46 members of the party, including former chairman Murat Bozlak, from politics for five years. Hadep did not stand in last November's [2002] elections, but its candidates stood under the umbrella of the Democratic People's Party (Dehap)… Neither Hadep nor Dehap describe themselves as Kurdish parties, but both say they defend the rights of people living in the south-eastern, Kurdish-populated, part of the country." **[66d]**

Hadep membership cards

19.39 As noted by the Canadian Immigration and Refugee Board in 'Turkey: Whether the People's Democracy Party (HADEP) and the Democratic People's Party (DEHAP) issue membership certificates to members residing within Turkey and / or abroad', dated 28 April 2005:

"Prior to the dissolution of HADEP by the Turkish Constitutional Court, HADEP did indeed issue membership cards to members residing in Turkey, although actual possession of the card was uncommon among voters and supporters of the party. According to the former coordinator, few of the hundreds of

thousands of members actually carried a card since this would have made them easily identifiable targets of the state and many preferred to avoid the risk of being caught by a police or military officer while carrying a HADEP membership card. One could either apply for a card through the local party office and, after approval; the provincial organization (il orgutu) would issue the card, which was initially printed on regular, plain paper. However, as a result of 'HADEP's investigations that found that non-HADEP members were forging these cards and claiming to be party affiliates for asylum purposes, the membership procedures and cards were modified." **[7e]**

19.40 The Canadian Immigration and Refugee Board further stated that:

"Under the revised HADEP membership procedures, only the 'party's Secretariat General in Ankara could issue cards. In addition, one had to apply at the 'party's district office (ilce orgutu) and submit references from two party members or active supporters known by the party office. The applications were then sent to the provincial organizations, which forwarded them to the General Secretary in Ankara for final approval. Approved members had to sign a form at the provincial office in order to receive their official membership card, which was now 'of a higher quality, made out of plastic, with a special cold stamp to prevent forging and duplication'"." **[7e]**

Relatives of Hadep

19.41 The Netherlands Ministry of Foreign Affairs 2002 reported that: "Relatives of HADEP members need not fear persecution by the Turkish authorities solely because one or more of their relatives is a member of HADEP. In certain cases, however, it cannot be ruled out that, for example, first or second degree relatives of HADEP members who are active at local level are closely watched by the State because of their relatives' activities." **[2a] (p136)**

19.42 As noted by the Canadian Immigration and Refugee Board in 'Turkey: Status of the Kurdistan Workers' Party (PKK) and Turkish Hezbollah; situation and treatment of members, supporters and sympathizers of these parties (2006 - 2007)', dated 6 June 2007:

"In 28 April 2006 correspondence sent to the Research Directorate, an assistant professor of political science at Loyola University in Chicago who specializes in Islamic politics in Turkey stated the PKK [Kurdistan 'Worker's Party] and the Hezbollah of Turkey are considered terrorist organizations by the Turkish state. Media reports also state that the PKK is considered a terrorist organization by Turkey, the US and the European Union. Criminal charges involving terrorism have been brought against members of both the PKK and Turkish Hezbollah: for instance, out of the 512 inmates of a prison in the city of Diyarbakir, 258 allegedly belong to Turkish Hezbollah and 224 are thought to belong to the PKK.

"It is illegal to be members, supporters, and sympathizers of both organizations in Turkey. Citizens suspected to have any kinds of ties to these organizations are harassed by security forces and violations of their human rights have been

common. While the European Union-demanded reforms have liberalized Turkish legal systems, the progress in application has been much limited." **[7b]**

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Democratic Society Party (DTP)

19.43 The US State Department (USSD) 2007 report on Human Right Practices, published 11 March 2008, noted that:

"DEHAP reconstituted itself as the Democratic Society Party (DTP) in 2006; nonetheless the Constitutional Court deliberations in the legal case seeking 'DEHAP's closure on charges of separatism were ongoing at 'year's end. DTP officials speculated that the court was deliberately delaying its decision because the case deals with controversial political issues… During the year police raided dozens of DTP offices, particularly in the southeast, and detained hundreds of DTP officials and members. During the year prosecutors opened scores of investigations and trials against DTP members. Police raids on DTP offices in Van and Siirt Provinces resulted in the detention of approximately 50 DTP members during the year.

"Jandarma and police regularly harassed DTP members through verbal threats, arbitrary detentions at rallies, and detention at checkpoints. Security forces also regularly harassed villagers they believed were sympathetic to DTP. Although security forces released most detainees within a short period, many faced trials, usually for supporting an illegal organization or inciting separatism."
[5g] (Section 3 Elections and Political Participation)

19.44 The USSD 2007 report also recorded that: "Following October 21 [2007] PKK terrorist attacks in Hakkari Province, some Turks attacked DTP offices throughout the country, setting DTP office buildings and furniture on fire, throwing rocks, breaking windows, and shouting obscenities. Some DTP politicians and Turkish citizens of Kurdish origin considered such violence to be inflamed by government policies and alleged that security forces did not take proper measures to prevent such incidents." **[5g] (Section 3 Elections and Political Participation)**

19.45 The USSD 2007 report also noted that:

"There were no developments during the year regarding the appeal of Aydin Budak, the DTP mayor of Cizre. In June 2006 Budak was sentenced to one year and three months in prison for stating in a speech that was aired on Roj TV that the isolation of Abdullah Ocalan was something provocative.

"DTP Erzurum provincial chairman Bedri Firat continued his appeal of a July 2006 conviction. Firat was sentenced to two years in prison for allegedly issuing propaganda supporting the PKK in a speech during Nevruz celebrations in which he stated that Kurds were subject to genocide and praised Abdullah Ocalan.

"There were no updates during the year in the 25 open cases against DTP member Tuncer Bekirhan." **[5g] (Section 3 Elections and Political Participation)**

19.46 As noted by the Canadian Immigration and Refugee Board in 'Turkey: Situation and treatment of members, supporters and sympathizers of the Democratic Society Party (DTP)', dated 7 June 2007:

"In July 2006, AFP reported that 'Ankara's public prosecutor accused DTP leaders Ahmet Turk and Aysel Tugluk of distributing Kurdish-language leaflets regarding the imprisonment of PKK leader Abdullah Ocalan. In February 2007, they were found guilty of [translation] 'praising criminals' and sentenced to 18 months' imprisonment. On 6 March 2007, Ahmet Turk received an additional six month sentence for using a Turkish term of respect when referring to Abdullah Ocalan, because this was considered a sign of approval of the PKK leader. In February 2007, the Kurdish mayor of 'Turkey's Karapinar district, Zulkuf Karatekin, was fined 3,000 lira for allowing members of the pro-Kurdish Democratic Society Party (DTP) to use a municipal vehicle to plant seedlings to mark the birthday of Abdullah Ocalan, the outlawed leader of the PKK.

"The Ardahan Criminal Court sentenced a DTP representative to 10 months in prison in May 2007, after he was accused of making a speech in which he 'denigrated and insulted' 'Turkey's parliament and general staff. Also in May 2007, 'Turkey's Appeals Court Prosecutor ordered that the DTP cancel the membership of 116 members, including prominent leader Leyla Zana, because of their criminal records. If it does not comply, the DTP has been told that it may be shut down, in the same way that four pro-Kurdish parties were banned in the past." **[7c]**

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PKK / Kadek / Kongra-Gel and the conflict in the south east

19.47 The Minority Rights Group International (MRG) report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that: "In the context of the armed conflict between the Turkish armed forces and the PKK during 1984–99, masses of civilians were displaced from their homes in eastern and south-eastern Turkey." **[57c] (p24)**

19.48 The Human Rights Watch 2007 report 'Turkey: Human Rights Concerns in the Lead up to July Parliamentary Elections' noted that:

"There are also troubling indications that the Turkish armed forces and armed opposition groups, notably the Kurdistan Workers' Party (PKK), are deliberately trying to undermine the reform process. In 1999, after the capture of PKK leader Abdullah Öcalan, the PKK declared a ceasefire. The ceasefire ended in 2004, followed by a gradual resumption of armed clashes, although not a return to pre-1999 levels. In 2006 the number of armed clashes rose, but dropped again after the PKK renewed its ceasefire in October. In 2007 the number of armed clashes has risen once again: according to official figures, 64 military personnel were killed in the first six months of 2007, and the PKK reported that 96 of its

members were killed in the same period... The PKK has apparently also renewed violent attacks on civilians. Most recently, on May 22, a suspected PKK suicide bombing killed eight civilians and injured over 100 in a busy shopping district in Ankara. Such violence has inevitably increased political tensions in the pre-election period and risks further undermining the Turkish population's trust in the democratic process and human rights reforms." **[9f] (p4)**

19.49 It was noted in a Canadian Immigration and Refugee Board Country Fact Sheet 'TURKEY: Armed Groups and other Non-State Actors', dated 8 August 2007, that:

"Kurdistan Workers' Party (Partiya Karkeren Kurdistan, PKK): The PKK was established in 1978 and began its quest for an independent Kurdistan in 1984. The PKK has also been known as the Congress for Freedom and Democracy in Kurdistan (KADEK) and KONGRA-GEL. In August 1999, the leader of the PKK, Abdullah Öcalan, called on the PKK to halt violent activities, and, in September 1999, a ceasefire between the PKK and the Turkish government was proclaimed. In April 2002, a dissolved PKK, under the framework of KADEK, stated that it would pursue Kurdish rights under the auspices of the Turkish state using political rather than armed struggle. In May 2002, the EU stated that it still classified the PKK as a 'terrorist' group and the Turkish government claimed that the 'PKK's transformation into KADEK was a ruse. A June 2004 PKK announcement legitimized the use of armed defence as a PKK tactic based on the claim that the Turkish government had violated the 1999 ceasefire. Since April 2005, there have been skirmishes between the Turkish Forces and the armed wing of the PKK, the 'People's Defense Forces (Hezen Parastina Gel, HPG)." **[7f]**

19.50 The EC 2008 Progress report, published 5 November 2008, noted that: "Landmines remain a security concern for both military personnel and civilians. The government reported ongoing use of anti-personnel mines by the PKK/KONGRAGEL. During the reporting period there have been 66 casualties among civilians and security forces due to anti-personnel landmine explosions. Under the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (the 'Ottawa Convention'), of which it is a signatory party, Turkey has undertaken to destroy all antipersonnel mines in mined areas as soon as possible, but no later than 1 March 2014." **[71d] (p27)**

19.51 The International Helsinki Federation (IHF) on Human Rights Violations 2006: Turkey report noted that: "69 persons were reportedly killed due to explosion of land mines and unexploded ordinances remaining from clashes and military operations in southeastern and eastern Turkey, injuring a further number of 161 persons, including a large number of children." **[10a] (p435)**

19.52 The Internal Displacement Monitoring Centre (IDMC) report 'Turkey: Progress on National IDP Policy Paves Way for Further Reforms', 26 July 2007, stated that:

"Since the conflict began, both sides have treated villagers in southeast Turkey as a soft target. In the 1980s the PKK frequently massacred whole families.

Many women and children are caught in the cross-fire and killed in the course of armed clashes when the PKK attacks village guards in their villages, but relatives of village guards are also sometimes deliberately and arbitrarily killed. Eleven children were apparently deliberately killed when PKK members attacked the village of Daltepe, near Siirt, in October 1993." **[3] (p40)**

19.53 The IDMC report 'Turkey: Progress on National IDP Policy Paves Way for Further Reforms', 26 July 2007, also noted that:

"Selahattin Günbay, Düzce village, Mardin province. The most recent reported killing by a village guard was that of thirteen-year-old Selahattin Günbay on March 19, 2005. Selahattin Günbay and two of his relatives were grazing sheep near the village of Düzce, near Nusaybin in Mardin province, when village guards warned them not to graze their animals in that area. When Selahattin Günbay took no notice, one of the village guards shot him dead with an automatic weapon. Four village guards were arrested in connection with the killing and are awaiting trial." **[3] (p192)**

19.54 The same IDMC 2007 report further noted that: "Violent clashes between Kurds and security forces reignited in Turkey over the last week; jolting memories here back to an old problem that still stands as a dangerous block on the nation's path toward greater prosperity and democracy. After a decade of calm, at least 20 people were killed in protests, most in the guerrilla battleground of the Kurdish southeast but also in cosmopolitan Istanbul. Among the dead were a 6 year-old boy and a 78-year-old man, Halit Sogut, whose relatives asked on Tuesday…" **[3] (p73)**

19.55 As noted in the European Commission 2008 report: "Cross-border terrorist activities of the PKK, listed on the EU list of terrorist organisations, pose a security challenge to Turkey. In this context, Turkey started air strikes in December 2007, and in February 2008 undertook a nine-day ground operation in Northern Iraq. In parallel, Turkey intensified diplomatic exchanges with Iraqi authorities and, for the first time, engaged in official contacts with the Kurdish regional government. A Turkish delegation met in October with the President and the Prime Minister of the Kurdish Regional Government." **[71d] (p81-82)**

19.56 On 19 August 2008, the *Turkish Daily News* reported that a landmine explosion in the southeastern province of Şırnak killed a soldier and injured eight others. The Şırnak governor's office said a landmine believed to have been planted by the outlawed Kurdistan Workers' Party, or PKK, exploded near a military vehicle. The landmine exploded as a military convoy was passing a road linking the towns of Cizre and Şırnak. **[23a]**

19.57 The USSD 2007 recorded that: "According to the HRF [Human Rights Foundation], landmines and unattended explosives killed three civilians and injured three, through October 4 [2007]. Both security forces and the PKK used landmines. According to the government, 27 civilians were killed and 134 were injured, 139 members of the security forces were killed and 216 were injured, and 295 terrorists were killed and 193 were injured in armed clashes related to the struggle against the terrorist PKK organization during the year. Most of the clashes occurred in the southeast." **[5g] (Section 1a)**

19.58 The IHD (Human Rights Association) 2007 Balance Sheet on Human Rights Violations in Turkey recorded 158 deaths and 290 wounded amongst the Security Forces; 266 deaths among armed militants and 69 wounded and 14 people killed by landmines. **[73b] (Violations of Right to Live)**

Relatives of PKK

19.59 The UNHCR Directorate for Movements of Persons, Migration and Consular Affairs in their 2001 Official General report on Turkey noted that:

"Those known to have or suspected of having one or more family members in the PKK can expect some attention from the authorities. Depending, among other things, on the degree of kinship and the (suspected) position of their relative(s) within the PKK, family members may be subjected to varying degrees of intimidation, harassment, official obstruction, questioning and similar problems. It is perfectly conceivable, even probable in many cases, for the families of (suspected) PKK members to be kept under observation by the authorities or questioned and interrogated, also because they could as often as not be potential suspects themselves. In many cases the Turkish authorities probably assume that some relatives of PKK supporters harbour sympathies for the party. However, if the authorities are convinced that relatives of (suspected) PKK members do not have any links to the PKK they are not persecuted." **[20]**

19.60 The same report further noted that, "Countless people in Turkey have one or more relatives in the PKK without having any significant problems with the authorities as a result. The families of prominent PKK supporters such as Abdullah Öcalan and Şemdin Sakık were probably always under intensive surveillance by the authorities and lived under a certain degree of pressure, but they were not actually persecuted for their relationship with the PKK leaders. Öcalan's family attended his trial on İmralı Island. One of Sakık's brothers is openly politically active." **[20]**

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Newroz / Nevruz celebrations

19.61 As outlined by the Netherlands Ministry of Foreign Affairs report 2002, Newroz (or in Turkish Nevruz) is the New Year celebrated by Kurds, Persians and in Central Asia on the 21 March. **[2a] (p87)**

19.62 The US State Department (USSD) 2006 report, published 6 March 2007, recorded that:

"Unlike the previous year, police did not interfere in Nevruz celebrations. There was no information regarding police detention of DEHAP officials and students in connection with 2005 Nevruz celebrations... The six juveniles charged for allegedly burning the Turkish flag during Nevruz celebrations in Mersin in 2005 remained free while their trial continued at year's end... On July 27, the Erzurum Second Heavy Penal Court convicted and sentenced DTP Erzurum Provincial

Chairman Bedri Firat to two years in prison for allegedly issuing propaganda supporting the PKK in a speech during Nevruz celebrations, by stating that Kurds were subject to genocide and for praising Abdullah Ocalan. 'Firat's appeal of the verdict was pending at year's end." **[5h] (Section 2)**

19.63 The European Commission 2008 report recorded that: "The Kurdish Newroz Spring celebrations in March 2008 resulted in violence against demonstrators in several provinces, in particular Hakkari, Yuksekova and Van. Three citizens died during the course of the Newroz demonstrations in Van. Investigation files are pending on the circumstances of these deaths in the Van Chief Public Prosecution Office." **[71d] (p16-17)**

ARABS

19.64 According to the World Directory of Minorities (1997): "There are probably about one million Arabs in the provinces of Urfa, Mardin, Siirt and Hatay (Alexandretta). Unlike the Turkish Sunni Majority Sunni Arabs belong to the Shaf'I tradition (which they share in common with most Sunni Kurds). They are denied the opportunity to use their language except in private, and the use of Arabic is forbidden in schools." **[57a] (p382)**

19.65 The World Directory of Minorities continued: "About 200,000 Alawi or Nusayri Arabs live in the northern most settlements of the larger Alawite community in Syria. They are a distinct religious community from Alevis but have in common reverence for Ali, the prophet's son-in-law, as an emanation of the divinity. Alawites have an uneasy relationship with Sunnis, but are more comfortable with Christians." **[57a] (p382)**

19.66 The Minority Rights Group International (MRG) report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that: "The vast majority of the displaced are Kurds, while a small number are Assyrians, Ezidis and Arabs. Most of these now live in the large cities in eastern Turkey and particularly the metropolises in western Turkey, however a significant number of them have fled to European countries and Iraq." **[57c]**

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CAUCASIANS

19.67 The Minority Rights Group International (MRG) report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that:

"Mistakenly referred to as Circassians, this group consists of various peoples of Caucasian origin: Abkhazians, Chechens, Circassians, Daghistanis, Ossetians and various Turkic groups. 'Caucasia' refers to the original homeland of these groups, whose ancestors immigrated [sic] from Russia in the mid-nineteenth century. Each group has its own language. The mother tongues of Abkhazians, Chechens, Circassians and Daghistanis belong to the Iberian-Caucasian language family; whereas Ossetians speak an Indo-European language and

Turkic groups speak Turkic languages. Ninety per cent of Caucasians in Turkey are Circassian, while the majority of the remaining 10 per cent is Abkhaz. All Caucasians are Muslim... Caucasians live in 15 provinces in north-west, central and southern Turkey. According to the Federation of Caucasian Associations, the number of individuals who self-identify as Caucasian is 3 million." **[57c] (p11)**

19.68 The Encyclopedia of the World's Minorities 2005 noted that there are Circassian diaspora communities in Turkey believed to be the largest in the world, with estimates numbering more than 4 million; however they are scattered throughout the entire country. **[46] (p313–316)**

19.69 The World Directory of Minorities (1997) estimated that there are probably about one million people of Circassians or Abkha descent in Sakariya, Bolu, Bursa, Eskişehir, Sinop, Samsun, Tokat and Kayeri. There are also about 80,000 Sunni Georgians and 10,000 Orthodox Christian Georgians located mainly in the Artvin province in the north east and around 150,000 Laz (a south Caucasian language related to Georgian) speakers in Turkey. **[57a] (p382-383)**

19.70 The International Helsinki Federation for Human Rights (IHF) report 'A Minority Policy of Systematic Negation', published October 2006, noted that: "the Circassians are considered a very old indigenous people in the North Caucasus. They formed a coherent identity in the 10th century but, in the course of the centuries, were influenced by the Persian, Roman, Byzantine, and Georgian empires and, later, by the Ottoman Empire, where many held posts in the military. The series of clashes against Russian attempts to conquer the Circassians in the late 18th century and early to mid 19th century culminated in the mass deportation of the Circassian people in 1864, during which many of them perished, and the flight of others to various parts of the Ottoman empire. A significant number of Circassians thus ended up in Turkey." **[10d] (The Circassians)**

19.71 The same IHF report also stated that: "there are an estimated 2 million Circassians living throughout Turkey. A minority of them still speaks the Circassian language, which belongs to the family of the northwestern Caucasian languages. Most are Sunni Muslims." **[10d] (The Circassians)**

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ARMENIANS

19.72 The MRG report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that:

"Armenians are among the ancient people of Anatolia. The majority of Armenians in Turkey today belong to the Orthodox Church, while there are also a few Catholic and Protestant Armenians. Their number was around 2 million during the Ottoman Empire. Today, slightly more than 60,000 remain. Of these, around 60,000 are Orthodox, 50,000 of whom live in Istanbul, around 2,000 are Catholic and a small number are Protestant. Catholic Armenians have an archbishop in Istanbul and their spiritual leader is the Roman Catholic Church in

Rome. The Orthodox community has its own Patriarchate in Istanbul. Armenians run private schools providing primary and secondary education in their mother tongue." **[57c] (14)**

19.73 The USSD 2008 Internationl Religious Freedom report on Turkey stated that: "A separate government agency, the General Directorate for Foundations (GDF), regulates activities of all religious groups and their affiliated property. The GDF recognizes 161 'minority foundations,' Armenian Orthodox foundations with an estimated 48 sites. At the end of the reporting period, there were 364 applications from religious groups seeking foundation status." **[5e] (Section 2)**

19.74 The US State Department (USSD) 2007 report, published 11 March 2008, recorded that:

"Numerous religious groups, particularly the Greek and Armenian Orthodox communities, have lost property to the government and continued to fight ongoing efforts by the government to expropriate properties. Many such properties were lost because the law allows the GDF to assume direct administration of properties that fall into disuse when the size of the local non-Muslim community drops significantly." **[5g]**

19.75 As noted in the State of the World's Minorities 2008 report, released in March 2008:

"Turkish attitudes and laws on minorities have progressed considerably over the past decade, but many reforms lie ahead if the country's legal framework and practice are to reach international standards… Minority groups including Armenians, still confront systematic repression in today's Turkey. Officially, the government still only recognizes Armenians… as minorities, but, as used in Turkey, this term denotes clear second-class status… The January 2007 murder of Armenian rights campaigner and writer Hrant Dink offered a stark reminder of Turkey's ongoing failure to protect the rights of individuals from minority communities." **[57b] (141)**

19.76 The same 2008 report further noted that: "Dink had been convicted and sentenced to six months imprisonment in 2005 under the notorious Article 301 of the Turkish penal code for 'denigrating Turkish identity'. This provision often has been used to suppress any discussion or acknowledgement of the 1915 Armenian genocide. Such concepts are not only enshrined in law; schoolchildren continue to learn negative stereotypes of Armenians and other minorities from their textbooks." **[57b] (p141)**

See section 18 – Freedom of Religion

GREEKS

19.77 The US State Department (USSD) 2008 report on International Religious Freedom, published 19 September 2008, estimates that there are up to 4,000 Greek Orthodox Christians in Turkey. **[5e] (Section 1)** The World Directory of Minorities (1997) states that: "There are probably 3,000 ageing Greek

Christians, mainly in Istanbul, the residue of 80,000 still there in 1963. Formal expulsions police harassment and a climate of fear and popular animosity have since then reduced the community to its present number." **[57a] (p381)**

19.78 The EC 2008 Progress report, published on 5 November 2008, noted that: "On 8 July 2008, the ECtHR decided on the claim of the Ecumenical Patriarchate that had been deprived of its property acquired in 1902 and dedicated to a specific use in 1903 via the Foundation of the Büyükada Greek Orphanage for Boys. The applicant alleged, in particular, that by ordering registration of its real estate in the name of the orphanage, under the management of the State Directorate-General for Foundations, the domestic courts had breached its right to peaceful enjoyment of its property. The Court held that the Turkish authorities were not entitled to deprive the owner of its property without providing for appropriate compensation, and that there had been a violation of the ECHR." **[71d] (p24)**

19.79 The EC 2008 report further noted that: "Problems encountered by Greek nationals in inheriting and registering property continue to be reported, in particular as regards, inter alia, the application by the Turkish authorities of the amended Land Registry Law. With respect to that issue, the ECtHR held that there had been a violation of Article 1 of Protocol 1 (peaceful enjoyment of possessions) to the ECHR and ordered either the return of the property or the financial compensation of the applicants." **[71d] (p24)**

19.80 The International Helsinki Federation for Human Rights (IHF) report 'A Minority Policy of Systematic Negation', published October 2006, noted that as of 2006, it is estimated that around 5,000 Greeks live in Istanbul and on the two islands of Gökçeada (Imroz) and Bozca Ada (Tenedos), off the western entrance to the Dardanelles. They are recognised only as Greek Orthodox (Rum) and not as ethnic Greeks (Ynanli). **[10d]**

See section 18 – Freedom of Religion

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ROMA

19.81 The European Commission 2008 Progress report, published 5 November 2008, further noted that:

"As regards Roma, no steps have been taken to amend the Law on the Movement and Residence of Aliens, which authorises 'the Ministry of Internal Affairs to expel stateless and non-Turkish citizen gypsies and aliens that are not bound to the Turkish culture', thus promoting discrimination against Roma. This provision needs to be repealed. Turkey has yet to establish a strategy to address the problems of Roma. Turkey is not participating in the 2005-2015 Decade of Roma Inclusion. Roma, who comprise other similar but distinct ethnic groups such as Dom, Lom and Travellers, face social exclusion and marginalisation in access to education, discrimination in health services, exclusion from employment opportunities, difficulties in accessing personal documentation and exclusion from participation in public affairs and public life." **[71d] (p26)**

19.82 The EC 2008 Progress report also noted that:

"As regards housing, the Roma population has faced several instances of demolition of communities, forced evictions and exposure to poor living and sanitary conditions without recourse to any publicly accountable process. In many cases, Roma who have been dispossessed as a result of demolition join the ranks of IDPs, with all the social problems that this entails. As regards demolition of the Roma neighbourhood in Istanbul's Sulukule district and the relocation of its members, which started in spring 2008, the Prime Ministry's Human Rights Commission has called for an inquiry into any possible infringement of human rights. In addition, civil society organisations have filed a suit for cancellation of the urban regeneration project in Sulukule." **[71d] (p26-27)**

19.83 The EC 2008 Progress report further stated that: "Overall, Turkey made some limited progress on cultural rights…There has been no progress in the situation of the Roma, who frequently face discriminatory treatment in access to adequate housing, education, social protection, health and employment. Demolitions of Roma neighbourhoods, in some cases involving forced evictions, continue." **[71d] (p27)**

19.84 The MRG report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that:

"While the general perception is that the Roma in Turkey live mainly in Eastern Thrace near the Bulgarian and Greek borders, in fact they live all across the country and, in terms of absolute numbers, are not concentrated in any particular region. Various groups are included under the general heading of Roma/Gypsy, such as 'Roma' who live predominantly in Eastern Thrace, 'Teber/Abdal' who live across Anatolia and 'Poşa' who live in north-east Anatolia, Çankırı, Kastamonu and Sinop. While there are various Roma languages such as 'Romani' (an Indo-European language spoken by the Roma) and 'Abdoltili' (an Altaic language spoken by the Teber), the mother tongue for the majority of Roma has become Turkish. A recent study shows that there are around 2 million Roma in Turkey. According to one researcher, who has identified 70 Roma neighbourhoods in Istanbul alone, the real number may be as high as 5 million, as most Roma live in overcrowded households and many do not have identity cards. The vast majority of Roma are Muslim (nearly half Sunni and half Alevi), while there are a small number of Rum Orthodox Roma, as well as a small but increasing number of Protestants who have converted from Islam in the last decade." **[57c] (p14)**

19.85 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted that:

"The Roma continued to face persistent discrimination and problems with access to education, healthcare, and housing. The government took no apparent steps during the year to assist the Roma community. A number of NGOs undertook activities to address problems faced by the Roma community. The European Roma Rights Center, Helsinki Citizens Assembly, and Edirne Roma Culture Research and Solidarity Association conducted a program to

train the Roma community on civil society organization and activism. In December the Roma Culture and Solidarity Association of Izmir began literacy courses for Roma women in the region.

"The law states that 'nomadic Gypsies' are among the four categories of persons not admissible as immigrants." **[5g] (Section 5)**

19.86 The State of the World's Minorities 2008 report, released on 11 March 2008, noted that: "Widely dispersed Roma communities remain the most chronically marginalized groups across Europe. Roma largely remain mired in poverty, with widespread discrimination blocking paths to employment and Roma children often segregated into separate, inferior classrooms that fail to prepare them for entry into the job market." **[57b] (135)**

19.87 The International Helsinki Federation for Human Rights (IHF) report 'A Minority Policy of Systematic Negation', published October 2006, noted that research and statistics about the Roma in Turkey are still limited. According to official records, there are over 500,000 Roma people living throughout Turkey. Most are sedentary and found in settlements in larger cities and towns but some are still nomads who follow pre-established itineraries across the country. The Roma in Turkey speak Romani that is strongly influenced by Turkish, Kurdish, and Greek words and expressions. The Roma in Turkey are either Muslims or Christians. **[10d]**

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20 LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

LEGAL RIGHTS

20.01 The 2008 European Commission Progress report, published 5 November 2008, stated that "The principle of anti-discrimination is enshrined in the Constitution and upheld in several laws. Homosexual relationships between consenting adults in private are permitted in Turkey. In recent years, associations of the lesbian, gay, bisexual and transgender (LGBT) community registered for legal status in Turkey and prosecutors refused to press charges following a request by the Ministry of Interior to close them. This has enabled them to start advocating and defending the rights of lesbian, gay, bisexual and transgender people." **[71d] (p23)**

20.02 The EC 2008 Progress report also noted that "However, the law does not duly mention all the grounds of discrimination, such as sexual orientation, and provisions of the Turkish Criminal Code on public exhibitionism and offences against public morality are sometimes used to discriminate against LGBT. In May 2008, upon an appeal by the Istanbul Governorate, an Istanbul court decided to close down Lambda Istanbul, as its statute was considered against general morality. An appeal has been lodged before the Council of State in this case." **[71d] (p23)**

20.03 "Turkey does not have a legislative statute that relates to homosexuality, although homosexuality is not illegal, gay and lesbian Turks are not specifically protected by any legislation. Furthermore, gay activists have complained that municipalities use morality-based laws to discriminate against gays and lesbians in Turkey." as noted by the Canadian Immigration and Refugee Board (CIRB) in 'Turkey: Treatment of gay, lesbian and transgender people by Turkish society; treatment by authorities; legislation, protection and services available', dated 11 June 2007. **[7j]**

20.04 The same CIRB response, dated 11 June 2007, further noted that "Although sex changes are legal in Turkey (Kaos GL 5 Oct. 2006), Lambda activists report that transsexuals and transvestites experience more discrimination than gay and lesbian Turks because they are visibly more different (Turkish Daily News 9 Apr 2007)." **[7j]**

20.05 The 'State-sponsored Homophobia' report by the International Lesbian and Gay Association (ILGA), published May 2008, noted that Turkey has had a specific law on gender recognition after gender reassignment treatment since 1988. **[54a] (p48)**

20.06 The EC 2008 Progress report also noted that: "Homosexuals have the right to exemption from military service. If they request such exemption, their sexual orientation is verified by means of degrading medical and psychological tests or by demanding proof of homosexuality." **[71d] (p23)**

20.07 The US State Department (USSD) 2007 Human Rights Practices report, published 11 March 2008, notes that "While the law does not explicitly discriminate against homosexuals, gay and lesbian rights organizations

Lambda Istanbul and Kaos GL claimed that vague references in the law relating to 'the morals of society' and 'unnatural sexual behavior' were sometimes used as a basis for discrimination by employers. The law also states that 'no association may be founded for purposes against law and morality.' This article has been applied in attempts to shut down or limit the activities of NGOs working on gay and lesbian issues." **[5g]**

20.08 The KAOS website on March 2008 also noted that although neither the European Court of Human Rights (ECtHR) nor the Committee had addressed the question of employment discrimination on the ground of gender identity, the ECtHR had, in recent years, delivered a series of judgements recognising the rights of transgender people to legal recognition of their gender reassignment, to contract a different-sex legal marriage, to access gender reassignment treatments and (indirectly) to parenthood. **[96e]**

20.09 The ILGA Europe website lists the countries that recognise marriage and partnership rights for same-sex partners under four main catagories: marriage, registered partnership, registered cohabitation and unregistered cohabitation. Turkey has no legal recognition for same-sex partners. **[54b]**

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GOVERNMENT ATTITUDES

20.10 A Human Rights Watch report 'Closing Ranks against Accountability Barriers to Tackling Police Violence in Turkey' was published in December 2008 and featured Esmeray's (a transgender member of the NGO Lambda Istanbul) other experiences of police harassment and violence. That report also describes how, after the passing of the revised police law in June 2007, Lambda Istanbul documented raids on gay bars in Beyoğlu where individuals expelled from the bars were beaten with truncheons and had pepper gas sprayed in their faces. **[9c] (p67-68)**

20.11 The HRW 2008 report further stated that the Law on Trials of Civil Servants makes it obligatory to secure permission in order to investigate public officials for misconduct. Due to the seniority of those named in the complaint, permission to investigate was referred to the Court of Cassation. The Court of Cassation's chief prosecutor refused to give permission for a criminal investigation of the governor, head of police, and head of the rapid deployment force on the grounds of insufficient evidence of misconduct. **[9c]**

