

# 2009 Human Rights Report: Turkey

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

## 2009 Country Reports on Human Rights Practices

Report

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Turkey, with a population of approximately 72 million, is a constitutional republic with a multiparty parliamentary system and a president with limited powers. In a 2007 referendum a majority of voters approved the direct popular election of future presidents for a maximum of two five-year terms. Just prior to the referendum, the single-chamber parliament, the Turkish Grand National Assembly, elected Abdullah Gul as president. The country held parliamentary elections in 2007 that were considered free and fair; the Justice and Development Party (AKP) won the majority of seats and formed a one-party government under Prime Minister Recep Tayyip Erdogan. Civilian authorities generally maintained effective control of the security forces.

There were reports of a number of human rights problems and abuses in the country. 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. During the year human rights organizations reported cases of torture, beatings, and abuse by security forces. Prison conditions improved but remained poor, with chronic overcrowding and insufficient staff training. Law enforcement officials did not always provide detainees immediate access to attorneys as required by law. There were reports that some officials in the elected government and state bureaucracy at times made statements that some observers believed influenced the independence of the judiciary. The overly close relationship of judges and prosecutors continued to hinder the right to a fair trial. Excessively long trials were a problem. The government limited freedom of expression through the use of constitutional restrictions and numerous laws and through the application of tax fines against media conglomerates. There were limitations on Internet freedom. Courts and an independent board ordered telecommunications providers to block access to websites on numerous occasions. Some religious groups were restricted from practicing their religion openly, owning property, and training leaders. Violence against women, including honor killings and rape, remained a widespread problem. Child marriage persisted, despite laws prohibiting it. Some cases of official corruption contributed to trafficking in persons for labor and sexual exploitation.

The government amended the penal code on June 26 to prohibit trials of civilians in military courts. There were also positive developments during the year with respect to freedom of expression and the use of Kurdish and other non-Turkish languages, including the following: a substantial decrease in the number of prosecutions and convictions based on article 301, which prohibits insults to the "Turkish state"; the formal launch of a 24-hour Kurdish-language state television station on January 1; broadcasts in Armenian on state television for half an hour twice a day on April 2; new regulations on November 13 allowing for 24-hour private television stations to broadcast in languages other than Turkish; new prison regulations in November allowing prisoners to speak languages other than Turkish with their visitors; and approval in September of a university department to teach the Kurdish language among other "living" languages.

### **RESPECT FOR HUMAN RIGHTS**

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, security forces killed a number of persons during the year.

The nongovernmental organization (NGO) Human Rights Foundation (HRF) reported that security forces caused the deaths of seven persons during demonstrations. On February 15, Sinan Aydin died after exposure to tear gas during a demonstration in Diyarbakir. On April 4, police shot and killed Mahsum Karaoglan and Mustafa Dag during a demonstration in Halfeti, Sanliurfa. On December 6, university student Aydin Erdem was shot and killed while participating in a demonstration in Diyarbakir. Investigations continued in these cases at year's end.

Yahya Menekse died after being run over by an armored police vehicle during a demonstration in Cizre, Sirnak, in February 2008. There were no new developments in the case at year's end.

After a July 16 hearing, the case of the death of Mehmet Deniz during a clash between demonstrators and security forces at a demonstration to mark World Women's Day in 2008 continued at year's end. The prosecutor opened a case against a police officer for causing the death. The police claimed that Deniz was killed by a stone thrown by a demonstrator.

At year's end a criminal case had not been filed in the police shooting and killing of Zeki Erinc during Nevruz celebrations in 2008. The HRF reported that a criminal case could not be filed until the administrative case, which the organization noted was moving very slowly, had ended.

There were continuing reports that security forces shot and killed civilians who refused to obey a warning to stop. A joint report from the Human Rights Association (HRA) and HRF stated that 46 persons died specifically for refusing to stop, an increase over the previous year.

Human rights organizations continued to state that the government's failure to delineate clearly appropriate situations for the use of lethal force, in the revised Antiterror Law or other laws, contributed to cases of disproportionate use of force. On May 28, police officer Mustafa Aktas was convicted and sentenced to five years' imprisonment for the 2008 killing of Gokhan Ergun for not obeying a warning to stop.

The HRF reported that there had been no investigation into the August 2008 death of driver Turan Ozdemir for refusing an order to stop.

