

## Turkey: Need for firm leadership on human rights<sup>x</sup>

(Oslo: 25 January 2007) Turkey officially started negotiations on EU membership on 3 October 2005. The decision by the EU to start these negotiations signalled that it accepted that legal amendments in the field of human rights and fundamental freedoms made by Turkey did fulfil the 1993 Copenhagen criteria.<sup>1</sup> Recent developments, however, with increased violence in particular in the southeast part of the country, killings and renewed police and security brutality raises questions whether the human rights gains originating from the EU initiated reform process are about to be lost.

The EU candidacy process had helped to accelerate progress on legal provisions, including improvements in the field of human rights. The death penalty was abolished, tougher measures were brought in against torture and the penal code was overhauled.<sup>2</sup> There were also reforms in the areas of women's rights and Kurdish culture, language, education and broadcasting.

But by the beginning of 2005, due to both local and regional developments, the pace of progress slowed down in several fields, and some old patterns of abuse were re-emerging. In 2006, new legislation against terrorism and security service brutality in cracking down popular protests in Diyarbakir and other Kurdish cities gave reason to particular concern.

Ongoing court cases against renowned Turkish intellectuals for insulting "Turkishness" indicates that past patterns of restrictive policies on freedom of expression has yet to be abolished.

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<sup>x</sup> The report is based on input from the Human Rights Foundation of Turkey, a long-time cooperating partner with the Norwegian Helsinki Committee dealing with treatment of torture victims, documentation of human rights violations, and educational activities; and a visit to Turkey 4-11 October 2006. The report was written by By Gunnar M. Karlsen, Deputy Secretary General.

<sup>1</sup> The Copenhagen criteria require that a state have institutions to preserve democratic governance and human rights, and a functioning market economy. These membership criteria were laid down at the June 1993 European Council in Copenhagen from which they take their name. Excerpt from the Copenhagen Presidency conclusions: "Membership requires that candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and, protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union."

<sup>2</sup> Cf. *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 14 December 2005*, Strasbourg 6 September 2006, page 11: "New Criminal and Criminal Procedure Codes, as well as a revised version of the Regulation on Apprehension, Detention and Statement Taking, entered into force on 1 June 2005. These texts have consolidated improvements which had been made in recent years on matters related to the CPT's mandate. It is more than ever the case that detention by law enforcement agencies (police and gendarmerie) is currently governed by a legislative and regulatory framework capable of combating effectively torture and other forms of ill-treatment by law enforcement officials." Assessing implementation of the new legal framework in the visited establishments, the CPT concludes (page 12), "...it should be stressed at the outset that the facts found during the visit in the Provinces of Adana, Istanbul and Van are encouraging."

There are still serious shortcomings related to the situation of displaced persons, and in implementing cultural and linguistic rights for Kurds and other minorities.

The still unsolved Kurdish problem, in addition to economic and social inequalities, led to increasing violence. Problems related to the right to life, personal security including torture, freedom of expression and organization remain unsolved.

Some developments, like the 9 November 2005 events in Semdinli in Hakkari province, raised serious questions on whether parts of the Turkish security and intelligence apparatus intend to re-destabilise southeast Turkey. Three members of the gendarmerie intelligence service were caught after throwing a bomb into a bookshop. Van Criminal Court sentenced two of the three to 39 years' imprisonment. However, security officials blocked further investigations and an official willing to talk about the possible involvement of higher-ranking officials has been removed from his post.<sup>3</sup>

The High Council of Judges and Prosecutors dismissed the prosecutor responsible for the indictment on the Semdinli bombing from office. The indictment included accusations against the Land Forces Commander and other high-ranking military commanders. Serious questions were raised on the independence of the High Council.<sup>4</sup>

Similarly, nationalist Kurdish organisations have stepped up violent attacks, also functioning as an impediment to progress on Kurdish issues. In summer 2004, The Kurdistan Workers' Party (PKK) called off a five-year ceasefire following what they called annihilation operations against their fighters by Turkish authorities. There have since been clashes between Kurdish fighters and Turkish forces, and a string of bomb explosions in Istanbul and other tourist resorts. Dozens have died in the renewed violence.<sup>5</sup>

There is also a question whether the reform dynamic has lost its momentum due to scepticism among some EU members on giving Turkey full EU membership and slowness in solving difficult issues like the Cyprus conflict. In December 2006, a decision was taken to suspend talks in eight of 35 policy areas due to Turkey's reluctance to open its ports and airports to Cypriot traffic.

