



January 2011

country summary

## Turkey

Turkey's human rights record remained mixed in 2010. Arbitrary detentions, prosecutions, and convictions under terrorism laws and for speech crimes persisted, while the ruling Justice and Development Party (AKP) partially amended the constitution.

In September voters approved by referendum significant amendments to the 1982 constitution, including lifting immunity from prosecution for military and public officials for crimes committed during and after the September 12, 1980 coup, a reduced role for military courts, changes to judicial appointments, the right of individual petition to the constitutional court, and the creation of a new ombudsperson institution. The amendments open the way for further reform. The need for complete revision of the 1982 constitution to further human rights has been a recurring political discussion since the 2007 general election.

The government made little concrete progress towards realizing its 2009 plan to improve the human rights of Kurds in Turkey. The Constitutional Court in December 2009 closed down the pro-Kurdish Democratic Society Party (DTP) for alleged separatist activities, and hundreds of officials from the DTP and its successor, the Peace and Democracy Party (BDP), faced trial for membership of the Union of Kurdistan Communities, a body connected with the armed Kurdistan Workers' Party (PKK).

There is increasing agreement across the political spectrum on the need for a rights-based and non-military approach to ending the conflict with the PKK. Armed clashes between the Turkish military and the PKK continued. Disagreement erupted over whether the September attack on a minibus in Hakkari province, which killed nine civilians, was staged by the PKK, or by elements of the security forces. The PKK was suspected of the August and September killings of two imams in Hakkari and Sırnak.

In July workplaces and property belonging to Kurds in Inegol, Bursa province, and in Dört Yol, Hatay province, were attacked. Following police investigations into the incidents—resembling similar ethnically-motivated attacks in recent years—four people were tried for the Dört Yol attacks and 21 are imprisoned pending trial for the Inegol attacks at this writing.

## Freedom of Expression, Assembly, and Association

Despite a climate of increasingly open debate, individuals continued to be prosecuted and convicted for non-violent speeches, writings, and participating in demonstrations. The practice of holding suspects charged with non-violent crimes in prolonged pre-trial detention continued.

Journalists and editors remained targets for prosecution. Legitimate news reporting on trials was deemed “attempting to influence a judicial process,” reporting on criminal investigations was judged as “violating the secrecy of a criminal investigation,” and news reports on the PKK was deemed “terrorist propaganda.”

Some editors and journalists faced scores of ongoing legal proceedings in 2010. The case of Vedat Kursun stands out among those convicted in 2010. The editor of Kurdish daily *Azadiya Welat*, Kursun received a 166-year prison sentence in May for 103 counts of “terrorist propaganda” and “membership” in the PKK. At this writing he remained in prison pending an appeal.

Long-term restrictions on access to websites, including YouTube, continued. Leftist and pro-Kurdish political newspapers and journals were subject to arbitrary closure. In 2010 the European Court of Human Rights (ECtHR) condemned Turkey twice for using its Anti-Terror Law to ban publication of entire periodicals, saying the move was censorship that violated free expression. The court found Turkey had violated free expression in at least 10 other rulings in 2010.

Courts continued to use terrorism laws to prosecute hundreds of demonstrators deemed to be PKK supporters as if they were the group’s armed militants. Most spent prolonged periods in pre-trial detention, and those convicted received long prison sentences. A legal amendment by parliament in July will mean that convictions of children under the laws will be quashed. The laws remain otherwise unchanged.

Hundreds of officials and activist members of the pro-Kurdish party DTP and its successor BDP (which has 20 parliamentary members) were prosecuted during the year, including for links to the Union of Kurdistan Communities (KCK/TM), a body associated with the PKK’s leadership.

In October seven mayors, several lawyers, and a human rights defender (see below) were among 151 officials and activists tried in Diyarbakir for alleged separatism and KCK membership. At this writing the mayors have spent 10 months—and the 53 other defendants

have spent 18 months—in pre-trial detention, while around 1,000 DTP/BDP officials and members suspected of KCK affiliation were in pre-trial detention nationwide, raising concerns about the right to political participation.

## **Human Rights Defenders**

The ECtHR ruled in September that Turkey had failed to protect the life of Hrant Dink, a Turkish-Armenian journalist and human rights defender, or to conduct an effective investigation into his January 2007 murder. The three-year murder trial of the alleged killer and 19 others continued in Turkey. The ECtHR also found that Dink’s conviction for “insulting Turkishness” violated his right to free expression.