On January 21, the government began its prosecution of 60 suspects, including wardens, police officers, and a prison director, in the death of Engin Ceber, who died of a brain hemorrhage in October 2008, reportedly as a result of a beating by security forces during his detention and later by prison officials in jail. Justice Ministry inspectors submitted a report to the court in November recommending eight wardens be expelled from public service and reprimands be issued to four prison administrators and 41 wardens. Six of the suspects were placed under arrest, and the case continued at year's end.

After an appeal of the Istanbul prosecutor's December 2008 decision to close the investigation of seven police officers suspected in the death of Mustafa Kurkcu in Umraniye prison in 2007 from cerebral hemorrhaging, the court reopened the case. The trial of nine police officers began on July 9. The police officers did not appear for trial at the first hearing and were brought to court by force to testify on October 20. The trial continued at year's end.

As of year's end no developments were reported in the case of Ejder Demir, an ethnic Kurd whom security forces shot and killed in 2007 in the Asagi Kockiran village in eastern Van Province. An NGO delegation that visited the town after his death reported claims that soldiers shot Demir in the back without warning; government officials maintained that Demir was trying to flee when shot. After a December hearing, the case continued at year's end.

On April 9, a Bakirkoy court convicted police officer Ali Mutlu for the 2007 death of Feyzullah Ete in Istanbul. Mutlu was given five years' imprisonment.

The HRF reported 33 deaths of prison inmates and five deaths in detention through December 1. According to the Ministry of Justice, 116 inmates died of sickness during the year and 34 committed suicide.

The Turkish General Staff reported there were no deaths of detainees or convicts in military prisons during the year.

In 2008 the European Court on Human Rights (ECHR) found 11 violations by the country of the European Convention on Human Rights with regard to right to life or involving the deprivation of life.

The case against an officer from the Beyoglu District of Istanbul for the 2007 killing of Nigerian refugee Festus Okey continued at year's end. Okey died in a police station during interrogation by the officer, who allegedly had a gun. The Beyoglu penal court was requesting information to confirm his identity from the government of Nigeria at year's end. Some human rights activists saw this as a delaying tactic by the courts.

According to the security forces (military, Jandarma, and the Turkish National Police (TNP), 36 civilians were killed and 115 were injured, 77 members of the security forces were killed and 385 were injured, and 105 terrorists were killed and five were injured in armed clashes related to the struggle against the Kurdistan Workers' Party (PKK) during the year. Most of the clashes between terrorists and security forces occurred in the southeast. The numbers of civilian deaths and injuries decreased from 2008.

According to the HRF land mines and unattended explosives killed nine civilians and injured 26 during the year, a decline from the previous year.

On several occasions throughout the year government military aircraft attacked areas controlled by the PKK in northern Iraq.

b. Disappearance

Unlike in 2008, there were no reports of politically motivated disappearances during the year.

The HRF determined that human rights activist Hasan Onay, reported missing in 2008, had fled the country to live abroad.

At year's end there was no development in the 2007 case of Enver Elbat. Elbat's father reported that his son had been detained for 12 years. He alleged the police told him to look for Elbat in the mountains when he requested more information about his son's disappearance.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices; however, members of the security forces continued to torture, beat, and abuse persons.

Human rights organizations continued to report cases of torture and abuse in detention centers and prisons during the year. They alleged that torture and abuse had moved outside of detention centers and into more informal venues where it was harder to document. In a 2008 report, Amnesty International (AI) noted that investigations into human rights violations by police were flawed and that prosecutions remained insufficient. AI also noted that statements allegedly extracted under torture were admitted as evidence in court.

The HRF reported that courts investigated allegations of abuse and torture by security forces during the year; however, they rarely convicted or punished offenders. Authorities typically allowed officers accused of abuse to remain on duty during their trials.

In its October progress report, the European Commission reported that countercases for resisting arrest frequently initiated by security forces against persons who allege torture or abuse had a potentially deterrent effect on the filing of abuse complaints.

A 2008 report by the parliamentary Human Rights Investigation Commission found that, between 2003 and 2008, 2 percent of the 2,140 personnel who were investigated due to accusations of torture or mistreatment were given disciplinary sentences.

The TNP reported 11 cases of torture allegations (two were acquitted and nine were dropped by the judiciary for lack of evidence) and opened administrative and judicial investigations against 104 personnel (68 received no punishment and 36 cases continued at year's end). As of November, no cases of prosecution against alleged torture suspects resulted in conviction or firing.

According to a report by the Prime Ministry's Human Rights Presidency (HRP), three torture and 54 cruel treatment cases were reported in the first six months of the year.