According to the Turkish Prime Minister, Recep Tayyip Erdogan, "The EU decision [to slow down talks] is an injustice against Turkey". However, Turkey's Foreign Minister Abdullah Gul came out

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<sup>3</sup> In February 2006, Sabri Uzun, Director of the Police Security Intelligence Bureau, indicated possible military involvement in the bombings in Semdinli during a Parliamentary Commission hearing. He expressed that the two gendarmes indicted for the attack on the bookshop hardly could have operated without the knowledge of higher-ranking officials. Sabri Uzun was removed from his post in March 2006. See Human Rights Watch, "Letter calling for release of Kurdish activists Ibrahim Guclu, Zeynel Abidin Ozaal and Ahmet Sedat Ogur, and expressing alarm at gathering threats to reform process: Letter to the Turkish Prime Minister", page 4.

<sup>4</sup> Cf. Commission of the European Communities, *Commission Staff Working Document: Turkey 2006 Progress Report*, Bruxelles 8 November 2006, page 9, last paragraph.

<sup>5</sup> During the period between November 2005 and June 2006, there were 774 terrorist attacks reported, which led to 44 military, 5 police and 13 civilian casualties. Commission of the European Communities, *Op.cit.*, page 22.

strongly stating, "Whatever the EU says, the reform process in Turkey will continue. Economic and democratic reforms must be achieved with courage and determination."<sup>6</sup>

According to Turkey's ambassador to the EU, Volkan Bozkir, Ankara will respond to the EU negotiation setback by "accelerating" reforms so that it will be ready to join the EU when the political climate changes.<sup>7</sup>

## Torture

From a historically point of view, there is a heavy legacy of torture in Turkey dating back to the military coup on 12 September 1980. The military regime committed grave and widespread human rights violations, and created a socio-economic situation with grave consequences for the population. From 1980 until today, there might have been as many as one million torture victims in Turkey according to the Human Rights Foundation of Turkey (HRFT), meaning that one of every 70 persons living in the country today has been subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Since 1999 some positive human rights developments in Turkey took place. This is indicated in several ways, such as a decline in the number of applicants to HRFT treatment centres, shortened detention periods, and prompt access to lawyer after arrest. In addition to the EU harmonization process, these positive developments must be seen on the background of the activities to prevent torture and other human rights violations of several Turkish institutions and organisations during past decades, as well as the influence of a large number of cases brought against Turkey in the European Court of Human Rights.<sup>8</sup>

Despite progress, there is a long way to go to reach zero tolerance on torture, which is the stated goal of the current government. Impunity is a main impediment to reach this goal. If one takes into consideration the following factors, one has to conclude that torture remains widespread despite the legal amendments made since 1999. There is:

- Still many applicants to HRFT treatment centres who have been subject to torture
- An increase in the number of unregistered places where applicants were subjected to abuses, like open spaces, cars, etc.
- An apparent increase in the application of methods of mistreatment which are not leaving traces on the human body

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<sup>6</sup> BBC News, "Turkey criticises EU 'injustice'", 12 December 2006.

<sup>7</sup> George Parker, "Turkey moves to accelerate reforms", *Financial Times*, January 15 2007.

<sup>8</sup> Only in 2006, the European Court of Human Rights issued about 200 judgments against Turkey for torture, unfair trial, violations of free expression, extrajudicial execution, and other violations.

- A persisting impunity problem
- Still pressure from Turkish authorities against human rights organizations in Turkey

Reports of human rights organizations and particularly *The Torture and Impunity Report 2005* of the HRFT show that legal reforms to eradicate torture in the framework of the EU harmonization process have not reached all its goals.

The new law against terrorism and the torture cases connected to the Diyarbakir incidents of March-April 2006 may at the best indicate a pause in the reform project, which was launched due to the EU harmonization process. According to HRFT, it is not an established fact that the "zero tolerance to torture" will prevail, instead of some "tolerance to the torturer".