20.12 The same HRW report also added that "Following a prompt investigation, a police officer is now on trial for Baran Tursun's murder.The indictment, prepared by the Karşıyaka prosecutor, argues that the use of firearms was not merited in this case: the context for firearms use laid out in the police law did not apply and nor was there a question here that the police officer had acted out of legitimate self defense. The trial began on January 14, 2008, and at this writing five court hearings have taken place." **[9c] (p36)**

20.13 As reported by the KAOS GL News website:

"On 23rd October 2008, a suspect caught selling films of group and gay sex was judged by an Istanbul court not to have been selling material portraying 'unnatural sex' and was sentenced only for sale of illegal pornographic material.The Turkish Penal Code demands higher penalties for the sale of movies that include 'unnatural' intercourse. The court sentenced the suspect on the lesser charge of selling pornographic films in an illegal location." **[96d]**

20.14 The same article reported by KAOS website further stated that in its verdict, the Istanbul court said "Most European countries have given gay relationships the equivalence of marriage, and in Holland gay marriages were made legal a few years back. In a world of modern societies, it is not possible to say intercourse among members of the same sex is unnatural. Since the action happens in private places and does not include children it is not criminal. The term 'unnatural sexual behavior' should be seen from a narrow perspective." **[96d]**

20.15 The Human Rights Watch (HRW) report 'We Need a Law for Liberation', dated May 2008, noted that:

"Article 72 of the Turkish Constitution states; 'Military service is the right and duty of every Turk' except for some. Turkey bans gay men from military service; the commentary to the regulation reads, 'It must be proved with documentary evidence that the defects in sexual behavior are obvious, and that when revealed in a military context would create problems'. What constitutes an 'obvious defect' or one that would 'create problems' is not spelled out. Gay men seeking exemptions are compelled to undergo psychological and, sometimes, humiliating anal, examinations based on mythologies about homosexuality." **[9d]**

20.16 The same HRW May 2008 report further noted that "A discharge on the basis of 'psychosocial illness' also cuts off the possibility of future state employment. Private employers who seek information about potential hires will usually only be informed that the man was unable for military service, but even that classification can create a suspicion of homosexuality (or psychosocial illness), making employment difficult." **[9d]**

20.17 The Canadian Immigration and Refugee Board in 'Treatment of homosexuals in the military; process to establish that a man is gay; consequence of refusing to undergo this process (2005 - 2007)', dated 5 April 2007, reported that:

"In March 2006, the gay rights group Lambda Istanbul published the results of a survey that it conducted in 2005 through face-to-face interviews with 393 gay men, lesbians and bisexuals in Istanbul (15 Mar. 2006). Of the 27 male respondents who stated that they had applied for an exemption from military service, 29 percent stated that they were obliged to submit a photograph showing them engaged in homosexual intercourse, while 62 percent noted that they were forced to undergo an anal examination (Lambda Istanbul 15 Mar. 2006)." **[7k]**

See also Section 9 Military Service

20.18 The same Information and Research Branch (IRB) document noted that: "[i]t has been the practice of the military to subject candidates for military service who are seeking exemption on the basis of being gay to physical as well as psychological examination, to establish their sexual orientation and practice, despite the fact that such degrading physical examinations have been conclusively discredited. (13 Sept. 2006)." **[7k]**

20.19 The Canadian Immigration and Refugee Board also noted, on 11 June 2007, that:

"Gay and lesbian rights organizations assert that Turkish homosexuals risk losing their jobs if their sexual orientation is revealed, and Turkish legislation does not protect them in these situations. For example, homosexuals are considered 'unfit to serve' in the Armed Forces. The Turkish military regards homosexuality as a psychological disorder, and according to the Kaos Gay and Lesbian Cultural Research and Solidarity Organization (Kaos GL) (the first non-governmental organization to focus on LGBT rights), soldiers who are suspected of being homosexual face humiliation and/or dismissal." **[7j]**

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SOCIAL AND ECONOMIC RIGHTS

20.20 The KAOS website published in an article 'Was Ahmet Yildiz the victim of Turkey's First Gay Honour Killing?', dated 9 September 2008, that: "Ahmet Yildiz, 26, a physics student who represented his country at an international gay gathering in San Francisco last year, was shot leaving a cafe near the Bosphorus strait this week… His friends believe Mr Yildiz was the victim of the country's first gay honour killing… Ahmet Yildiz's crime, his friends say, was to admit openly to his family that he was gay." **[96c]**

See also Section: Honour killings

20.21 The KAOS website in 2005 also noted that the most important problem of lesbians living in Turkey is perhaps the difficulty of coming out. Even though lesbianism (along with gays and transgenders) is not considered a crime and not forbidden by law in Turkey, it's very hard to come out because of the fact that discrimination against sexual orientation is not forbidden. During the discussions about the New Turkish Penal Law, the LGBT organisations like Kaos GL and Lambda Istanbul campaigned with feminist organisations in order to make discrimination on the grounds of sexual orientation a crime. Yet, the article making discrimination against sexual orientation a crime has been removed from the draft by the instruction of the Minister of Justice. Turkey still does not have any LGBT rights. **[96b]**

SOCIETAL ILL-TREATMENT OR DISCRIMINATION

20.22 The KAOS website reported on March 2008 that lesbians face particular problems, being exposed to discrimination on the basis of both their gender and their sexual orientation. In many social groups women in Turkey represent the 'honour' of their families and community. Many lesbians are obliged to marry

because of societal and economic pressure. In January 2005 a husband who killed his wife's girlfriend was given a diminished punishment by Istanbul Second District Criminal Court of Major Cases because his wife's lesbianism was considered 'unjust provocation'. **[96e]**

20.23 The Human Rights Watch (HRW) report dated May 2008 'We Need a Law for Liberation' noted that:

"Human rights violations against lesbian and bisexual women and girls in Turkey are inextricable from the abuses that women in Turkish society face in general. Human Rights Watch interviewed 24 lesbian or bisexual women and girls in 2003 and 2007. The most overwhelming factor that they cited to Human Rights Watch is the subjection of women and their sexualities to the family and its values—including honor or custom… In recent years, the Turkish government has made advances in protecting women…The Law on the Protection of the Family; passed in 1998, in May 2007 a reform extended the definition of victim of domestic violence." **[9d]**

See also Section: 22 Women

20.24 The USSD 2007 report also noted that on 24 February 2007, Bilgi University students established the 'country's first gay and lesbian university club. Approximately 15 parents lodged complaints with the university administration, and the Turkish Higher Education Council opened an inquiry into the university. 'Bilgi's dean of students, Professor Halit Kakinc, responded that closing down the club would violate human rights. The club was operating normally at the end of the year. **[5g]**

20.25 The USSD 2007 also noted that "Access to the Web sites of Kaos GL, Pembe Hayat, and Lambda Istanbul is blocked from all the computers on the campus of Anadolu University in Eskisehir." **[5g]**

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ORGANISATIONS PROMOTING EQUAL RIGHTS FOR LGBT PERSONS

20.26 The Canadian Immigration and Refugee Board in 'The treatment of sexual minorities, particularly lesbians, homosexuals and transsexuals, by state and non-state agents, including the police; protection available to sexual minorities who have been victimized', dated 5 April 2007, noted that:

"In July 2004, the Secretary General of the International Lesbian and Gay Association (ILGA), Kursad Kahramanoglu, indicated that there is no organization in Turkey that solely advocates for the rights of transvestites or the rights of transsexuals or lesbian rights. There are only two organizations in Turkey, Lamba Istanbul, which advocates for Lesbian, Gay, Bisexual and Transgender rights, and KAOS GL, which advocates for homosexual rights and both organizations are members of ILGA." **[7o]**

20.27 The Canadian Immigration and Refugee Board's website, dated 11 June 2007, also reported that "As of February 2007, Turkey had several legally registered

LGBT organizations: Kaos GL (Ankara), Lambda Association (Istanbul), Pink Life (Ankara), and the Rainbow Association (Bursa)." **[7j]**

20.28 There are organisations in Turkey that advance the interests of LGBT people working towards legal changes; promoting anti-discrimination; social or support groups:

- The International Lesbian and Gay Association (ILGA) - The International Lesbian and Gay Association is a world-wide network of national and local groups dedicated to achieving equal rights for lesbian, gay, bisexual and transgendered (LGBT) people everywhere. **[118]** http://www.ilga.org/

- International Lesbian and Gay Association-Europe (ILGA-Europe) - ILGA-Europe is a non-governmental umbrella organisation which represents its members, principally organisations of lesbian, gay, bisexual and transgender persons, at the European level. **[118]** http://www.ilga-europe.org/

- KAOS GL - KAOS GL was founded in September 1994, to unite Turkey's homosexuals in the struggle against discrimination. The group's underlying philosophy is that the liberation of homosexuals will also free heterosexuals. KAOS GL has been publishing the journal KAOS GL (now a quarterly) since it was founded. **[96]** It obtained legal NGO status by the Interior Ministry on 15 July 2005, after Ankara's Prosecution Office overturned efforts by the city's mayor to ban the organisation under civil code provisions on morality. **[7j]** http://news.kaosgl.com/

- Lambda - Lambda Istanbul is the largest queer liberation group in Turkey. It was formed by a small number of gays and lesbians as a result of a police ban on Christopher Street Day celebrations in 1993. Since then, Lambda, Istanbul has grown in membership and aims to raise its voice on behalf of the gay communities in Istanbul. **[44]** Lambda Istanbul operates a telephone helpline to counsel Turkish sexual minorities. Lambda Istanbul have been active in legislation projects, such as consultations on the Turkish parliament's 2004 consideration of the new Penal Law. **[7j]** http://www.lambdaistanbul.org/php/main.php?menuID=26 and http://www.qrd.org/qrd/www/world/europe/turkey/

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TRANSGENDER PERSONS

Transvestites

20.29 The 2008 European Commission Progress report, published 5 November 2008, stated that "Transsexuals and transvestites are occasionally subjected to physical assaults, including by the police. Homophobia has also resulted in cases of physical and sexual violence. These allegations are not systematically followed up by prompt and effective investigation." **[71d] (p70)**

20.30 The Canadian Immigration and Refugee Board's website, dated 11 June 2007, also reported that "many Turkish transvestites and transsexuals work as prostitutes because they cannot find regular jobs due to the prejudice they face (IHT 2 May 2007; Kaos GL 5 Oct. 2006; Turkish Daily News 9 Apr. 2007)… In August 2006, a group of transsexuals were reportedly denied the right to set up an association in the city of Bursa for reasons of public morality (Kaos GL 5 Oct. 2006)." **[7j]**

20.31 The Netherlands Ministry of Foreign Affairs 2002 reported that "Turkish law does not prohibit transvestism. Nor does government policy discriminate against transvestites in any way. Attitudes to transvestites in Turkey are also ambivalent. Some nationally known transvestites from the world of show-business are highly regarded in Turkey. Huysuz Virjin is a famous transvestite who presents a popular talk show on television. The transvestite singer Zeki Müren, who died in 1996, was given a state funeral for his services as a singer." **[2a] (p142)**

Transsexuals

20.32 The Immigration and Refugee Board of Canada noted in 'The treatment of sexual minorities, particularly lesbians, homosexuals and transsexuals, by state and non-state agents, including the police; protection available to sexual minorities who have been victimized', dated 5 April 2007, that:

"On 1 January 2002, the law regarding transsexual operations was amended to require candidates to 'submit a medical certificate stating that the sex change is necessary for the mental health of the person concerned.' However, those who have undergone the operation are entitled to record this in the civil register and are entitled to marry thereafter. The 2002 report by the Netherlands notes that the situation of transsexuals is similar to that of transvestites (ibid.). Similarly, Turkish Daily News reported that [t]ranssexuals are the ones who are subjected to violence the most. Because of their situation, they aren't permitted to work in society forcing them to work as sex tools. Then society punishes them for doing this." **[7o]**

20.33 The same Canadian IRB document, dated 5 April 2007, also noted that "Transsexuals are persecuted in Turkey and the police often torment them by forcibly shaving their heads: Long hair is a symbol of femininity and cutting it off is a potent assault on the victim's sense of identity." **[7o]**

20.34 The US State Department (USSD) 2007 report, published 11 March 2008, further noted that on 15 May 2007, members of the groups Pembe Hayat and Kaos GL protested at the Esat Police Station in Ankara. Protestors claimed that transsexuals and transvestites had been unjustly taken into custody and faced mistreatment during their detention. Police officers on duty prevented the protestors from making a press statement during the demonstration. **[5g]**

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21 DISABILITY

PEOPLE WITH DISABILITIES

21.01 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted that "The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; the government generally enforced the law effectively. The law does not mandate access to buildings and public transportation for persons with disabilities. The Presidency Administration for Disabled People, under the Prime Ministry, is responsible for protecting the rights of persons with disabilities." **[5g] (Section 2)**

21.02 The *BIA News Center* on 4 December 2008 reported in an article 'Turkey Ratifies the Convention for the Rights of the Disabled', that:

"The Parliament has unanimously ratified the UN Convention on the Rights of Persons with Disabilities. Turkey had signed this convention on March 30, 2007, but not ratified it until today [4 December 2008]. The convention imposes on the state obligations regarding incorporating the persons with disabilities into the society, protecting them from discrimination and stigmatization, making all the services accessible to them and in the matter of equality before the law.

"The optional protocol, on the other hand, provides the individuals and the groups with the ability to apply directly to the UN Commission for the Rights of the Persons with the Disabilities, once all the internal legal means in their countries are exhausted." **[102j]**

21.03 The European Commission 2008 Progress report, published 5 November 2008, stated that "There has been progress in the area of employment policy. An Employment Package was adopted in May 2008 aiming to address unemployment challenges, with a specific focus on the promotion of job opportunities for women, young people and people with disabilities…**[71d] (p61)** As part of the Employment Package, social security premiums for the disabled will be covered by the State to promote the employment of people with disabilities." **[71d] (p 62)**

21.04 The 2008 European Commission Progress report further noted that "However people with disabilities do not benefit from adequate public services. Lack of data and research are preventing informed policy-making. Community-based services are not sufficiently developed. Insufficient general medical care and treatment remains a problem in mental health hospitals and rehabilitation centres." **[71d] (p70)**

21.05 The Freedom House 2007 'Countries at the Crossroads' report, published 25 September 2007, noted that "In July 2005 a new law on people with disabilities was passed, which added disability to the list of characteristics against which discrimination is punishable under the penal code. The law also promises better access for disabled persons to public areas and services but lacks the sanctioning power that may be required for enforcement." **[62c]**

21.06 The Freedom House 2007 report further noted that "The interests of people with disabilities are addressed by the High Council of Disabilities, which brings public officials together with nongovernmental groups. Although the council has admirable aims, the needs of such people continue to exceed the limited services provided. Employers are required to reserve 3 percent of their workforce for employees with disabilities, but discrimination persists. Information about government services and regulations is not readily available in formats accessible to people with disabilities." **[62c]**

21.07 The 14th report on the implementation of the European Social Charter submitted by the government of Turkey for the period covering 2004-2006 noted that in regard to the:

"Law on Disabled People No. 5378 (Article 14).[That] In recruitment, no discriminative practices can be performed against the disabled people in any of the stages from the job selection to application, selection process, technical evaluation, suggested working periods and conditions. Working disabled people cannot be subjected to any different treatment than the other people with respect to their disability such that it could cause a result which is unfavorable for them… sanctions for discrimination Penal Code (Article 122) Persons found guilty of offence of discrimination shall be sentenced to imprisonment for a term of six months to one year or judicial fine." **[68]**

21.08 The 14th report on the implementation of the European Social Charter further noted that "active participation of people with disabilities into the labour market is promoted by quota system both in private and public organizations. In accordance with the Labour Law numbered (No 4857; No discrimination based on language, race, sex, political thought, philosophical belief, religion, sect and similar grounds can be made in the employment relationship) and Civil Servants Law (No. 657-article7; Civil servants; cannot discriminate anyone on the basis of language, race, sex, political thought, philosophical belief, religion or sect when performing their duties), private and government funded agencies and organizations employing at least 50 workers are obliged to employ disabled persons up to 4% (3% in the case of civil servants) of the minimum required number of employees in that agency or organization. Grant System for employing disabled persons has been established based on contribution for employers." **[68]**

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22 WOMEN

OVERVIEW

22.01 The UN Human Rights Council: Addendum to the Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Mission to Turkey, 5 January 2007, noted that:

"Limited opportunities for women in the region and their limited access to education, employment, information, health services and justice are major constraints to their rights as citizens, potential political power, ability to negotiate the terms of their existence and finding redress for their problems. Local women's voices must be heard and their initiatives supported. Without a reliable institutional and legal framework guaranteeing their rights and protection, women's individual and collective resistance can bring fatal consequences." **[20d]**

22.02 The UK Foreign and Commonwealth Office (FCO) Human Rights Annual Report 2007, released in March 2008, noted:

"Implementation of a satisfactory legal framework tackling violence against women continues, but the issue remains a concern. Lack of accurate data and an overall government strategy have been key obstacles to progress in this area, and the Turkish government has started to take action to address both issues. There have been a number of studies in the areas of women's participation in the Turkish economy. According to the Turkish Statistic Institute (2005 figures), 69.5 per cent of men and 26.5 per cent of women actively participate in the workforce. The EU average for women is 60 per cent.
The number of women entrepreneurs in Turkey is only 12.5 per cent, compared with the EU average of 25 per cent. The UK is supporting a project in this area." **[4g] (p68)**

22.03 The European Commission 2008 Progress report, published 5 November 2008, mentions that "Overall, the legal framework guaranteeing women's rights and gender equality is broadly in place. However, further significant efforts are needed. To reduce the gap between men and women in economic participation and opportunity, educational attainment, access to healthcare, and political empowerment. Efforts to prevent honour killings and domestic violence have continued. However, these issues remain a serious problem, and efforts need to be stepped up." **[71d] (p21)**

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Legal Rights

22.04 The Constitution of the Republic of Turkey states: "All individuals are equal without any discrimination before the law, irrespective of… sex… 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." **[36e]**

22.05 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted that "The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, problems in implementation of these laws existed. The government and NGOs focused on eliminating societal violence and discrimination against women and minorities, as well as trafficking, but problems continued in these areas." **[5g]**

22.06 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, notes that in a written statement, Mr Ahmet Firat, Director General and Zümra 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." **[59] (S10W)**

22.07 The Report of the UK Border Agency Fact Finding Mission includes information regarding Legal Rights for Women obtained from interviews with a number of sources. 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. **[59] (S13.3)**

22.08 Women for Women's Human Rights – New Ways (WWHR) stated 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/honour killings. The change is not dramatic but is noticeable. **[59] (S.1.13)**

22.09 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, organisations representing women's interests had extended to parts of the country where they did not used to be. **[59] (S1.16)**

22.10 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, also asked Ms Senay Ertem, Head of the Board for Women's Rights (within the Bar Association), 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. **[59] (S6.7)**

22.11 The CEDAW 32nd Session, January 2005 Based on Shadow Report for Turkey prepared by Women for Women's Human Rights - New Ways, endorsed by the Turkish Penal Code Women's Platform, stated 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." **[95a]**

22.12 The Women for Women's Human Rights (WWHR) website, accessed on 24 August 2008, noted:

"The new Civil Code has taken a new approach to the family and to women's role in the family. The old legal approach, which assigned women a legislatively subordinate position in the family with rights and duties defined in respect to the husband, has been abandoned in favor of one that defines the family as a union based on equal partnership. Consequently, this new concept is also reflected in the language of the new Code. The terms 'the wife' and 'the husband' are replaced by 'the spouses', the new approach to the family is reflected in several changes:

- The husband is no longer the head of the family; spouses are equal partners, jointly running the matrimonial union with equal decision-making powers;
- Spouses have equal rights over the family abode;
- Spouses have equal rights over property acquired during marriage;
- Spouses have equal representative powers;
- The concept of 'illegitimate children', which was used for children born out of wedlock, has been abolished; the custody of children born outside marriage belongs to their mothers. **[95b]**

22.13 The Minority Rights Group International (MRG) report on 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that:

"Defendants are not provided with a competent interpreter, which particularly affects older Kurds and women, who are not fluent in Turkish. Instead, translation is provided by court clerks or anyone present, who may not necessarily be competent to translate legal proceedings... The recognition of the right to public services in minority languages is particularly important for minority women, specially Kurdish women living in rural areas, many of whom are illiterate and/or do not speak Turkish. A study undertaken by the Diyarbakır municipality's Centre for Research on Women's Issues, based on interviews with 472 married women in 97 villages, shows that around 80 per cent of these women are illiterate." **[57c] (p19-20)**

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POLITICAL PARTICIPATION OF WOMEN

22.14 The European Commission 2008 Progress report, published 5 November 2008, noted that "There are some notable examples of high-level presence of women in Turkish society in business, academia, the civil service and politics…Political representation of women, at both national and regional levels, is very low. Civil society organisations have submitted proposals to address this issue, in particular with a view to the forthcoming municipal elections scheduled for 2009." **[71d] (p20)**

22.15 The EC 2008 Progress report also noted that "A Gender Equality Body and a Parliamentary Committee on Gender Equality have still to be established. Women's civil society organisations have requested the establishment of a fully-fledged committee that could play an essential role in mainstreaming women's issues in all policy areas." **[71d] (p20-21)**

22.16 As noted in the UK Foreign and Commonwealth Office (FCO) Human Rights Annual Report 2007, released in March 2008: "Low female participation in representative bodies and the workforce continues, but there is growing public awareness of this issue. The number of women in parliament doubled at the July 2007 election, although it remains at a lower proportion than in any EU country." **[4g] (p68)**

22.17 A *Turkish Daily News* article dated 26 January 2007 'Turkish woman's election to gender equality chair 'meaningful'', stated that:

"It is significant when a Turkish woman (Ankara deputy Gülsün Bilgehan) becomes head of a Council of Europe committee in charge of gender equality and women rights. She was unanimously elected on Monday head of the Parliamentary Assembly of Council of Europe (PACE) committee on equal opportunities for women and men. Few committees at PACE are chaired by Turks but it is particularly meaningful that a Turkish woman was elected to chair a committee dealing with women rights, equality, honor killings, domestic violence, forced marriage and education of girls." **[23j]**

22.18 The *Turkish Daily News* also reported on 26 January 2007 that "Arzuhan Doğan Yalçındağ, yesterday elected chairman of the Turkish Industrialists and Businessmen's Association (TÜSİAD), is the acting CEO of Doğan TV and a Doğan Holding board member. Yalçındağ started her professional life in 1990 in Milpa, founding the company Mail Order with the German firm Quelle. Yalçındağ is one of the founders of the Aydın Doğan Foundation and remains a board member of the institution. She is also a member of the Turkish Education Volunteers Foundation (TEGV), Turkish-American Businessmen's Association, and Turkey Third Sector Foundation, as well as the founding member of the Women Entrepreneurs Association. She is currently lobbying for Turkey in the European Union member countries in her role as the founding president of the 'Women's Initiative for the European Union." **[23i]**

SOCIAL AND ECONOMIC RIGHTS

Employment

22.19 The European Commission 2008 Progress report, published 5 November 2008, mentions that "Parliament adopted the 'Employment Package' amending the Labour Law and certain other laws in order to promote women's employment. This Package was adopted in May 2008 aiming to address unemployment challenges, with a specific focus on the promotion of job opportunities for women…" **[71d] (p61)**

22.20 The EC 2008 Progress report also added that "For instance, the amendments stipulate, among other things, that the employers' share of social security premiums for newly hired women employees are to be covered by the Unemployment Insurance Fund for a five-year period, starting with 100% in the first year and ending with 20% in the fifth." **[71d] (p61)**

22.21 The EC 2008 Progress report further noted that "Overall, the legal framework guaranteeing women's rights and gender equality is broadly in place…" **[71d] (p21)** "Although the overall legal framework guaranteeing gender equality is in place, further big efforts need to be made if the gap between men and women in economic participation and opportunity, educational attainment, access to healthcare, survival and political empowerment is to be closed." **[71d] (p70)**

22.22 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted that "Women continued to face discrimination in employment to varying degrees and were generally underrepresented in managerial-level positions as well as in government. Women generally received equal pay for equal work in professional, business, and civil service positions, although a large percentage of women employed in agriculture and in the retail, restaurant, and hotel sectors worked as unpaid family labor." **[5g] (Section 5)**

22.23 In a *Bianet* article, 'Parliament's Equality Commission In September', published 29 July 2008, it was noted that:

"Fatma Şahin, Gaziantep deputy for the Justice and Development Party (AKP) told *Bianet* they were expecting a commission regarding the equality between men and women to be formed in the Parliament in September. Şahin said that they wanted their bill for the commission to become a law in the beginning of July, but because of the recent agenda of the country, it had to be postponed to September.

"According to the bill that is waiting in the Parliament to become a law, the duties of the commission will be the following:

- To inspect bills, bill proposals and decrees with the power of law in order to determine if they comply with the national legislation and international obligations regarding the equality between men and women.
- To prepare an evaluation report in every legislative year about the developments towards establishment of equality between men and women and the activities regarding them.
- To observe the developments in other countries and international institutions and to have inspections in other countries and to inform the Parliament about them.
- To provide the Parliament with the necessary information and documents about the subject.
- To organize activities about equality between men and women in order to inform the public. " **[102v]**
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MARRIAGE

22.24 The Office of the Prime Minister, Directorate General of Press and Information, accessed 24 August 2008, recorded that the legal age for marriage has been raised for both men and women to over 17 years (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. **[36f]**

22.25 Human Rights Council: Addendum to the Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Mission to Turkey, 5 January 2007, noted that:

"The 1998 Law on the Protection of the Family grants abused spouses or other family members living with the perpetrator the right to go to court to apply for a

protective order... In granting the protective order, the court can require that the perpetrator leave the family home for a period of up to six months or impose other protective measures. Failure to abide by a protective order can result in imprisonment of up to six months... In practice, the law has not lived up to the high expectations and seems to be rarely used. In Batman, for instance, there were only 20 applications for a protective order in all of 2005. The lawyers I spoke with explained that the courts regularly fail to enforce such orders... Therefore, lawyers often advise their female clients to file for divorce and find a new home rather than seek an ineffective protective order and further aggravate the conflict with the perpetrator." **[20d]**

22.26 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." **[35b]**

22.27 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted that "On June 22 [2007], a Diyarbakir Heavy Penal Court convicted numerous family members for the March 2006 murder of 23-year-old Gulistan Gumus. Gumus's husband from an arranged marriage, Omer Tas, conspired with relatives from his family and Gumus's family to murder her after she tried to divorce him and move to Istanbul. The court sentenced Tas and brother-in-law Mehmet Sah Tas to aggravated life imprisonment; father Bahattin Gumus and father-in-law Hamdullah Tas to 18 years for complicity in the murder; and two other relatives and one family friend to 15 years for complicity. The court added on three years to the sentences of Mehmet Sah, Hamdullah Tas, Izzettin Tas, Bahattin Gumus and Abdurrahim Gumus for breaking and entering." **[5g] (Section 5)**

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Forced marriages

22.28 The Amnesty International (AI) report 'Turkey: Women confronting family' noted in June 2004 that "Forced marriage, in contrast to arranged marriage, has been described as any marriage conducted without the valid consent of both parties and may involve coercion, mental abuse, emotional blackmail, and intense family or social pressure. In the most extreme cases, it may also involve physical violence, abuse, abduction, detention, and murder of the individual concerned." **[12i]**

22.29 A June 2008 article on *Todayszamen*.com reported:

"The issue of forced marriages in Turkey was discussed at the 'Active against Forced Marriages' conference aiming to raise awareness of the issue and offer solutions to combat the threat to women's human rights… Experts highlighted

the significance of public awareness in tackling with the problem of forced marriage, in Turkey mostly seen in the eastern regions but also occurring in the country's west… The conference program stressed that the more young girls know about their legal rights, the better chances they have of resisting an undesired marriage.

"However, a rising level of awareness alone is not enough, a lack of economic independence drove women to give in to forced marriages or continue the marriage they were forced into. Government institutions must take steps, and women should be provided with vocational training." **[24b]**

22.30 The same AI 2004 report also adds that "Forced marriage violates a woman's right to choose her partner, a right enshrined in the Universal Declaration of Human Rights and provided for in the International Covenant on Civil and Political Rights and the Women's Convention, to both of which Turkey is a state party." **[12i]**

22.31 As noted in the Immigration and Refugee Board of Canada document 'Turkey: Forced marriage in Turkey; outcome when a woman refuses to marry the designated man; outcome when a woman elopes with another man; attitude of state and availability of state protection (July 2001-September 2004)', dated 28 September 2004:

"Young girls living in rural areas, specifically in eastern Anatolia, face difficulties, in trying to oppose forced marriage since under tribal custom they are considered the property of either their father before marriage or by their husband afterwards and if they resist social pressure from the community, 'they do so at their peril'. Similarly, according to one of the leaders of WWHR, rural women are likely to be marginalized in the context of changes induced by the new Civil Code, including the raising of the legal age for marriage to 18, as they 'must contend with traditions and customs, [including underage marriage] that have little to do with the legislative revisions their urban sisters enjoy'." **[7a]**

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VIOLENCE AGAINST WOMEN

22.32 The EC 2008 Progress report on Turkey stated that:

"The Prime Ministerial circular on combating honour killings and domestic violence against women has helped to improve cooperation between public institutions. Awareness-raising activities have been organised for members of the judiciary and law enforcement bodies. To date, 30000 law enforcement officers have reportedly participated in training with a further 10000 planned by the end of 2008. Gender sensitivity training programmes have also been conducted for health workers. The number of shelters for women victims of domestic violence has marginally increased. Courts have applied the amended Law on protection of the family." **[71d] (p19)**

22.33 In a recent BIA News article 'Democratic Women Launch Campaign to Prevent Violence against Women' dated 25 November 2008, it was noted that:

"Democratic Free Women's Movement held a press release for the November 25 International Day for the Elimination of Violence against Women at the Eminönü Square… They plan to have various meetings to help those women who get killed because of violence they are subject to, ad increase the solidarity with them.