According to the HRA there were 655 reports of torture in the first nine months of the year, an increase over the previous year. The HRF reported that, in the first eight months of year, 283 persons applied to the HRF's centers for assistance.

Of these, 111 cases involved torture or abuse inflicted during the year; the rest involved alleged abuse incidents that occurred previously. A number of human rights observers claimed that only a small percentage of detainees reported torture and abuse because most feared retaliation or believed that complaining was futile.

In an October 2008 report the NGO Societal and Legal Research Foundation (TOHAV) reported an increase in torture cases during 2008. Based on a study of 275 surveys from individuals who submitted credible reports of torture from 2006 through 2008, TOHAV found that 210 of the victims were ethnic Kurds, 55 ethnic Turks, and 10 ethnic Arabs. Fifteen of

the victims claimed they were abused in a police car, 83 in open fields, and 76 in police stations. Only 70 of the torture allegations resulted in criminal complaints, and only five of those resulted in court cases.

The Council of Europe's Committee for the Prevention of Torture (CPT) and domestic human rights observers reported in 2008 that security officials mainly used methods of torture and abuse that did not leave physical signs, including repeated slapping, exposing detainees to cold, stripping and blindfolding detainees, food and sleep deprivation, threatening detainees or their family members, dripping water on detainees' heads, isolation, and mock executions. Human rights activists, attorneys, and physicians who treated victims stated that, because of increased punishments for torture and abuse, police who engaged in these practices often did so outside of police detention centers to avoid detection. The CPT visited during the year but had not published a report by year's end.

Human rights activists maintained that those arrested for ordinary crimes were as likely to suffer torture and mistreatment in detention as those arrested for political offenses such as speaking out against the government, although they were less likely to report abuse. According to a number of human rights groups and press reports, authorities allegedly tortured some suspects to obtain confessions, while others such as transvestites were regularly subject to abuse by police on "moral" grounds.

At year's end the trial continued against police officer Gazi Ozuak from the Van Security Directorate on charges of torturing theft suspect Zeki Simsek in 2008. Simsek claimed that he had been tortured with nails and cigarettes during his interrogation and that the mistreatment was verified by a medical report by the Van State Hospital. While awaiting trial, Ozuak was promoted into the Ankara Antiterror Department.

On May 8, the Bakirkoy penal court continued the case against seven police officers for the 2007 shooting and paralysis of Ferhat Gercek while he was selling *Yuruyus*, a leftist newspaper. Gercek's trial for resisting arrest, which carried a possible punishment of up to 15 years and four months' imprisonment, continued at year's end.

No action had been taken at year's end in the 2008 case of Derya Bakir, who suffered fractures in both legs due to alleged cruel treatment by 20 guards while visiting her brother, held at the Ankara Sincan prison for being a member of a leftist organization.

At year's end no official action had been taken against officials for the 2008 beating with sticks and kicking of three prisoners in Bolu prison, Muzaffer Akengin, Deniz Guzel, and Naif Bal.

In 2008 the ECHR found 30 violations by the country of the prohibition against cruel and degrading treatment and three violations of the prohibition against torture as provided by the European Convention on Human Rights.

At year's end there was still no investigation into the 2007 criminal complaint filed by a Diyarbakir woman alleging that police tortured her while she was visiting her detained husband at a police station.

At year's end there was still no investigation into the 2007 alleged police beating in Istanbul of Sinan Tekpetek, a leader of 52 Percent, a group that protests the country's university entrance examination system, and editor of *52 Percent Anger* magazine and *Ozgur Hayat* (Free Life) newspaper. Tekpetek alleged that police officers sprayed him with tear gas and beat him during a traffic stop, then drove him to a field where they continued to beat him before driving away and throwing him out of the moving car.

Human rights organizations documented many cases of prison guards beating inmates during the year.

After an investigation the government conducted decided no charges should be filed against officials who allegedly tortured two boys ages 17 and 18 while they were imprisoned for 10 days on allegations, later withdrawn, that they had committed rape in a boys' shelter in 2007.

The government conducted an investigation and decided no charges should be filed against a team of guards at Kirikkale prison who were alleged to have severely beaten and mistreated two prisoners after they were transferred to Kirikkale from Sincan prison in 2007.