The data presented below gives some indication of the amount of torture cases and the legal, judicial and administrative problems, which may lead to torture. However, it has to be kept in mind that these data represent only the cases, which have been determined by the HRFT.

- The HRFT treatment and rehabilitation centres received 10.449 applicants between 1990 and 2005 who had been subject to torture or ill-treatment
- Among applicants in 2005, 193 of 692 had been tortured
- Five persons died in detention in 2005
- Among applicants in 2006, 227 had been tortured

The origin of the Diyarbakir incidents starting on 28 March 2006 was the killing of 14 armed militants by government forces. Four of them were buried in Diyarbakir, and the clashes between those who attended the funeral, mainly young persons, and the police continued for two days. Demonstrators were attacking police and other official buildings with stones, sticks and Molotov cocktails; while the police fought with water, pepper gas and guns.

On the second day of fighting, special operation teams and military troops were deployed in the city. The majority of civilians living in the town could not leave their homes, and shops remained closed. 11 persons, four of them children, lost their lives during the fighting. A high number of people, including children, were wounded.

According to the Diyarbakir Bar Association, the security forces used arbitrary and extreme force. There are evidences that torture was applied against detainees, including children. 566 persons, including 202 children, were taken into detention between 28 March and 1 April.

The HRFT maintains that the Diyarbakir events are important in showing that mentalities of Turkish authorities have not changed in favour of more restrictive policies of using force against civilians. When deemed necessary, torture and other brutal methods are still being applied.

The Turkish Prime Minister, Recep Tayyip Erdogan, came out during the fighting's to warn parents not to allow children to be used by what he described as terrorist organisations. "The security forces will intervene against the pawns of terrorism, no matter if they are children or women. Everybody should realise that."<sup>9</sup> The government, in stark contrast to independent human rights organisations and media, praised the security forces for their handling of the situation, saying they acted with restraint.

Human Rights Watch stated, "It is clear that the police were confronted with large and angry crowds, some of whom became violent. According to the Diyarbakir governor's office, 199 police officers were injured in the melee. However, there are serious questions as to whether the police in Diyarbakir could have used less extreme means to control the crowd, or done more to minimize the threat of injury or death. We are therefore concerned that the force used may have been excessive and disproportionate, in violation of international standards."<sup>10</sup>

During 2006, torture cases linked to apparently premeditated instances of abduction have drawn particular attention. Since authorities reject that such cases exist with state organs involved, investigation of the cases have so far not taken place.

The isolation policy in F-Type prisons is also going on. In 2006, as in previous years, prisoners die due to suicide, fighting, and sub-standard health conditions. According to HRFT data at least seven persons died in prisons in 2006.

The new law against terrorism has introduced various harmful arrangements. The law imposes restrictions on detainee's access to legal counsel. A suspected person can benefit from legal assistance of one lawyer only. Legal assistance can also be forbidden within the first 24 hours after arrest. If deemed necessary, an official may interfere in the judicial process. The law authorises security forces "to use weapons directly and without delay".<sup>11</sup>

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<sup>9</sup> BBC News, "Turkey warns children off clashes", 1 April 2006.

<sup>10</sup> Human Rights Watch, "Letter calling for release of Kurdish activists Ibrahim Guclu, Zeynel Abidin Ozaalp and Ahmet Sedat Ogur, and expressing alarm at gathering threats to reform process: Letter to the Turkish Prime Minister", page 5-6. Cf. Commission of the European Communities, *op.cit.*, page 22: "There are widespread reports of excessive and arbitrary use of force by the security forces, even against ambulances. Investigations are ongoing to determine the causes of these deaths."

<sup>11</sup> The new law revises some of the articles of the Law to Fight Terrorism [Law 3713 of 12/4/1991]. Amnesty International warned against the new legislation, saying that it "contains sweeping and draconian provisions which may in practice contravene international human rights law and facilitate violations of the human rights of individuals." See Amnesty International, *Turkey: Briefing on the wide-ranging, arbitrary and restrictive draft revisions to the Law to Fight Terrorism* (AI Index 44/009/2006).