"Another press release, this time by university students, was held at the Uludağ University Young Women Society for the November 25 International Day for the Elimination of Violence against Women. The press release emphasized that the universities were not immune from violence against women, that one out of every three women experienced violence and one out of every six male university graduates resorted to violence in his relationship." **[102n]**

22.34 The BIA News article 'Police Violence at the Exhibition for the Elimination of Violence against Women' published 25 November 2008, reported that "The November 25 Women's Platform organized an exhibition composed of objects symbolizing and the pictures showing the violence against women, but the exhibition was ended by a sudden and violent police intervention… Twenty police officers dispersed the boards used for the exhibition, using physical violence in the process, on the grounds that it was an 'unauthorized activity', despite the laws said otherwise." **[102t]**

22.35 The Freedom House 2007 Countries at the Crossroads, published 25 September 2007, recorded that "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." **[62c]**

22.36 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008 noted that "the law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, problems in implementation of these laws existed… The law prohibits rape, including spousal rape; however, the government did not effectively enforce the law." **[5g] (Section 5)**

22.37 The Freedom House 2007 Freedom in the World report, published 2 July 2008, stated that "Domestic abuse and so-called honor crimes continue to occur; a 2007 study from the Turkish Sabanci University found that one in three women in the country was a victim of violence. The 2004 penal code revisions include increased penalties for crimes against women and the elimination of sentence reductions in cases of honor killing and rape." **[62a]**

22.38 The Report of the UK Border Agency Fact Finding Mission to Turkey (UKBA FFM) 11 – 20 February 2008, interviewed a number of sources on the issue of violence against women. 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. **[59] (S11.4)**

22.39 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. **[59] (S19.2)**

22.40 In 2006, the Social Services and Child Protection Agency (SHCEK) informed the UKBA FFM that it had 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 main cities, 28% from women outside of the main cities and 5% from women living in villages. **[59] (S11.9)**

22.41 In the United Nations Special Rapporteur's report '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." **[20d]**

22.42 The FCO 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. **[59]**

22.43 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, whist 8,773 women were injured in 30,621 suicide attempts, 858 women lost their lives in 3,266 occurrences of suicide." **[59] (Information provided by the FCO, 29 May 2008)**

22.44 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted "Women's NGOs reported that more than 150,000 women were victims of domestic violence between 2001 and 2005…more women called the police emergency hotline to report domestic violence and went to police stations to file abuse reports. On October 15, the Istanbul governor and the Foundation to Support Contemporary Life, backed by EU funds, launched a domestic violence hot line staffed by operators who screen calls and then forward legitimate calls to police, attorneys, or psychologists. In the first ten days of the program, approximately 150 calls were received." **[5g] (Section 5)**

22.45 Mr Tuzecan, Director of the Stop Violence against Women campaign, informed the UKBA FFM that *The Hurriyet* ran a 24 hour telephone hotline (02126569696) for female victims of human rights violations. **[59] (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. **[59] (S2.8)**

22.46 Several helpline services available to women were mentioned by the sources interviewed by the UKBA FFM. 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. **[59] (S11.18)**

22.47 Women for Women's Human Rights (WWHR) advised 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, organisations representing women's interests had extended to parts of the country where they did not used to be. **[59] (S1.16)**

22.48 The International Helsinki Federation Annual Report on Human Rights Violations (2006): Turkey, 8 June 2006, noted that:

"Derya Orman, Gülselin Orman and Seyhan Geylani Sondas were arrested by the police in Istanbul in April because one of them did not have an identity card with her. They stated that the police requested them 'sexual favors' in the station in order to release them. They reported that they were stripped naked, sexually harassed and forced to sexual intercourse by the officers on duty, including a policewoman. HRA officials reported that the applicants were

mistreated by the prosecutor when they went to his office to file complaints against the police officers." **[10a] (p441)**

See section 22.80 – Protection of victims of violence

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Honour killings

22.49 In a letter from the Foreign and Commonwealth Office dated 23 June 2008, it was noted that "An honor killing is generally a murder committed by male family members against female members who has brought 'dishonor' to the family, including seeking a divorce or allegedly committing adultery." **[4s]**

22.50 The report of the Special Rapporteur '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." **[20d] (Summary p2)**

22.51 The same Special Rapporteur report also adds that "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." **[20d] (p10)**

22.52 The EC 2008 report further added that "The Court of Cassation ruled that sentences for honour killings are given only if there is evidence showing that the murder was committed following a decision of the family assembly. This decision was criticised by a member of the Court, who claimed that it would complicate efforts to eradicate these killings. According to the Prime Ministry Human Rights Directorate, 220 honour killings were reported in the country in 2007, most of which happened in big cities. This is an increase compared with 2006 and illustrates the need to target efforts to raise awareness on women's rights among urban migrants. Finally, there is a need to improve reliability of data on all these issues." **[71d] (p20)**

22.53 A BIA News article 'The Family Council Becomes an Excuse for Honor Killings of Women' published 29 August 2008, stated that "Salih Zeki İskender, a member of the Supreme Curt of Appeals 1st Penal Chamber, announced that he would require there to be a 'family council decision' in a murder with a motive of custom. Lawyer Nazan Moroğlu, with whom *Bianet* met about this

announcement, said that there was no such criterion in the Penal Code (TCK) and in fact there were no requirements for the murders with the motive of custom. In the section 'Crimes against Life', TCK describes 'the motive of custom' as one of the qualified murder modes and the sentence for this mode is life in prison. She says that these types of murders are not always made with the decision of the family council, sometimes there are personal decisions behind them." **[102u]**

22.54 The European Commission 2008 Progress report, published 5 November 2008, maintained that "Efforts to prevent honour killings and domestic violence have continued. However, these issues remain a serious problem, and efforts need to be stepped up." **[71d] (p21)**

22.55 A *Bianet* article published 23 October 2008, stated that "Özlem Arslan, a young woman from Ağrı in the eastern Turkey, was murdered two hours after her divorce. The reason for her divorce was her husband's intention to have another wife in addition to her… The young woman was killed by a close range gun shot. Her father İbrahim Şahin, her brother Mustafa Şahin and her ex-husband Mehmet Arslan have been taken into custody in connection with the shooting." **[102p]**

22.56 Interviewed by the the UK Border Agency Fact Finding Mission to Turkey (UKBA FFM) 11 – 20 February 2008, the Turkish NGO 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 (eg 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 Alevis community and certain geographical areas, including provinces in the East such as Tunceli. **[59] (S1.9)**

22.57 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 (ie where girls were forced by their families to kill themselves), it was not possible to be definitive about the level of incidence. **[59] (S1.8)**

22.58 The report of the Special Rapporteur 'Violence against women, its causes and consequences' by Yakin Erturk, dated May 2006, 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." **[20d]**

22.59 The EU Commission Delegation told the UKBA FFM 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. **[59] (S19.3)**

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Female suicide

22.60 A *Sky News* investigation dated 12 November 2007, reported that women were being forced to commit suicide for bringing dishonour on their families. The report suggested that this phenomenon appeared to be a result of the tightening of laws against honour crimes: "… the stricter sentences handed to men accused of killing women for shaming the family are causing a rise in the number of honour suicides, say campaign groups. Families in predominantly Kurdish southeast Turkey are pressing young daughters or wives to take their own lives to spare the men of the family from serving time. Women's organisations in the city of Batman say that around 80 female suicides were recorded in the city in 2006 alone." **[29a]**

22.61 On 23 August 2007, an article published in the *Guardian* noted that "On the streets of Batman, a city with a population of 250,000, an alarming number are harbouring suicidal thoughts, and acting on them. Across Turkey, men are twice as likely as women to take their own lives, but, defying that trend, more than 300 women in Batman have attempted suicide since 2001… The numbers are increasing. By June this year [2007], 19 had tried to take their lives and most were successful. But 'women's groups and human rights advocates believe the suicides are tantamount to murder. Stories have emerged of girls as young as 12 being locked in rooms for days with rope, poison or a pistol." **[38a]**

22.62 The UN Human Rights Council: Addendum to the Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Mission to Turkey, 5 January 2007, noted that:

"More specifically, there are reasonable grounds to assume that some recorded cases of suicides in fact constitute grave violence, either because the victim was forced to commit suicide or because a murder was disguised as a suicide. Patriarchal oppression, manifesting itself in diverse forms of violence against women, including forced marriage, early marriage, incestuous sexual abuse and honour-related violence, is often a factor that underlies suicides." **[20d]**

Virginity testing

22.63 The CEDAW 32nd Session, January 2005 Based on Shadow Report for Turkey prepared by Women for Women's Human Rights - New Ways, endorsed by the Turkish Penal Code Women's Platform, noted that:

"The new Turkish Penal Code Article 287 on 'Genital Examination' does not explicitly state that 'virginity testing is banned' and fails to seek the consent of the woman as a necessary precondition; hence as it stands the article continues to provide a basis for this widespread practice of women's human rights violation." **[95a]**

22.64 A *Bianet* article published 27 November 2008, noted that "Virginity tests are back. Lawyer Yasemin Öz and President of the Education and Science Workers Union (Eğitim-Sen) Zübeyde Kılıç think this practice victimizes the girls and the female students. The incident happened when the principle of the dormitory where the said university student was staying called her father and told him that he should come and get his daughter, on the grounds that the reddish marks around her face and neck were obvious signs of a sexual relationship. The father had to come and take two virginity reports for her daughter from two different hospitals. The father said he was going to file a complaint." **[102o]**

22.65 The UN Human Rights Council: Addendum to the Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Mission to Turkey, 5 January 2007, noted that:

"Other surveys demonstrated links between suicidal behaviour and factors such as forced virginity testing or childhood sexual abuse... Virginity testing - a practice often used by families to 'determine' a girl's chastity - has also partially been criminalized. Virginity testing authorized by a judge or prosecutor remains legal even if the woman refuses to consent to the intrusive practice." **[10b] (p16)**

22.66 The same UN Human Rights Council 2007 report further called for Turkey to "Amend remaining discriminatory articles in the Penal Code, such as article 287, which allows virginity testing without the woman's consent under certain circumstances and article 104 that may be interpreted as criminalizing consensual sexual relations between teenagers aged 15 to 17." **[10b] (p21)**

22.67 The CEDAW 32nd Session, January 2005 Based on Shadow Report for Turkey prepared by Women for Women's Human Rights - New Ways, endorsed by the Turkish Penal Code Women's Platform, further noted that "Unfortunately the practice of virginity testing still exists in Turkey, performed in various public institutions and penitentiaries and even employed by families when women are suspected of having premarital sexual relations. The practice not only discriminates against women based on virginity, but also violates women's human rights and bodily integrity, sometimes to the extent that it causes women to commit suicide or to be killed by their families in the name of 'honor'." **[95a]**

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Treatment of women in detention

22.68 The EC 2008 Progress report published 5 November 2008, reported that "However, the number of applications to NGOs in relation to cases of torture and ill-treatment has increased, in particular outside official places of detention,

notably during apprehension, transfer, or in the open with no detention registered. Furthermore, there are cases where the legal safeguards in place failed to prevent or stop the occurrence of torture and ill-treatment while in custody or in prison. These developments are a matter of concern." **[71d] (p13)**

22.69 In a recent *BIA News* article 'Sexual Violence in Detention', dated 27 November 2008, it was noted that:

"The Legal Aid Bureau against Sexual Harassment and Rape in Detention has announced the data regarding the applications between January and November. In 2008, 35 women applied to the bureau. According to the information supplied by the bureau, there was no rape application in 2008, but there were sexual harassment complaints. Harassment was done by touching using one's hand or other objects, threat of rape and verbally about woman's sexuality." **[102f]**

22.70 The International Helsinki Federation (IHF) for Human Rights 2006 Turkey report, published 8 June 2006, noted:

"Derya Orman, Gülselin Orman and Seyhan Geylani Sondas were arrested by the police in Istanbul in April because one of them did not have an identity card with her. They stated that the police requested them 'sexual favors' in the station in order to release them. They reported that they were stripped naked, sexually harassed and forced to sexual intercourse by the officers on duty, including a policewoman. HRA officials reported that the applicants were mistreated by the prosecutor when they went to his office to file complaints against the police officers." **[10a] (441)**

22.71 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, interviewed a number of sources on the issue of treatment of women in detention and noted that Mr Öndül, 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. **[59] (S4.2)**

22.72 Mr Öndül, Chairman of the Human Rights Association also 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. **[59] (S4.8)**

See also Section 11 Arrest and Detention – Legal Rights

22.73 Mr Öndül, Chairman of the Human Rights Association, also added that there was no independent Ombudsman in Turkey to investigate complaints of mistreatment. Turkey was yet to ratify the Optional Protocol on Torture (OPCAT)… The Human Rights Foundation of Turkey was campaigning for Turkey to sign OPCAT and get it approved by the Turkish parliament. **[59] (4.15)**

22.74 Mr Beyter Chairman of Mazlum Der told the UKBA FFM 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. 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. **[59] (5.10)**

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Complaints procedure for women mistreated in custody

22.75 A letter from the British Embassy in Ankara to the Country of Origin Information Service, dated 27 March 2007, sets out details of the complaints procedure for women mistreated in custody, in terms of answers to a series of questions:

"I refer to your letter of 21 February for additional information on the complaints procedures available for women, who have been mistreated in custody in Turkey. The answers to your questions follow.

1. What precisely does a Turkish woman need to do in order to complain about her treatment by the Turkish police either during her arrest/questioning or while being held in police detention?

   There are currently a number of different avenues of complaint available in Turkey:

a) The most usual route is to submit a written allegation to the Provincial Chief Prosecutor, who will then arrange an investigation.
b) Alternatively, complaints about police treatment can be submitted directly to the Interior Ministry
c) A third option is to submit a complaint to the provincial Human Rights Board. The Boards consist of local government and non-governmental representatives and are have responsibilities across the full range of civil and political rights. They are unable to instigate a prosecution but they do have investigative powers and will submit their findings to the prosecutor. In 2004, 9.64% of applications to Human Rights Boards related to torture and mistreatment.

2. What forms does she need to fill in?

a) This option does not require a form, although complaints must contain details of places, times, persons and their actions. A lawyer may submit a complaint on the victim's behalf.
b) This option is most commonly pursued via an online form available on the Ministry of Interior Website at www.icisleri.gov.tr. The form must be completed in Turkish.
c) The Regional Human Rights Boards use a standard 4-page application form, copies of which are available on-line, from public and NGO offices.

The form can be filled in personally, or by a relative or representative. Forms can be submitted by e-mail, fax, post or via a 'human rights application box' located in various public buildings in every town. An English version is available from the Prime Ministry website at www.basbakanlik.gov.uk Applications must be submitted in Turkish.

3. If she is required to attend in person can she be accompanied by a lawyer or other representative, such as a representative of an NGO?

   If required to attend in person, she may always be accompanied by a lawyer. NGO representatives are unlikely to be allowed to attend police interviews, but may accompany the plaintiff at other stages of the proceedings.

4. Can the complaint be lodged from a different police district from the one where the alleged ill-treatment took place?

   As outlined above, complaints are not submitted directly to the police. Complaints to the prosecutor and human rights board are submitted in the same province (an average province in Turkey has a population of 700,000 - 1 million). Complaints to the Interior Ministry are handled centrally, but involve local prosecutors.

5. How effective are these remedies in practice?

   Investigations into allegations of mistreatment occur after almost all allegations are submitted, but as outlined in the 2006 Progress Report, impunity remains a problem in Turkey. Prosecutions are often made but convictions are rarer.

6. Are there any human rights groups active in Turkey who provide assistance to women in this situation?

   There are no human rights groups focusing exclusively on women in this situation, but a number do provide this service to men and women. The most important of these is the Human Rights Association, which has branches in 35 cities in Turkey. Each can be contacted by phone or e-mail. Details are available from the website www.ihd.org.tr. The Human Rights Foundation will also compile medical evidence for submission to prosecutors and rehabilitation for torture survivors. It has offices in Ankara, Istanbul, Izmir, Adana and Diyarbakir. Contact details for each branch are available on the website www.tihv.org.tr." **[4r]**

22.76 The same letter noted that an "EU Twinning Project which aims to set up an independent Complaints Authority for both police and gendarmerie in Turkey was launched on 12 March [2007]. The UK IPCC will be the twinning partner in this project. Procedures are therefore expected to change." **[4r]**

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22.77 A letter from the British Embassy in Ankara to the Country of Origin Information Service, dated 17 April 2007, sets out details of the complaints procedures available for women who have been mistreated in custody by the National Guard or Jandarma:

"1. Complaints are dealt with by a centralised body known as the Gendarme Human Rights Violations Investigation and Assessment Centre (JIHIDEM), which is responsible for the investigation and assessment of complaints and their submission to the prosecutor for action. Applications can be made to JIHIDEM in a variety of different ways:

- Via an on-line form available on the Gendarme website (an English version is available at http://uyg.jandarma.tsk.mil.tr/JIHIDEM/FORM/frmIngBasvuruGD.aspx)
- In person, by phone or by petition to the relevant provincial command centre
- In person, by phone, fax, letter, petition directly to JIHIDEM.

2. Contact details for JIHIDEM are as follows
JIHIDEM
Jandarma Genel Komutanligi
Korg. Hulusi SAYIN Kislasi 06500
Bestepe, Ankara

Phone: 0312 456 1186
Fax: 0312 212 8463
0312 215 1417

3. I can find no indication that applications must be made in Turkish, but this is highly likely to be the case. Information about the complaints procedure and forms are available only in Turkish and English (for the diplomatic community). As outlined in my previous letter (above), there are various human rights groups in Turkey who will assist anyone wishing to make a complaint.

4. According to JIHITEM's own statistics, as of 8 April 2007 only 20% of total applications fell within JIHITEM's remit. 65% of applications had something to do with Gendarme activity; the remaining 35% had been sent to the wrong organisation. Of the valid applications, 70% were found to be ungrounded, with judicial procedures being initiated in the remaining 30% of cases (please note that these statistics are taken from the Turkish version, not the English version, which has been mistranslated and implies that no judicial proceedings of any kind have been initiated). Statistics on the total number of applications are not available but I understand that total application numbers are extremely low. We are not aware of any successful prosecutions. These figures call into question the effectiveness of the JIHITEM as it is currently constituted." **[4p]**

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Protection of victims of violence

22.78 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted that "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, it's 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… Government officials worked with advocacy groups such as KA-MER to hold town hall meetings and set up rescue teams and hot lines for endangered women and girls." **[5g] (Section 5)**

22.79 The European Commission 2008 Progress report published 5 November 2008, mentions that "Women are reportedly reluctant to have recourse to the police or the courts due to lack of confidence in provision of effective protection. Women's economic fragility further reinforces this attitude. The Law on municipalities, in particular the provisions on shelters, are not yet fully implemented and the number of shelters remains lower than provided for under that law." **[71d] (p20)**

22.80 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, notes that Mr Zorluoglu, Head of the Directorate General for Regional Authorities said that under the municipality law 5393, each municipality with 50,000 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. **[59] (S14.3)**

22.81 Several of the sources interviewed during the 11 February 2008 FFM 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. **[59] (S1.3)** The Social Services Child Protection Agency, SHCEK, said that there was no time frame for the completion of such shelters. **[59] (S11.14)** Mr Temucin Tuzecan, Director of Stop Violence against Women campaign, said that the majority of these shelters had not been built because of a lack of government guidelines. **[59] (S2.13)**

22.82 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. **[59] (S11.6)**

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22.83 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. **[59] (S11.7)**

22.84 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, noted that Ms Zümra Yilmaz, 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. **[59] (S10W)**

22.85 Ms Zümra Yilmaz 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.' **[59] (S10W)**

22.86 The UKBA FFM interviewed a number of sources on the issue of Protection of victims of violence and noted that Mrs Olcay Baş, 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. **[59] (S13.14)** Professor Fendioğlu, 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. **[59] (S17.10)**

22.87 The Turkish NGO, Women for Women's Human Rights – New Ways (WWHR) told the FFM 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. **[59] (S1.14)**

22.88 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. Zümra 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'." **[59] (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." **[59] (S10W)**

See section 22.33 – Violence against women

Women's organisations

22.89 An Amnesty International News article 'Turkey: Shelters not Cemeteries' stated that:

"At present, the role of women's rights activists is crucial to ensure that at least a small proportion of women obtain protection – some of these organizations are the:

- Women's Support and Solidarity Centre in Antalya,
- the Purple Roof Foundation in Istanbul,
- the Women's Centre (Ka-Mer) in Diyarbakýr,
- the Women's Solidarity Foundations (KADAV) in Ankara and Izmit.

A worker at an NGO told Amnesty International, 'Everyone sends women who have experienced violence to us. Everyone. [sic] The government, the police, everyone. We don't have the facilities to meet the demand'." **[12b]**

22.90 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted that "Government officials worked with advocacy groups such as KA-MER, the leading women's organization in the southeast, to hold town hall meetings and set up rescue teams and hotlines for endangered women and girls." **[5g] (Section 5)**

22.91 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, noted that the Social Services Child Protection Agency (SHCEK) explained that their organisation 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. **[59] (S11.2)**

See section 23.26 – Child abuse

22.92 The Turkish NGO Women for Women's Human Rights – New Ways (WWHR) told the FFM that it 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. **[59] (S1.12)**

22.93 In a *BIA News* article published March 2008, it was reported that "Since 1990, the 'Purple Roof Women's Shelter Foundation' has offered shelter for women trying to change their lives. Gülsun Kanat is responsible for meeting the women applying for shelter, while Yalcin is responsible for media and public relations. Zelal Yalcin studied statistics. As a student, she was part of a feminist initiative, and after working in the private sector for a while, she found a job at the foundation. The most important issues for women's shelters are that their locations remain secret… When people dial the telephone number directory and ask for a women's shelter, the operators today automatically give them the number of 'Purple Roof'." **[102i]**

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Women's NGOs

22.94 The UN Human Rights Council: Addendum to the Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Mission to Turkey, 5 January 2007, noted that:

"There is a dynamic women's movement in Turkey and many individual women have demonstrated a high level of performance in all walks of life, and yet this potential is excluded from formal politics. The development indicators for women are in dire contrast to the country's aspirations, its legal and constitutional provisions and its international commitments. Violence against women in the private sphere is systematic and widespread. A nationwide mobilization for the advancement of women - with political will and commitment - is urgently needed to turn promises into reality." **[20d]**

22.95 The Stop Violence Against Women website, accessed 30 0ctober 2007, stated that: "Nongovernmental organizations, or NGOs, play vital roles in articulating and enforcing international human rights standards. NGOs lobby on national and international levels for strengthened human rights standards… As advocates for social change, NGOs have been instrumental in achieving legal reform and have played important roles in advancing 'women's rights as human rights. Despite their diversity, NGOs can be broadly defined as independent

voluntary association[s] of people acting together on a continuous basis, for some common purpose." **[97a]**

22.96 The same Stop Violence Against Women website further noted the six different Women NGOs listed in Turkey as follows:

Foundation for Women's Solidarity (Kadin Dayanisma Vakfi)
Mithat Pasa Caddesi, No. 10/11 Sihhiye
Telephone: 90-312-430-4005 Email: Kadindv@yahoo.com.tr

Human Resources Development Foundation (Insan Kaynagini Gelistirme Vakfi)
Sira Selviler Caddesi, Kristal Apt. No. 152/3-4 Beyoglu
Telephone: 90-212-293-16-05 Email: ikgv@ikgv.org

Flying Broom
Büyükelçi Sokağı 20/4 Kavaklıdere, Ankara, Türkiye 06700
Telephone: 90-312-427-00-20 Email: ucansupurge@ucansupurge.org
Fax: 90-312-466-55-61
Website: http://www.ucansupurge.org/

Foundation for the Support of Women's Work
Istiklal Cad. Bekar Sokak, No: 17 Beyoglu - Istanbul/TURKEY
Phone: 90-212-292-26-72, Email: kedv@kedv.org.tr
Fax: 90-212-249-15-08
Website: http://www.kedv.org.tr/

Human Rights Association
HRA Headquarters, İHD Genel Merkezi
Tunalıhilmi Cad. 104/4 Kavaklıdere, Ankara, Turkey
Telephone: 90(312)-466-49-13-14, Email: posta@ihd.org.tr
Website: http://www.ihd.org.tr/index.html

Kadin2000
Arjantin Caddesi 22/10, Kavaklıdere 06700, Ankara, Turkey
Telephone: 0312-467-13-37, Email: info@kadin2000.gen.tr
Fax: 0312-468-18-33
Website: http://www.kadin2000.gen.tr/

Women for Women's Human Rights - New Ways Foundation
İnönü Caddesi, 37/6 Saadet Apt. Gümüşsuyu, 80090, Istanbul-TURKEY
Telephone: 90-212-251-00-29, Email: wwhrist@superonline.com
Fax: 90-212-251-00-65
Website: http://www.wwhr.org

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23 CHILDREN

BASIC INFORMATION

23.01 The 'Child Information Network in Turkey' website, defines a child as "below the age of 18 years unless, under the law applicable to the child, majority is attained earlier." **[80]**

23.02 Turkey signed the Convention on the Rights of the Child on 14 September 1990 and ratified it by decision of the Council of Ministers No. 4058 of 9 December 1994. 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 by decision of the Council of Ministers No. 4991 on 16 October 2003. The Optional Protocol came into force on 18 March 2004. **[20a]**

23.03 The European Commission 2008 Progress report, published 5 November 2008, on Turkey noted that Parliament has ratified the Hague Convention on the Civil Aspects of International Child Abduction, which provides for a simplified procedure for returning children to their legal custodian. **[71d] (p21)**

23.04 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"The government was committed to furthering 'children's welfare and worked to expand opportunities in education and health. Government-provided education through age 14 or the eighth grade was free, universal, and compulsory… On December 1, the government enacted a new law on children that includes language implementing the Hague Convention on International Child Abduction… Child abuse was a problem. There were a significant number of honor killings of girls by immediate family members, sometimes by juvenile male relatives." **[5g] (Section 5)**

23.05 The EC 2008 Progress report further noted that "The proportion of children under 15 years of age in households experiencing poverty decreased from 27.7% in 2005 to 25.2% in 2006." **[71d] (p21)**

23.06 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:

"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. Reports of the temporary Committee also revealed that there is no healthy system of statistics that would help measure the situation of children in Turkey for better policy decisions to be taken." **[80b] (p3)**

23.07 The same NGO 2006 report indicated that "Former State Minister responsible for women and children affairs Güldal Akşit indicated that around 37% of children living on the streets are from relatively underdeveloped Eastern and South Eastern Anatolian regions. Overcrowded families with highly limited income and employment opportunities living in one room apartments in these big cities affect children and become another reason for the children to work on the streets to bring additional income." **[80b] (p3-4)**

23.08 The NGO 2006 report further noted that "Although there is a new service provision model introduced to help protect the children living and/or working on the streets, there is much more to be done to address the root causes of the problem. It is expected that around 635,000 children are in risk of finding themselves in the streets, thus vulnerable to all sorts of abuse including forced labour, sale, pornography, and prostitution." **[80b] (p4)**

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Unregistered children

23.09 The UN Convention on the Rights of the Child, Article 7 states that "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.

"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." **[91c]**

23.10 In a letter from the Foreign and Commonwealth Office dated 14 August 2008, it was noted that:

"Children's birth registry status can be analysed also in terms of the type of marriage of their parents. Three-fourth of children born to parents with imam marriage (religious marriage) have no birth registry. The proportion of children in this status is 15 percent among parents with both civil and religious marriage, and 10 percent for parents with civil marriage only. It is further observed that non-registry is also more common among children born to parents who were married with such practices as başlık (bridemoney paid to the family of the bride by the family of the groom) and berdel (marriage allowed by families on the condition that one sibling of the groom gets married with one sibling of the bride)." **[4j]**

23.11 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, interviewed a number of sources on the issue of unregistered children. Mrs Pieters the Deputy Representative of United Nations Children's Fund (UNICEF) advised the FFM 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. **[59] (S3.15)**

23.12 Mrs Pieters also 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. **[59] (S3.14)**

23.13 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 to the UKBA FFM 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. **[59] (S11.19)**

23.14 In a letter from the Foreign and Commonwealth Office dated 22 July 2008, it was noted that:

"It is obligatory to register your child at birth in Turkey. However, registration can only be carried out at offices in the provincial capitals (81 cities in Turkey) which can make it difficult for rural communities to register. Notwithstanding this, registration is very high, because communities are aware that they cannot claim benefits for their children unless they are registered. This means that there is a high level of registration overall - 85% - and no difference between registration of girls and boys, or of Sunni Turks and other minority groups such as Roma.

"If a child is not registered at birth, they are registered by the authorities on entering the education system, which means that the majority of children are registered. One problem that remains is the tendency of rural communities not to register children who die, or not to register a younger child given the same name as a dead elder sibling." **[4k]**

23.15 The *BIA News Center* article 'Report States 833 Lost Children In Turkey' published 5 August 2008, reported "Prime Ministry's Human Rights Directorship (IHB), 7183 children were lost last year, 6350 of these were found and 833 of them are still lost. The provinces with the highest number of lost children were Istanbul, Balıkesir, Bursa, Ankara, Şanlıurfa and Mardin." **[102d]**

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Age of consent

23.16 United Nations Statistics Division, accessed 25 August 2008, recorded the minimum legal age for marriage as 17 years for both men and women in 2005. **[35c]**

23.17 The Office of the Prime Minister, Directorate General of Press and Information, published 24 August 2008, 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. **[36f]**

23.18 The Child Soldier Global 2004 report states that "National service is the right and duty of every Turk (Article 72). The Military Code provides for voluntary recruitment to some elements of the armed forces at a minimum age of 18, but the government has stated that this is not applied in practice. Other legislation apparently permits the deployment of 15 to 18 year olds in civil defence forces during national emergencies." **[40]**

Customary marriages

23.19 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"Child marriage occurred, particularly in rural, poverty-stricken regions; however, 'women's rights activists claimed that underage marriage has become less common in the country in recent years. Children as young as 12 were at times married in unofficial religious ceremonies. Families in rare instances engaged in 'cradle arrangements', agreeing that their newborn children would marry at a later date, well before reaching the legal age." **[5g] (Section 5)**

23.20 The United Nations Development Programme (UNDP) report on Youth of Turkey 2008 notes 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." **[35b]**

23.21 The same UNDP report on Youth of Turkey 2008 also 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." **[35b]**

23.22 The *BIA News Center* on 10 January 2008 reported in an article, 'The Government Could Prevent Child Marriage' that "Türkay Asma, lawyer for the Centre for Children's Rights of the Ankara Bar Association, evaluated a recent

case for *Bianet*. A fifteen-year old girl was forced to marry by her parents. The parents were punished with the newly introduced 'Controlled Freedom Law', which allows the courts to punish defendants with community work rather than prison sentences. They should have been tried under Article 233 of the Penal Code, which deals with violations of family law. The parents of the girl, who was married to 40-year-old A.D. in a religious marriage, were sentenced to 60 days community work; the father was given an additional fine of 600 YTL (around 350 Euros)." **[102l]**

23.23 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:

"Prof. Dr. Türkan Saylan, President of one of the leading girls education NGO with more than 90 branches all over Turkey, in one of her recent remarks stated that there are still girl children in some areas who are being sold in marriage for 200 YTL (around € 125) in rural Turkey." **[80b] (p8)**

See section 22.29 – Forced marriages

23.24 The same NGO 2006 report further added that "in Diyarbakir (South Eastern Turkey), 12 year-old girl had been kidnapped and been raped by the kidnapper, later she was forced to marry her kidnapper to clean her honour as she was left pregnant. Two years later, her nose was cut off by her father-in-law when she resisted his rape attempt." **[80b] (p8)**

See section 22.50 - Honour killing

23.25 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, noted that Mrs Pieters the Deputy Representative of the 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. **[59] (S3.12)**

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Child abuse

23.26 The EC 2008 Progress report noted that "Implementation of minimum standards of care and protection of children living outside parental care needs to be improved. SHCEK needs to make the data on domestic violence against children and child abuse and on children living and working on the streets publicly available in order to improve policy-making and public debate." **[71d] (p22)**

23.27 The US State Department (USSD) report 2007 report on Human Rights Practices published 11 March 2007, noted that "Child abuse was a problem. In 2005 police arrested over a dozen nurses, caretakers, and other employees of

the Malatya state orphanage in connection with an investigation into the alleged torture and abuse of children at the institution. On December 26, 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 continued at year's end." **[5g] (Section 5)**

23.28 The International Helsinki Federation Annual Report on Human Rights Violations (2006): Turkey, 8 June 2006, noted that "Mistreatment of children was also reportedly common in state orphanages, as indicated also by a public scandal coming out with the broadcasting of images of children subjected to severe and group violence by their care takers in an orphanage in Malatya in October." **[10a] (p441)**

23.29 The Childs Right Information Network (CRIN) published an article on 31 July 2006, 'Turkey: Children may be tried under New Anti-Terror Law', noting that:

"Initiative representatives Lawyer Seda Akco and Mustafa Ruhi Sirin have written to President Ahmet Necdet Sezer and main opposition Republic Peoples Party (CHP) chairman Deniz Baykal this week, asking them to take the law to the Constitutional Court for it to be abolished due to an article that allows children above the age of 15 being tried by High Criminal Courts for TMK offences... The new law allows all children above the age of 15 to be put on trial at High Criminal Courts in cases which involve TMK offences." **[80a]**

23.30 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 noted that:

"There is no sound data regarding child pornography in Turkey. One reason of this failing is that there is no specific legal provision on child pornography. [In] The new Turkish Penal Code, there is a section called Obscenity Article 226(3) dealing with limited issues of child pornography. It is estimated that child pornography mostly happens on internet in Turkey. There are several problems in combating child pornography, especially on the Internet and mobile phones." **[80b] (p6-7)**

23.31 The same NGO 2006 report further added that "One example of a girl child sex worker reveals society's perception in this matter: 'I went to complain to the police about an incident where I was hitchhiking for prostitution and my client slit my throat. The police told me that I am an indecent woman and the man I was complaining about is a reputable businessman. I never go to the police again!'" **[80b] (p7)**

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Child labour

23.32 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 that:

"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."(**91c]**

23.33 In the NGO Report on Turkey's Implementation the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography 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. However, a recent report estimated 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." **[80b]**

23.34 The European Commission 2008 Progress report published 5 November 2008 noted that "Child labour, including children working on the streets, remains a problem. Shortcomings in the legislation with regard to child labour still persist, as outlined in the Turkey 2007 Progress Report. Turkey needs to continue its efforts to combat child labour. In the area of labour law, Turkey is not yet sufficiently prepared." **[71d] (p60)**

23.35 The Report of the UK Border Agency Fact Finding Mission (UKBA FFM) includes information regarding Child Labour for Children obtained from interviews with a number of sources. Mrs Pieters the Deputy Representative of United Nations Children's Fund (UNICEF) told the FFM 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. **[59] (S3.1)**

23.36 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 underage child working. **[59] (S3.2)**

23.37 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. **[59] (S3.4)**

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23.38 When asked by the UKBA FFM 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'. **[59] (S18.8)**

23.39 Regarding children employed in the urban sector, Mrs Pieters the Deputy Representative of United Nations Children's Fund (UNICEF) 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. **[59] (S3.5)**

23.40 The NGO 2006 compiled by Ankara Child Rights Initiative states that "Although problem of children in agricultural sector are being addressed more and more, there are still report of abuse of economically disadvantaged segments of the society by brokers who hire children between 12-16 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 not only are exposed to forced hard labour in fields but also to all forms of abuse including sexual." **[80b] (p6)**

23.41 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"There are laws to protect children from exploitation in the workplace; however, the government did not effectively implement these laws. The use of child labor was particularly notable in agriculture, carpentry, the shoemaking and leather goods industry, the auto repair industry, small-scale manufacturing, and street sales… 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 school-aged children from working more than two hours per day or 10 hours per week." **[5g] (Section 6)**

23.42 The USSD 2007 report also noted that "The Ministry of Labor and Social Security effectively enforced these restrictions in workplaces that were covered by the labor 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." **[5g] (Section 6)**