In November the Malatya penal court sentenced nine women each to three years and one month in prison, and one woman for four years and two months in prison in the criminal trial of 12 orphanage employees accused of abusing children at the Malatya State Orphanage in 2005. Two other women were acquitted for lack of evidence. The Malatya penal court had previously sentenced eight orphanage employees to one year in prison for "neglecting their duties" but postponed execution of the sentence in March 2008. The investigations began in 2005 when the media showed footage of employees beating naked orphanage children, some of whom alleged they had been forced to eat excrement. A

physical examination produced evidence that 21 of 46 children had been subjected to torture, including severe beatings and hot water burns.

#### Prison and Detention Center Conditions

Prison facilities remained inadequate although conditions generally improved during the year. Underfunding, overcrowding, and insufficient staff training were problems.

At year's end the Ministry of Justice reported the country had 367 prisons with a designed capacity of 105,726 holding a total of 114,502 inmates, 59,474 of whom were detainees awaiting trial. The Turkish General Staff reported 25 military prisons with a capacity of 5,300 held a total of 1,036 prisoners, 678 of whom were arrestees with trials in progress.

According to the Turkish Medical Doctors' Association, prisons were not adequately staffed with doctors, and psychologists were available only at some of the largest prisons. Several inmates claimed they were denied appropriate medical treatment for serious illness. The HRF reported that 672 arrestees or convicts could not receive proper medical treatment during the year because they were either not sent to a doctor or taken to a doctor in handcuffs, or because third parties were present during their examinations.

Foreigners who claimed asylum after being detained by security forces were held in "guest houses for foreigners" operated by the Foreigners' Department of the TNP. According to the United Nations High Commissioner for Refugees (UNHCR), detained asylum seekers reported insufficient food and medical attention and overcrowded conditions.

Juveniles were held in separate wards from adults. Detainees and convicts occasionally were held together. Inmates convicted for nonviolent, speech-related offenses were sometimes held in high-security prisons.

The Justice Ministry reported that as of October 31, there were 2,622 children in prisons. A joint HRA/HRF report claimed that 177 of these were ethnic Kurdish children held under antiterror laws for throwing stones at police during pro-PKK protests in the southeast.

The government permitted prison visits by representatives of some international organizations, such as the CPT, which conducted a periodic visit to the country on June 4-17. Domestic human rights organizations and activists reported that prison-monitoring boards composed of government officials and private individuals were ineffective.

On November 17, five inmates were transferred to the Imrali prison, where PKK leader Abdullah Ocalan had been the sole prisoner for the past 10 years. Ocalan was moved to a different cell a few inches smaller than his old one but with a toilet in an adjacent corner and an extra window. He was given access to the outdoors for exercise and a prison shop. He was allowed regular contact with the other prisoners for 10 hours each week.

In 2007 the Ministry of Justice issued a regulation that restricted the ability of members of parliament, except for those on the Human Rights Committee, to visit inmates who were convicted of terrorism or violations against the constitution and state. According to government sources, officials adopted the regulation to prevent possible attempts by the pro-Kurdish former Democratic Society Party (DTP) deputies to visit Abdullah Ocalan. Human rights activists called the measure undemocratic and argued that reducing parliamentarians' access to prisons would diminish oversight of continuing problems, such as torture.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, the government at times did not observe these prohibitions.

#### Role of the Police and Security Apparatus

The TNP, under Ministry of Interior control, is responsible for security in large urban areas. The Jandarma, paramilitary forces under the joint control of the Ministry of Interior and the military, is responsible for policing rural areas. The Jandarma is also responsible for specific border sectors where smuggling is common; however, the military had overall responsibility for border control. Human rights groups reported that judicial police, established to take direction from prosecutors during investigations, continued to report to the Ministry of Interior.

A civil defense force known as the village guards, concentrated in the southeast, was less professional and disciplined than other security forces. The village guards have been accused repeatedly in past years of drug trafficking, corruption, theft, rape, and other abuses. Inadequate oversight and compensation contributed to the problem, and in many cases Jandarma allegedly protected village guards from prosecution. Although security forces were generally considered effective, the village guards, Jandarma, and police special forces were viewed as most responsible for abuses. Corruption and impunity remained serious problems.

During the year, the government made progress in reforming the village guard system as required by a 2007 law which, according to government officials, is intended to gradually phase out the system through retirement while providing social support for village guards. It had reduced the number of village guards to 48,276, from 63,000 in previous years.