Muharrem Erbey, vice-president of the Human Rights Association (HRA) and chair of its Diyarbakir branch, was arrested in December 2009 for alleged KCK/TM membership and held in detention until his trial in October. He remains in detention at this writing. Vetha Aydin, chair of HRA’s Siirt branch, was arrested in March for alleged KCK membership. She remained in pre-trial detention at this writing.

## **Torture, Ill-Treatment, and Use of Lethal Force by Security Forces**

Police ill-treatment remained a problem, particularly during street stops, demonstrations, and arrests. Torture and ill-treatment in detention was less common, but at this writing there are at least four cases of deaths in custody in disputed circumstances in 2010.

In May police beat five transgender members of Ankara-based NGO Pembe Hayat (Pink Life Lesbian, Gay, Bisexual, Transgender and Transsexual Solidarity Association) in the street in front of witnesses before detaining them. Following a familiar pattern, the five were promptly charged with resisting police before the prosecutor had concluded an investigation into their ill-treatment, which remains ongoing at this writing. They were acquitted at their October trial. Use of firearms by police and the gendarmerie remained a matter of concern, particularly against unarmed suspects. There was no progress on tightening rules governing use of force. Gendarmes shot dead at least nine suspected smugglers in the border regions of Van, Sirnak, and Urfa during the year.

## **Impunity**

Several of the constitutional changes made in September have implications for ending impunity. Restricting the jurisdiction of military courts is an important step towards ensuring that trials of military personnel for human rights abuses take place in civilian courts. The

repeal of a provision in the constitution granting immunity from prosecution to military and public officials for crimes committed during and after the 1980 military coup is significant, although jurists debate whether existing statutes of limitations for torture and murder will impede prosecution.

In a landmark ruling on June 19 prison guards, gendarmes, police officers, and a doctor were convicted in connection with the October 2008 beating to death of Engin Çeber, and the torture of three other political activists arrested with him in Istanbul. Nine guards, including a senior prison official, and police officers received sentences ranging from two-and-a-half years to life imprisonment.

The verdict in the Çeber case remains an exception and impunity remains a formidable problem in Turkey. In general, prosecutors failed to conduct effective, timely, and independent investigations of allegations against the police and gendarmerie, and prosecutions against state officials remained protracted. Two police officers who severely beat lawyer Muammer Öz in Istanbul in July 2007 were given suspended sentences in January 2010, effectively escaping sanction.

Three trials of alleged anti-government coup plotters (the "Ergenekon" gang, comprising senior retired military, police, mafia, journalists, and academics) continued. In related prosecutions, 69 naval officers faced trial for plotting a 2008 campaign of violent attacks aimed at destabilizing the government, and 196 retired and serving military personnel were due to stand trial starting in December 2010 for a 2003 coup plot. Willingness to pursue these cases offers potential for wider efforts to end impunity.

The most significant attempt at bringing to justice state perpetrators of extrajudicial killings and "disappearances" continued with the ongoing trial in Diyarbakır of a now-retired colonel, village guards, and informers for the murder of 20 individuals between 1993 and 1995 in Cizre, Sırnak province.

### **Key International Actors**

Despite concerns about Turkey "turning east," European Union membership and maintaining good relations with the United States and other traditional allies remain stated priorities for the government.

The US failed in 2010 to build on the momentum of President Barack Obama's 2009 visit, focusing on Turkey's foreign policy in the Middle East and Armenia rather than its domestic human rights record.

The EU praised the constitutional reforms, and remains an influential actor in Turkey. But the stalemate over Cyprus stalled Turkey's accession negotiations in many areas, and leading member states such as France and Germany continued to oppose Turkey's membership bid. The European Commission's November progress report on Turkey concluded that reforms made that year were "of limited scope," called for the wholesale revision of the constitution, and raised concerns about freedom of expression, long pre-trial detention, gender equality, and use of anti-terror laws.

In its July review of Turkey, the UN Committee on the Elimination of Discrimination against Women (CEDAW) recommended that Turkey "continue to accord priority attention to the adoption of comprehensive measures to address violence against women."

Following its Universal Periodic Review by the UN Human Rights Council in May, Turkey argued that it was already implementing many of the recommendations made, but notably refused those that would bring its definition of minorities in line with international law, or to wave its reservations to international law that upholds minority rights.