

## Turkey

The Justice and Development Party (AKP) and Recep Tayyip Erdoğan—elected president in August 2014—are undermining the gains of the past decade with steps that erode human rights and the rule of law in Turkey. In the wake of the mass protests in the summer of 2013 that began in Istanbul and spread to other cities, the government continued a policy of controlling media and the Internet and clamping down on critics.

Corruption allegations in December 2013 implicating the government, with Istanbul prosecutors ordering scores of arrests in December, were followed by circulation on social media of politically damaging leaked telephone calls supporting the allegations. In response, the government intensified its interference in the criminal justice system, reassigning judges, prosecutors, and police, attempted to exert greater executive control over Turkey’s already politicized judiciary, and clamped down on Internet freedom.

The corruption allegations emerged in the context of a political contest between Erdoğan’s circle within the AKP and their former long-term ally, the Gülen (or Hizmet) movement, led by the US-based cleric Fethullah Gülen, which the government accuses of exerting an undue influence in state institutions, the police, and the judiciary, and of attempting a “coup” against it.

More positively, negotiations with imprisoned Kurdistan Workers’ Party (PKK) leader Abdullah Öcalan to end the decades-long armed conflict with the PKK announced at the beginning of 2013 continued in 2014. Bolder steps to address the rights deficit for Turkey’s Kurds could address the root causes of the conflict and help further human rights for all ethnic and religious minority groups in Turkey. While the military and the PKK broadly maintained a ceasefire through 2014, around 50 civilians died in violent protests in early October in cities throughout the southeast. The circumstances of most of these deaths had not been fully investigated at time of writing, but the protests themselves followed the Kurdish political movement’s strong criticism of the Turkish government’s approach to the

siege of the Syrian Kurdish city of Kobani (Ayn al-Arab) by the extremist group Islamic State, also known as ISIS.

## **Freedom of Expression, Association, and Assembly**

The government's erosion of media freedom continued. Readiness to limit freedom of expression, restrictive approach to freedom of assembly, and readiness to prosecute demonstrators while tolerating police violence against them, were among features most damaging to Turkey's democratic credentials and international reputation during the year.

The government responded to the use of social media to disseminate leaked phone calls implicating ministers and family members in corruption by tightening the already restrictive Internet law and blocking Twitter and YouTube in Turkey for several weeks, prompting a joint statement in March from three United Nations special rapporteurs. Both sites were reopened in April and May respectively after the Constitutional Court ruled against the blocking orders.

The clampdown included a rise in broadcasting watchdog disciplinary fines applied selectively to anti-government media, criminal defamation cases against journalists, the firing of some prominent journalists, and blocking orders on particular accounts and content on social media. Through these measures, the government is impeding the ability or likelihood of media to hold government authorities to account or to scrutinize their activities.

In the year after the Taksim Gezi Park protests in Istanbul and anti-government protests in other cities across Turkey, thousands of demonstrators faced legal proceedings. In some cases the courts acquitted defendants at the first hearing, but other trials continued at time of writing. Some defendants charged with terrorism offenses and still on trial spent up to 10 months in pretrial detention before being bailed.

In June, the trial began of five organizers of Taksim Solidarity, a platform of 128 nongovernmental organizations supporting the Gezi Park campaign and sit-in. They were charged with forming a criminal gang, inciting and participating in unlawful demonstrations, and refusing orders to disperse. Their trial with 21 codefendants continued at time of writing. In September, an Istanbul prosecutor indicted 35 people

associated with the Beşiktaş football club fan group Çarşı for their participation in the Gezi protests on a range of charges including an alleged coup attempt against the government.

Trials continued of Kurdish political activists, journalists, students, and lawyers on widely used terrorism charges such as “membership of an armed organization.” The evidence against them in most cases concerned nonviolent political association and protest.

However, in March the government took the welcome steps of abolishing the Special Heavy Penal courts whose remit was terrorism offenses, and cutting the maximum period for pretrial detention to 5 years (from 10), resulting in the release on bail of many defendants. Among those bailed were hundreds of defendants tried for alleged links to the outlawed Union of Kurdistan Communities (KCK), including human rights defender Muharrem Erbey, bailed in April after spending over four years in pretrial detention on terrorism charges. The abusive application of terrorism charges remains a serious problem.

## **Judicial Independence**

Turkey has long-standing defects in its justice system including concerns over judicial independence, inadequate investigations into abuses by state actors, excessive length of proceedings, and politically motivated prosecutions.

Developments in 2014 highlighted the politicization of Turkey’s judiciary. In responding to the corruption investigations, the government asserted that followers of the Gülen movement were strongly represented in the judiciary and police.

In the name of reducing the alleged influence of the Gülen movement in the justice system, the government took steps to bring the police, prosecutors, and judges under greater executive control. The government oversaw the mass reassignment or demotion of judges, prosecutors, and police, including all those involved in the corruption investigations. It adopted a law in February to restructure the Higher Board of Judges and Prosecutors (Hâkimler ve Savcılar Yüksek Kurulu, HSYK) responsible for the administration of the judiciary, to tie it closer to the executive, and created in July a new category of criminal judges of the peace responsible for key decisions at the criminal investigation stage.

In April, the Constitutional Court partially quashed key provisions of the HSYK law concerning enhanced powers for the Minister of Justice on the grounds that they violated the separation of powers in important respects, threatened judicial independence, and opened the way to political pressure on the judiciary.

In June, 237 military personnel serving sentences after convictions for coup-plotting in the Sledgehammer case were released from prison after the the Constitutional Court ruled that they had not had a fair trial and ordered retrials. Defendants in the Ergenekon trial whose convictions were under appeal were bailed in March when pretrial detention was cut from 10 to 5 years.