On May 4, a group of village guards attacked a wedding ceremony in Bilge, Mardin, killing 44 persons, including seven children, and injuring 10. While the motivation for the attack was reportedly personal, the attack was conducted with weapons provided to the assailants as village guards. Government officials immediately condemned the attack. Nine gunmen were arrested and two minors were tried separately. In June the nine gunmen were indicted for murder by the Mardin penal court. Each suspect faced life imprisonment for each count of murder. Later, for security reasons, the trial was moved to the Corum penal court. The trial continued at year's end.

The TNP and Jandarma received specialized training in a number of areas, including human rights and counterterrorism. A total of 14,413 TNP personnel received training on human rights. According to the government, the military emphasized human rights in training for officers and noncommissioned officers. A total of 32 hours of human rights training is given to officers, NCOs, and Jandarma cadets. In some cases NGOs were invited to provide input or training to security forces during the year.

The Jandarma reported that through November complaints were filed against 155 Jandarma personnel for excessive use of force and mistreatment. Of these, administrative action was taken against one, 47 were found to be "baseless," four were duplicate complaints, and 97 remained under review at year's end. A total of 118 Jandarma personnel were expelled for various reasons during the year.

The TNP reported that through November 63 judicial or administrative cases were opened against TNP personnel for excessive use of force and mistreatment. Investigations were dropped in 38 cases because there was "no need to punish" or "no need to reach a decision." Twenty-four cases continued at year's end.

On September 22, the Court of Appeals upheld the acquittal of a police officer who shot and killed a demonstrator who was throwing stones at a protest in Siirt in 2005. The court held that the officer used his weapon with "understandable fear" during a demonstration in which protestors had surrounded his vehicle and chanted terrorist propaganda.

The Court of Appeals rejected the request of the Ministry of Justice to reduce the sentences of four police officers who were each sentenced to eight years in prison in 2007 for the 1991 torture and killing of Hacettepe University student Birtan Altinbas.

#### Arrest and Detention

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 he determines that the accused is likely to flee the jurisdiction or destroy evidence. 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 law requires that the government provide indigent detainees with a public attorney in criminal cases where the defendant faces a penalty of more than five years in prison.

Private attorneys and human rights monitors reported irregular implementation of these regulations, particularly with respect to attorney access. According to a number of local bar associations, attorney access for detainees continued to vary widely across the country. Numerous bar association representatives and human rights organizations reported that in urban areas most detainees consulted with attorneys soon after being detained, while in rural areas, particularly the southeast, there was a higher number of cases where defendants did not have immediate access to an attorney.

Human rights observers noted that, in most cases where a defendant could not afford an attorney, one was provided; however, in terrorism-related cases an attorney was frequently not provided until after the suspect had been detained and interrogated by security forces. Provincial bar associations continued to face difficulties providing attorneys because the government was behind on compensation payments for such work.

The HRA claimed that police often intimidated detainees who asked for attorneys, for example by telling them a court would assume they were guilty if they consulted an attorney during detention. Detainees were generally allowed prompt

access to family members; however, human rights organizations reported difficulties in helping families find out whether a relative had been detained because the government refused to release such information to the organizations.

In 2007 parliament amended the law significantly to expand the authority of security forces to search and detain a suspect. Under the amended law, police and Jandarma may compel citizens to declare their identities without any cause. The HRA stated that the expanded authority was contrary to legal and civil rights.

During the year police routinely detained demonstrators for a few hours at a time. Police detained several hundred members of the former DTP and its successor Peace and Democracy Party (BDP) on various occasions. Police continued to detain and harass members of human rights organizations, media personnel, and human rights monitors. Police continued to detain persons on suspicion of "membership in an illegal organization" and for "promoting terrorist propaganda."

Lengthy pretrial detention was generally 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 long periods, without trial but with the right to see the judge each month.

Throughout the year prosecutors in Istanbul continued to arrest and indict prominent military, business, and media personalities on charges of plotting to foment unrest and topple the elected government as members of a network known as "Ergenekon." Prosecutors in Istanbul submitted one indictment in 2008 that was later combined with the indictment following the 2006 shooting in the Danistay (Council of State) and two additional indictments during the year that were later combined. The indictments included allegations that the group plotted assassinations of public figures, including religious leaders, as well as planned beatings and bombings of prominent individuals. A total of 250 persons were indicted by year's end. Some opposition politicians, members of the press, and critics of the government considered many of the indictments to be politically motivated. Others claimed that the arrests had reduced the fear and pressure on journalists and human rights activists across the country by removing threats against them. Members of the government and members of the press supportive of the government claimed that criticism of the trial was intended to pressure the courts and change government policies. Critics of the government pointed out that dozens of defendants were held without charge for several months before the release of indictments, although this was a common practice in the country. In December investigators were for the first time allowed to search military facilities for evidence in the Ergenekon investigation. High-level military figures including active colonels and retired generals testified in court. During the year, the Turkish General Staff (TGS) leadership generally cooperated with the Ergenekon investigation, although individual military members publicly expressed their misgivings about the proceedings.