23.43 The NGO 2006 report compiled by Ankara Child Rights Initiative stated that "Due to economic hardships, child labour is being used as cheap labour in parts of Turkey. For example recently Food Processing Trade Union branch in Erzurum (Eastern Turkey) reported that number of children working is increasing as a source of cheap labour." **[80b] (p6)**

23.44 The USSD 2007 report also noted that "An informal system provided work for young boys at low wages, for example, in auto repair shops. Girls rarely were seen working in public, but many were kept out of school to work in handicrafts, particularly in rural areas… Small enterprises preferred child labor because it was cheaper and provided practical training for the children, who subsequently had preference for future employment in the enterprise." **[5g] (Section 6)**

23.45 The *BIA News Center* on 15 May 2008 reported in an article, 'School Principle Beats and Injures 12 Students', that:

"A school principle beats up 12 students for not cleaning the school garden by hitting their hands with a big pair of compasses. The students are hospitalized and the principle is suspended until the investigation is completed. The incident happened in Silifke, a district of Mersin in the eastern section of the Mediterranean region of Turkey." **[102a]**

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Legislative framework

23.46 The Report of the UK Border Agency Fact Finding Mission includes information regarding Legislative Framework for Children obtained from interviews with a number of sources. Mr Yilmaz Head of the Department of Child Labour told the mission 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 in taking forward work to prevent child labour. **[59] (S15.1)**

23.47 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." **[59] (S15.2)**

23.48 The Report of the UKBA Fact Finding Mission noted that 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. **[59] (S3.3)**

23.49 Ms Douglas-Todd, the Resident Twinning Advisor, told the mission that legislation was in place and there were many active campaigns in relation to child labour, but implementation remained a problem. **[59] (S18.8)**

23.50 When the fact finding team asked about any evidence on prosecutions and convictions bought 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. **[59] (S3.11)**

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EDUCATION

23.51 The Child Information Network in Turkey, accessed 26 August 2008, noted that under Article 28:

"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." **[91c]**

23.52 The US State Department (USSD) 2007 report on Human Rights Practices published 11 March 2008, noted that "The government was committed to furthering 'children's welfare and worked to expand opportunities in education and health.Government-provided education through age 14 or the eighth grade was free, universal, and compulsory. Turkey Statistical Institute and World Bank figures showed that gross enrollment for grades one to eight was 96 percent, while net enrollment for those grades was 90 percent. The maximum age to which public schooling was provided was 18. Only 40 percent of children have a high-school diploma, according to the Organization for Economic Cooperation and Development. One in 10 girls does not attend compulsory primary school." **[5g] (Section 5)**

23.53 The European Commission 2008 Progress report on Turkey, published 5 November 2008, mentioned that "there was an increase in net primary school enrolment from 90% in the 2006/2007 school year to 97% in 2007/2008. Over the same period, the gender gap in primary education was halved from 4.6% to 2.3%. The number of pupils in pre-school education has increased by 28% over the last three years, from 550,000 in 2005 to 700,000 in 2007. The government target is to attain a 50% pre-school enrolment rate from the current 25%." **[71d] (p21)**

23.54 The Report of the UK Border Agency Fact Finding Mission includes information regarding Education for Children obtained from interviews with a number of sources. 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. **[59] (S3.6)**

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23.55 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. **[59] (S3.7)**

23.56 Mrs Baş, Head of Department, Directorate General for Women's Status, told the mission that the 'Come on Girls to School' campaign which was being run in rural areas was becoming widespread across the whole of Turkey. **[59] (S13.14)** Mrs Baş also said that there were many initiatives being implemented to increase the proportion of girls attending schools. **[59] (S13.18)**

23.57 Ms Sahin, AKP MP for Gaziantep, added that raising educational awareness among young girls on human rights was a key priority and seen as an important means of eradicating abuses against women at a later stage in their lives. The campaign had so far seen 250,000 girls return to school. **[59] (S20.8)**

23.58 With regard to absenteeism from school, Mrs Pieters told the mission 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. **[59] (S3.9)**

23.59 The EC 2008 Progress report further noted that "The Ministry of National Education has established an e-school database containing information on school attendance. The Ministry can thus identify children that are out of school and try to ensure their enrolment or provide catch-up education. In May 2008, the Education Board approved the catch-up education programme: this is meant to give a second chance to children of 10–14 years of age who either never enrolled or who dropped out. This measure is targeted mainly at working and Roma children. In addition, mobile schools are trying to reach out to children working in agriculture." **[71d] (p21)**

23.60 As recorded in Turkey's Statistical Yearbook 2007, in the education year 2007/2008, 98.53 per cent of males and 96.14 per cent of females were in primary education; in secondary education 61.17 per cent of males and 55.81 per cent of females and for higher education year 2006/07, 21.56 per cent of

males and 18.66 per cent of females were in higher education. **[89a] (p96 Education and Culture)**

23.61 A letter from the British Embassy in Ankara to the Country of Origin Information Service, dated 27 March 2007, stated:

"I refer to your letter of 21 February for additional information about services for children who are deaf, or whose hearing is impaired, in the province of Izmir. We are aware of at least one state-funded school for deaf children in the city of Izmir. This provides education from pre-school level up to 8th grade:

"Tülay Aktaş İşitme Engelliler İlköğretim Okulu
Mevlana Mahallesi, 373/2 Sokak
No:6/1, Bornova - IZMIR
Tel: 90 232 3397826
Fax: 90 232 3392537
email: taktasio@ttnet.net.tr

"There is no secondary school for the deaf and hearing impaired in the province. At present children have the choice between being assisted to attend a normal secondary school or attending a specialist school in one of the neighbouring provinces in the Aegean region.

"Pre-school education is also available. We are aware of two state-funded specialist toddler groups in Izmir itself, in the Carsi and Konak districts. Provision is likely to be much more limited outside of the main towns, as in the UK. To access these services a child's parents must first submit documentation to the local Directorate of Education confirming that his or her hearing is impaired. A state hospital will usually be able to provide a suitable report." **[4q]**

See section 21 - Disability

23.62 The International Deaf Children's Society (IDCS) released a report by Mary C Essex on 'Resources for Deaf people in Turkey', which noted that:

"Turkey has been doing a good job of special education and there are many resources available for people with disabilities. There are 47 elementary schools and 14 high schools for the Deaf throughtout Turkey. All of these schools are under the auspice of the Turkish Ministry of Education. Other Key National Offices that provide support for People with Disabilities are:

"Ministry of Social Services and Child Protection Services
Milli Sosyal Hizmitler Cocuk Esirgeme Kurumu Bakanligi.

"Turkish Rehabilitation Centers (SHCEK): There are 385 updated lists of centers with 41 centers for Hearing and Speech Impaired 337 centers for the Mentally Retarded and 7 Spastic centers. These centers serve an early infant program and work with families and children from 0 – 21." **[28]**

See also Section 21 Disability

23.63 The EC 2008 Progress report also stated that "However, respect for and implementation of children's rights continue to be a matter of concern. Children out of school remain a problem: the e-school database has revealed that approximately 450 000 children between 6 and 14 years of age do not attend school." **[71d] (p22)**

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Religious education

23.64 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted that "The constitution and laws provide for freedom of religion, and the government generally respected this right in practice; however, the government imposed significant restrictions on Muslim and other religious groups… The government oversees Muslim religious facilities and education through its Directorate of Religious Affairs (Diyanet), which is under the authority of the Prime Ministry." **[5g] (Section 2c)**

23.65 The USSD 2007 report further noted that "The law establishes eight years of compulsory secular education for students. Subsequently students may pursue study at imam hatip (Islamic preacher) high schools…The constitution establishes compulsory religious and moral instruction in primary and secondary schools. Religious minorities are exempted. However, a few religious minorities, such as Protestants, faced difficulty obtaining exemptions, particularly if their identification cards did not list a religion other than Islam." **[5g] (Section 2c)**

23.66 The European Commission 2008 Progress report on Turkey, published 5 November 2008, stated that "In October 2007, further to an application lodged by a family who are followers of Alevism, the ECtHR found that these classes did not just give a general overview of religions but provided specific instruction in the major principles of the Muslim faith, including its cultural rites. The Court requested Turkey to bring its educational system and domestic legislation into conformity with Article 2 of Protocol No1 to the ECHR. This ECtHR judgment needs to be implemented. In August 2008 an Alevi Federation applied to the Committee of Ministers of the Council of Europe complaining that this judgment is not being implemented and claiming that the new textbooks include superficial information on Alevis part of which could also be considered misleading. In March 2008, in two separate cases, the Council of State (CoS) decided that children of Alevi families were entitled to be exempted from these religious education classes." **[71d] (p18)**

23.67 As outlined in the Human Rights Watch (HRW) World Report 2008, published on 31 January 2008:

"In an October judgment that may have implications for the draft constitution, the European Court of Human Rights found that the failure to grant an Alevi schoolgirl exemption from constitutionally enshrined compulsory religious

education classes focused on Sunni Islam constituted a violation of the right to education (Hasan and Eylem Zengin v. Turkey)." **[9b]**

23.68 The Minority Rights Group International (MRG) report 'A Quest for Equality: Minorities in Turkey', published 10 December 2007, stated that "Compulsory religious instruction in schools is discriminatory not only against Alevis, as is often emphasized by the EU 195 but also against other non-Sunni Muslims and Sunni Muslims who either do not conform to the Sunni Hanefi faith or do not agree with its official version. It is also discriminatory against atheists, agnostics and secularists, who may not wish their children to receive any religious education." **[57c] (p21)**

23.69 The USSD International Religious Freedom report 2007 on Turkey, published 14 September 2007, stated that:

"Alevi children have the same compulsory religious education as all Muslims, and many Alevis alleged discrimination in the 'Government's failure to include any of their doctrines or beliefs in religious instruction classes in public schools. Alevis currently have more than 4,000 court cases against the Ministry of Education regarding this alleged discrimination. The Government revealed in January 2007 its new religious course curriculum which was to include instruction on Alevism, but many Alevis believed the materials were inadequate and, in some cases false." **[5e]**

23.70 The *BIA News Center* on 11 March 2008 reported in an article, 'Compulsory Religious Education is Hypocritical Violation of Rights', that:

"Constitutional law expert Gürcan has criticised the continuing obligation of school children to attend Religious Education classes. They have been controversial for two reasons. For one, many people argue that religious education should not be compulsory. Secondly, although the name of the class is 'Religious Culture and Ethics', students are mostly instructed in religious practices of Sunni Islam, rather than learning about different religious beliefs." **[102b]**

See section 18 - Freedom of Religion

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CHILD CARE

23.71 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted that "The government operated 113 orphanages, including 48 for girls and 65 for boys, serving a total of 6,116 children during the year. The government operated 43 children and youth centers and eight surveillance homes that provided daycare services and temporary boarding." **[5g] (Section 6)**

23.72 The Report of the UK Border Agency Fact Finding Mission includes information regarding child care and orphanages obtained from interviews with a number of

sources. 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), told the mission that SHCEK 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. **[59] (S11.3)**

23.73 The EC 2008 Progress report noted that "Reception centres have been opened in a number of provinces for children who are perpetrators or witnesses of crimes or victims of violence. Six (6) such centres were established for the first time in 2007 in accordance with provisions of the Child Protection Law. Four (4) of these centres are 'Protection, care and rehabilitation centres' and assist children involved in criminal activities; two (2) are 'Care and social rehabilitation centres' and assist child victims of violence and abuse." **[71d] (p22)**

23.74 The European Commission 2008 Progress report on Turkey, published 5 November 2008, stated that "Implementation of minimum standards of care and protection of children living outside parental care needs to be improved. SHCEK needs to make the data on domestic violence against children and child abuse and on children living and working on the streets publicly available in order to improve policy-making and public debate." **[71d] (p22)**

23.75 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. **[59] (S3.13)**

23.76 The EC 2008 Progress report noted that "SHCEK has recruited new members of staff. The number of specialised staff such as psychologists, child development experts and sociologists increased during the same period. SHCEK has also made efforts to improve the quality of the services it provides and has assumed more responsibilities in implementation of the Law on child protection." **[71d] (p21-22)**

23.77 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted that "In 2005 police arrested over a dozen nurses, caretakers, and other employees of the Malatya state orphanage in connection with an investigation into the alleged torture and abuse of children at the institution. On December 26, 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 continued at year's end." **[5g] (Section 5)**

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HEALTH ISSUES

23.78 The UNICEF report, 'The State of the World's Children 2008', reported that: "In terms of deaths of under five-year olds, Turkey ranks 96th. In 1990, 82 out of 1,000 children died before that age in Turkey, but in 2006 this number fell to 26. As far as deaths of under one-year olds are concerned, the rate was 67 in a thousand, while it decreased to 24 in a thousand by 2006." **[91d]**

23.79 The United Nations Children's Fund Turkey (UNICEF), in the title page of their 2006 report, 'Child First', stated that:

"For over fifty years the United Nation's Children's Fund has been contributing its international experience and resources to programmes and projects for children in Turkey. In partnership with government, civil society, the private sector, children, their families and communities, UNICEF continues to help build a society where every child benefits from good health care. Some of Turkey's successes for children and their families include infant mortality rates reduced from 43 to 29 per thousand live births and under five mortality rates reduced from 52 to 37 per thousand and polio–free certification by the European Regional Commission for Poliomyelitis Eradication." **[91a]**

23.80 In the same UNICEF 2006 report, 'Child First' the Routine Immunisation page noted that "Diphtheria, pertussis, tetanus, tuberculosis, hepatitis B, polio and measles are potentially fatal diseases to which children are particularly vulnerable. All seven of these diseases are vaccine–preventable yet, according to the Turkey Demographic and Health Survey 2003 (TDHS), only 45% of children under five years of age — 34.4% in rural areas — received all of the necessary vaccinations before their first birthday." **[91b]**

See also Section 25.01 Medical Issues

MISTREATMENT OF CHILDREN IN DETENTION

23.81 The US State Department (USSD) 2007 report on Human Rights Practices, published 11 March 2008, noted that "At year's end, prosecutors had not opened a case regarding 2005 allegations that wardens at the Sincan Children's and Youth Prison beat five inmates between 19 and 21 years old on the soles, a practice known as 'falaka'. Following the allegations, the Ankara chief prosecutor and Forensic Medicine Institute confirmed the existence of bruises and wounds. Prosecutors had one of the five boys identify the perpetrators from a group of 45 wardens. Ozgur Karakaya one of the youths identified the six wardens but was not told their names. Human rights groups were unable to determine the status of the prosecutorial investigation at year's end." **[5g] (Section 1c)**

See also Section 11 Mistreatment in Detention and section 12 Prison conditions

23.82 *BIA News Center* reported, in an article posted 17 November 2008, that "The eight students who are members of the High School Young Hope organization have been taken into custody for protesting Adana Governor İlhan Atış for his threats against the families of the children who participate in the activities

against the state. The governor had threatened the families with canceling their green cards that enable them to receive inexpensive medical treatment. Since five of the children were younger than eighteen, the officers took them to the Juvenile Branch. The five children were released later, but the other three are still in the police station to meet with the prosecutor." **[102k]**

23.83 The *Hurriyet* newspaper reported on 14 November 2008 that "The Diyarbakır prosecutor charges six children for attacking police with stones and Molotov cocktails as they participated in street protests during the prime minister's visit last month. Lawyers and experts have reacted strongly to the strict penalty and have called on legal authorities to observe the rights of young people. Six young people, all around the age of 15, are facing up to 23 years in prison for participating in the street demonstrations in Diyarbakır last month. The demonstrations plagued Prime Minister Recep Tayyip Erdoğan's visit to the southeastern province." **[70b]**

23.84 *BIA News Center* reported in May 2008, 'Families Accuse Police for Torturing Their Kids', that:

"Families of the high school children who were tortured in the police station turn to the Association of Human Rights. They report the crime and the Public Prosecutor starts an investigation. According to the report by Erkan Çınar in daily Birgün, on May 8 the three children were taken inside the station forcefully and were beaten for more than an hour. Their heads were banged on the walls, their testicles were kicked and they were chocked. They were not allowed to see their families. Later they were sent to Çiğli Police Department and from there to the Department of Public Order. When they were taken to Egekent State Hospital, ice was put on their swellings and bruises." **[102e]**

23.85 The European Commission 2008 Progress report on Turkey, published 5 November 2008, noted that "Despite some progress in the juvenile justice system, the number of child courts is still inadequate, there is a lack of social workers in these courts and their workload is heavy. This results in longer trials and, thus, possibly in children being deprived of their liberty for longer periods of time. There has been an increase in the number of children in detention. The conditions in detention centres need to be improved, both in terms of physical conditions and as regards the quality of the services provided. The probation system should also be improved to prevent recurrence of the offence and to support children and their families." **[71d] (p22)**

23.86 The Report of the UK Border Agency Fact Finding Mission to Turkey 11 – 20 February 2008, noted that a judge from the International Affairs Department of Prisons and Detention Facilities 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

organisations, public organisations and which provides support to both victims and prisoners and provides work for them. **[59] (9.13)**

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24 TRAFFICKING

24.01 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"The law prohibits all forms of trafficking in persons; however, there were reports of trafficking in women and children to the country for the purpose of sexual exploitation. There were allegations that official corruption contributed to the trafficking problem… Allegations that government officials, police and Jandarma officers participated in human trafficking continued during the year. The courts initiated cases against a number of such officials, several of which were ongoing at year's end." **[5g] (Section 5)**

24.02 The European Commission 2008 Progress report on Turkey, published 5 November 2008, noted:

"Progress has continued on combating trafficking in human beings. The task force on combating human trafficking was systemised and expanded to include local administrations. Collection of statistics was standardised. Some 308 traffickers were arrested in 2007. As of September 2008, 212 traffickers were arrested. The free emergency helpline and the two centres for victims of trafficking continue to operate. Further efforts were made to promote the 157 helpline. By September 2008, 98 victims had been identified, 61 of whom were returned voluntarily to their countries of origin and six of whom remain in the centres, pending procedures for their return." **[71d] (p74)**

24.03 The EC 2008 Progress report also noted that "The Witness Protection Law entered into force. It protects the identity of victims of human trafficking who agree to testify against the perpetrators and opens the way to include them in a witness protection programme. There are now court precedents on the application of a recent amendment of the Penal Code stipulating tougher penalties for human trafficking. Inter-agency cooperation could be improved with the aid of common operations and training activities. It is of key importance that Turkey signs the Council of Europe Convention on action against trafficking in human beings. Solutions allowing sustained funding are necessary for the free emergency helpline and for the centres." **[71d] (p74)**

24.04 The US Department of State Trafficking in Persons report, released on 4 June 2008, stated that:

"Turkey is a significant destination, and to a lesser extent, transit country for women and children trafficked primarily for the purpose of commercial sexual exploitation… Women and girls are trafficked from Moldova, Russia, Ukraine, Belarus, Bulgaria, Kyrgyzstan, Turkmenistan, Uzbekistan, Azerbaijan, Georgia, and Romania for sexual exploitation. This year, three victims were reported trafficked to Turkey from outside of Eastern Europe and Eurasia—from Morocco, Tunisia, and Sri Lanka. Some victims are reportedly trafficked through Turkey to the area administered by Turkish Cypriots for the purpose of sexual exploitation." **[5i]**

24.05 As highlighted in the IOM (International Organisation for Migration) document 'Republic of Turkey Migration Profile', dated October 2007:

"Turkey is a major destination for human trafficking for sexual exploitation because of its proximity to main source countries… Majority of the victims of human trafficking identified in Turkey are between 18 to 24 years old, with mainly secondary school education… A small number of men from Turkey were trafficked to the Netherlands for the purpose of forced labour in 2006… More than one third of women trafficked to Turkey are mothers with children and illegal profits from trafficking top more than 1 billion USD annually. The vast majority of victims recruited to Turkey had a personal relationship with their recruiter." **[86a]**

24.06 The US State Department 2007 Trafficking in Persons report, published 4 June 2008, noted that "The Government of Turkey does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government significantly increased its law enforcement response in 2007 by convicting and punishing more traffickers. It further improved interagency and NGO cooperation and continued to institutionalize and implement comprehensive law enforcement training. In addition, the Government of Turkey made efforts to address trafficking-related official complicity among law enforcement. However, a lack of secure and consistent government support for Turkey's trafficking shelters frustrated solid improvements in Turkey's anti-trafficking efforts." **[5i]**

24.07 The USSD 2007 Trafficking in Persons report, published 4 June 2008, noted that "The Government of Turkey demonstrated strong anti-trafficking law enforcement and prosecutorial efforts during the reporting period. Article 80 of the Penal Code prohibits trafficking for both sexual exploitation and forced labor, and prescribes penalties of eight to 12 years' imprisonment, which are sufficiently stringent and commensurate with prescribed penalties for other grave crimes, such as sexual assault." **[5i]**

24.08 The USSD 2007 Trafficking in Persons report also noted that "The government reported convicting four traffickers during 2007 under its recently amended Article 80… In addition to the four Article 80 convictions, the government, in 2007, prosecuted 160 suspects and convicted 121 trafficking offenders, a dramatic increase from the 36 convicted in 2006. Penalties imposed on traffickers convicted under Article 227 averaged three years' imprisonment and included fines, some of them substantial." **[5i]**

24.09 The NGO 2006 compiled by Ankara Child Rights Initiative however stated that "Although the magnitude of the problem of child trafficking is not fully known, considerable efforts have been observed addressing the problem of human trafficking in Turkey... For example, Dutch Foundation for Missing Children reported that for the last four years, 36 children were abducted to Turkey only from the Netherlands." **[80b] (p5)**

24.10 In addition, the 2006 US State Department (USSD) report on Human Rights Practices published 6 March 2007, noted that "A 20 year-old Moldovan woman recounted a common trafficking scenario. She was promised work as a

restaurant waitress by a close friend. Upon arrival in the country, her friend abandoned her at a hotel. An Azerbaijani woman arrived and told her she had been sold for $3,000 and would have to pay back the money over five months of prostitution. She worked with four other girls at the same hotel. Clients beat her regularly. She was forced to service 15 clients per day, often without protection. She became pregnant. Police rescued the victim and six other women after she called the trafficking hotline from a 'client's mobile phone. All were identified as victims of trafficking and received shelter and assistance." **[5h]**

24.11 On 1 July 2008 the *Turkish Daily News* reported in 'Turkey launches campaign to combat human trafficking' that:

"Human trafficking is a problem that has gone beyond international borders…The European Commission-funded campaign is being implemented by the International Organization for 'Migration's, or OIM, Turkey office in close cooperation with the Turkish government. The two-year project aims at providing support to Turkish institutions in their fight against human trafficking, and protecting victims in line with EU directives… On the same day as the launch, a short promotional TV film and radio spot, titled 'React to Human Trafficking, Don't Be Indifferent!' was introduced for broadcast on television and radio channels nationwide. The film draws attention to the crime of human trafficking and 'Turkey's 157 emergency hotline for the rescue of the victims." **[23d]**

See also Section 28.01 Foreign Refugees

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SUPPORT AND ASSISTANCE

24.12 The US State Department (USSD) 2007 Trafficking in Persons report, published 4 June 2008, noted:

"The government continued its victim assistance efforts; however international donors stepped in to help remedy a funding shortfall for one trafficking shelter during the reporting period. Although there was no interruption in core services, a funding shortfall forced one shelter to forego staff salaries and divert other resources in order to finance these core services. A lack of consistent and guaranteed funding for Turkey's trafficking shelters weakened the government's overall protection efforts in 2007. The government has reported that it is focused on finding a long-term financial solution to this problem."
[5i] (Country narratives – Turkey)

24.13 The USSD 2007 Trafficking report also noted that:

"The government encourages victims to participate in trafficking investigations and prosecutions, offers them free legal assistance, and offers legal alternatives to their removal to countries where they would face retribution or hardship. Foreign victims may apply for humanitarian visas and remain in Turkey up to six months with the option to extend for an additional six months; the government

issued three humanitarian visas for victims in 2007. The government does not punish identified victims for crimes committed as a result of being trafficked. The government took steps to ensure the responsible and secure repatriation of trafficking victims by following specific exit procedures and contacting governments about their documentation and notifying them of subsequent repatriation." **[5i] (Country narratives – Turkey)**

24.14 The IOM document 'Republic of Turkey Migration Profile', dated October 2007, also noted that "In 2003 an amendment was made to the Citizenship Law in order to prevent foreigners marrying Turkish citizens and claiming Turkish citizenship simply through a declaration at the time of marriage. This puts an end to traffickers exploiting this provision for their benefit. .. The National Task Force on Combating Trafficking in Human Beings has been established in 2002… Turkey's first Action Plan to Combat Human Trafficking was prepared by the Task Force and is being currently implemented." **[86a]**

24.15 The Turkish Ministry of Foreign Affairs website, last updated on 10 July 2008, in 'Turkey's Fight against Illegal Migration' noted that due to the magnitude of the problem, the solutions are beyond the means of a single country, requiring international burden sharing. Providing shelter, food, medical treatment as well as bearing the return costs of such high numbers of illegal immigrants puts a heavy financial burden on Turkey's resources.

Statistical Data on Illegal Migration: Nearly 700,000 illegal migrants were apprehended in Turkey within the period 2005-2007. One of the main features of illegal immigration is the fact that it is being conducted by organised networks.

Year	Apprehended Illegal Migrants	Apprehended Human Smugglers
2005	57,428	834
2006	51,983	951
2007	64,290	1242

[60c]

24.16 The Turkish Ministry of Foreign Affairs, last updated on 10 July 2008, also added that "Due to her unique geographical position, Turkey is a destination country. Victims of THB are mostly from old Soviet Republics and the Statistical Data is as follows:

Fight Against THB*	Number of rescued victims	Number of voluntarily returned	Number of accommodated in shelters	Number of human traffickers apprehended
2004	239	61	18**	227
2005	256	220	142	379
2006	246	197	190	422
2007	148	117	114	308

* Trafficking in human beings is frequently confused with human smuggling. Human smuggling is to assist for profit purposes, persons who do not possess a permanent residence in Turkey to enter and reside illegally and Turkish nationals to exit the country illegally.

** The number of the victims of human trafficking who accommodated, had medical and psychological assistance in shelters between November 2004-December 2004." **[60b]**

24.17 The Turkish Ministry of Foreign Affairs, last updated on 10 July 2008, further noted that: "On 19 December 2006 'forced for prostitution' is included in the description of THB in article 80 of Turkish Criminal Code. Thus, forced prostitution, the most important dimension of human trafficking, will be punished with this article. Positive outcome of the amendment of the Article 80 is expected by the beginning of 2008." **[60b]**

24.18 The Turkish Ministry of Foreign Affairs, updated 10 July 2008, noted that "the 157 toll free, tip-off number/emergency helpline for the victims of trafficking became operational iin May 2005. The operators provide services in Russian, Romanian, English and Turkish. The helpline can be reached throughout Turkey including from mobile phones. The international helpline became operational in April 2007 (+ 90 312 157 11 22). Shelters have been established in Istanbul in 2004 and in Ankara in 2005 for the victims of trafficking." **[60b]**

24.19 A country profile by Migration Research Group of Hamburg Institutue of International Economics, dated April 2008, stated on the topic of human smuggling and trafficking that:

"Turkey has made some significant legislative changes in an effort to combat human smuggling and trafficking. First, it has amended its penal code to reflect the UN's Convention against Transnational Organised Crime (Palermo convention) and its two protocols related to human smuggling and trafficking. Migrant smugglers now face penalties of three to eight years' imprisonment and a judicial fine, a penalty that increases by half if the perpetrators are acting as an organisation. The new penal code also provides an official definition of trafficking and a punishment of eight to ten years' imprisonment and judicial fine for the offense. The Ministry of Health has ordered the provision of free medical treatment at state-owned hospitals for individuals who have been identified as victims of human trafficking. Additionally, the Ministry of the Interior now allows authorities to issue humanitarian visas and temporary residence permits for up to 6 months to those victims of human trafficking who wish to stay in Turkey for rehabilitation and treatment." **[19] (p6)**

TRAINING ACTIVITIES

24.20 The Turkish Ministry of Foreign Affairs further noted that: "Training was given to law enforcement officials. First public awareness campaign with the title 'Have you seen my mother?' was launched on 2 February 2006 with the contributions of IOM and coordination of the Turkish Government." **[60b]**

24.21 The US Department of State 2006 Trafficking in Persons report – Turkey, published 12 June 2007, noted that "During the reporting period, the police continued an internal anti-trafficking training program, reaching 1,150 additional police officers. While the government arrested some low-level officials for trafficking, no officials were prosecuted or convicted over the reporting period." **[5d]**

24.22 The USSD 2007 Trafficking in Persons report published 4 June 2008, also noted that "Turkey's NATO Partnership for Peace (PFP) training center hosted anti-trafficking training for Turkish and other NATO and PFP country personnel. The center also hosts annual anti-trafficking training for Turkish units assigned to peacekeeping operations. Thirty Turkish personnel received this training in 2007. The government did not report any measurable steps to reduce demand for commercial sex acts within Turkey's legally regulated prostitution sectors during the year." **[5i]**

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25 MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

25.01 The Human Development Report has published the human development index (HDI) which looks beyond GDP to a broader definition of well-being. The HDI provides a composite measure of three dimensions of human development: living a long and healthy life (measured by life expectancy), The UN Development Programme's 2007/2008 Country Factsheet on Turkey noted that the country's Human Development Index (HDI) was 0.775, which gave Turkey a rank of 84th out of 177 countries:

HDI value	Life expectancy at birth (years)	Adult literacy rate (% ages 15 and older)	Combined primary, secondary and tertiary gross enrolment ratio (%)	GDP per capita (PPP US$)
84. Turkey (0.775)	85. Turkey (71.4)	69. Turkey (87.4)	108. Turkey (68.7)	66. Turkey (8,407)

[35a]

25.02 The World Health Organisation's (WHO) 'European health for all database (HFA-DB)', last updated in July 2008, recorded the presence of 1,205 hospitals with a bed capacity of 196,667 in 2006. The database also informed that there were 158.98 people per physician; a total of 116,014 physicians in the same year. **[37d]**

25.03 On 21 February 2005, the *Turkish Daily News* reported that a law to transfer ownership of Social Security Authority (SSK) hospitals to the Health Ministry had come into effect over the weekend:

"The law also transfers health facilities owned by Postal and Telecommunications General Directorate (PTT) and Ziraat Bank to the ministry. SSK hospitals will from now on be run like other state-owned medical facilities. SSK members will still have to obtain referrals from their local hospital for treatment at university hospitals… Numerous political parties, nongovernmental organizations and labor groups criticized the government decision to transfer the hospitals to the Health Ministry. Those opposing to the law said the government intended to privatize the health sector, with many people only getting the treatment they could afford. The government decision is a small part of the social security reform process currently under way to ease the burden on taxpayers. Despite being owned by the SSK, hospitals are a drain to the state because of the huge losses they incur." **[23f]**

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25.04 A June 2007 Pharmaceutical Pricing and Reimbursement Information report commissioned by the European Commission, Health and Consumer Protection Directorate-General and the Austrian Ministry of Health, Family and Youth recorded:

"… In general, access to health care has improved since 2004 with radical changes in the provision side. In the past, the Social Insurance Organization (SSK) had its own hospitals with restricted access to its members and in many cases low standard facilities. In 2005, as part of the ongoing reforms, the competence of these facilities were transferred to the Ministry of Health (MoH) and all MoH hospitals were opened to the SSK members increasing the opportunities of access. Second, access to prescriptions was also improved after allowing SSK enrollees to obtain pharmaceuticals from private pharmacies. In the past, the SSK members were only allowed to buy pharmaceuticals from their hospitals' pharmacies. After the transfer of these hospitals to the MoH, the SSK beneficiaries also started to purchase their prescriptions from private pharmacies as well. Last but by no means the least, in the past, the Green Card Scheme for the poor covered only in patient care hence excluded outpatient care and prescriptions. In 2005 the scheme was extended to cover all health care expenditures easing access of the poorest segments of the society." **[75] (p6)**

PHARMACIES

25.05 The Yellowpages.com website provides a list of Pharmacies (Eczanes) or Nöbetçi Eczane in Turkey accessed 30 January 2009; http://www.yellowpages.com.tr/search_results.php?yp=c2VhcmNoX2tleXdvcmRzPSZzZWFyY2hfZGlyPUFsbCZjaXR5X2lkPUFsbCZhcmVhX2lkPUFsbCZkaXN0cmljdF9pZD0mc2VhcmNoX2xhbmd1YWdlPSZzZWFyY2hfbW9kdWxlPWNhdGVnb3J5JmFjdGlvbj1zaG93bGlzdCZzdGFydD0wJmNvbXBvbmVudF9pZD0yOTA1JmxldHRlcj1h **[82]**

HOSPITALS

25.06 The US State Department's Consular Information Sheet on Turkey dated 1 November 2006, and current at 18 July 2008, stated:

"Turkish hospitals vary greatly. The new, private hospitals in Ankara, Antalya, and Istanbul have modern facilities and equipment, numerous U.S.-trained specialists, and international accreditation. However, they still may be unable to treat certain serious conditions. … Those planning to remain in Turkey for a prolonged period of time should consider bringing or securing a supply of necessary chronic medications (e.g., heart medications, birth control pills) to cover them while they are in the country, as certain medications are difficult to obtain in Turkey. Nursing care and diagnostic testing (including mammograms) meet American standards at specific institutions in the larger cities. Health care standards are lower in small cities in Turkey in comparison to bigger cities such as Ankara, Istanbul, Izmir, and Adana." **[5f]**