In the European Commission *Turkey 2006 Progress Report*, similar concerns are raised. Additionally, it underlines that the new law, which was adopted on 29 June 2006, "introduces legal restrictions on freedom of expression, the press and the media". Freedom of the media "could be undermined by provisions allowing the suspension of periodicals and introducing the liability of chief editors and of press and media owners for publishing terrorist propaganda or praise in press or media organs."<sup>12</sup>

The UN working group on arbitrary detention visited Turkey in October 2006, expressing concern that safeguards against torture and arbitrary detention introduced in 2005 did not apply to terrorist suspects, creating "in practice two criminal justice systems in Turkey".

### "War against terror"

According to international human rights organizations, torture is still being applied in a large number of countries. It is not only used in military dictatorships and by authoritarian regimes, but also in democratic countries.

Following the terror attack on 11 September 2001, the USA, the UK and some other countries, have conducted policies in the Middle East and other parts of world, which have led to weakened safeguards against torture. Impunity for torturers have become a policy argued as necessary in the "war against terror", public opinion being taught that they have to choose between giving up freedoms or being subject to terrorism.

The US policy on the Middle East has been presented as an overall push to democratize the authoritarian regimes of the region. President Bush has argued that democracy in the Arab world is necessary to U.S. interests. "Our strategy to keep the peace in the longer term", he said in a speech in March 2005, "to help change the conditions that give rise to extremism and terror, especially in the broader Middle East. Parts of that region have been caught for generations in a cycle of tyranny and despair and radicalism. When a dictatorship controls the political life of a country, responsible opposition cannot develop, and dissent is driven underground and toward the extreme. And to draw attention away from their social and economic failures, dictators place blame on other countries and other races, and stir the hatred that leads to violence. This status quo of despotism and anger cannot be ignored or appeased, kept in a box or bought off."

Although democratization is a noble goal, the way this policy has been directed has created increased conflict and fertilized the ground for recruitment to organisations and movements committing acts of violence against defenceless civilians to reach their goals. An alternative route, rather than military intervention in Iraq and pushing for quick elections, would be to encourage

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<sup>12</sup> Commission of the European Communities, *op.cit.*, page 6.

the development of secular and liberal political and non-governmental organisations, as well as initiating political dialogue along the lines of the Helsinki Process in Europe during the cold war.<sup>13</sup>

The US Government has disregarded Article 2 of the UN Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment, which states that "[n]o exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture".

Recent reports by the Council of Europe and international human rights organizations document that the USA convey suspected persons to secret centres and to Guantanamo where they may be subject to mistreatment and torture. According to some reports, European countries, including Turkey, facilitate transfer of detainees and provide secret places of detention.

The situation in Turkey is heavily influenced by developments in Northern Iraq, and also by the overall global fight against terrorism. The muted or non-existing criticism by Western governments of the adoption of the new law against terrorism may be an indication of human rights loosening its stand when it comes to fighting terrorism. The new law has a very broad definition of terrorism, and there is a risk that recent gains in limiting the application of torture in Turkey may be lost in the "alternative" criminal system established to fight terrorism.

PKK and other organisations conducting bomb attacks against civilians have their bases in the mountainous region of Northern Iraq. Turkish military therefore from time to time occupy border areas on the Iraqi side allegedly to eliminate the PKK threat. Turkish authorities want the US and Iraqi authorities to crack down on what they perceive as hostile forces based in Iraq, but so far with little progress.

Turkey experienced several bomb attacks in Diyarbakir and in some tourist resorts during 2006, killing more than 20 and wounding a large number of people. The Kurdistan freedom Falcons (TAC), took responsibility for the attacks. On its website it warned that it will turn "Turkey into hell".<sup>14</sup>

These developments make it even harder to argue in favour of restraint on the side of Turkish authorities in applying brutal methods in efforts to prevent such attacks.

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<sup>13</sup> Cf F. Gregory Gause III, "Can Democracy Stop Terrorism?" *Foreign Affairs*, September/October 2005.