In 2008 the ECHR found 64 violations by the country of the right to liberty and security as provided by the European Convention on Human Rights.

e. Denial of Fair Public Trial

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 criticized the government.

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 council, and the undersecretary of the Ministry of Justice also serves on the council. The council's rules stipulate that one of these two officials must preside over meetings. The council selects judges and prosecutors for the courts and is responsible for oversight of the lower courts. The 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 council controls the careers of judges and prosecutors through appointments, transfers, promotions, and reprimands.

In 2008 the parliament passed an amendment to article 301 of the penal code criminalizing insults to the state.

Previously, it had been a crime to insult "Turkishness." The amendment provides for greater separation between the court and ideologically motivated attorneys by requiring the approval of the justice minister for charges of violating article

301 to proceed to court. However, prosecutors continued to conduct ideologically motivated investigations, such as those involving allegations of insulting the state. A separate law forbids insults to the country's founder, Mustafa Kemal Ataturk, and was also used by prosecutors to conduct ideologically motivated investigations during the year. Observers reported that investigations based on both provisions decreased substantially from past years.

The close connection between public prosecutors and judges gave the appearance of impropriety and unfairness in criminal cases. Prosecutors and judges study together before being assigned by the High Council. Once appointed, they are housed together, frequently share the same office space, and often work in the same courtroom for more than five years.

The law provides that all judicial candidates pass a written and an oral examination administered by the Ministry of Justice and establishes a mechanism to allow private attorneys with five years' experience who are younger than 35 to enter the ministry's ranks. The Union of Turkish Bar Associations asserted that the oral examination would allow the Ministry of Justice to select candidates based on political considerations. At year's end the High Council continued to make judicial appointments from the pool of persons who had passed the exam and been trained by the ministry.

According to several regional bar associations, the government devoted insufficient resources to public defense. The associations also noted that public defense attorneys underwent less rigorous training than their prosecutorial counterparts and were not required to take an examination to demonstrate a minimum level of expertise.

The judicial system is composed of general law courts; specialized heavy penal courts; military courts; the Constitutional Court, the country'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 involving 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. The Ministry of Justice reported that none of the regional appeals courts established by 2004 legislation to relieve the high court's caseload were operational at year's end and that the project was postponed due to delays in building new court houses and assigning judges and prosecutors.

The Constitutional Court examines the constitutionality of the procedural aspects 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, under 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 military personnel. In June the parliament enacted a law forbidding civilians from being tried in military courts and allowing military officers to be tried at civilian courts for violations of civilian laws. The opposition Republican People's Party (CHP) opened a case in the Constitutional Court in July to annul the law. The case continued at year's end.

In 2008 the ECHR found 75 violations by the country of the right to a fair trial as provided under the European Convention on Human Rights.

Administrative and bureaucratic barriers impeded prosecutions and contributed to the low number of convictions of security force personnel for human rights abuses. Under the law courts may not convict unless a defendant attended at least one trial session. Police defendants occasionally failed to attend hearings in order to avoid conviction; prosecuting attorneys claimed that courts failed to make serious attempts to locate such defendants, even in cases where the defendants received salary or pension checks at their home address.

According to a 2008 AI report, criminal defendants faced numerous violations of their right to a fair trial during courtroom proceedings, especially in trials for violations of antiterror laws. The report also found that convictions under antiterror laws were often based on insufficient or unreliable evidence.

According to a 2007 AI report, defendants in cases that were transferred from state security courts, abolished in 2004, to heavy penal courts often faced the same judges and prosecutors who presided over their cases in the state security

courts. The report also found that these judges frequently failed to investigate or take into account allegations that confessions were coerced by torture or allegations of long periods of "unofficial" detention with no access to legal counsel. The report noted that defendants in these cases were being sentenced on the basis of evidence extracted under torture or other mistreatment.

Some observers saw public comments in April by senior members of the armed forces on the Ergenekon case, and of support for the military personnel indicted and standing trial in the case, as applying pressure on the judiciary.