### **Combating Impunity**

Great obstacles remain in securing justice for victims of abuses by police, military, and state officials. In April 2014, the government introduced a law giving immunity from prosecution to personnel of the National Intelligence Agency (Milli İstihbarat Teşkilatı, MİT), unless the agency itself expressly authorizes prosecution. This measure, which is incompatible with Turkey's human rights obligations, creates a risk that intelligence personnel might be immune from accountability for serious human rights violations committed during their duties, including torture. At time of writing, the law was under appeal before the Constitutional Court.

Despite thousands of killings and disappearances of Kurds by state officials in the 1990s, only a handful of trials of officials have taken place. The 20-year statute of limitations on the prosecution of unlawful killings remains a major obstacle to justice and many cases risk being timed out without urgent action to address it. Stronger efforts to combat impunity are vital to support the Kurdish peace process.

In June, a military court upheld a decision of non-prosecution in the case of the attack by the Turkish Air Force in December 2011 that killed 34 Kurdish villagers near the village of Roboski (Ortasu) close to the Iraqi Kurdistan border. An appeal by the families of the victims to the Constitutional Court was pending at time of writing.

Few investigations were concluded into police violence and disproportionate use of force against demonstrators during the May-June 2013 Gezi protests around the country. In a July 2014 communication to the Committee of Ministers of the Council of Europe on the right to freedom of assembly (regarding the Oya Atman group of cases), the Turkish government claimed that after the countrywide Gezi protests, 329 criminal investigations into the police had been launched in 13 provinces, of which 59 had resulted in decisions of nonprosecution, 6 in prosecutions, and the remainder were still pending.

A police officer who shot dead Ethem Sarısülük in June 2013 during an Ankara protest received an eight-year sentence for “probable intent to kill.” There were delays in the trials of police and civilians charged with killing demonstrators Ali İsmail Korkmaz and Abdullah Cömert. Decisions in these cases to transfer the trials to locations at significant distance from the place of the crime disadvantages the families of the victims and their lawyers. At time of writing there was an ongoing investigation into police for the shooting with a tear gas canister of 14-year-old Berkin Elvan who died in March after nine months in a coma.

The retrial of a group of young men for the January 2007 murder of journalist Hrant Dink continued. In July, the Constitutional Court ruled that the murder investigation had not been conducted in an effective manner.

## **Refugees**

As of October 2014, according to official estimates, Turkey was hosting 1.6 million refugees from Syria, 220,000 in camps and the remainder in urban areas, as well as around 80,000 mostly Afghan asylum seekers and refugees from other nationalities.

A new asylum law, which went into effect in April 2014, maintains Turkey’s geographical limitation to its accession to the Refugee Convention but, for the first time, enshrines asylum and subsidiary protection as a matter of law, including provisions for legal aid, on unaccompanied children and on nonrefoulement. It limits administrative detention of migrants pending deportation to six months (extended for another six months for noncooperation) with the stipulation that detention ordinarily should not be used for asylum seekers.

## Key International Actors

The European Union, EU member states, and the United States expressed concerns about Turkey's record on Internet freedom, judicial independence, and moves to undermine the rule of law, while commending Turkey for hosting over one million refugees from the war in Syria.

The European Commission in its annual progress report released in October commended the Turkish government's moves to put the Kurdish peace process on a legal footing, advised that full revision of the 1982 constitution constitutes "the most credible avenue for advancing further democratization of Turkey," and raised "serious concerns" about government interference in the judiciary following corruption allegations and blanket bans on Twitter and YouTube.

There was no progress in the EU accession process. An EU readmission agreement with Turkey came into force in October, allowing EU governments to return Turkish citizens residing in the EU without authorization to Turkey, and after a three-year transition period permitting the EU to return irregular migrants from other countries to Turkey in cases where it is established that they entered the EU via Turkey.

Among the European Court of Human Rights rulings against Turkey in 2014, a September decision on religious education classes (*Mansur Yalçın and Others v. Turkey*) found that when it comes to compulsory religious instruction, the Turkish education system is still inadequately equipped to ensure respect for parents' convictions because of the overwhelming emphasis on Sunni Islam. The court ruled that, without delay, Turkish authorities had to permit pupils the right to be exempt from religion and ethics classes without requiring a reason.

In September, the Turkish government announced that it would sign two International Labour Organization (ILO) conventions (nos. 167 and 176) on safety and health in mining and construction. The May 13 mining accident at the Soma mine in western Turkey in which 301 miners died highlighted that Turkey has one of the world's worst records on fatal accidents in the mining and construction industries, lacks effective oversight and

inspection to ensure safety and work conditions, and has a poor record of holding companies accountable for accidents.

## **Foreign Policy**

The conflicts in Syria and Iraq had a growing impact on Turkey, particularly in the wake of the June 2014 consolidation of power by ISIS when it occupied large swathes of Syria and Iraq and took hostage Turkey's Mosul consul general and 48 consular staff and their family members. Turkey managed to secure their release in September. The Turkish parliament voted in October to grant the Turkish government wide-ranging powers to intervene militarily in Syria and Iraq.

Turkey's approach to Syria primarily advocated the overthrow of the Assad government, viewing the US coalition focus on combating ISIS as inseparable from that aim.

As prime minister, and now president, Erdoğan has consistently and publicly criticized the Egyptian government of Abdel Fattah al-Sisi since it deposed President Mohamed Morsy in 2013. Turkey's stance on Egypt has reduced its ability to influence powers in the Middle East supportive of the Sisi government.

Turkey was a strong critic of Israel's military operations in the Gaza Strip in July-August and diplomatic relations between the two countries remain limited. There was no normalization in relations with Armenia and their shared border remained closed.