<sup>14</sup> BBC News, "Turkey hunts for bombing suspects", 13 September 2006. TAC is said by experts to be linked to the PKK. In 2006 until 28 August, Turkey experienced the following bomb blasts: 13 February in Istanbul, 15 March in Diyarbakir, 31 March in Istanbul, 5 April in Istanbul, 16 April in Istanbul, 3 June in Mersin, 15 June in Antalya, 4 August in Adana, and 28 August in Antalya. An October 2006 PKK declaration of a ceasefire resulted in a decrease in the number of violent attacks.

## The Kurdish problem

At the hearth of these problems may be the Kurdish issue in Turkey, which is still unsettled. The Kurds, like other minorities living in Turkey, has been subject to a policy of "Turkification". The policy contains several strategies, which obstruct the right to ethnic, national, and religious self-identification. These strategies include: denying formal recognition of minority groups; hindering access to media; limiting political participation; restricting linguistic rights; impeding freedom of religion; limiting freedom of movement; and tolerating various forms of direct and indirect discrimination.<sup>15</sup>

Although the current Turkish Prime Minister, unlike most of his predecessors, has acknowledged that there exists a Kurdish issue in Turkey, few steps to solve the problem have been taken. In February 2005, the OSCE High Commissioner on National Minorities (HCNM) visited Ankara in order to facilitate dialogue on the situation of national minorities. According to the EU, such a dialogue should include areas such as minority education, minority languages, the participation of minorities in public life and broadcasting in minority languages. So far, no measures have been implemented to start such a dialogue.<sup>16</sup> Turkey has neither ratified international standards related to minorities.

Measures to fight unemployment in Kurdish areas in the southeastern part of the country were limited, and damages and losses of the people living in the region due to deportations and human rights violations have not yet been duly compensated.

Developments in Northern Iraq, with increased self-government for Kurds living there have increased suspicions by Turkish authorities towards policies, which could lead to similar developments in the Kurdish areas of Turkey.

EU have put considerable pressure on Turkey to address the Kurdish problem, by asking Turkish authorities to step up efforts to help displaced Kurds return home and to tolerate Kurdish-language broadcasts. Kurds, who constitute about 12 million of Turkey's 70 million populations, also ask for Kurdish language education in schools. There have been some gains, but there is a long way to go before all issues related to use of Kurdish language in different spheres of society have been settled.

Another difficult area is compensation for losses experienced by a large number of Kurds during the conflict in the South East in the 1980s and the 1990s. The number of internally displaced persons (IDPs) has been a point of controversy, the government insisting that only some 350 000 Kurds were forced to flee their homes, while Kurdish groups and human rights organisations have talked about between 1 million to 4 million IDPs. A recent study by the Institute of Population

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<sup>15</sup> For an extensive description of Turkey's minority policies, see: International Helsinki Federation (IHF): *Turkey: A Minority Policy of Systematic Negation*, Vienna, October 2006.

<sup>16</sup> Commission of the European Communities, *op. cit.*, page 20.



Studies at Hacettepe University in Ankara, estimates the IDP population to be between 950 000 and 1.2 million.<sup>17</sup>

According to the study, only 53 percent of the IDPs are aware of the 2004 compensations law, and 50 percent know about the Return to Village Project. The study also documents that about 50 percent of the IDPs want to return to their previous villages. However, there are many problems keeping them from returning. Security, mine fields, lack of infrastructure, and poor compensation schemes are among the major hurdles.

According to Diyarbakir Bar Association, the law on compensations has improved on paper, but there are still concerns about its implementation. "The commission dealing with the claims is not neutral", Mahusuni Karaman of the Diyarbakir Bar Association argues. "It is staffed by civil servants who work directly for the governor – and includes several members of the counter-terror department. These are the very people who inflicted damage on my clients in the first place."<sup>18</sup>

Up to March 2006, 32 000 people had filed claims in the Diyarbakir region alone. At that time, only 10 percent had been processed, and other regions were even slower.<sup>19</sup> Another problem is that compensation amounts are absurdly low, not providing a real chance of resettlement.<sup>20</sup>

In September 2006, complicating matters further, 56 Kurdish mayors were charged with aiding and abetting a terrorist organisation. They were indicted after sending a letter to the Danish Prime Minister Anders Fogh Rasmussen asking him not to close down Danish-based Kurdish Roj TV station. The mayors were charged with "knowingly and willingly" helping Kurdish rebels. During a court hearing, they argued that their letter did not contain any "words of support for the PKK" and that their right to free expression protected asking Denmark not to close down a television channel.<sup>21</sup>