25.07 The Foreign and Commonwealth website provides a list of Hospitals for Turkey; Ankara

Hacettepe Üniversitesi Tıp Fakültesi Sıhhiye – Ankara Tel: 305 5000
Numune Hastanesi Sıhhiye – Ankara, Tel: 310 3030 (50 lines)
Ankara Üniversitesi İbni Sina Hastanesi Dışkapı – Ankara, Tel: 310 3333 (120 lines)
Ankara Üniversitesi Tıp Fakültesi Cebeci – Ankara, Tel: 319 2160
Gazi Üniversitesi Tıp Fakültesi Araştırma ve Uygulama Hastanesi Beşevler – Ankara, Tel: 202 4444

Istanbul
Bakırköy Psychiatric Hospital, Bakırköy, Istanbul, Tel: 0212 543 6565
Taksim İlk Yardım (Emergency) Hospital Sıraselviler Caddesi Taksim, Istanbul Tel: 0212 252 4300
Florence Nightingale Hospital Abide Hürriyet Caddesi 290, Çağlayan Şişli Istanbul, Tel: 0212 224 4950. www.florence.com.tr

Izmir
Atatürk Devlet Hastanesi, Basın Sitesi 35360, İzmir, Tel: 0232 2434343
Ege Üniversitesi Hastanesi Bornova, İzmir. Tel: 0232 3434343
Denizli Pamukkale Universitesi Hastanesi, Denizli. Tel: 0258 2410034
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HIV/AIDS – ANTI-RETROVIRAL TREATMENT

25.08 The Turkish Ministry of Health (MoH) Country Report of January 2008, accessed via the UNAIDS website, recorded that "Turkey is among low prevalence countries in Central Europe for HIV/AIDS. The first case of HIV infection was reported in 1985, and by the end of June 2007, a total of 2,711 cases had been identified. The rate of increase for the reported number of HIV/AIDS cases has been more over the last three years (about 300 reported new cases annually) and the estimated prevalence is 3,700 cases out of a population of over 70 million." **[39a] (p3)**

25.09 On the subject of funding for treatment, the Ministry of Health (MoH) Country Report of January 2008 recorded that "In Turkey PLHA [people living with HIV/AIDS] have same rights with other patients. The Government of Turkey provides with ART services including treatment for opportunistic infections. For PLHA not having any medical insurance, green card provides with ART treatment as for any other disease…In 2006, 685 PLHA have been taking ART. In 2007 it is estimated that around 800 PLHA have taken ART in Turkey." **[39a] (p11)**

25.10 The *BIA News Center* article published 1 December 2008, noted that "In the last seven years, the HIV/AIDS cases have reached twice the intitial number. According to the figures of the Ministry of Health, while there were total of 158 HIV cases in 2000, this number rose to 376 in 2007. The total number of the cases since 1985 has become 2920. The ages of the three hundred registered cases are not known. There are 118 cases under the age eighteen. 470 of the

cases are in the 30-34 age intervals. 892 of the 2920 HIV/AIDS cases are women." **[102s]**

25.11 The same *Bianet* article further adds that "The government pays the cost of the HIV/AIDS treatment in Turkey. Thanks to the support that comes from the Global Fund, 'HIV/AIDS Prevention and Support Project' could be launched." **[102s]**

CANCER TREATMENT

25.12 As recorded in the World Health Organisation's (WHO) Impact of Cancer for Turkey 2005: "In 2005 cancer killed approximately 52,000 people in Turkey, 37,000 of these people were under the age of 70." **[37b]**

25.13 The International Observatory on End of Life Care website, dated 2006, stated that:

"Turkey is an area where supportive care with hospice/ palliative care is linked to the development of other services, particularly within hospital based oncology units… There are no specialist palliative care services in Turkey. Medical oncology units and departments of algology (pain) at major hospitals in the country provide pain control and symptom relief. Oncologists and pain specialists in seven hospitals report actively working to establish the concepts of palliative care... The majority of cancer patients are treated in university hospitals that support units with pain specialists and medical oncologists… Some specialist cancer state hospitals such as the Dr Ahmet Andicen Oncology Hospital and Demetevler Oncology Hospital will provide pain relief and symptom management. No information, however, is currently available about the development of palliative care services in the state hospital system or the development of training in the 57 medical schools around the country. There are around 30 specialist 'pain centres' and 20 medical faculties with departments of algology in Turkey. There are no reported activities for paediatric palliative care." **[33] (Current palliative services)**

25.14 The same website also noted that:

"Individual physicians (and their colleagues) have reported active involvement in developing the concepts of palliative care within departments and units in three main areas of the country; in Ankara, a pain specialist at Hacettepe University Hospital, three oncologists, one at Başkent University Hospital, one in the Gulhane Military Academy, (GATA) and one at Gazi University Hospital; in Istanbul, a pain specialist at the Istanbul University Medical Faculty and two oncologists at the Marmara University Medical Faculty; there is one pulmonary specialist developing concepts of palliative care at the Pamukkale University Medical School, Denizli. Medical and nursing professionals have also expressed interest in palliative care at Ankara University Faculty of Medicine." **[33] (Current palliative services)**

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25.15 The World Health Organisation (WHO) report on 'Strengthening cervical cancer prevention in Europe' of May 2007 noted:

"In Turkey, cancer of the cervix is the eighth leading cause of cancer in women and the age-standardized incidence rate is relatively low (4.5 per 100 000 women). There are several arguments against the introduction of HPV [Human papillomavirus] vaccines in Turkey …'Guerrilla marketing' of HPV vaccines gives the impression that their introduction is a high priority. In Turkey, however, introducing organized screening is considered much more important and more feasible at the moment. It is essential that WHO policies are country-based and take the different scenarios into account." **[37e] (p22)**

KIDNEY DIALYSIS

25.16 The website Globaldialysis. Com provides a list of all Dialysis centres in Turkey. http://www.globaldialysis.com/centres/country/eurasia-and-central-asia/turkey.html **[50]**

TUBERCULOSIS (TB)

25.17 The World Health Organisation (WHO) states "Tuberculosis (TB) is a contagious disease. Like the common cold, it spreads through the air. Only people who are sick with TB in their lungs are infectious. When infectious people cough, sneeze, talk or spit, they propel TB germs, known as bacilli, into the air. A person needs only to inhale a small number of these to be infected." **[37c]** The WHO country profile 2006 provides key indicators, notification and treatment outcome data. See link attached. **[37c]**

http://www.who.int/globalatlas/predefinedreports/tb/PDF_Files/tur.pdf

25.18 A January 2008 article on *Todayszamen*.com reported:

"Although Turkey has long been committed to activities to counter tuberculosis and has achieved great success in the last few years in fighting against the disease, experts have said it continues to pose a threat to the society as hundreds of people contract tuberculosis each year. There has been a significant increase in the number of services to fight tuberculosis in the past two to three years, yet we cannot say that it will be eradicated in the short term, said Ali Rıza Erdoğan, the secretary-general of the Ankara-based Federation of National Associations of the Fight against Tuberculosis (TUVSDF) in a phone interview with *Today's Zaman*." **[24a]**

25.19 The same 2008 *Todayszamen* article continued:

"TUVSDF Chairman Dr. Ferit Koçoğlu, in an interview with the Anatolia news agency, noted there are some 20,000 people with tuberculosis in Turkey, around 13,000 of whom are male patients. …Almost 88 out of every 100 cases of tuberculosis can be treated in Turkey because we have waged a successful fight against this disease. There are many volunteer doctors and

nongovernmental organizations that battle tuberculosis. They continue their struggle against this ailment under unfavorable conditions,' he noted… The [Directly Observed Treatment Short Course (DOTS)] project has made health officials accessible to 89 percent of all tuberculosis patients, with 85 percent of these patients being treated." **[24a]**

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DEAF AND HEARING IMPAIRED

25.20 In a letter to the Country of Origin Information Service from the British Embassy in Ankara, dated 27 March 2007, about services for children who are deaf or whose hearing is impaired, in the province of Izmir it was noted that:

"We are aware of at least one state-funded school for deaf children in the city of Izmir. This provides education from pre-school level up to 8th grade:

"Tülay Aktaş İşitme Engelliler İlköğretim Okulu
Mevlana Mahallesi, 373/2 Sokak
No:6/1, Bornova - IZMIR
Tel: 90 232 3397826
Fax: 90 232 3392537
Email: taktasio@ttnet.net.tr

"There is no secondary school for the deaf and hearing impaired in the province. At present children have the choice between being assisted to attend a normal secondary school or attending a specialist school in one of the neighbouring provinces in the Aegean region? Pre-school education is also available. We are aware of two state-funded specialist toddler groups in Izmir itself, in the Carsi and Konak districts. Provision is likely to be much more limited outside of the main towns, as in the UK.
To access these services a child's parents must first submit documentation to the local Directorate of Education confirming that his or her hearing is impaired. A state hospital will usually be able to provide a suitable report." **[4n]**

25.21 The International Deaf Children's Society (IDCS) published an article in March 2004 by Mary C Essex, who specifically looked at the Turkish special education system for the deaf people, and it noted that:

"The Ministry of Education estimates having 58,351 students with disabilities in elementary, middle scholl and high school. This is well below the WHO estimate of people with disabilities.

Percentages of Disabilities in Turkey

Disability	Total	Percentage
Deaf	8,666	15%
Vision	1,555	3%
Physical	656	1%
Mental	44,970	77%
Autistic	419	.007%

Other	2,085	3%
Total	58,351	0.8%

There are four Deaf education teacher training programs in Turkey and these are located in the cities of:

- Bolu, Abant Izzet Baysal University
- Eskisehir, Anadolu University
- Samsun, Ondokus Mayis Universitesi
- Trabzon Karadeniz Teknik Universitesi

There are 47 elementary schools and 14 high schools for the Deaf throughout Turkey… The Ministry of Special Education has more information about the Deaf education curriculum and other information about their services available in Turkish." **[28]**

See section 21 - Disability

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MENTAL HEALTH

25.22 As recorded in the World Health Organisation's (WHO) Department of Mental Health and Substance Dependence Mental Health Atlas 2005, the country has disability benefits for persons with mental disorders: "After being approved by a mental health board as a chronic mental health patient, the patient can benefit from the social security services… Mental health is part of the primary health care system. Actual treatment of severe mental health is available at the primary level… Mental health in primary care is available in only some provinces… Regular training of primary care professional [sic] in the field of mental health is present and the approximate number of personnel trained over the last two years totalled 3,000." **[37a] (Section on Mental Health Financing)**

25.23 The WHO Mental Health Atlas 2005 further states that there are 1.3 psychiatric beds per 10,000 population, one neurosurgeon, one neurologist, one psychologist and one social worker per 100,000 population. **[37a] (Section on Mental Health Financing)**

25.24 The Foreign and Commonwealth Office contacted Hacettepe University Hospital Psychiatric Department in April 2002 and confirmed that antipsychotic and antidepressant medication is available in Turkey. **[4b]**

25.25 The WHO Mental Health Atlas 2005 recorded that "The following therapeutic drugs are generally available at the primary health care level:
Carbamazepine,
Ethosuximide,
Phenobarbital,
Phenytoin,
Sodium valproate,
Amitriptyline,
Chlorpromazine,
Diazepam,

Fluphenazine,
Haloperidol,
Lithium,
Biperiden,
Carbidopa and
Levodopa." **[37a] (Section on Therapeutic Drugs)**

25.26 The WHO Mental Health Atlas 2005 continued:

"The mental health department was established within the Ministry of Health in 1983 with the primary tasks of improving mental health services, development and dissemination of preventive mental health services, integration of mental health with primary care, community education and protection of the community from harmful behaviours. The means of achieving these aims were through determination of standards, training programmes, data collection, research, creation of counselling and guiding units, creation of psychiatric clinics in state hospitals, assigning proper tasks to personnel, developing rehabilitation facilities, carrying out public education through the help of media, educating the public on harmful behaviour, and taking care of those who succumb to those behaviours." **[37a] (Section on Other Information)**

25.27 The US Department of State Country report on Human Rights Practices 2007, published 11 March 2008, noted that "The Ministry of Health operated eight mental health hospitals in seven different provinces. There were two private mental health hospitals in Istanbul. The government reported that it operated 45 boarding care centers and 22 daycare centers that provided services to physically and mentally challenged individuals." **[5g] (Section 5 – Persons with Disabilities)**

25.28 A Mental Health Economics European Network (MHEEN) report of January 2008 recorded that there was virtually no social care or community care provisions for the mentally ill in Turkey. **[22] (p9)** It further added that: "although psychiatric care is almost entirely provided in nine psychiatric hospitals and there are virtually no social care homes or community-based services, there has also been a slight decrease from 4140 beds in 1990 to 3777 in 2004. … there are now some beds available in psychiatric wards in general hospitals but figures are difficult to obtain and the only data available are for 2003 when there were 1876 beds, and for 2004 when there were 2467 beds." **[22] (p8)**

25.29 As noted in a report by the Mental Disability Rights International (MDRI) entitled 'Behind Closed Doors: Human Rights Abuses in the Psychiatric Facilities, Orphanages and Rehabilitation Centers of Turkey' (released on 28 September 2005):

"There is no enforceable law or due process in Turkey that protects against the arbitrary detention or forced treatment of institutionalized people with mental disabilities. There are virtually no community supports or services, and thus, no alternatives to institutions for people in need of support. As a result, thousands of people are detained illegally, many for a lifetime, with no hope of ever living in the community. Once inside the walls of an institution, people are at serious risk of abuse from dangerous treatment practices. In order to receive any form

of assistance, people must often consent to whatever treatment an institution may have to offer. For people detained in the institution, there is no right to refuse treatment. The prison-like incarceration of Turkey's most vulnerable citizens is dangerous and life-threatening." **[90]**

25.30 The European Commission 2008 Progress report, published 5 November 2008, acknowledged that: "As regards mental health, progress has been made in the field of electroconvulsive therapy which is implemented in hospitals in line with medical standards and respecting patients' rights… **(p22)** The lack of data and research on persons with a disability and on conditions of care for mentally ill persons is preventing informed policy-making. Community based services are not sufficiently developed as an alternative to institutionalisation, and resources continue to be limited in relation to needs. There is an ongoing problem of insufficient general medical care and treatment in mental health hospitals and rehabilitation centres." **[71d] (p22-23)**

25.31 The US State Department (USSD) 2007 report published 11 March 2008 mentioned that "In February [2007] a public prosecutor opened an investigation into reports of abuse at the Ekrem Tok Mental Hospital in Adana. The Ministry of Health and Adana Provincial Health Directorate also began investigations. The investigations were opened after Star TV aired a program that showed patients at the hospital complaining about electro-shock treatment, beatings, and abuse. According to the program, patients were subject to beatings and violence for performing religious prayers, for not eating, or for not cleaning their plates after a meal. Hurriyet reported that a patient died of a drug overdose in the facility in August 2006. Police arrested two staff members, Huseyin Hatipogul and Nusret Er, for mistreating patients." **[5g] (Section 5 – Persons with Disabilities)**

See also Section 21.01 Disability

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26 FREEDOM OF MOVEMENT

26.01 The US State Department (USSD) report 2007, published 11 March 2008, noted that with regard to freedom of movement within the country, foreign travel, emigration and repatriation:

"The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, at times the government limited these rights in practice. The law provides that a citizen's freedom to leave the country could be restricted only in the case of a national emergency, civic obligations (e.g., military service), or criminal investigation or prosecution. The government maintained a heavy security presence in the southeast, including numerous roadway checkpoints." **[5g] (Section 2d)**

26.02 The European Commission 2007 Progress report on Turkey, published 6 November 2007, noted that "amendments to the Law on Police Duties and Authority in June 2007 authorise the law enforcement bodies to take fingerprints and pictures of persons applying for a drivers' licence, passport or a gun licence. These data can be stored for up to 80 years. Turkey needs to align its legislation with the Data Protection Directive and, in that context, to set up a fully independent data-protection supervisory authority." **[71c] (p60)**

26.03 A senior official in the Passport Office, Ministry of Interior, explained to the Immigration and Nationality Directorate's (IND) fact-finding mission to Turkey in 2001, the passport issuing procedures in Turkey:

"All Turkish citizens are entitled to a passport. An applicant must apply in person; an application cannot be made through an agent. The application must be made in the local area where the applicant resides. The regional passport office makes checks to verify his or her identity. These checks include establishing whether the applicant has criminal convictions and/or is wanted by the authorities. The applicant is always asked why the passport is wanted." **[48] (p10)**

26.04 An interlocutor advised the IND fact-finding mission that the issue of a passport would not be withheld if the applicant had not completed his military service; this is because there are provisions in law to defer military service. **[48] (p11)**

26.05 However, the Netherlands Ministry of Foreign Affairs' 'Turkey/military service' report published in July 2001 records that "Persons of call-up age are not usually issued with passports, and cannot have passports renewed. In a small number of cases, and with the consent of the military authorities, a passport with a short period of validity is issued. The entry 'yapmiştir' (done) or 'yapmamiştir' (not done) in the passport indicates whether the holder has completed military service or not." **[2b] (p15)**

26.06 The IND fact-finding mission was also told that there are four different types of passport:
Red (diplomatic) passports.
Grey (service) passports, issued to lower rank government officials who are being sent abroad for a short time on official duty.

Green (officials') passports, issued to government officials, who have reached a certain level, the qualification for these passports is based on hierarchy and length of service in government, and
Blue passport, issued to ordinary citizens. **[48] (p10)**

26.07 The Immigration and Refugee Board of Canada reported in April 2005 that:

"The regulations concerning entry into and exit from Turkey of Turkish and non-Turkish nationals fall under the Turkish Passport Law Number 5682, which stipulates that all travellers, whether Turkish or not, require a valid passport or travel document whenever they leave or enter Turkey… Turkish citizens who do not have a valid passport or travel document are still entitled to enter Turkey if they show their Turkish identity card (Nüfus Cüzdani), or another valid identity card, to border authorities…" **[7d]**

26.08 The Immigration and Refugee Board of Canada reported, in October 2004, in 'Turkey: Whether a Turkish citizen who is the subject of an arrest warrant can obtain a passport legitimately or through bribery or any other fraudulent means', that:

"If a Turkish citizen is the subject of an arrest warrant, he or she must resolve any outstanding legal cases with the justice system before he or she will be given a passport. If the applicant for a Turkish passport submits his or her application at a Turkish consulate outside Turkey, the consular authorities will need to see the applicant's old passport, or they will require a letter from the local police to account for the passport if it is missing… Regarding the acquisition of a Turkish passport through bribery or any other fraudulent means by an individual who has an arrest warrant against him or her, during the period February 2001 through August 2004, there were various reports of persons who were in possession of fraudulent Turkish passports when they were arrested by Turkish authorities." **[7l]**

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NÜFÜS CARD / IDENTITY CARD

26.09 The Netherlands Ministry of Foreign Affairs 2002 reported that:

"The population registry has responsibility for issue of identity cards (in Turkish: nüfus cüzdani) often referred to in other languages too as nüfus cards. The nüfus card is the only valid domestic identity document, and everyone is required to carry it at all times. Births have to be registered to the population registry for the place of birth without delay, so that a nüfus card can be issued straight away." **[2a] (p19)**

26.10 The USSD 2006 Human Rights report stated that:

"Religious affiliation is listed on national identity cards. A few religious groups, such as the Baha'i, are unable to state their religion on their cards because it is not included among the options; they have made their concerns known to the government. In April parliament adopted legislation allowing persons to leave

the religion section of their identity cards blank or change the religious designation by written application. However, the government reportedly continued to restrict applicants' choice of religion; members of the Baha'i community said government officials had told them that, despite the new law, they would still not be able to list their religion on the cards." **[5h] (Section 2c)**

26.11 As confirmed by the British Embassy in Ankara on 22 July 2005:

"Under Turkish law citizens are obliged to produce an official ID card if requested by police or jandarma. If you cannot produce identification when required, or refuse to do so, you can be held in detention until your identity is proved. The maximum standard detention period in Turkey is 24 hours, extendable for a further 12 hours to allow time for transfer between custody and the nearest court. (Suspects can be held up to 48 hours for organised crime offences, illegal drug production/sale, and certain crimes against the State). Under the Law on Misdemeanours those who refuse to give ID information, or who give false information, to civil servants conducting their duty are liable to a small administrative fine." **[4e]**

26.12 As noted in a letter from the British Embassy in Ankara to the Country of Origin Information Service, dated 8 January 2007:

"I am writing in response to a number of queries you have sent about the ID card in Turkey. The format and application form currently available on the website of the Directorate General for Population and Citizenship Affairs (www.nvi.gov.tr).

Collection of ID Cards:
ID cards must be collected in person. They cannot be collected by relatives or friends on the behalf of the applicant. The only exception to this rule is when a person has been given power of attorney, in which case they can collect the ID card belonging to the person they represent.

Place of Issue:
The back of the ID card contains a section for details of the holder's original registration. This includes the place of registration (kayitli oldugu il/ilce/mahalle). A separate section lists details relating to the replacement card (nufus cuzdaninin verildigi yer/verlilis nedeni etc). This includes where the current card was issued and the reason it was replaced. The front of the card lists place of birth (dogum yeri), which in most cases is the same as place of registration (the ID card does not have to be carried by law until the age of 15, but an ID card without a photograph is provided following registration of a birth).

Religion:
The Population Services Law, which was ratified on 29 April 2006, came into force on 23 November 2006. The law permits individuals to choose what is written on the 'religion' section of the identity card. By making a written application, individuals can choose to leave the space blank, or to change the religion listed on the card." **[4o]**

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27 INTERNALLY DISPLACED PEOPLE (IDPS)

27.01 The European Commission 2008 Progress report on Turkey, published 5 November 2008, noted:

"The situation of IDPs in urban areas remains a cause for concern. IDPs suffer from economic and social marginalisation and have little or no access to social, educational and health services. Return of IDPs is prevented by a number of factors. These include mainly the security situation, but also the lack of basic infrastructure, lack of capital, limited employment opportunities and the threat posed by the village guard system." **[71d] (p28)**

27.02 The EC 2008 Progress report also reported that "There is no overall national strategy to address the situation of IDPs. The insufficient institutional capacity of departments responsible for IDPs remains a challenge. There is a need to involve civil society further in the development of IDP policies." **[71d] (p28)**

27.03 The US State Department (USSD) report 2007, published on 11 March 2008, noted that "Various NGOs estimated that there were from one to three million IDPs in the country remaining from PKK conflict, which began in 1984, continued at a high level through the 1990s, and continued during the year. The government reported that 368,360 citizens from 62,448 households migrated from the southeast during the conflict, with many others departing before the fighting." **[5g] (Section 3)**

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COMPENSATION

27.04 The EC 2008 Progress report noted that "Compensation of internally displaced persons (IDPs) has continued. However, the government lacks an overall national strategy to address the IDP issue." **[71d] (p28)**

27.05 The 2008 EC report also noted that "The compensation mechanism put in place to address the property rights of displaced persons fulfils in principle the requirements indicated by the ECtHR and has continued to receive requests for compensation." **[71d] (p12)**

27.06 The US State Department (USSD) report 2007, published on 11 March 2008, noted that "The law to compensate IDPs allows persons who suffered material losses during the conflict with the PKK to apply for compensation. On May 31, [2007] parliament extended the duration of the law so that applicants may apply for compensation until May 2008. According to HRW, rulings by provincial commissions charged with the law's implementation were inadequate and actually hindered those IDPs who would like to return to their preconflict homes. HRW also found that IDPs had no realistic avenue of appeal. These findings mirrored those of local NGOs and regional bar associations, which maintained that the law included unreasonable documentation requirements and awarded levels of compensation far below standards established by the ECHR." **[5g] (Section 3)**

27.07 The USSD 2007 report also noted that "The Ministry of Interior reported that the review commissions had received a total of 278,165 applications for compensation under the law through December. The commissions have processed 97,579, approving 66,563 and rejecting 31,016. The government paid total compensation in the amount of $294 million (351 million lira), an average of $13,400 (16,000 lira) per person." **[5g] (Section 3)**

29.08 The USSD 2007 report further noted that "According to the Turkish Economic and Social Studies Foundation (TESEV), the law only compensates losses suffered after 1987, leaving out victims who suffered losses between 1984, when the clashes started, and 1987. TESEV reported that many victims who fled the region because of the deteriorating economic and security situation have been unable to receive compensation because they could not demonstrate a direct link between their losses and the actions of either the PKK or the security forces." **[5g] (Section 3)**

29.09 The USSD 2007 report also reported that "Voluntary and assisted resettlements were ongoing. In a few cases, persons could return to their former homes; in other cases, centralized villages were constructed. The government reported that as of September 7, its 'Return to Village and Rehabilitation Project' had facilitated 151,469 persons from 25,001 households returning to their villages." **[5g] (Section 3)**

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28 FOREIGN REFUGEES

28.01 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees (recognized as such with certain geographical limitations), returning refugees, asylum seekers awaiting resettlement to third countries, stateless persons, and other persons of concern." **[5g] (Section 3)**

28.02 The USSD 2007 report continued:

"An administrative regulation provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. However, Turkey ratified the 1967 protocol subject to a geographic limitation, and therefore accepts its obligations only with respect to refugees from Europe. The government has not established a formal system or legislation for providing protection to refugees. The UNHCR conducted refugee status determination for applicants from non-European countries and facilitated the resettlement of those recognized as refugees." **[5g] (Section 3)**

28.03 The USSD 2007 report further stated that: "The government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol, including individuals of non-European origin. According to the Ministry of Interior, during the year the government provided temporary protection to 12,249 foreigners referred by UNHCR for resettlement to a third country. Refugees were not authorized to work in the country and needed permission from Ministry of Interior authorities to travel to Istanbul or Ankara, including for meetings with UNHCR or resettlement agencies." **[5g] (Section 3)**

28.04 The European Commission 2008 Progress report on Turkey, published 5 November 2008, noted that "Turkey continues to impose its geographical limitation on the 1951 Convention relating to the status of refugees and the related 1967 Protocol." **[71d] (p72)**

28.05 The EC 2008 Progress report also noted that "The Ministry of Interior continued to work with the UNHCR to train officials in preparation for decentralisation of decision-making. The department for foreigners, borders and asylum in the Turkish National Police has started to prepare to take over the country of origin information system. Extensive work is underway to improve administrative capacity and streamline asylum procedures. The Ministry of Interior has also initiated the internal administrative procedures to set up an asylum management unit, as the first step towards a dedicated authority able to manage both reception and integration issues." **[71d] (p72)**

28.06 The EC 2008 Progress report further noted that "In 2007, 5 846 requests for asylum were made, a 65% increase compared to 2006 (3 541 applications). In the first eight months of 2008 another 2 364 applications were registered. The total number of applications being processed (investigation phase) increased to 15562. So far, 44 applicants have been granted refugee status." **[71d] (p72)**

28.07 The EC 2008 Progress report also stated that "Given the increase in the number of asylum applications to Turkey, the revision of the Asylum Law and the establishment of the new asylum unit are important. Pending these two structural reforms, fair, equal and consistent access for everyone to asylum procedures, to legal aid and, in particular, to UNHCR staff, especially at Turkey's international airports and detention centers, is crucial. Another important task is to reduce the waiting time for asylum procedures and to eliminate disparities between cities' mechanism for referral to the social solidarity foundation." **[71d] (p72)**

28.08 As noted in the US Committee for Refugees and Immigrants (USCRI) 'World Refugee Survey 2008 - Turkey' released on 16 July 2008:

"Turkey forcibly repatriated as many as 75 and deported to third countries at least 123 asylum seekers… In February, authorities deported three Sri Lankans from Istanbul's Ataturk airport and two Iranians in March, without allowing them to apply for asylum… In July, Ayvalik police refused to accept the asylum applications of 51 Afghans and likely deported them; their whereabouts remained unknown. Also in July, authorities deported three Baha'i Iranian refugees although they had requested asylum and UNHCR had instructed police to accept their applications. In August, Turkey expelled five UNHCR-recognized Iranian refugees to northern Iraq, without notifying the agency." **[92]**

28.09 The USCRI 2008 survey further noted that "Turkey did not separate and screen asylum seekers from the migrants it interdicted, and ignored UNHCR's recognition of others. Turkey refused to accept Iraqi refugees entering from Syria and insisted that UNHCR advise them to return. The Government told UNHCR that some 100 asylum seekers (mostly Iranians and Iraqis) and nearly 40 refugees (22 Iraqis and 15 Iranians) withdrew their applications and spontaneously returned to their countries." **[92]**

28.10 The USCRI 2008 survey also noted that "Although Turkey did not confine refugees and asylum seekers to camps, the Law on Residence and Travel of Aliens in Turkey required them to reside in areas assigned by the MOI. MOI sent all refugees and asylum seekers to 30 satellite cities. Turkey did not allow UNHCR-registered refugees to live for long periods in major cities, forcing most of them to move to the provinces. Many refugees chose to stay illegally in Istanbul without registering with the Government or UNHCR." **[92]**

28.11 The USCRI 2008 survey also recorded that "Turkey's 2003 Law on Work Permits for Foreigners permitted refugees and asylum seekers with valid residence permits to work legally…Asylum seekers were eligible only for six-month permits, they could work for six months only…Refugees with valid residence permits were eligible for government services. Limited government health services left many refugees without medical attention…The Turkish

Constitution and the 2006 implementation of the 1994 Asylum Regulation offered free education to children aged 6 to 14, but only those with legal residence permits could enroll in public schools." **[92]**

28.12 The EC 2008 Progress report also stated that "The asylum and migration task force formed a high-level working group bringing together agencies responsible for border tasks connected with irregular migration. It aims for closer inter-agency cooperation by conducting common risk analyses. A total of 64 290 illegal migrants were apprehended in 2007 and 33,143 in the first seven months of 2008. Capacity to accommodate illegal migrants has been increased from 1 512 to 1 793." **[71d] (p71)**

28.13 The EC 2008 report also stated that "Limited progress can be reported on management of irregular migrants in Turkey. However, the detention and deportation procedures need to be improved to ensure that the authorities systematically give written reasons for such decisions in a language the persons concerned can understand. It should be possible to submit detention and removal decisions to a senior administrative, and possibly also judicial, review. The duration of detention should be limited by law or – at least in cases of prolonged detention – regularly reviewed." **[71d] (p71)**

28.14 The European Commission Turkey 2008 Progress Report, published 5 November 2008, noted that "Training for Turkish officials on refugee status determination procedures needs to continue. Measures need to be taken to ensure that trained staff remains within the asylum and migration system. Mobilisation of and cooperation with NGOs and local authorities are the keys to integration of asylum seekers. Another important point is to facilitate the self-reliance of refugees by reducing the fees for the six-month temporary residence permit." **[71d] (p72)**

28.15 The EC 2007 report further noted that: "Overall, some progress can be reported... The capacity to manage asylum and migration needs to be improved. Efforts need to be stepped up to implement the national action plan on integrated border management. The negotiations for an EC-Turkey readmission agreement need to be re-launched. " **[71d] (p75)**

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29 CITIZENSHIP AND NATIONALITY

29.01 As regards nationality by birth, Introduction to Turkish Law states that:

"Turkish nationality is mainly acquired through the relation to the father or mother. Thus a legitimate or illegitimate, but legally recognised, child of a Turkish father or mother is Turkish. Legitimate children born to a Turkish mother, and not acquiring the nationality of the father by birth, as well as all illegitimate children born to Turkish mothers, are Turkish. Children born of non-Turkish parents do not acquire Turkish nationality by reason of birth on Turkish soil. An exception is the case of children born in Turkey and not acquiring at the time of birth the nationality of either their father or mother; they are Turkish at birth." **[64] (p89)**

29.02 Regarding acquisition of nationality other than by birth, Introduction to Turkish Law states that: "Any foreigner may acquire Turkish nationality by means of naturalisation (telsik). Persons who have lived in Turkey more than five years and have all the qualifications required by the law may apply to the Ministry of Interior, and, upon the recommendation of this Ministry, the Council of Ministers may grant Turkish nationality." **[64] (p89)**

29.03 A country profile by Migration Research Group of Hamburg Institutue of International Economics, dated April 2008, stated on the topic of National Immigration Policy that "Turkey's national immigration policy and the question of who is allowed to enter and/or stay in the country are closely tied to the Republic's notion of national identity and citizenship. Although the constitutional concept of citizenship emphasises territoriality (ius soli) rather than descent (ius sanguinis), the concept of national identity clearly relies on the perception of one common culture. In other words, Turkey's immigration policy – including regulations on refugees and asylum is still strongly guided by the concept of national identity and its underlying principle of cultural unity. This idea is clearly reflected in the three legal documents which form the basis of the country's current immigration policy:

- the 1934 Law on Settlement (Law 2510)
- the 1951 Geneva Convention on Refugees
- the 1994 Regulation on Asylum." **[19] (p3-4)**

29.04 The EC 2006 report however also noted that: "Administrative structures for recognition of foreign qualifications are limited to academic recognition, the structure to certify the professional qualifications and to handle recognition requests submitted by non-nationals are not in place. Nationality requirements for professions such as lawyers, medical doctors, dentists and midwives, as well as for air traffic controllers and private security services are not in line with the acquis. Overall alignment in this area is limited." **[71a] (p34)**

See also Section 9.01 on Military service, for information on the deprivation of nationality for evasion of military service paragraph 9.04

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30 FORGED AND FRAUDULENTLY OBTAINED OFFICIAL DOCUMENTS

30.01 The Canadian Immigration and Refugee Board reported in 'Security and administrative procedures in place to guard against the issuance of fraudulent Turkish passports or to guard against the issuance of Turkish passports by fraudulent means', dated 28 April 2005, that:

"Articles 350 and 351 of Law 765 of the Turkish Penal Code contain provisions that could be used to indict people engaged in the falsification of passports and of other official documents in relation to irregular migration. Article 201a of the Penal Code adds that those involved in the procurement of false identification or travel documents, for the illegal arrival, stay or departure of an individual...shall be sentenced to two to five years' imprisonment and imposed a fine of not less than one billion liras [CAN$915]. The competent authority [issuing] passports [in Turkey] is the General Directorate of Security, or the District Security Office in smaller districts. In addition, [t]he Turkish National Police receive special training, funded by the EU [European Union] and administered by UNHCR [United Nations High Commissioner for Refugees], in areas such as visa fraud, passport forgery, and illegal entries.