#### Trial Procedures

Defendants enjoy a presumption of innocence and the right to appeal. There is no jury system; a judge or a panel of judges decides all cases. Courtroom proceedings are public for all cases except those involving minors as defendants. Court files, which contain charging documents, case summaries, judgments, and other court pleadings, are closed to anyone other than the parties to a case. This makes it difficult to obtain information on the progress of, or results in, court cases except through formal channels. The law requires bar associations to provide free counsel to indigents who request it from the court if the potential sentence is more than five years, and bar associations across the country generally 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. International human rights organizations and the EU stated that the courtroom structure and rules of criminal procedure gave an unfair advantage to the prosecution. During a trial the prosecutor may call any witness desired, whereas the defense must request that the judge call a witness. Judges decide whether to ask and how to phrase defense counsel's questions but ask all of the prosecution's questions in the exact form presented. Prosecutors enter the courtroom through the same door as the judge; defense attorneys enter through a separate door. Prosecutors sit at an elevated desk that is at the same level as that of the judge; the defense sits at floor level.

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 2008 the ECHR found 64 violations of the European Convention on Human Rights by the country involving length of proceedings.

The law prohibits the use in court of evidence obtained by torture; however, prosecutors in some instances failed to pursue torture allegations, forcing defendants to initiate a separate legal case to determine whether the exclusion of evidence was lawful. Human rights organizations reported that in such instances the primary case frequently was concluded before the secondary case was decided, effectively rendering the secondary case moot and leading to unjust convictions.

#### Political Prisoners and Detainees

The HRA asserted that there were several thousand political prisoners from all sides of the political spectrum and contended that the government does not distinguish them as such. The government claimed that alleged political prisoners were in fact charged with being members of, or assisting, terrorist organizations. According to the government, 2,869 convicts and 2,699 pretrial detainees were being held in prison on terrorism charges as of October 21.

International humanitarian organizations were allowed access to alleged political prisoners, provided they could obtain permission from the Ministry of Justice. In practice organizations rarely received such permission.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. The law provides that all citizens have the right to file a civil case for compensation for physical or psychological harm suffered.

In 2008 the ECHR found 12 violations of the right to an effective remedy as provided under the European Convention on Human Rights.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law allows for telephone tapping with a court order. There were occasional complaints by individuals and public figures, including higher court members and politicians, that their telephones were illegally tapped. Only the Turkish

Telecommunication Agency was authorized to tap telephones when presented with a court order directed against alleged drug traffickers, organized crime members, and terrorists.

In November the Justice Ministry confirmed allegations that 56 judges' and prosecutors' telephones had been tapped as part of the Ergenekon investigation and asserted that all taps were carried out within the guidelines of the law. The ministry stated that 36 of those taps were terminated by November. Some observers reported that many of the judges and prosecutors whose telephones had been tapped were noted for their anti-AKP decisions, including one prosecutor who had opened an investigation against President Gul for embezzlement.

In 2008 the ECHR found 11 violations of the right to respect for private and family life as provided under the European Convention on Human Rights.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, the government continued to limit these freedoms in some cases. Some senior government officials made statements during the year strongly criticizing the press. The government levied a substantial tax fine against a media conglomerate during the year that some observers considered to be related to the political editorial line of the media conglomerate's print and broadcast outlets.

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 "Turkish state," Ataturk, or the institutions and symbols of the republic. Other laws also restricted speech, such as the Antiterror Law and laws governing the press and elections.

Article 301 of the constitution criminalizes insults to the Turkish state. The article requires the approval of the Justice Minister for charges of violating article 301 to proceed to court. However, prosecutors continued to conduct ideologically motivated investigations, such as those involving allegations of insulting the Turkish state or Ataturk.

According to the Justice Ministry, the justice minister received 424 complaints concerning article 301 during the year and rejected 358 of them. Only four were given permission to proceed, a substantial decrease over the previous year. A total of 55 files remained under consideration at year's end. According to the HRF, 18 persons were prosecuted during the year under article 301, also a substantial decrease over the previous year.

Individuals in many cases could not criticize the state or government publicly without risk of criminal suits or government investigations, and the government continued to restrict expression by individuals sympathetic to some religious, political, and Kurdish nationalist or cultural viewpoints. Active debates on human rights and government policies continued, particularly on issues relating to the country's EU membership process, the role of the military, Islam, political Islam, the consideration by Turks of Kurdish and other ethnic or religious origins as "minorities," and the history of the Turkish-Armenian conflict at the end of the Ottoman Empire. However, persons who wrote or spoke out on such topics, particularly on the Armenian issue, risked investigation, although significantly less than in previous years. The TPA reported that serious restrictions on freedom of expression continued despite legal reforms related to the country's EU candidacy.