The controversial system of village guards in the southeast provinces is still in place. According to official figures there were 57 601 village guards on duty in 2006.<sup>22</sup> Both bodies within the Turkish Grand National Assembly, The Parliamentary Assembly of the Council of Europe and the United Nations have recommended the abolition of the system. Among the main problems is a wide pattern of abuses committed by village guards, as well as a strong pressure on returning villagers to

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<sup>17</sup> Yigal Schleifer, "Turkey: Recent Study Sheds Light on Plight of Internally Displaced Persons", *Eurasianet.org*, 10 January 2007.

<sup>18</sup> Ibid.

<sup>19</sup> BBC News, "Payment woes mar Kurds' return", 31 March 2006.

<sup>20</sup> Human Rights Watch maintains in a December 2006 briefing paper, "increasingly, damage assessment commissions appear to apply arbitrary and unjust criteria in calculating compensation, resulting in absurdly low compensation amounts in many cases. These calculations consistently seem to favor the government and appear to be biased against the victims of government abuse." Human Rights Watch, *Unjust, Restrictive, and Inconsistent The Impact of Turkey's Compensation Law with Respect to Internally Displaced People*, December 2006.

<sup>21</sup> The Danish Prime Minister found it "rather shocking...that because you write a letter to me, you are being accused of violating the law", he told Danish media in June. "It is shocking that it can take place in a country which is seeking EU membership", Mr Rasmussen concluded. BBC News, "Kurdish mayors on trial in Turkey", 27 September 2006.

<sup>22</sup> Commission of the European Communities, *op.cit.*, page 23.

become village guards, which impedes the whole process of return. Village guards attract attacks by PKK, and carry out reprisals against unarmed civilians, as well as pursue blood feuds and tribal conflict, or engage in other forms of criminal behaviour with impunity. The return rate is particularly low in provinces where the village guard system is strong.<sup>23</sup>

There are several other minorities in Turkey, the 2 million Roma being one of the most significant. Roma often experience discrimination in access to housing, education, health and employment.<sup>24</sup>

Non-Muslim religious communities still face restrictions on the training of clergy and on foreign clergy to work in Turkey. Property rights remain an issue for the small Syriac community in the southeast as well as for some other Christian groups.

## Freedom of thought and expression

Freedom of thought and expression continue to be a controversial issue in Turkey. Opposition parties were always under pressure of several articles of the penal code, which criminalised certain expressions. Although legal changes were made in order to fulfil EU criteria, the cases against the author Orhan Pamuk and many other intellectuals show that those changes did not solve the problems. According to Human Rights Watch, in 2006 "more than 50 individuals were indicted for statements or speeches that questioned state policy on controversial topics such as religion, ethnicity, and the role of the army".<sup>25</sup>

The killing in Istanbul of the renowned Turkish-Armenian journalist Hrant Dink 19 January 2007, underlined the hostile environment for raising controversial issues in Turkey. Dink had written about the massacres of Armenians in southern Anatolia during the First World War, and had been prosecuted three times for "insulting Turkishness" under article 301 of the penal code. In July 2006, the Supreme Court upheld a six-month prison sentence.<sup>26</sup>

As a reaction to the killing, which were seen by many as being inspired by a long series of prosecutions of writers and journalists for their statements, calls for the government to repeal Article 301 are now getting louder. The main defence mounted by government officials has been that no writer has actually been sent to prison under the law. But the existence of restrictive law

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<sup>23</sup> Human Rights Watch, *Turkey: Letter to Minister Aksu calling for the abolition of the village guards*, June 8, 2006.

<sup>24</sup> Commission of the European Communities, *op.cit.*, page 23.

<sup>25</sup> Human Rights Watch, *World Report 2007* (events of 2006), page 426.