"Passport applicants in Turkey are subject to thorough investigation. Entries and exits of persons are recorded in the computer network and checked with criminal information. A draft Passport Law is in process, which foresees heavier sentences for illegal border crossings and a new type of Turkish passports more difficult to forge (ibid. n.d.b)." **[7q]**

30.02 The Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)', noted that:

"The Norwegian Directorate of Immigration has repeatedly been presented so-called documents 'proving' that an asylum-seeker was wanted by the Turkish authorities. Some of these documents were – according to the applicant – issued either by the Gendarmerie/Police or by the Ministry of Justice. All lawyers I asked about this invalidated the possible authenticity of such documents. Neither law enforcement authorities nor any other Turkish official were entitled to issue such a confirmation. Neither detention-orders, nor warrants were handed out to the suspect or any other third person before the suspect was detained. Both Mr. Islambay and Mr. Demirtaş claimed, however, that it was widely known that such (and other) 'documents' could be attained through bribery. Tanrikulu and Demirtaş mentioned that two court ushers from the former State Security Court in Diyarbakir had been arrested in the summer of 2004 and had been charged with corruption for selling fake documents. Such cases could be found all over the country and the two officials from Diyarbakýr where only the tip of the iceberg. Demirtaş and Islambay further mentioned that the problem of corruption was widespread and that this also applied to lawyers. One person working at a lawyers' office told me that they repeatedly had declined requests to produce fake documentary evidence, 'sufficient' for asylum applications. One lawyer stated that he had repeatedly rejected offers from Turkish citizens already staying in Western Europe, who offered him between 5,000 and 10,000 Euro for a complete 'asylum-file'. The same lawyer told me

that it was considered 'easy' to get fake documents in Turkey and assumed that 'most of the documents presented to European Migration authorities are fake'." **[16] (p24-25)**

30.03 The Norwegian report continued:

"One lawyer stressed that it might prove difficult and unreliable to judge documents only by the looks of it since different types of forms (or only letters) may be used at different prosecutors offices (e.g. Fezlekes). Only a lawyer could conduct a reliable verification, since he/she could compare the document's contents (such as case-numbers) with the respective registries. Another lawyer told me that he had verified several documents for European Immigration authorities and that most of these documents had proved to be falsified." **[16] (p25)**

See section 17: Corruption

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31 EXIT / ENTRY PROCEDURES

31.01 The Consulate General for the Republic of Turkey in London, gives information on visa applications, consular matters, useful addresses and general information about Turkey. **[31]**
http://www.turkishconsulate.org.uk/en/index.htm

31.02 The Legislationline website notes the Entry visa obligations under Passport No. 5682 of 15 July 1950.
http://www.legislationline.org/documents/action/popup/id/8984

31.03 The Canadian Immigration and Refugee Board noted in 'Procedures that must be followed by, and documents that must be provided to, Turkish airport and land border authorities for a Turkish citizen and/or foreign national to be allowed to enter or leave Turkey; the security/law enforcement personnel present; action taken in cases where a person is wanted by the Turkish authorities', dated 29 April 2005, that:

"Exit and entry procedures, as well as the documents required of persons entering or leaving Turkey, are the same at airports as they are at land borders… The regulations concerning entry into and exit from Turkey of Turkish and non-Turkish nationals fall under the Turkish Passport Law Number 5682, which stipulates that all travellers, whether Turkish or not, require a valid passport or travel document whenever they leave or enter Turkey.

"Turkish citizens who do not have a valid passport or travel document are still entitled to enter Turkey if they show their Turkish identity card (Nüfus Cüzdani), or another valid identity card, to border authorities. According to the Embassy, [t]hose who demonstrate by other means that they are citizens are also accepted in, pending the police assessment that they are citizens. However, non-Turkish citizens require a valid passport and a valid visa to enter Turkey. The Embassy added that exceptions could be made to the visa rule through bilateral agreements and other arrangements. Permission for foreign nationals to enter Turkey without a visa is subject to approval by security authorities." **[7p]**

31.04 The EC 2008 Progress report also stated that "No progress can be reported on visa policy. Sticker- and stamp-type visas are still issued at borders, with different authorities responsible for the issuing procedures, and airport transit visas have not been introduced." **[71d] (p72)**

TREATMENT OF RETURNED FAILED ASYLUM SEEKERS

31.05 The Netherlands Ministry of Foreign Affairs 2002 report states that "There are no indications that Turkish nationals are persecuted in Turkey purely because they applied for asylum abroad. The Turkish authorities are aware that many citizens leave the country for economic reasons and apply for asylum elsewhere. However, people who have engaged in activities abroad which the Turkish authorities regard as separatist are at risk of persecution if the Turkish authorities find out." **[2a] (p144)**

31.06 According to the Netherlands Ministry of Foreign Affairs Official General report on Turkey, published in January 2003: "In the removal of refused Turkish-Kurdish asylum seekers to Turkey it is true that they are checked on return in the same way as other Turkish subjects. It is checked whether there are criminal judgements or that there is a criminal investigation by the Jandarma against the person concerned. Those refusing to do military service and deserters are [also] recorded at the border posts." **[2c] (p102)**

31.07 The Netherlands 2003 Official General report continued "The Turkish border authorities shall mostly question the person concerned if one of these facts is established, in the case of incorrect border crossing documents, an earlier illegal exit from Turkey or removal from abroad. The questioning takes place at the police station of the airport and mostly involves:

- establishment or checking personal details,
- reasons and period of exit from Turkey,
- reason for the asylum application,
- reasons for any refusal of the asylum application,
- any criminal record and past record at home and abroad including drug offences,
- possible contact with illegal organisations abroad.

However, if there are no suspicions, as a rule after an average of six to nine hours they are released." **[2c] (p102)**

31.08 The Netherlands report 2003 further stated:

"If it appears that the person concerned is a suspect for punishable acts, they are transferred to the [appropriate authority] concerned. In Istanbul this is in most cases the Police Headquarters in the Bakırköy district located not far from the airport. Persons who are suspected of membership of the PKK/KADEK, left-wing radical organisations such as the DHKP/C or TKP/ML, militant Islamic organisations, or persons suspected of providing support or shelter to one of those organisations are transferred to the Anti-Terrorist unit of the police, which is housed in the same headquarters." **[2c] (p102-103)**

31.09 Turkish citizens who are without passports are returned on one-way emergency travel documents, which are issued by the Turkish Consul General in London. In a letter to the Home Office dated 11 January 2006, the Turkish Consulate General in London noted:

"A Turkish national who wishes to obtain an Emergency Travel Document from the Turkish Consulate General in London should meet the following requirements: 1. He/she must be a Turkish national; 2. He/she must apply in person to the Consulate General so that the applicant can be interviewed; 3. He/she should submit the following documents:

- Any identity document issued by official Turkish authorities (Nufus card, driving licence etc).
- A flight ticket (or reservation);
- Two photos;

If the applicant does not possess any official document of identity, he/she is required to provide his/her identity details during the interview at the Consulate. The purpose of the interview is to ascertain that people who apply for Emergency Travel Documents are indeed Turkish citizens. The Turkish Consulate would not refuse to issue an Emergency Travel Document to a Turkish National under any circumstances. [An] Emergency Travel Document is issued without delay if the Consulate is satisfied that the applicant is a Turkish national. The application is referred to the relevant authority in Turkey for approval – i.e. the Ministry of Interior of the Republic of Turkey if the Consulate is not satisfied that the applicant holds Turkish nationality. Passports checking at borders, ports and airports are carried out by security officers. People returning to Turkey on an Emergency Travel Document go through the same procedure as anyone returning there on a standard passport. There is only one type of Emergency Travel Document in use. However, Turkish nationals travelling with Emergency Travel Documents will be interviewed by security officials on their arrivals to Turkey." **[31a]**

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CHECKING OF DOCUMENTS

31.10 The European Commission 2008 Progress report on Turkey, published 5 November 2008, noted that "Following the training received by 200 staff in 2007, there has been a slight increase in the detection rate for forged documents. In 2007, 493 documents were identified as false and falsified, compared with 469 in 2006." **[71d] (p72-73)**

31.11 The Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey (7-17 October 2004)', noted that the lawyer:

"Had further noticed that most of these documents (some of them being 'warrants') referred to article 169 in the (old) Turkish Criminal Code. According to him, this article does not play an important role any more and it rarely leads to punishment: 'You can send the persons with article 169 back to Turkey, nothing will happen to them'. However, persons who are wanted for activities sanctioned by articles 125 and 168 in the Penal Code might still face severe problems after return, according to Demirtaş. He stressed that some of these persons really might be in need of protection and he suggested that documentation on such cases should be carefully verified." **[16] (p25)**

See section 30 – Forged and Frauduently obtained official documents

THE GENERAL INFORMATION GATHERING SYSTEM (GBTS)

31.12 The Swiss NGO Schweizerische Fluchtlingshife (Swiss Organisation for Refugees) stated, in its report on Turkey published in June 2003, that:

"There are a number of different information systems in Turkey. The central information system is known as the GBTS (Genel Bilgi Toplama Sistemi –

General Information Gathering System). This system lists extensive personal data such as information on arrest warrants, previous arrests, foreign travel restrictions, avoidance of military service, desertion, refusal to pay military tax and delays paying tax. Served sentences are as a rule removed from this information system and entered onto the database of criminal records (Adli Sicil)." **[8] (p41)**

31.13 As outlined in the September 2003 Report on GBTS system by the Turkish Ministry of Interior, the GBTS is operated by the Anti-Smuggling Intelligence and Data Collection Department of the Turkish National Police. The Ministry of the Interior further state that "In the GBT system records of the following are kept as a general rule:

(i) Persons who have committed a crime but have not been caught;
(ii) Persons who have committed serious crimes such as organised crime, smuggling, drugs related crimes, terrorism, unlawful seizure, murder, fraud;
(iii) Persons who have search warrants issued including those who have an arrest warrant issued "in absentia";
(iv) Persons who are barred from public service;
(v) Missing persons;
(vi) Persons of responsibility within political parties who have been convicted of crimes defined in the Political Parties Law No.2908, article 4/4;
(vii) Stolen, lost, appropriated motor vehicles, firearms, identification documents." **[17]**

31.14 As stated by the Turkish Ministry of the Interior in September 2003, records are erased from the system under the following circumstances:

"(i) Upon the death of a person convicted of a crime by a court;
(ii) As soon as a court decision of non-pursuit, acquittal or expiry of time limitation reaches the Turkish National Police (TNP) regarding a person who was previously registered in the GBTS;
(iii) In case of a crime other than those listed above, when the person is caught;
(iv) In case of stolen/lost/appropriated property, when the property in question is found." **[17]**

31.15 Only the latest warrant of arrest is held on file. The others are cancelled. Information about convicted persons is stored at the Judicial Registry Office (Adli Sicil Mudurlukleri), rather than on the GBTS. (Turkish Ministry of the Interior, September 2003) **[17]**

31.16 The Turkish Ministry of the Interior stated in September 2003 that "Only records of people who are under judicial proceedings or judicial examination are kept on the GBTS. No records of people are kept on the system who are detained and [subsequently] released by the security forces." **[17]**

31.17 The Swiss Organisation for Refugees, in its report published June 2003, stated that "Experience has shown, however, that despite its name, this [GBTS] system does not by any means contain all the information relating to a given individual. Concrete examples have demonstrated that individuals are generally

only entered onto the system following prosecution or issue of an arrest warrant by the public prosecutor or a court." **[8] (p41)**

31.18 However, the Swiss Organisation for Refugees also stated that "In several cases we have discovered that individuals who have been denounced as PKK activists or sympathisers show up as not being sought and therefore do not appear on the register even though authentic police statements prove that they have been denounced by name." **[8] (p41)**

31.19 The report continued: "It should be mentioned that in addition to the GBTS central information system, the various security forces each have their own information systems… They include the registers of the police, the anti-terrorist department, the gendarmerie, JITEM, the military secret service etc. It is therefore perfectly possible for someone not to be listed on the central system but to be sought by the anti-terrorist unit." **[8] (p41)**

31.20 The Swiss Organisation for Refugees further stated that "Neither can the absence of a data entry or current investigation or the lack of a passport ban be taken as evidence that an individual is not in danger. Despite the absence of entries in the central information system, the individual concerned might be listed on one of the other information systems. This must certainly be assumed in the case of individuals who have already been taken into custody by the police, gendarmerie or some other branch of the security forces in the past." **[8] (p41)**

31.21 In a fax sent to the British Embassy in Ankara on 7 October 2005, the Assistant Director of the Trafficking and Organised Crime Directorate of the Turkish Ministry of Interiors confirmed that:

"In our country the GBT system is governed by the Trafficking Intelligence and Information Gathering Directorate attached to the Ministry of Internal Affairs. Law enforcement units such as the police and the gendarme can use the GBT system. While the customs officers stationed at international ports and borders cannot use the GBT system police units stationed at all land, air and sea borders are able to use the said system. Foreign establishments cannot use this system in any way whatsoever. The offence of leaving the country through illegal means can only be detected when the offenders are captured abroad. It is impossible to know who left the country through illegal means and therefore no records are being kept in relation to such matters. Draft evaders are also being registered in the GBT system. Records relating to individuals who are being prosecuted or are subject to investigation are being kept in the GBT system. Records relating to individuals who have been taken into custody and subsequently released are not registered in the GBT system." **[4f]**

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32 EMPLOYMENT RIGHTS

LABOUR ACT OF TURKEY

32.01 Law No. 4857, Date of enactment: 22.05.2003. Published in the official gazette on 10 June 2003.

Article 1. The purpose of this Act is to regulate the working conditions and work-related rights and obligations of employers and employees working under an employment contract.

With the exception of those cited in Article 4, this Act shall apply to all the establishments and to their employers, employer's representatives and employees, irrespective of the subject matter of their activities. **[27]**

32.02 The Employment Act (EA) No. 4857 of 2003, the Trade Unions Act of 1983 and the Obligations Act of 1926 are the sources of employment legislation in relation to termination of employment for employees falling within their scope…

Civil servants and employees with an administrative employment contract are subject to different regulations and are not covered in this Digest. In Turkey, civil servants enjoy considerable job security. **[27]**

32.03 The US State Department (USSD) report 2007, published on 11 March 2008, noted that: "The national minimum wage of approximately $495 (585 lira) per month did not provide a decent standard of living for a worker and family. All workers covered by the labor law are also covered by the law establishing a national minimum wage. This law was effectively enforced by the Ministry of Labor Inspection Board." **[5g] (Section 6)**

32.04 The USSD 2007 report further added that "The law establishes a 45-hour workweek with a weekly rest day, and limits overtime to three hours per day for up to 270 hours a year. Premium pay for overtime is mandated but the law allows for employers and employees to agree to a flextime schedule. The Labor Inspectorate of the Ministry of Labor effectively enforced wage and hour provisions in the unionized industrial, service, and government sectors, which covered approximately 12 percent of workers. Workers in other sectors had difficulty receiving overtime pay, although by law they were entitled to it." **[5g] (Section 6)**

32.05 The USSD 2007 report also noted that "The law mandates occupational health and safety regulations; however, in practice the Ministry of Labor Inspection Board did not carry out effective inspection and enforcement programs. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, although reports of them doing so were rare. Authorities effectively enforced this right." **[5g] (Section 6)**

32.06 The Eurasianet Civil Society website published an article 1 December 2008 reporting that "Emine Arslan mother of three from the conservative Black Sea region had been working at Desa for eight years when she was sacked on July 1 without receiving any kind of severance package. Desa management accused

her of negligence. Arslan says her dismissal came just days after she joined a trade union to fight for better working conditions. They made us work 60, 70, sometimes even 80 hour weeks for 485 lira [$300] a month. Union membership is a constitutional right in Turkey. But it remains a common cause of dismissal." **[42]**

32.07 The Turkish Statistical Institute (TURKSTAT) released on 28 September 2007 the Wages and Earnings in the Manufacturing Industry second quarter 2007 and noted that:

"When average monthly gross earnings were examined by statistical regional classification at level 12 (twelve regions) (NUTS1), the highest per capita average monthly gross earnings was found in Western Black Sea Region (1 970 TRY.) In the second quarter of 2007 and Northeastern Anatolia Region (1 868 TRY.). Istanbul Region has 1 604 TRY per capita average monthly gross earnings in the second quarter of 2007." **[89b]**

32.08 The European Commission 2008 report recorded that:

"There has been progress in the area of employment policy. An Employment Package was adopted in May 2008 aiming to address unemployment challenges, with a specific focus on the promotion of job opportunities for women, young people and people with disabilities. For instance, the mendments stipulate, among other things, that the employers' share of social security premiums for newly hired women employees are to be covered by the Unemployment Insurance Fund for a five-year period, starting with 100% in the first year and ending with 20% in the fifth. Unemployed persons registered with the Turkish Employment Agency (IŞKUR) will benefit from job matching, guidance and vocational training, to be funded by the Unemployment Insurance Fund. IŞKUR continued its efforts to improve its institutional capacity and the services provided to job seekers. Turkey also declared 2008 as the year for combating undeclared work." **[71d] (p61)**

32.09 The European Commission 2008 report also stated that: "As regards social dialogue, there has been limited progress. Tripartite social dialogue meetings were more frequent in the reporting period; however, the Economic and Social Council does not meet regularly as required by the law. Full trade union rights have not yet been established in Turkey. The draft legislation aimed at bringing the currently applicable Trade Union and Collective Bargaining, Strike and Lockout Laws into line with ILO and EU standards is still pending." **[71d] (p61)**

32.10 The EC 2008 report further noted that "There is no progress to report in the area of labour law. Shortcomings in the transposition of a number of directives remain; these include the limited scope of application of the labour law. Administrative capacity of the Ministry of Labour and Social Security and its affiliated institutions is not yet sufficiently developed. In the area of labour law, Turkey is not yet sufficiently prepared." **[71d] (p60)**

32.11 The EC 2008 report also noted that "There has been some progress in the area of health and safety at work, where Turkey has attained a good degree of alignment with the acquis. The Labour Law was revised to prohibit workers

without the relevant vocational training qualifications, from being employed in heavy and risky work. The implementing regulation on health and safety measures on risks related to chemical agents was amended and came into force in March 2008." **[71d] (p60-61)**

32.12 The European Commission 2008 report stated that "The Labour Inspection Board started harmonising its inspection practices and further improved its capacity. However, major shortcomings remain. In particular, legislation to transpose the Framework Directive has not yet been adopted. Existing legislation does not cover all workers in the private sector and excludes workers in the public sector. Further efforts to implement the legislation are needed including through awareness-raising, training and strengthening the capacity of the inspection bodies. Preparations in this field have started." **[71d] (p61)**

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MAJOR TRADE UNION CONFEDERATIONS

32.13 As recorded in Europa Regional Survey of the World: The Middle East and North Africa 2005, the major trade union confederations were TÜRK-IŞ (Confederation of Turkish Labour Unions http://www.turkis.org.tr/?wapp=homepage) and DISK (Confederation of Progressive Labour Unions http://www.disk.org.tr/default.asp?Page=Content&ContentId=269). **[1a] (p1204)**

32.14 In addition to TURK and DISK there is also The Confederation of Turkish Real Trade Unions (HAK-İŞ) which was set up on 22 October 1976 in Ankara. Today, the HAK-İŞ has 9-affiliate trade unions. The aim is to respect human rights, universal principles and values, the Constitution and the natural law. It believes in the unity of the country and "It accepts it as its principle to defend and improve effectively the rights and interests of working people with an understanding of pluralist and truly democracy. It considers the humans and labour as high values. In order to reach this aim, it accepts the innovative, principled, responsible and resolute struggle as its own main duty and responsibilty." **[49]**

32.15 There is also the existence of the Public Sector Workers Union Confederation (KESK). The Confederation of Public Employees Trade Unions represents the struggle for unionisation of public employees in Turkey since its establishment in 1995… the number of KESK affiliated unions is 11 and our confederation has 231.987 members in total. The percentage of women membership is 41, 02 %... **[47]**

32.16 The EC 2008 progress report recorded that:

"On labour rights and trade unions, the pending legislation amending the Trade Unions and Collective Bargaining, Strike and Lockout Laws has not moved forward substantially. Turkey needs to ensure that trade union rights are fully respected in line with EU standards and the relevant International Labour

Organisation (ILO) conventions, in particular the rights to organise, to strike and to bargain collectively. This is a priority of the Accession Partnership. There are reports about restrictions on the exercise of existing trade union rights and dismissals due to trade union membership. Social dialogue mechanisms, including at tripartite level, are weak." **[71d] (p23)**

32.17 The US State Department (USSD) report 2007, published on 11 March 2008, noted that:

"The law provides most but not all workers with the right to associate and form unions subject to diverse restrictions; most workers exercised this right in practice. The government maintained a few restrictions on the right of association. Unions may be established by a minimum of seven persons without prior permission. There are no restrictions on membership or participation of individuals or unions in regional, national, or international labor organizations, but such participation must be reported to the government." **[5g] (Section 6)**

32.18 The USSD 2007 report also noted that "Labor law prohibits union leaders from becoming officers of or otherwise performing duties for political parties, from working for or being involved in the operation of any profit-making enterprise, and from displaying any political party logos or symbols on any union or confederation publications. Unions are required to notify government officials prior to holding meetings or rallies (which must be held in officially designated areas) and to allow government representatives to attend their conventions and record the proceedings; these requirements were usually enforced." **[5g] (Section 6)**

32.19 The USSD 2007 report further noted that: "The law provides for the right to strike; however, the law requires a union to take a series of steps, including negotiations and nonbinding mediation, before calling a strike. The law prohibits unions from engaging in secondary (solidarity), political, or general (involving multiple unions over a large geographical area) strikes or in work slowdowns. In sectors in which strikes are prohibited, labor disputes were resolved through binding arbitration." **[5g] (Section 6)**

32.20 The USSD 2007 report further noted that "The law prohibits strikes by civil servants, public workers engaged in the safeguarding of life and property, workers in the coal mining and petroleum industries, sanitation services, national defense, banking, and education; however, many workers in these sectors conducted strikes in violation of these restrictions with general impunity. The majority of strikes during the year were illegal according to law; while some illegal strikers were dismissed, in most cases employers did not retaliate." **[5g] (Section 6)**

32.21 The USSD 2007 report also stated that "The law and diverse government restrictions and interference limited the ability of unions to conduct their activities, including collective bargaining. Industrial workers and some public sector employees, excluding white-collar civil servants and state security personnel, have the right to bargain collectively, and approximately 1.3 million workers, or 5.4 percent of the workforce, were under collective bargaining

agreements. The law requires that, in order to become a bargaining agent, a union must represent 50 percent plus one of the employees at a given work site and 10 percent of all the workers in that particular industry. This requirement favored established unions." **[5g] (Section 6)**

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MAIN EMPLOYERS' ASSOCIATIONS

32.22 As recorded in Europa the main employers' associations are TÜSIAD (Turkish Industrialists' and Businessmen's Association) TISK (Turkish confederation of employers' Associations). **[1a] (p1202)**

32.23 The Turkish Industrialists' and Businessmen's Association (TUSIAD) undated website noted that:

"This is the highest advisory board. All members of the Association are members. The General Assembly shall elect six members from among the members of the High Advisory Council to form the Presidency Board for two years. This Board consists of a chairman, three deputy chairmen and two secretaries. The Council meets at least twice a year as determined by the Chairman of the Council, to debate and decide on issues.
Principal duties of the council are:

a) to review the course and problems of Turkish industry and business and to consider long-term policy measures in relation thereto;
b) to evaluate strategies for the realization of the purpose of the Association and offer advice on such matters." **[26]**

32.24 The Turkish Industrialists' and Businessmen's Association (TUSIAD) US branch website stated that:

"Founded in 1971 and is an independent, non-governmental organization dedicated to promoting public welfare through private enterprise. TUSIAD supports independent research and policy discussions on important social and economic issues in Turkey and abroad. Much like the US Business Roundtable, TUSIAD is comprised of the CEOs and Executives of the major industrial and service companies in Turkey, including those that are among global Fortune 500 companies." **[25]**

32.25 The same website also stated that:

"TUSIAD has expanded its scope to include US-Turkish relations and launched its office in Washington, DC, in November 1998. Within the general framework of the mission of its parent organization, TUSIAD-US strives to:

Be a conduit for exchange of information between Turkey and the United States…

Establish its own line of communication with the US administration and agencies, congressional committees, think tanks, business organizations, media, and international organizations;
Develop suggestions and formulate policy recommendations on ways to strengthen Turkish-US political, economic, and business ties…" **[25]**

32.26 MUSIAD is a "BUSINESSMEN'S ASSOCIATION" founded on May 5, 1990, in Istanbul, Turkey…MUSIAD is an active and strong "NON-GOVERNMENTAL ORGANIZATION" that has grown to 26 branches and 2000 members since 1990; that, remaining committed to its mission, has shown concern and courage in acting in accordance with its original purposes. **[67]**

32.27 MUSIAD has also opened a branch in London in Whitchapel and will soon be launching its English webpage. **[67]**

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Annex A: Chronology of major events

(As reported in the BBC's 'Timeline 29 October 2008 – Turkey, A chronology of key events' unless otherwise sourced) **[66a]**

2001 **January:** Diplomatic row with France after French National Assembly recognises the killings of Armenians under the Ottoman Empire as genocide.
May: European Court of Human Rights finds Turkey guilty of violating the rights of Greek Cypriots during its occupation of northern Cyprus.
June: Constitutional Court bans opposition pro-Islamic Virtue Party, saying it had become focus of anti-secular activities. New pro-Islamist party Saadet is set up by former Virtue Party members in July.

2002 **January:** Turkish men are no longer regarded in law as head of the family. The move gives women full legal equality with men, 66 years after women's rights were put on the statute books.
February: Law No. 4744 adjusting some Turkish laws to the October 2001 constitutional amendments, was adopted by the Turkish Parliament. **[71a] (p25)**
March: Law No. 4748: further reform package. **[71a] (p25)**
July: Pressure for early elections as eight ministers including Foreign Minister Cem resign over ailing PM Ecevit's refusal to step down amid growing economic, political turmoil. Cem launches new party committed to social democracy, EU membership.
August: Parliament approves reforms aimed at securing EU membership. Death sentence to be abolished except in times of war, bans on Kurdish education, broadcasting to be lifted.
November: General election the AKP won two-thirds of the seats. President Sezer subsequently appointed AKP Deputy Leader Abdullah Gül as Prime Minister. **[1a] (p1171)**
December: Constitutional changes allow head of ruling AK, Recep Tayyip Erdogan, to run for parliament, and so to become prime minister. He had been barred from public office because of previous criminal conviction.

2003 **January:** The Turkish Government passes the fifth reform package allowing Turkish citizens who are found to have been denied a fair trial by the ECtHR to be retried in Turkey. **[1a] (p1171)**
March: AK leader Recep Tayyip Erdogan wins seat in parliament. Within days Abdullah Gul resigns as prime minister and Erdogan takes over.
May: More than 160 people, many of them schoolchildren trapped in a dormitory, die in an earthquake in the Bingol area.
June: Eyeing future EU membership, parliament passes laws easing restrictions on freedom of speech, Kurdish language rights, and on reducing political role of military.
July: The Turkish Parliament passes the sixth reform package aimed at improving human rights. **[36c] (p1-3)**
September: The PKK/KADEK announced an end to their four year cease-fire with the Turkish Government. **[1a] (p1171)**

2004 **January:** Turkey signs protocol banning death penalty in all circumstances, a move welcomed in EU circles.
March: Local elections were held and were won overwhelmingly by the ruling AKP. **[36g]**
May: Passage of constitutional reform package. **[1b] (Turkey: The Constitution)**
First official broadcasts in Kurdish language take place. **[4h] (p106)**
September: Parliament approves penal reforms introducing tougher measures to prevent torture and violence against women. Controversial proposal on criminalising adultery dropped.
October: European Commission report gives the go ahead for talks to begin on Turkey's accession to the European Union. **[66ak]**
December: EU leaders agree to open talks in 2005 on Turkey's EU accession. The decision, made at a summit in Brussels, follows a deal over an EU demand that Turkey recognise Cyprus as an EU member.

2005 **January:** New lira currency introduced as six zeroes are stripped from old lira, ending an era in which banknotes were denominated in millions.
April: The introduction of the new Turkish Penal Code (due to come into force on that date) is postponed. **[66ba]**
May: Parliament approves amendments to new penal code after complaints that the previous version restricted media freedom. The EU welcomes the move but says the code still fails to meet all its concerns on human rights.
1 June: A revised version of the new Turkish Penal Code comes into force. **[23g]**
October: Turkey officially begins membership talks with the European Union. **[66bi]**
November: DEHAP dissolves. **[23h]** Democratic Society Movement (DHT) becomes the Democratic Society Party (DTP). **[93b]**

2006 **March:** 14 suspected Kurdish rebels killed by security forces**.**
April: At least a dozen people are killed in clashes between Kurdish protesters and security forces in the south-east. Several people are killed in related unrest in Istanbul.
May: Islamist gunman opens fire in Turkey's highest court, killing a prominent judge and wounding four others.
July: Baku-Tbilisi-Ceyhan oil pipeline opened at ceremony in Turkey.
August-September: Bombers target resorts and Istanbul. Shadowy separatist group Kurdistan Freedom Falcons (TAC) claims responsibility for some attacks and warns it will turn 'Turkey into hell'.
30 September: Kurdish separatist group, the PKK, declares a unilateral ceasefire in operations against the military.

2007 **January:** Journalist and Armenian community leader Hrant Dink is assassinated. The murder provokes outrage in Turkey and Armenia. Prime Minister Erdogan says a bullet has been fired at democracy and freedom of expression.
April: Tens of thousands of supporters of secularism rally in Ankara, aiming to pressure Prime Minister Erdogan not to run in presidential elections because of his Islamist background.
Ruling AK party puts forward Foreign Minister Abdullah Gul as its candidate after Mr Erdogan decides not to stand. He narrowly fails to win in the first round.

May: Parliament brings forward national elections to 22 July to try end the standoff between secularists and Islamists over the choice of the next president.
Parliament gives initial approval to a constitutional change allowing the president to be elected by a popular vote, but the amendment is vetoed by President Sezer.
May: Tension mounts on Turkey-Iraq border amid speculation that Turkey may launch an incursion to tackle Kurdish rebels.
Bomb blast in Ankara kills six and injures 100. PKK denies responsibility.
July: AK Party wins parliamentary elections.
August: Abullah Gul is elected president.
October: Diplomatic row with United States after a US congressional committee recognises the killings of Armenia under the Ottoman Empire as genocide.
October: Parliament gives go ahead for military operations in Iraq in persuit of Kuirdish rebels.
October: Voters in a referendum back plans to have future presidents elected by the people instead of by parliament.
December: Turkey launches a series of air strikes on fighters from the Kurdish PKK movement inside Iraq.

2008 **February:** Thousands protest plans to allow women to wear the Islamic headscarf to university.
Parliament approves constitutional amendments which will pave the way for women to be allowed to wear the Islamic headscarf in universities.
July: A move in Turkey's Constitutional Court to get the governing AK Party banned fails by a narrow margin. The case was brought by the country's chief prosecutor who accused the party of undermining Turkey's secular constitution by becoming a focus of pro-Islamist activity.
In a separate development, an indictment is filed against 86 people suspected of plotting to overthrow the government. Those named in the indictment are alleged to have links with a shadowy ultra-nationalist group known as Ergenekon.
October: Trial starts of 86 suspected members of a shadowy ultra-naltionalist group accused of plotting a series of attacks and provoking a military coup against the government.

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Annex B: Political Groups

MAIN PARTIES

Information on political parties in Turkey as of 3 August 2004 can be found on:
http://www.byegm.gov.tr/REFERENCES/Structure.htm and
http://www.politicalresources.net/

Democratic Left Party: (DSP Demokratik Sol Parti)
Founded on : November 14, 1985
Chairman : Zeki Sezer
Address : Mareşal Fevzi Çakmak Cad. No: 17 ANKARA
Phone : (0312) 212 49 50 (5 lines)
Web site: http://www.dsp.org.tr/MEP/

Nationalist Movement Party: (MHP Milliyetçi Hareket Partisi)
Founded on : February 9, 1969
Chairman : Devlet Bahçeli
Address :Karanfil Sok. No: 69 Bakanlıklar/ANKARA
Phone : (0312) 417 50 60 (5 lines)
Web site: http://www.mhp.org.tr/

Motherland Party: (ANAP Anavatan Partisi)
Founded on : May 20, 1983
Chairman : Erkan Mumcu
Address : 13. Cad. No: 3 Balgat/ANKARA
Phone : (0312) 286 50 00 (20 lines)
Web site: http://www.anavatan.org.tr/

Democrat Party: (DP Demokrat Parti)
Founded on : July 23, 1983
Chairman : Mehmet Ağar
Address : Selanik Cad. No: 40 Kızılay/ANKARA
Phone : (0312) 419 04 70 (2 lines)-417 22 40 (3 lines)
Web site:http://www.dyp.org.tr/

Felicity Party: (SP Saadet Partisi)
Founded on : July 27, 2001
Acting Chairman : Recai Kutan
Address : Ziyabey Cad. 2. Sok. No: 15 Balgat/ANKARA
Phone : (0312) 284 88 00)
Web site: http://www.sp.org.tr/

Justice and Development Party: (AKP Adalet ve Kalkınma Partisi)
Founded on : August 14, 2001
Chairman : Recep Tayyip Erdoğan
Address : Ceyhun Atuf Kansu Cad. No: 202 Balgat / ANKARA
Phone : (0312) 2868989-2863084
Web site: http://eng.akparti.org.tr/english/index.html

Republican People's Party: (CHP Cumhuriyet Halk Partisi)
Founded on : September 9, 1923
Chairman : Deniz Baykal
Address : Çevre Sok. No: 38 Çankaya/ANKARA
Phone : (0312) 468 59 69 (20 lines)
Website:
http://www.chp.org.tr/index.php?module=news&sid=74003ad117721af2c2f87c132cb29d21

Grand Union Party: (BBP Büyük Birlik Partisi)
Founded on : January 29, 1993
Chairman : Muhsin Yazıcıoğlu
Address : Tuna Cad. No: 28 Yenişehir/ANKARA
Phone : (0312) 434 09 20-27
Web site: http://www.bbp.org.tr/

Freedom and Solidarity Party: (ÖDP Özgürlük ve Dayanışma Partisi)
Founded on : January 21, 1996
Chairman : Hayri Kozanoğlu
Address : Necatibey Cad. No: 23/10 Sıhhiye/ANKARA
Phone : (0312) 229 97 06- 231 72 32
Web site: http://www.odp.org.tr/

Democratic Turkey Party: (DTP Demokrat Türkiye Partisi)
Founded on : January 7, 1997
Chairman : Yaşar Okuyan
Address : Mesnevi Sok. 27 ANKARA
Phone : (312) 442 01 51 442 12 49 442 16 19

Liberal Democratic Party: (LDP Liberal Demokrat Parti)
Founded on : July 26, 1994
Chairman : Emin Şirin
Address : G.M.K. Bulvarı No: 47/14 Maltepe/ANKARA
Phone : (312) 2291503 (2 lines)
Web site: http://www.ldp.org.tr/

My Turkey Party: (Türkiyem Partisi)
Founded on : May 11, 1998
Chairman : Durmuş Ali Eke

Free Society Party: (Özgür Toplum Partisi)
Founded on : June 6, 2003
Chairman : Ahmet Turan Demir

Our Party: (Bizim Partimiz)
Founded on : August 2, 2004
Chairman : Ahmet Yılmaz

Nation Party: (MP Millet Partisi)
Founded on : November 22, 1992
Chairman : Aykut Edibali

Address : Atatürk Bulvarı No: 73/37-38 Kızılay/ANKARA
Phone : (312) 4194060
Web site:http://www.milletpartisi.org/

Worker's Party: (İP İşçi Partisi)
Founded on : March 2, 1992
Chairman : Doğu Perinçek
Address : Mithatpaşa Cad. No: 10/8 Sıhhiye/ANKARA
Phone : (312) 435 29 99
Web site: http://www.ip.org.tr/

Labour Party: (EMEP Emeğin Partisi)
Founded on : November 26, 1996
Chairman : Abdullah Levent Tüzel
Address : Necatibey Cad. Sezenler Sk. Lozan Apt. ANKARA
Phone : (312) 232 41 98
Web site: http://www.emep.org/index.php

Changing Turkey Party: (DEPAR Değişen Türkiye Partisi)
Founded on : February 24, 1998
Chairman : Gökhan Çapoğlu
Address : 6. Cad. 78 Sok. 15/2 Öveçler/ANKARA

Democracy and Peace Party: (DBP Demokrasi ve Barış Partisi)
Founded on : March 11, 1996
Chairman : Yılmaz Çamlıbel
Address : Menekşe Sok. 10A/7 Kızılay/ANKARA

Liberation Tranquility Party: (Kurtuluş Huzur Partisi)
Founded on : February 1, 1999
Chairman : Hacer Söğütdelen

Communist Party: (Komünist Parti)
Founded on : July 20, 2000
Chairman : Yalçın Cerit

National Unity Party: (UBP Ulusal Birlik Partisi)
Founded on : October 23, 1998
Chairman :Fehmi Kural
Address :Necatibey Cad. Lale Sok. 3/14 Sıhhiye/ANKARA
Phone : (312) 230 16 32

Enlightened Turkey Party: (ATP Aydınlık Türkiye Partisi)
Founded on : November 27, 1998
Chairman : Ahmet Bican Ercilasun
Address : Çetin Emeç Bulvarı Öveçler 4. Cad. 52. Sk. Dikmen - ANKARA
Phone : (312) 284 29 32
Web site: http://www.atp.org.tr/

The Main Road Party: (AYP Anayol Partisi)
Founded on : May 5, 1994

Chairman : Gürcan Başer
Address : İzmir Cad. Sümer Sok. Sümer Han Kat: 4 4/2021 Kızılay/ANKARA
Phone : (312) 232 23 23

Great Justice Party: (BAP Büyük Adalet Partisi)
Founded on : April 12, 1995
Chairman : Sabit Batumlu
Address : Güvenlik Cad. 25/25 A.Ayrancı/ANKARA

Communist Party of Turkey: (Türkiye Komünist Partisi)
Founded on : November 11, 2001
Chairman : Aydemir GÜLER
Address : Selanik Cad. 41/7 Kızılay/ANKARA
Phone : (0312) 4188743-4172931
Web site: http://www.tkp.org.tr/

Democratic People Party: (DHP Demokrat Halk Partisi)
Founded on : December 15, 1999
Chairman : Mahmut İhsan Özgen
Address : Rüzgarlı Mah. Soydaşlar Sok. 4/6 Ulus/ANKARA
Phone : (312) 310 50 50

Socialist Worker's Party of Turkey: (TSIP Türkiye Sosyalist İşçi Partisi)
Founded on : January 3, 1993
Chairman : Turgut Koçak
Address : Lale Sok. 4/8 Sıhhiye/ANKARA
Phone : (312) 431 23 86229 99 93
Web site: http://www.tsip1974.com/

Revolutionary Socialist Worker's Party: (DSİP Devrimci Sosyalist İşçi Partisi)
Founded on : April 25,1997
Chairman : Şevket Doğan Tarkan
Address : Menekşe 1. Sok. 8A/16 Kızılay/ANKARA
Web site: http://www.dsip.org.tr/

Socialist Worker's Party: (SİP Sosyalist İşçi Partisi)
Founded on : September 9,1996
Chairman : Mehmet Önder Ergönül

Socialist Unity Movement Party: (SBHP Sosyalist Birlik Hareketi Partisi)
Founded on : August 5, 1999
Chairman : Nihat Çağlı
Address : Bankacı Sok. 15/3 Kocatepe/ANKARA

Justice Party of Turkey: (TAP Türkiye Adalet Partisi)
Founded on : April 12, 1995
Chairman : Mehmet Yorgancıoğlu
Address : Cinnah Cad. Ahenk Sok. 10/8 ANKARA

Equality Party: (EP Eşitlik Partisi)
Founded on : May 25, 2001

Chairman : Bektaş Çelebi
Address : Selanik Cad. No:6/21 K.3 KIZILAY ANKARA

Union of Hearts Greens Party: (Gönül Birliği Yeşiller Partisi)
Founded on : November 03, 2000
Chairman : Eşref Yazıcıoğlu
Address : Strasbourg Cad. No:26/15 Sıhhıye/ ANKARA

Our Legacy Party: (Varlığımız Partisi)
Founded on : May 11, 2001
Chairman : Köksal Satır
Address : Demetevler İvedik Cad. No: B 99/P.9 ANKARA

Radical Change Project Party: (RADEP- Radikal Değişim Projesi Partisi)
Founded on : May 16, 2001
Chairman : Alişan Ağca
Address : Güniz Sok. No:12/3 KAVAKLIDERE ANKARA

National Autonomy Party: (Ulusal Muhtariyet Partisi)
Founded on : August 13, 2001
Chairman : Fehmi Öztürk
Address : İzmir Cad. Sümer 1 Sok. No : 12/6 Kızılay / ANKARA
Phone : (312) 229 97 06 231 72 30

Leader Turkey Party: (Lider Türkiye Partisi)
Founded on : September 03, 2001
Chairman : Mustafa ÖZMAN
Address : Harf Devrimi Cad. Özügüzel Kent Sitesi No:4/8 Eryaman / ANKARA

Independent Turkey Party: (Bağımsız Türkiye Partisi BTP)
Founded :September 25, 2001
Chairman : Prof. Dr. Haydar BAŞ
Address : K.Esat Cad. No: 123 Çankaya/ANKARA
Phone : (0312) 4482424 (5 lines)
Web site: http://www.btp.org.tr/

Socialist Democratic Party: (TDP - Toplumcu Demokrat Parti)
Founded on : 29 January 2002
Chairman : Sema PİŞKİNSÜT
Address : Yıldız 4. Cad. 19. Sok. No:10 Çankaya/ANKARA
Web site: http://www.toplumcudemokrasipartisi.com/

Solution Party: (ÇP - Çözüm Partisi)
Founded on : December 25, 2001
Chairman : Nazım KOCAMAN
Address : Saklambaç sk. No : 66/16 Keçiören / ANKARA
Web site: http://www.cozumpartisi.org/

Social Democratic People's Party: (SHP - Sosyal Demokrat Halkçı Parti)
Founded on : May 24, 2002

Chairman : Murat KARAYALÇIN
Web site: http://www.shp.org.tr/

Social Democrat Party: (SDP – Sosyal Demokrat Parti)
Founded on : November 29, 2001
Chairman : Nihat DEMİR
Address : Kuleli Sk. No : 33 / 4 GOP / ANKARA

Republican Democracy Party: (Cumhuriyetçi Demokrasi Partisi)
Founded on : July 19, 2002
Chairman : Erdoğan Bakkalbaşı
Address : Ergün Sok. No : 2 Maltepe / ANKARA
Phone : (0312) 232 63 00
Web site: http://www.ctp.org.tr/

Rights and Freedoms Party: (Hak ve Özgürlükler Partisi)
Founded on : February 11, 2002
Chairman : Abdülmelik FIRAT
Address : Menekşe 2. Sk. 33 / 7 Kızılay - ANKARA
Phone : (0312) 418 16 38
http://www.hakpar.org.tr/

Homeland Party: (Yurt Partisi)
Founded on : March 14, 2002
Chairman : Sadettin TANTAN
Address : Öveçler Mah. 8. Cad. No: 25 Dikmen - ANKARA
Phone :(0312) 4785700
Web site: http://www.yurtpartisi.org.tr/

Eurasia Party: (Avrasya Partisi)
Founded on : May 9, 2002
Chairman : H.Hüsnü DOĞAN
Address : Çetin Emeç Bulvarı No : 57 Öveçler - ANKARA

Independent Republic Party: (Bağımsız Cumhuriyet Partisi)
Founded on : July 24, 2002
Chairman : Prof. Mümtaz SOYSAL
Web site: http://www.bcp.org.tr/

Republican Democrat Turkey Party: (Cumhuriyetçi Demokrat Türkiye Partisi)
Founded on : September 3, 2003
Chairman : Serap Gülhan

New Faces Party: (Yeni Yüzler Partisi)
Founded on : August 2, 2002
Chairman : Münci İnci
Web site: http://www.yeniyuzler.org/

Turkey Party: (Türkiye Partisi)
Founded on : February 23, 2004
Chairman : Tekin Enerem,

Katılımcı Demokrasi Partisi: (Participatory Democracy Party KADEP)
Founded on : December 20, 2006
Chairman : Şerafettin ELÇİ
Web site: http://www.kadep.org.tr/

NOW BANNED

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

Halkin Demokrasi Partisi (HADEP) (People's Democracy Party)
Founded 1994. Pro-Kurdish nationalist party. Chairman Murat Bozlak. **[1a]** On 20 September 2002 Mr Bozlak was barred from running in the November 2002 general election because of his conviction in the past for sedition. **[66b]** In March 2003 HADEP was banned by the Constitutional Court on the grounds that it aided and abetted the PKK. **[63c]**

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

MAIN LEFTIST AND / OR ILLEGAL POLITICAL ORGANISATIONS

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

Information on the current situation regarding leftist Parties in Turkey can be found on www.broadleft.org/tr.htm **[52a]** and http://www.electionguide.org/country.php?ID=218 **[108]**

For general information on terrorist organisations in Turkey:
http://www.tkb.org/GroupRegionModule.jsp?countryid=TU&pagemode=group&regionid=1 **[63a]**

List of proscribed terrorist groups outlawed in the UK. **[101]**
http://www.homeoffice.gov.uk/security/terrorism-and-the-law/terrorism-act/proscribed-groups

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

Brief glossary
cephe = front
devrimci = revolutionary
emek = labour

halk = people
hareket = movement
işçi = worker
köylü = peasant, villager
kurtuluş= liberation
örgüt = organisation, association
özgür = free
özgürlük = freedom, liberty

Aczi-Mendi Group radical Islamic group.
Founded by Müslüm Gündüz in Elaziğ in 1985. The meaning of Aczi-Mendi is the "Sect of the Helpless Servants of Allah". All group's members dress in the same style, with black robes, turbans, and baggy trousers, and they carry sceptres. They hold their meetings in Elaziğ and in dervish lodges, which they have established in different cities. Dervish convents in Elaziğ, Gaziantep and Izmir have been closed by court order. **[65]**

Akabe radical Islamic group.
Author Mustafa Islamoğlu leads it. The legal branch of the group is AKEV (Akabe Education and Culture Association). **[65]**

ARGK see **PKK**.

BCH (Independent Republic Movement) (Bağimsiz Cumhuriyet Hareketi). **[52b]**

BDGP (United Revolutionary Forces Platform)
(Birleşik Devrimci Güçler Platformu) (Turkish)
(Platforma Hezen Soresgeren Yekgirti) (Kurdish)
Founded 1998. Radical left. **[52b]**

BP/KK-T (Bolshevik Party/North Kurdistan - Turkey) (Bolşevik Partisi/Küzey Kürdistan - Türkiye)
Illegal. Formed 1981 as TKP/ML (Bolsevik). Ex-Maoist, Stalinist. Publications - "Bolsevik Partizan", "Roja Bolsevîk". **[52b]**

Ceyshullah (Army of Allah).
Founded in Istanbul in 1995. Its aim is to bring about a theocratic regime in Turkey by "holy war". Between 1994 and 1999 the Turkish police conducted six operations against Ceyshullah, and apprehended 33 members, as well as guns, pistols, bombs and other munitions. The members stated that they had been trained in Saudi Arabia and Afghanistan. **[65]**

Dev Sol See **DHKP-C**

Dev Yol (Revolutionary Path) (Devrimci Yol). See **THKP/C**
Founded 1975. Radical left. Part of ÖDP (see Annex B). Publications – "Bir Adim" (One Step), "Hareket" (Movement), "Devrimci Hareket" (Revolutionary Movement). **[48] [18c]**

Devrim Partisi-Kawa see **PS-Kawa**

Devrimci Gençlik see **DHKP-C**

Devrimci Halk Hareketi (Revolutionary People's Movement).
Split of TKIP in 1999. Radical left. Publication - "Devrimci Halk" (Revolutionary People). **[52a]**

Devrimci Hareket (Revolutionary Movement). **[52b]**

Devrimci Işçi Partisi - Insa Örgütü (Revolutionary Workers Party - Build up Organisation).
Trotskyist. Publication - "Enternasyonal Bülten". **[52a]**

Devrimci Mücadele (Revolutionary Struggle).
Founded 1977 as Devrimci Derleniş. Radical left. Publication - "Devrimci Mücadele". **[52a]**

Devrimci Sosyalist Yön (Revolutionary Socialist Direction) **[52b]**

DHKP-C / DHKP/C now known as the DHKC (Revolutionary People's Liberation Party - Front) (Devrimci Halk Kurtulus Partisi - Cephesi)
http://www.dhkc.net **[54]**
Illegal. Radical left. It was formed in 1993 as a splinter faction of **Dev Sol** (Devrimci-Sol, Revolutionary Left), which was founded in 1978 and which went out of existence following the split. The other splinter faction, known as THKP/C Devrimci Sol, is on hostile terms with DHKP/C, but constitutes a far smaller group in scale and significance. Although DHKP/C has long had a difficult relationship with the PKK, it has repeatedly expressed is solidarity with the Kurdish armed struggle.

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

Many of those involved in the hunger strikes in Turkish prisons in late 2000 and early 2001 came from among DHKP/C's ranks. The group drummed up large-scale support throughout Europe for protests in connection with those events. In Turkey itself the protests included a bomb attack on a police station in Istanbul on 3 January 2001, following which the organisation announced that this was in retaliation for the deaths of 30 prisoners in a prison clearance operation. Turkey's Anatolia news agency reported that, according to a circular distributed to police stations in Istanbul, the organisation had planned further attacks. **[2a]** Ankara State Security Court prosecutor Talat Salk alleged in a 1999 court case that DHKP/C conducts its activities under the names of HÖP (Haklar ve Özgürlükler Platformu) (Rights and Freedoms Platform), the outlawed Devrimci Gençlik (Revolutionary Youth), and TODEF (Türkiye Öğrenci Dernekleri Federasyonu) (Federation of Turkish Students and Youth Associations). **[23a]** Publications -

"Yaşadiğimiz Vatan", "Devrimci Sol", "Kurtuluş" (Liberation). **[52a]** In UK the DHKP-C is part of the List of Proscribed international groups under the Terrorism Act 2000 (Proscribed Organisations). **[101]**

DHP (Revolutionary People's Party) (Devrimci Halk Partisi)
Founded 1994. Close to the PKK. Publication - "Alternatif" (Alternative). **[52a]**

Direniş Hareketi (Resistance Movement)
Founded 1978 as THKP/C - Üçüncü Yol. Radical left. Publication - "Odak". **[52a]**

Dördüncü Sol - Insa Örgütü (Fourth Left - Construction Organisation)
Trotskyist. Publication - "Son Kavga" (Last Fight). **[52a]**

DPG (Revolutionary Party Forces) (Devrimci Parti Güçleri)
Radical left. Illegal. **[52a]**

DSIH (Revolutionary Socialist Workers Movement) (Devrimci Sosyalist Işçi Hareketi)
Illegal. Radical left. Publication - "Kaldiraç" (Lever); Isçi Gazetesi **[52a] [52a]**

DSIP (Revolutionary Socialist Workers Party) (Devrimci Sosyalist Işçi Partisi).
Founded 1997. Legal. Trotskyist. Publication - "Sosyalist Işçi" (Socialist Worker); Enternasyonal Sosyalism. **[52a]**

ERNK see **PKK**

ESP (Socialist Platform of the Oppressed) (Ezilenlerin Solyalist Platformu). Founded in 2002. **[52a]** In December 2004, the group's publication Atilim reported that 46 of its members were arrested as members of the illegal MLKP and that a court claimed that ESP which is a legitimate organisation was in fact the legal branch of the MLKP.

Gerçek (Truth)
Publication – Gerçek. **[52b] [52a]**

Hareket (Movement) **[52b]**

HDÖ (People's Revolutionary Leaders) (Halkin Devrimci Öncüleri)
Illegal. **[48] [18c]**

Hevgirtin Welatparez (Patriotic Union) **[52a]**

Hizb-I Kuran see **Med-Zehra**

Hizbullah / Ilim Gruhu and Hizbullah / Menzil Grubu
Both are illegal. Hizbullah/Hezbollah is a very shadowy Islamist group which originated in the 1980s in southeast Turkey. It advocates the establishment of an Islamic state by violent means. When a major Hizbullah leader was killed by PKK fighters in 1991, a difference of opinion emerged within the organisation as to whether the time was yet right to wreak revenge on the PKK, and also to take up arms in pursuit of its own objective. One faction, centring on the Menzil publishing house (and known as the Menzil group), took the view that the organisation was not yet sufficiently well-developed

to pitch into armed struggle. The other, centred on the Ilim publishing house and known as the Ilim group, thought the time was ripe for armed revenge on the PKK. Its idea was as far as possible to let the Turkish State do the dirty work for it in combating the PKK. The Ilim group bore particular responsibility for the atrocities committed by Hizbullah. The group had an ideological aversion to Iran, which adhered to Shia Islam; the Ilim group was striving for a Sunni Islam state. When the Ilim group managed to kill some of the Menzil group's main leaders in 1996, the Menzil group disintegrated and faded away. Some former Menzil members then joined the Ilim group, and, from 1996, Hizbullah become synonymous with the violent Ilim faction. Rumours were rife that Hizbullah was at least tolerated by the security forces because it was fighting against a common enemy, and it has been held responsible for a large number of disappearances and killings. Its victims included a former DEP member of parliament, Mehmet Sincar, and an Islamic feminist writer, Konca Kuris. President Demirel denied allegations that there were links between Hizbullah and Turkish officialdom, while the general staff of the armed forces issued an angry statement condemning such allegations as slander.

From 1997 onwards the Turkish authorities began to take tougher action against Hizbullah, with a reported 130 supporters arrested in 1998, 250 in 1999 and 3300 in 2000. In a raid on a home in the Üsküdar area of Istanbul on 17 January 2000 Hüseyin Velioğlu, Hizbullah's founder and leader, was killed, and two other people arrested. On the basis of evidence found in the home, many other premises were searched, revealing the bodies of thirteen missing businessmen. With many more corpses being uncovered in the following months, the public prosecutor was able to press charges against 21 people on 156 counts of murder in the major Hizbullah trial which opened on 10 July 2000. During an interrogation, a Hizbullah suspect reportedly confessed to killing moderate Islamic scholar Konca Kuris in the early 1990s. In November 2002 an appeals court acquitted five defendants and sentenced the others to prison terms ranging from life to 45 months. The security forces' many operations against Hizbullah have inflicted heavy setbacks on it, and the number of bombings carried out by the group has fallen from 302 in the first eight months of 1999 to 94 in the corresponding period of 2000. However, the provincial governor of Diyarbakır stated in October 2000 that, in spite of those serious setbacks, Hizbullah could certainly not yet be considered to have been eliminated. There are said to be many teachers and religious officials involved in the organisation. As of February 2000, Hizbullah was said to have had in Turkey some 20,000 members, who were organised in tight cells and knew a few of their fellow members because they were sworn to strict secrecy. They were said to operate in teams of two or three people, who "would stalk their victim before one member of the group carried out the execution by shooting the target in the neck with a single bullet, while the other kept a watch. A third militant may have assumed the duty of protecting the executioner." Up to the time of the security forces' major action in January 2000, there were no known instances of Hizbullah's having targeted the authorities in its operations. Since then, however, armed incidents have taken place. On 11 October 2000 in Diyarbakır a policeman was killed in a gunfight with Hizbullah, which has also been linked with the shooting dead of the province's chief of police, Gaffar Okkan, and five of his officers in January 2001. In April 2001 a Hizbullah member was arrested on suspicion of involvement in that attack. The USSD 2004 reported that the Government continued to detain persons, particularly in the southeastern province of Batman, on suspicion of links to Hizballahan that 1,500 political prisoners were alleged members of Hizballah or other radical Islamist political organizations. On 5 February 2005 Turkish Daily News reported that, acting upon intelligence that the group was trying to regroup

the security forces had arrested 22 suspected Hizbullah militants in 18 provinces. **[2a] [5a] [5c] [7a] [23r] [32b] [48] [65]**

Hizbullah Vahdet
Radical Islamic group, which centred on the Vahdet publisher in the 1980s. The group's leader is Abdulvahap Ekinci. The group's legal foundations are Davet Education and Culture Association and Abdulkadir Geylani Trust. The group publishes a periodical called "Vahdet". **[65]**

HÖP See **DHKP-C**

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

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

Some of its periodicals are "Ak-Doguş", Ak-Zuhur", Akin Yolu", "Taraf", and "Tahkim".

IBDA-C has been linked with a number of terrorist attacks, especially in the early 1990s. It frequently makes use of explosives and Molotov cocktails in its attacks, and has often targeted banks, casinos, Christian churches and Atatürk monuments. IBDA/C has been linked with the fatal bomb attack in October 1999 on a secular professor, Ahmet Taner Kişlali, who was best known as a journalist for the Cumhuriyet newspaper. In December 1999 and February 2000 IBDA/C members sparked off bloody clashes in Metris prison when they attempted, by armed force, to prevent guards from entering their cell. In the December riot, 54 soldiers were injured and 100 hostages taken by IBDA/C, which also laid claim to the fatal attack on two police officers in Istanbul on 1 April 2001. Proceedings were brought against IBDA/C's leader, Salih Izzet Erdiş, known by the nom de guerre Salih Mirzabeyoğlu, before Istanbul State Security Court in February 2000, seeking to have the death penalty imposed on him for leadership of an illegal organisation working for the establishment of an Islamic state. On 3 April 2001 he was sentenced to death by that court. **[2a] [48] [34] [65]**

IHÖ (Islamic Movement Organisation) (Islami Hareket Örgütü)
Illegal. **[48]**

Ilerici Gençlik (Progressive Youth) **[52b]**

IMO (Islamic Movement Organisation)
Its goal was to found an Islamic State in Turkey. Members were trained in Iran. Usually high level militants were sent abroad for training in guerrilla tactics, using weapons, and producing bombs. Irfan Cagrici, the director of the operations team, was caught by police in Istanbul in 1996. After the command and control of IMO had been weakened, IMO collapsed, and today most of its members are in prison. **[65]**

Işçi Demokrasisi (Workers Democracy)
Founded 1998; split of DSIP. Trotskyist. Publication - "Işçi Demokrasisi". **[52a]**

Jerusalem Fighters See **Kudüs Savaşçilari**

KADEK See **PKK**

Kaplancilar / Sözde Hilafet Devleti.
Illegal. **[48]**

KDB (Communist Revolutionary Union) (Komünist Devrimci Birlik)
Illegal. **[48]**

KDH (Communist Revolutionary Movement) (Komünist Devrim Hareketi) Publications - "Maya" (Ferment), "Parti Yolunda" Illegal. **[48] [52a]**

KDH / L (Communist Revolutionary Movement/Leninist) (Komünist Devrim Hareketi/Leninist)
Illegal. Publication – "Köz". **[52b] [52a] [48]**

KHK See **PKK**

Kongra-Gel See **PKK**

KKP (Kurdistan Communist Party) (Kürdistan Komünist Partisi)
Illegal. **[48]**

Kongreya Azadî û Demokrasiya (Kurdistan Freedom and democracy Congress) **[52b]**

KP(IÖ) (Communist Party (Build Up Organisation)) (Komünist Partisi (Inşa Örgütü))
Illegal. Ex-Maoist, Stalinist. Split of MLKP in 1995. Publication - "Halkin Birliği". **[52a] [48]**

KSB (Communist Fighters Union) (Komünist Savaşçilar Birliği)
Publication – "Işçi Davasi". **[52a]**

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

KUK (Kurdistan National Liberationists) (Kurdistan Ulusal Kurtulusculari)
Marxist-Leninist. Established 1978. Its initial aim is to establish an independent Kurdistan in east and southeast Turkey, and then to unite this republic with territories in which Kurds live in Iran, Iraq and Syria. KUK-MK leaders are Dasraf Bilek (General Secretary), Sait Özsoy, Vasfi Özdemir, Mahfuz Yetmen, Şevket Kaçmaz, Lütfi Baksi. KUK-SE leaders are K. Başibüyük, Yalçin Büyük (Gen. Sec.), Abdurrahman Bayram, Abdurrahman Esmer, Yasemin Çubuk, Zeynel Abidin Özalp, and Yusuf Ahmet Bartan. **[65]**

M-18 See **MLKP**

Malatyalilar (From Malatya / Malatyaites)
This radical splinter group, also known as Şafak-Değişim, advocates establishment of an Islamic state. The group first attracted attention at demonstrations against the ban on wearing the veil, in 1997 and 1998, and related disturbances in Malatya. Apart from Malatya, the organisation is reported also to be active in Istanbul, Gaziantep, Erzurum and Kayseri. In October 2000 the security forces carried out a large-scale operation against the group, arresting some 250 people in 28 provinces. Although there have (as of May 2001) been no known Malatyalilar acts of violence, a large number of arms were found in that swoop by the security forces. **[2a]** The group's leader is Zekeriya Şengöz. The group's leading members come from the city of Malatya in southeast Turkey. The group publishes "Değisim" (Metamorphosis) periodical. In addition, it has founded a legal trust named "Islamic Solidarity Trust", which is active in Istanbul. The group calls itself "Şafak" (Down Group), and in university circles they use the signature of "Muslim Youth". **[65]**

Marksist Tutum (Marxist Attitude). **[52b]**

Mezhepsizler Grubu illegal. **[48]**

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

MIB (Marxist Workers League). (Marksist Isçi Birligi)
Trotskyist. **[52a]**

MLKP (Marxist Leninist Communist Party) (Marksist Leninist Komünist Partisi)
Illegal. Founded in September 1994; merger of TKP/ML - Hareketi, TKIH, TKP/ML(YIÖ). Stalinist. It seeks the armed overthrow of Turkey's present political system. It also sees itself as representing the Kurdish community, and wants to throw off the "fascist colonial yoke" by means of armed struggle, having its own armed wing, known as M-18. In May 1998 MLKP abducted Tacettin Asci, treasurer of the Bursa branch of the Turkish Human Rights Association, and Ahmet Aydin, and on 7 June 1998 it issued a statement saying that the two had been "executed" as police informers. Amnesty International said that it was appalled to learn of the killings, and added that the fact that the bodies had not been recovered suggested that the victims may have been interrogated under torture by their captors. Amnesty urged that the bodies be surrendered, and also that those responsible for the murders be brought to justice. Publications - "Partinin Sesi", "Atilim" (Progress); Teori'de; Dogrultu. **[2a] [52a] [85]** See also **ESP**

MLSPB (Marxist-Leninist Armed Propaganda Unit) (Marksist Leninist Silahli Propaganda Birliği)
Illegal. Founded 1975 as split from THKP/C; political military. Radical left. Publication - "Barikat" (Barricade). **[48]**

Müslüman Gençlik Grubu (Muslim Youth Group)
Illegal. **[48]**

PADEK (Freedom and Democracy Party of Kurdistan)
(Partiya Azadî û Demokrasî ya Kurdistanê) (Kurdish)
(Kürdistan Özgürlük ve Demokrasi Partisi) (Turkish)
Founded 2000 by faction of PYSK (Kurdistan Sosyalist Birlik Partisi). Left, Kurdish nationalist. Illegal. **[52b] [52a]**

PDK (Kürdistan Demokrat Partisi)
Illegal. **[48]**

PDK / Bakur (Democratic Party of Kurdistan/North)
(Partî Demokratî Kurdistan/Bakur) (Kurdish)
(Kürdistan Demokrat Partisi/Küzey) (Turkish)
Illegal. Founded 1992 as PDK/Hevgirtin. Left, Kurdish nationalist. It aims to unite Kurds living in Iran, Iraq, Syria and Turkey under the flag of an independent Socialist Kurdistan Republic. Publication - "Dênge Bakur". **[52a] [48] [65]**

PDK(T) (Democratic Party of Kurdistan (Turkey)
(Kürdistan Demokrat Partisi (Türkiye) (Turkish)
(Partîya Demokrat a Kurdistan (Türkiyê) (Kurdish)
Left, Kurdish nationalist. Illegal, founded 1965. Publication - "Xebat". **[52a]**

PIK (Islamic Kurdistan Party) (Partiya Islamiya Kurdistan)
Founded 1979. PIK's main aim is to establish an Islamic state, and its members see this as a holy mission. Its strategy is allegedly to create chaos in Turkey, to destabilise government institutions, to start a nationwide revolt, and to establish an Islamic Kurdistan. It is active in eastern and southeastern Turkey, especially in Malatya. It has branches in Ankara and Istanbul. Leaders of the party include Prof. Dr, Muhammad Salih Mustafa (Party President and General Emir/Governor), Osman Caner (Emir of Students and Youth) and Sukuti Evcim (Director of Youth. **[65]**