<sup>26</sup> Human Rights Watch, "Turkey: outspoken Turkish-Armenian Journalist Murdered", January 20, 2007. A teenager, 17 years old Ogun Samast was arrested for the murder after he was identified by his father from CCTV images taken near the scene of the killing. According to media reports, prosecutors say he confessed after being detained in the Black Sea port of Samsun, before he was returned to Istanbul for further questioning. BBC News, "Dink killing suspect 'confesses', 21 January 2007.

provisions and numerous indictments may have inspired nationalist extremists to eliminate persons they perceive as enemies of the state.

The penal code contains totally 14 articles restricting freedom of expression.<sup>27</sup> Human rights defenders, academicians, and EU representatives have repeatedly pointed at these restrictions, arguing that they should be amended as a matter of priority. However, the current AK party government have constantly repeated, "we shall wait for the implementation", instead of submitting further amendments to the parliament.

Many people expressing their thoughts about social and political issues have faced prosecutions also based on older laws than the 1 June 2005 penal code.

### Freedom of organization

Freedom of organization is still subject to restrictions. Trade unions, professional chambers, associations, foundations, and political parties were subject to administrative or judicial procedures, limiting their activities. A complicated legal framework for registration and functioning of non-governmental organizations remains an impediment to civil society development.

Some religious groups had to go to court in order to establish associations. Both the Diyarbakir Protestant Church and the Jehovah's Witnesses had their cases positively decided by a court.

Foundations need to inform the ministry of the interior before applying for projects outside Turkey or funding by international donors. In some cases, the ministry disclosed information about foundations being funded by international donors to the media, giving ground for criticism of the foundations that they serve as agents of foreign governments.

In general there are positive developments of civil society organisations. Currently approximately 80 000 associations are registered. However, there is scope for substantial improvements when it comes to dialogue between the authorities and non-governmental organisations. A human rights advisory board to the Prime Minister remains inactive after controversies in 2004 and 2005, resulting in resignation of the chairperson and five members of the board in March 2005.<sup>28</sup>

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<sup>27</sup> See Turkish Penal Code, articles 84, 125, 132, 134, 215, 216, 218, 285, 286, 288, 299, 301, 305, and 318.

<sup>28</sup> BBC News, "Turkey PM rights adviser resign", 25 March 2005.

## Recommendations

- In order to ensure that human rights gains resulting from the EU harmonization process are kept and that further reforms are initiated, Turkish authorities should increasingly explain to the public how Turkey benefits from human rights reforms.
  - Polls indicate that the public is increasingly skeptic about EU demands, feeling that the EU treats Turkey unfairly. The government should argue against a conception among people that reforms are only initiated because the EU demands them. Reforms should be defended in terms of domestic gains
  - Authorities should point to the ways human rights improves society, strengthening conflict management capacities and increasing institutional capacity at solving problems
  - Authorities should explain that in order to "bring human rights home"; there is a need for strong and independent institutions, which protect human rights. The newly established ombudsman institution should be duly equipped to take an active role in protecting human rights
- The government should initiate a process of drafting an overall Human Rights Plan of Action for, including ministries and other key institutions as well as civil society organizations in a dialogue of defining key human rights challenges and measures to deal with them. Norway, Sweden and some other European countries have run similar processes and adopted Human Rights Plan of Actions. This has led to comprehensive and efficient human rights policies, and Turkey could benefit from the experiences of these countries
- Authorities should re-initiate dialogue with civil society organizations on key human rights problems
- Turkey should accede to international human rights treaties it has still not ratified, like Protocol No 12 on the prohibition of discrimination by public authorities to the European Convention of Human rights; the First optional Protocol to the International Covenant on Civil and Political Rights (ICCPR); and the Optional Protocol to the UN Convention against Torture (OPCAT)
- Turkey should withdraw reservations on minorities' rights (ICCPR art. 27), and ratify the European Framework Convention on National Minorities. This should be paralleled by dialogue initiatives on cultural and linguistic rights of minorities, drawing on the expertise of the OSCE High Commissioner on National Minorities

- Turkey should accede to the Rome Statute of the International Criminal Court (ICC), and thereby give a strong signal that it no longer tolerate impunity for torture and other grave abuses
- The government should strengthen existing human rights education programs and initiate new programs for key sectors of society, such as the police, prosecutors, judges, religious leaders, and teachers. Textbooks should be scrutinized in order to ensure that they are supportive of human rights, excluding discriminatory language