PKK also known as **KADEK** and more recently **KHK or Kongra-Gel** (Kurdistan Workers' Party)
http://www.kongra-gel.org/index.php?newlang=english
(Partîya Karkerên Kurdistan) (Kurdish)
(Kürdistan Işçi Partisi) (Turkish)
www.pkk.org and www.kurdstruggle.org/pkk
Illegal. Founded on 27 November 1978. It advocates armed struggle both at home and abroad, to achieve an independent Kurdish state slicing through Turkey, Syria, Iraq and Iran, and launched the struggle in 1984. 57-member directorate. Its components include ERNK (the National Liberation Front of Kurdistan), the PKK's "popular front and propaganda division", and ARGK (the Kurdistan National Liberation Army), the PKK's "popular army". Leadership: Abdullah "Apo" Öcalan. The PKK's armed operations in south-eastern Turkey, starting in 1984 and peaking from 1990 to 1994, involved attacks on civilians (in many cases Kurdish) and military targets, causing very many deaths. The PKK was guilty of human rights violations, including murders, especially in rural parts of the south-east, but also in other areas. The victims were mainly Jandarma officers, mayors, teachers, imams, village guards and their families, reluctant recruits, young villagers, refusing to fight for the PKK, and (former) PKK members acting as informants for the Turkish authorities. From the outset, the Turkish army took tough action against the PKK. The PKK attempted to make the south-east ungovernable, by systematically destroying economic and social infrastructure etc., and by deliberately polarising the

local population. Many village schools were closed down, not least as a result of the PKK's policy, up until 1996, of killing schoolteachers. According to information from the Turkish authorities, a total of just over 23,000 PKK fighters and around 5000 members of the armed forces and security forces have been killed since 1987 in the conflict with the PKK. Just over 4400 civilians are reported to have been killed. The Injured number just over 11,000 armed forces and security forces members, and around 5400 civilians. No figures are given for injured PKK fighters. On 3 August 1999 Abdullah Öcalan called on PKK fighters to end their armed struggle and withdraw by 1 September to beyond Turkey's borders. On 1 September his brother Osman, a member of PKK's command council, announced that the PKK would do this with immediate effect. The extent to which Öcalan's call has been followed by PKK fighters can be seen from figures from the Turkish army high command in May 2000, showing only 500 out of 5500 PKK fighters still to be in Turkey. In the first five months of 2000, the number of clashes between the army and guerrillas had fallen to 18, as against 3300 at its peak in 1994 and 48 in 1999. There were few armed clashes in 2001, and a near absence of PKK violence in 2002. In April 2002 the PKK announced that it had ceased activities and had regrouped as KADEK, the Kurdistan Freedom and Democracy Congress (Kürdistan Özgürlük ve Demokrasi Kongresi). The change of name did not affect the policy of the Turkish State towards members of the PKK/KADEK. Publication - "Serxwebûn" (written in Turkish). **[1a] [2a] [5a] [18c] [63a] [67] [52a] [48]** In the UK PKK is part of the List of Proscribed international groups under the Terrorism Act 2000 (Proscribed Organisations). **[101]**

On the 29 May 2004 the BBC reported that Kongra-Gel declared that its five-year unilateral cease-fire would end in three days time (on the 1 June 2004) and that it would start to target Turkish security forces. [66w] In January 2005 the Turkish Daily News reported that, according to a report released by the Diyarbakir Human Rights Associations, the number of armed conflict between security forces and the Kurdistan's Workers Party (PKK/Kongra-Gel) increased. While 104 people died and 31 were wounded in armed clashes in 2003, 219 people died and 126 were wounded in 2004. **[23e]** On 8 October 2005, the Turkish Daily News reported that the PKK had said it ended a unilateral ceasefire against Turkey. **[23ac]**

PKK-DCS (PKK – Devrimci Çizgi Savasçilari) (PKK-Serwanên Xeta Soresgerî) (PKK – Revolutionary Line Fighters). Radical leftist, Kurdish-nationalist, illegal, split from PKK 1999. Publication: Devrimci Çizgi. **[52b] [52a]**

PKK / KKP (Communist Party of Kurdistan)
(Partiya Komunistê Kurdistan) (Kurdish)
(Kürdistan Komünist Partisi) (Turkish)
Founded 1990 by Kurdish section of TKEP. Communist. Publication – "Dengê Kurdistan". **[52a]**

PKK Vejin (Resurgence)
As noted in the website Terror Organisation in Turkey:
"After the Fourth [KADEK] Congress, three opposing members Sari Baran, Mehmet Sener and Faik (K) have formed another organisation called Vejin (Resurgence). This organisation was in the same direction with KADEK but it was giving its members more social rights, [such] as marriage and the right to resign from the organisation in [sic] every time the member wished. The leaders of Vejin have stated that their objective is to establish a Federal Kurdistan in the Turkish territories. Mehmet Sener was killed in Syria

with A. Ocalan's command. After Mehmet Sener's death, Vejin and KADEK began to fight against each other." **[65]**

PNBK (National Platform of North Kurdistan)
(Platforma Neteweyî ya Bakûrê Kurdistanê) (Kurdish)
(Kuzey Kurdistan Ulusal Platformu) (Turkish)
Founded 1999. Left, Kurdish nationalist. Illegal. **[52a]**

PRK / Rizgari (Liberation Party of Kurdistan)
Partîya Rizgariya Kurdistan (Kurdish)
Kürdistan Kurtulus Partisi (Turkish)
Illegal. Founded 1976. Radical left, Kurdish nationalist. The party's aim is to establish an independent Kurdistan, and extend this to an independent United Socialist Kurdistan with territory which is at present part of Iran, Iraq, Syria and Turkey. Publications - "Rizgari", "Stêrka Rizgarî". **[52a] [48] [65]**

PRNK (National Liberation Party of Kurdistan) (Kürdistan Ulusal Özgürlük Partisi)
Illegal. Probably disbanded. **[48]**

PS-Kawa (Revolutionary Party) (Partîya Sores)
Illegal. Founded 1998 as split of PYSK (Kurdistan Sosyalist Birlik Partisi). **[48] [52a]**

PSK (Socialist Party of Kurdistan)
(Partîya Sosyalist a Kurdistan) (Kurdish)
Kürdistan Sosyalist Partisi (Turkish)
Illegal. Founded 1974. Left, Kurdish nationalist. Its legal wing is the DBP (see Annex B). Publications - "Roja Nû", "psk-bulten". Leader Kemel Burkay. **[48]**

PSK (Kurdistan Revolutionary Party)
(Devrimci Kürdistan Partisi) (Turkish)
(Partîya Soreşa Kürdistan) (Kurdish)
Illegal. **[48]**

Revolutionary Marxist League
Trotskyist. **[52a]**

RNK / KUK (Kürdistan Ulusal Kurtuluşçular)
Illegal. **[48]**

RSDK (Socialist Democratic Organisation of Kurdistan)
(Rêxistina Sosyalîst a Demokratîk a Kurdistanê) (Kurdish)
(Kürdistan Demokratik ve Sosyalist Örgütü) (Turkish)
Split of PYSK (Kurdistan Sosyalist Birlik Partisi). **[52a]**

Şafak-Değişim see **Malatyalilar**

SED (Social Ecological Transformation) (Sosial Ekolijist Dönüsüm)
Green. Publication – Kara Toprak. **[52a]**

SEH (Socialist Labour Movement) (Sosyalist Emek Hareketi)
Publication – "Siyasi Gazete" (Political Gazette). **[52b] [52a]**

Selam Grubu.
Illegal. **[48]**

Selefi (from the Arabic "Salafi", referring to an Islamic revivalist movement which seeks to emulate the lives of the earliest Muslims).
The organisation, which was established in 1993 by an imam, supports religious law. In raids in 1999, the Turkish authorities seized eight rocket rifles, one Kalashnikov, and 650 rounds of ammunition. The Turkish State considers the organisation to be terrorist. **[20] [30d]**

SIP see **Sosyalist Iktidar Partisi** - **Komünist Parti**

Sosyalist Alternatif (Socialist Alternative).
Part of ÖDP (see Annex B). Trotskyist. Publication - "Sosyalist Alternatif". **[52a]**

Sosyalist Iktidar Partisi - Komünist Parti (Party for Socialist Power – Communist Party)
Founded 1993, Communist, legal, gained 0.12% of the national vote in the April 1999 general election. Changed its name in November 2001 to TKP (Türkiye Komünist Partisi) (Turkish Communist Party); it is unclear whether this is different from, or identical to, the TKP which is listed later in this annex. Gained 0.19% of the national vote in the November 2002 general election. Publications – "Sosyalist Iktidar" (Socialist Power), "Sol" (Left). **[30a] [52a]**

Sosyalist Politika (Socialist Politics)
Part of ÖDP (see Annex B). Publication - "Sosyalist Politika". **[52a]**

Spartaküs
Illegal. **[48]**

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

TAK (Kurdish Liberation Hawks/Falcons) a radical Kurdish group said to have carried out various actions including the bombing in Cesme and Kusadasi in July 2005, two bomb explosions in Istanbul in February 2006, an explosion at the Mezitli offices of AKP in the same month, a bomb attack targeting a police building in Izmir in March 2006. The Tak is considered an offshoot of the Kurdistan Workers' Party (PKK) and a cover group for PKK although the PKK denies any links. **[23g] [66az] [66bj] [66bk]**

TDKP (Revolutionary Communist Party of Turkey) (Türkiye Devrimci Komünist Partisi). Illegal. Founded 1980. Ex-Maoist, Stalinist. Its legal wing is Emep (Labourers Party) (see Annex B). Publication - "Devrimin Sesi". **[47] [52a]**

TDP (Revolution Party of Turkey) (Türkiye Devrim Partisi)

Illegal. Founded 1978, formerly TKP (Birlik). Radical left. Publication - "Hedef" (Target). **[52a] [48] [52a]**

Tehvid-Selam
Islamic splinter group said to have links with Iran. The group adopts Hizbullahi ideas, and is closely related to the Hizbullah and Menzil groups. It began to publish "Şehadet" (Testimony) and "Tehvid" (Unification) periodicals, and nowadays publishes "Selam" (Greeting, Salute), a weekly newspaper. Police operations in May 2000 brought the arrest of some members and the discovery of various arms caches. **[2a] [65]**

THKP / C Acilciler (Turkish Peoples' Liberation Party and Front – The Urgent Ones) (Türkiye Halk Kurtuluş Partisi/Cephesi Acilciler)
Illegal. Probably disbanded. **[52a] [48]**

THKP / C-Dev Sol (People's Liberation Party/Front of Turkey - Revolutionary Left) (Türkiye Halk Kurtuluş Partisi/Cephesi - Devrimci Sol)
Illegal. Founded 1993 as split of Dev Sol. Political military. Radical left. Publication - "Devrimci Çözüm" (Revolutionary Solution). **[52a] [48] [52b]**

THKP / C-Dev Yol.
Illegal. **[48]**

THKP-C / HDÖ (People's Liberation Party/Front of Turkey - People's Revolutionary Vanguards) (Türkiye Halk Kurtulus Partisi ve Cephesi - Halkin Devrimci Öncüleri)
Founded 1977. Political military. Radical left. Publications - "Cephe" (Front, Façade), "Kurtuluş" (Liberation), "Kurtulus Cephesi" (Liberation Front). **[52a] [52b]**

THKP / C-MLSPB (People's Liberation Party/Front of Turkey – Marxist Leninist Armed Propaganda Unit) (Türkiye Halk Kurtulus Partisi ve Cephesi – Marksist Leninist Silahli Propaganda Birligi)
Publication – "Barikat" (Barricade). **[52b] [52a]**

TIKB (Revolutionary Communists Union of Turkey) (Türkiye Ihtilalci Komünistler Birliği)
Illegal. Founded 1977. Political military. Ex-Maoist, Stalinist. Publications - "Ihtilalci Komünist", "Orak-Çekiç", "Devrimci Proletarya", "Alinterimiz". **[48] [52a]**

TIKB - B (Revolutionary Communists Union of Turkey - Bolshevik) (Türkiye Ihtilalci Komünistler Birliği - Bolşevik)
Illegal. Split of TIKB. Radical left. Publication - "Devrimci Duruş" (Revolutionary Attitude). **[48] [52a]**

TIKKO (Turkish Workers' and Peasants' Liberation Army) (Türkiye Işçi Köylu Kurtuluş Ordusu or Türk Işçiler Köylüler Kurtuluş Ordusu).
Illegal armed resistance movement, which was set up in 1972 by TKP/ML. It advocates the violent overthrow of the Turkish government and abolition of the entire Turkish political system. Members (a maximum of several thousand people) are scattered in small cells throughout Turkey. The armed guerrilla units are used by both TKP/ML and TKP(ML) in common for their terrorist operations. Amnesty International notes that in the early 1990s TIKKO and other organisations would frequently announce, that this journalist, or that Kurdish villager, had been "punished". Since then, the numbers of such

killings have fallen notably. In September 2000 a police operation against TIKKO in Istanbul brought the arrest of the head of its local section. On 6 October 2000 a suicide squad attacked the military training college in the Harbiye district of Istanbul. TKP/ML also claimed responsibility for an attack on a police car on 11 December 2000, in which two policemen were killed. February 2001 saw two armed clashes between TIKKO and the security forces. The attack on a Jandarma general in Çorum on 22 March 2001 was said by the authorities to have been carried out by TIKKO, which reportedly itself on 28 March 2001 laid claim to the attack. [2a] In June 2002 TIKKO reportedly abducted and killed Muharrem Hız from Sırçalı village, Tokat province. **[9a]** There used to be a division of labour between PKK and TIKKO guerrillas, with the PKK carrying on the combat in south-eastern Turkey and TIKKO in the Black Sea region. In October 1999 TKP/ML announced its complete disagreement with Öcalan's call to end the armed struggle. **[2a]**

TIP (Workers Party of Turkey) (Türkiye Isci Partisi) **[52a]**

TKEP (Communist Labour Party of Turkey) (Türkiye Komünist Emek Partisi)
Illegal. Founded 1980, part of ÖDP (Özgürlük ve Dayanisme Partisi - see Annex B). Communist. **[48] [52a]**

TKEP- Leninist (Communist Labour Party of Turkey - Leninist) (Türkiye Komünist Emek Partisi - Leninist)
Illegal. Split of TKEP in 1990. Political military. Communist. Publications - "Devrimci Emek" (Revolutionary Labour), "Devrim Iscin Mücadele Birligi. **[48] [52b] [52a]**

TKIP (Communist Workers Party of Turkey) (Türkiye Komünist Işçi Partisi)
Illegal. Founded 1998. Ex-Maoist, radical left. Publications - "Ekim" (Sowing, Planting), "Kizil Bayrak" (Red Flag) **[52a] [48] [72]**

TKKKÖ (Turkey and North Kurdistan Liberation Organisation) (Türkiye ve Kuzey Kürdistan Kurtuluş Örgütü)
Illegal. **[48]**

TKP (Communist Party of Turkey) (Türkiye Komünist Partisi)
Founded 1980 as TKP - Iscinin Sesi. Communist. Publication - "Iscinin Sesi" (Workers' Voice). **[52a]**

TKP / IS (Communist Party of Turkey/Workers Voice) (Türkiye Komünist Partisi/Işçinin Sesi).
Illegal. **[48] [52a]**

TKP- Kivilcim (Communist Party of Turkey - Spark) (Türkiye Komünist Partisi - Kivilcim). Illegal. Founded 1989 by Socialist Homeland Party (SVP). Communist. Publications - "Kivilcim" (Spark), "Zafere Kadar Direnis", "Yol" (The Way), "Widerstand". **[48] [52b]**

TKP / ML (Communist Party of Turkey/ Marxist Leninist) (Türkiye Komünist Partisi / Marksist-Leninist).
Founded 1972. Political military. Based on Maoist ideology. The party has suffered several divisions, with each faction claiming to be "the real party". In 1994 it split into two wings: a partisan wing, retaining the old name TKP/ML, and an Eastern Anatolian regional committee, assuming the almost identical name TKP(ML). Talks have been

under way since late 1999 concerning reunification of the two wings. In 1972 TKP/ML set up armed guerrilla units, known as TIKKO (Türk Işçiler Köylüler Kurtuluş Ordusu - Turkish Workers' and Peasants' Liberation Army), which are used by both TKP/ML and TKP(ML) in common for their terrorist operations. In October 1999 TKP/ML announced its complete disagreement with the call by Abdullah Öcalan, PKK leader, to end the armed struggle. TKP/ML claimed responsibility for an attack on a police car on 11 December 2000; two policemen were killed in the attack. Publications - "Partizan", "Isci-Köylü Kurtuluşu", "Özgür Gelecek" (Free Future). **[2a] [67] [52a] [52b] [69]**

TKP (ML) (Communist Party of Turkey (Marxist-Leninist) (Türkiye Komünist Partisi (Marksist-Leninist).
Split of TKP/ML in 1994. Political military. Maoist. Publications - "Isçi Köylü Kurtuluşu", "Devrimci Demokrasi" (Revolutionary Democracy), "Öncü Partizan" (Pioneer Partisan). **[52a]**

TKP / **(M-L) DABK** (Communist Party of Turkey (Marxist-Leninist) East Anadolu Area Committee) (Türkiye Komünist Partisi (Marksist-Leninist) Doğu Anadolu Bölge Komitesi) Illegal. **[48]**

TKP / M-L Kons. Kes (Communist Party of Turkey / Marxist-Leninist Conferencing Body) (Türkiye Komünist Partisi / Marksist-Leninist Koferansçi Kesim).
Illegal. **[48]**

TKP / ML (Maoist Parti Merkezi) (Communist Party of Turkey / Marxist-Leninist (Maoist Party Centre) (Türkiye Komünist Partisi / Marksist Leninist (Maoist Parti Merkezi))
Illegal. Split of TKP/ML in 1987. Political military. Maoist. Publication - "Iktidara". **[48] [52b]**

TODEF see **DHKP-C**

Toplumsal Özgürlük Platformu (Social Freedom Platform).
Part of ÖDP (see Annex B). **[52a]**

TSIP (Socialist Workers Party of Turkey) (Türkiye Sosyalist Isçi Partisi).
Founded 1993. Legal. Communist. Publication - "Kitle" (Mass, Crowd). **[52a]**

Türkiye'de Marksist-Leninist Parti (Marxist Leninist Party in Turkey).
Founded in 1980 as TKP/ML Spartakus. Stalinist. Publications - "Spartakus", "Bilimsel Komünizmin Sancaği Altinda". **[52b]**

UIC (Union of Islamic Communities)
Founded 1983. Its initial goal is to unite Muslims living in Europe under one roof. Its main goal is to establish a Federal Islamic State in Anatolia. Its founder Cemalettin Kaplan declared himself the "caliph" of all Muslims in 1994, and from then on UIC called itself the "Caliphate State". After he died in 1995, his son Metin Kaplan replaced him as "caliph". Some members of UIC have rejected Metin Kaplan's caliphate, and UIC has divided into three groups. UIC has 200-300 members in Turkey, largely in Istanbul, Konya, Adana, Sivas, Aydin, and Maraş, and 1300 members in Germany. In Germany in 1999 Metin Kaplan declared a holy war against In Turkey. The German authorities arrested Metin Kaplan in March 1999. He was extradited from Germany in 2004 after Turkey banned the death penalty. The Turkish police have conducted operations against UIC militants in Sivas, Sakarya, Erzurum, Bursa and Çanakkale. As reported by BBC

News on 20 June 2005, Metin Kaplan was sentenced to life in prison for plotting to overthrow Turkey's secular system. However, on 30 November 2005, BBC News reported that the appeals court had ruled that there had been inadequate investigation and procedural deficiencies in the case and Kaplan's conviction was overturned. **[65] [66bf] [66bm]**

Vasat Grubu / Ehl-i Sünnet vel Cemaat.
Illegal. It claimed responsibility for throwing a grenade at a book fair in Gaziantep on 14 September 1997, killing one person and injuring 24. **[56]** Today Vasat is inactive. With series of police operations in the June of 1999, in Malatya and in Ankara all the action plans, structure, strategies, educational activities and financial resources of the organisation had been deciphered. **[65]**

Yeni Yol (New Way)
Part of ÖDP (see Annex B). Trotskyist. Publication - "Yeni Yol" (New Way). **[52a]**

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Annex C: Prominent people: past and present

GOVERNMENT AFFILIATED

Head of state: Abdullah Gul was nominated for the presidency following the AKP's election victory and eventually elected to the position on 28 August 2007. **[81b]**

Prime Minister: Recep Tayyip Erdogan served as the Prime Minister of Turkey since March 14, 2003. He is the leader of the Adalet ve Kalkınma Partisi (AKP, or Justice and Development Party). **[81b]**

KEY MINISTERS AND POSTS

Deputy Prime Minister and Minister of State:	Cemil Cicek
Deputy Prime Minister and Minister of State:	Nazim Ekren
Deputy Prime Minister and Minister of State:	Mehmet Simsek
Deputy Prime Minister and Minister of State:	Hayati Yazici
Minister of State:	Murat Basesgioglu
Minister of State:	Nimet Cubukcu
Minister of State:	Mehmet Aydin
Minister of State:	Kursad Tuzmen
Minister of State:	Mustafa Said Yazicioglu
Minister of Agriculture and Rural Affairs:	Mehmet Mehdi Eker
Minister of Culture and Tourism:	Ertugrul Gunay
Minister of Energy and Natural Resources:	Hilmi Güler
Minister of Environment and Forestry:	Veysel Eroglu
Minister of Finance:	Kemal Unakitan
Minister of Foreign Affairs:	Ali Babacan
Minister of Health:	Recep Akdag
Minister of Industry and Trade:	Mehmet Zafer Caglayan
Minister of Interior:	Dr Besir Atalay
Minister of Justice:	Mehmet Ali Sahin
Minister of Labour and Social Security:	Faruk Celik
Minister of National Defence:	Vecdi Gönül
Minister of National Education:	Hüseyin Çelik
Minister of Public Works and Housing:	Faruk Nafiz Ozak
Minister of Transportation:	Binali Yildirim

[81b]

OTHERS

Atatürk, Kemal (born 1880/1881, died 1938) His original name was Mustafa Kemal, he was surnamed Atatürk ("Father of the Turks") in 1934. Atatürk was the founder of modern Turkey. He became Turkey's first President in 1923.

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

Bakirhan, Tuncer: Chairman of DEHAP. **[69]**

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

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

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

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

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

Öcalan, Abdullah (nickname "Apo")
Leader of the PKK. Born in 1949 in Urfa. He initiated, with six colleagues, a specifically Kurdish national liberation movement based on Marxism-Leninism. From 1978 the Apocular, or followers of Apo, called themselves the PKK. He was captured, forcibly returned to Turkey in February 1999, put on trial, convicted of treason and sentenced to death. With the abolition in 2002 of the death penalty for offences in peacetime, his sentence was commuted to life imprisonment without conditional release. **[30b] [58]**

Özkök, General Hilmi: Born 1940, Chief of the General Staff for a four year term from August 2002.

Sezer, Ahmet Necdet: President of Turkey since May 2000. He is the first President in Turkey's history who is neither an active politician nor a senior military official. He was formerly Turkey's most senior judge, the Chairman of the Constitutional Court.

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

Zana, Leyla: Kurdish activist and former MP. She was one of the founders of the Democratic Society Movement (DHT) **[5c] [30a] [36b] [66c] [77] [93a] [93b]**

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Annex D: Administration of justice

The European Commission Turkey 2005 Progress Report released on 9 November 2005 recorded that "The principle of legality of criminal offences is set out in Article 38 of the Constitution and in Article 2 of the [new] Penal Code. The non-retroactivity of penalties is established in Article 38 of the Constitution and in Article 7 of the Penal Code. Proportionality between the criminal offence and the penalty is guaranteed by Article 3 of the Penal Code.

The principle of ne bis in idem [the right of a person not to be prosecuted twice for the same offence] is established in Article 223 of the Code of Criminal Procedure." **[71b] (p106)**

Judges

1. The position of the judge (hakim, yargıç) is important, especially as there is no jury trial in Turkey. His role is substantially larger than that of a judge in UK or USA. He is actively responsible for the administration of justice. He takes the initiative in finding the law applicable to the facts submitted by the parties. The lawyers have the duty to assist the judge in establishing the facts and determining applicable legal provisions. The independence of judges is safeguarded by Articles 138 and following of the Constitution: "Judges shall be independent in the discharge of their duties. They shall pass judgements in accordance with the Constitution, law, justice and their personal convictions. No organ, office, agency or individual may give orders or instructions to courts or judges in connection with the discharge of their judicial duty, send them circulars, or make recommendations or suggestions. No questions may be raised, debates held, or statements issued in legislative bodies in connection with the discharge of judicial power concerning a case on trial." **[64]**

   As recorded in Turkey's Statistical Yearbook 2006, published by the Turkish Statistical Institute, in 2005 there were 6,211 judges. **[89a] (p131 Section on Justice)**

Public Prosecutors

2. Offences are, in the great majority of cases, prosecuted in the name of the people by public prosecutors (savcılar), who are virtually representatives of the executive branch of the government within the judiciary. The duty of initiating public prosecution rests with the public prosecutor. As soon as he is informed of the occurrence of an offence, the public prosecutor should make the investigation necessary to decide whether public prosecution should be initiated. He investigates evidence both against the accused and in his favour, and helps to preserve proof which otherwise might be lost. If, at the end of his investigation, the public prosecutor decides not to prosecute, he will inform the accused if the accused has testified, or if a warrant of arrest has been issued against the accused. No one may be convicted under an indictment in which he is not named, nor may he be convicted of a crime not specified in the indictment. **[64]**

   As noted in the European Commission 2005 report "The Code establishes the concept of plea bargaining. In order to reduce the number of unmeritorious

prosecutions, the Code increases the discretion of prosecutors, who are now able to assess the strength of the evidence before preparing an indictment. Moreover, judges are given the power to return incomplete indictments. **[71b] (p15)** As regards legal guarantees including access to justice, so far as the prohibition of arbitrary arrest is concerned, Article 90 of the Criminal Procedure Code provides that persons who are arrested by the police must be informed of the reason for their arrest." **[71b] (p15)**

3. In the case of some lesser offences specified by law, where the injury is deemed more private than public, the injured party may himself institute criminal proceedings by filing a private complaint (şahsi dava) without participation of the public prosecutor. In these exceptional cases, the private party enjoys all the rights given to the public prosecutor by law. Furthermore, the person injured by an offence may intervene in any public prosecution, and he becomes a party to the action by virtue of his intervention (Müdahale yolu ile dava). **[64]**

   As recorded in Turkey's Statistical Yearbook 2006, published by the Turkish Statistical Institute, in 2005 there were 3, 091 prosecutors. **[89a] (p131 Section on Justice)**

4. The European Commission 2005 report recorded that "The number of judges and prosecutors has remained largely stable; there are currently 5 952 judges and 3 179 prosecutors in service and a further 1 053 judges and prosecutors in training. A law adopted in December 2004 provided for the recruitment of 4 000 additional judges and prosecutors, 100 judicial inspectors and 6 619 court administrative staff." **[71b] (p105)**

The defendant

5. The law is designed to protect innocent citizens. The accused is favoured in criminal proceedings by the presumption of innocence. The burden of proof rests on the public prosecutor or the private complainant, and the defendant is not held guilty until his guilt is established by final judgement. When the court is not satisfied by the evidence of the prosecution, or a reasonable doubt exists, the court must give a judgement of acquittal. **[64]**

   The European Commission 2005 report noted that "The right of defence is enshrined in Article 36 of the Constitution. The Code of Criminal Procedure regulates the use of legal counsel and the rights of defence in criminal investigations and during trials. The new Code substantially improves the rights of the defence. Article 150 of the new Code of Criminal Procedure provides that all accused persons may have access to a lawyer and that representation by legal counsel is mandatory, both during the investigation and the trial, for offences punishable by more than five years' imprisonment … The new Criminal Code also introduces the principle of cross-examination, which strengthens the rights of the defence. Nevertheless, certain practices undermine equality of arms. The design of the courtroom, in which the prosecutor is seated on a raised platform next to the judges while defence counsel is seated at ground level, places the prosecution in a privileged position vis-à-vis the defence. Defence counsel experience difficulties in communicating with their clients both in the court house immediately before the trial (in part due

to lack of suitable facilities) and in the court room during the course of the trial." **[71b] (p106)**

Evidence
The European Commission 2005 report recorded that "Under the new Code, criminal investigations must be carried out by a judicial police force under the authority of the public prosecutor." **[71b] (p15)**

7. The use of unlawful interrogation methods (such as maltreatment, torture, forcing drugs, causing fatigue, cheating, deceiving, violence, unlawful promises) which are may distort free will, is prohibited. Accordingly statements and depositions obtained by unlawful means are considered inadmissible, even if they are of free will (for example, if a person were deceived). **[64]**

   The European Commission 2005 report recorded that "All detainees are entitled to access to justice (i.e a lawyer) and for juveniles the presence of a lawyer during interrogation is obligatory. Moreover, the new Regulation on Apprehension, Detention and Statement Taking [entered into force on 1 June 2005] makes the appointment of a defence lawyer obligatory in cases where the alleged crime carries a sentence of more than 5 years' imprisonment." **[71b] (p23)**

COMMENCEMENT AND CONDUCT OF PROCEEDINGS

Preparatory investigation

8. The public prosecutor, upon being informed of the occurrence of an alleged offence, makes a preparatory investigation (hazırlık soruşturması) in order to ascertain the identity of the offender and to decide whether it is necessary to institute a public prosecution. If he concludes that a public action is necessary, he institutes a case by an indictment before the competent court. If a public action is unnecessary he decides not to prosecute. The Minister of Justice may, by order, direct the prosecutor to initiate a public prosecution. **[64]**

9. The public prosecutor may, for the purpose of his enquiry, demand any information from any public employee. He is authorised to make his investigation either directly or through police officers. The police are obliged to inform the public prosecutor immediately of events, detainees, and measures taken, and to execute orders of the prosecutor concerning legal procedures. **[64]**

10. In cases where a private complaint is submitted to the public prosecutor, and the prosecutor finds no reason for prosecution or decides not to prosecute after a preparatory investigation, he informs the petitioner of his decision. If the petitioner is, at the same time, the aggrieved party the petitioner may, within 15 days of notice, object to the Chief Justice of the nearest court which hears aggravated felony cases. If the court is convinced that the petition is well founded and rightful, it orders a public prosecution; the prosecutor in charge of the case executes this decision. Otherwise, the court refuses the petition, and after such action a public prosecution may be opened only upon production of newly discovered evidence. **[64]**

11. A public prosecution shall be dismissed when the perpetrator of an offence which is punishable by a fine or a maximum of three months' imprisonment deposits the minimum amount of the fine prescribed for the specific offence (or, in the case of imprisonment, the sum which is the amount prescribed by the Law of Execution of Penalties for one day of imprisonment) in the appropriate office before the court hearing. If this amount is paid by the offender before a public prosecution has been initiated, and within ten days of the date of the offence, the perpetrator shall not be prosecuted at all. **[64]**

12. The preparatory investigation is, in principle, secret, performed without the presence of the parties and in written form. **[64]**

Final investigation (trial)

13. The European Commission 2005 report noted that "Article 38 of the Constitution provides for the presumption of innocence to be applied in criminal trials. Article 36 and 141 of the Constitution guarantee the right to a fair and public trial. Article 182 of the Code of Criminal Procedure also provides for trials to be held publicly." **[71b] (p106)** The final investigation or trial (son soruşturma) begins when the indictment is sent by the public prosecutor to the court which will try the case. The final investigation has two stages: the preparation for trial (duruşma hazırlığı) and the trial itself (duruşma). Its object is to examine all evidence before the court, and to reach a judgement with respect to the guilt of the accused. **[64]**

14. All phases of final investigation are conducted in the presence of the defendant. At his own request, a defendant may be excused from attending trial, and may send a defence counsel in cases where his presence is not necessary. Trial may also be instituted against an absentee defendant when the offence is punishable by a fine, confiscation, or both. If the suspect has already been heard by the court in an earlier session, or if he has been questioned by a judge on the facts of the case during preliminary enquiries before the trial, the trial may continue in the suspect's absence. **[64]**

15. In principal trials are open to the public. This includes cases relating to state security. In political cases the audience usually includes some representatives of human rights organisations, and diplomatic staff from various countries. **[2a]**

    The European Commission 2005 report noted that The Code of Criminal Procedure introduces the requirement that certain trials are to be recorded on audio and videotape. **[71b] (p15)**

    (See also section 10 Judiciary which includes the findings of the European Commission 2006 Report)

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Annex E: List of abbreviations

AI	Amnesty International
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
EU	European Union
EBRD	European Bank for Reconstruction and Development
FCO	Foreign and Commonwealth Office (UK)
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
MSF	Médecins sans Frontières
NGO	Non Governmental Organisation
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organisation of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organisation for Security and Cooperation in Europe
RSF	Reporteurs sans Frontières
STD	Sexually Transmitted Disease
STC	Save the Children
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

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Numbering of source documents is not always consecutive because some older sources have been removed in the course of updating this document. (If applicable)

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