A group of intellectuals began an "I apologize to the Armenians" campaign in 2008 regarding the tragic events of 1915. More than 30,000 signatures were gathered for the campaign. The government initiated an investigation against the organizers of the campaign in January for violating article 301. The Court of Appeals was reviewing the case at year's end.

In 2008 the ECHR found 20 violations of freedom of expression as provided under the European Convention on Human Rights.

The TPA reported that it faced fewer problems related to publishing of books and articles on the Kurdish issue than in the previous year. The most serious problem during the year remained the large number of complaints against authors and publishers filed by ideologically motivated attorneys.

According to a joint HRA/HRF report, 34 journalists were held on speech violations during the year. A total of 29 publications were temporarily banned, and 62 books were confiscated and became grounds for prosecutions during the year.

On December 29, the Diyarbakir penal court sentenced eleven persons, including local mayors, to 10 months' imprisonment for using "sayin" (an honorific title) when referring to jailed PKK leader Abdullah Ocalan, which the court condemned as "praising a crime and a criminal."

In November the Izmir penal court convicted local mayoral candidates Cemal Coskun and Seyhmuz Seyhan for using the Kurdish language during their campaigns for the March 29 local elections. They were each sentenced to six months in jail, although the sentences were later converted into fines of 3,000 lira (\$2,000).

In September a public prosecutor launched an investigation against actress Hulya Avsar and journalist Devrim Sevimay for an interview of the actress in which she stated that it would be difficult to convince the PKK to lay down its weapons. The prosecutor claimed that this was "inciting hatred and hostility amongst the public and humiliation of the public." In late October the prosecutor decided not to file charges.

On October 4, the Diyarbakir High Court convicted lawyer Eren Keskin, actor Murat Batgi, and author Edip Polat of "inciting hatred and hostility" for using the terms "Kurds" and "Kurdistan" in a speech at the Culture and Art Festival in Diyarbakir in 2006. Each was sentenced to one year in prison. The court stated that their speeches showed "evidence of clearly emerging and immediate danger."

In October the Ankara prosecutor opened an investigation of suspected violations of article 301 against the National Police Academy for a workshop conducted in August on sensitivity to Kurdish issues. The investigation continued at year's end.

An arrest warrant remained active for youth choir director Duygu Ozge Bayar for "promulgating propaganda on behalf of an illegal organization" after the choir sang a Kurdish folk song that is also the anthem of Iraq's Kurdistan Regional Government at the San Francisco International Music Festival in 2007. Bayar returned to the country after the concert but departed when the prosecution was opened. At year's end she remained out of the country.

In 2007 police detained Kirikkale University student Durmus Sahin and two friends for five days after Sahin criticized Health Minister Recep Akdag during a campaign stop by refusing to shake his hand and calling him a "traitor." Akdag filed a complaint with the local prosecutor, who brought charges under article 301. In October the local penal court sentenced Sahin to two months in jail. The sentence was later converted into a 1,720-lira (\$1,150) fine.

Throughout the year police and the judiciary increased pressure on members of the pro-Kurdish former DTP and BDP. Human rights activists claimed that more than 1,000 cases had been opened against former DTP and BDP members during the year. Most were investigated and prosecuted for speaking in the Kurdish language or for making statements critical of the government. Many were also arrested for alleged ties with the KCK, the political branch of the terrorist PKK organization, including a group of more than 40 between December 25 and 31 that included elected mayors and BDP officials.

On April 21, the Diyarbakir criminal court sentenced two Kurdish politicians, Diyarbakir Mayor Osman Baydemir and former DTP leader Nejmet Atalay, to 10 months in prison for publicly spreading terrorist propaganda by referring to the PKK as "guerillas" instead of "terrorists" in a public speech. Baydemir continued to serve as mayor.

Baydemir continued to face more than 100 charges and investigations for use of the Kurdish language. At year's end he faced three cases for sending Kurdish language holiday cards in 2008. The Diyarbakir penal court acquitted Baydemir in September for the 2007 cases against him for referring to the PKK as the "armed Kurdish opposition."

In October the Ankara prosecutor opened an investigation into the DTP's national convention for alleged support of terrorism through speeches and slogans delivered at the convention. The investigation also examined alleged ties between the DTP and PKK. The closure of the DTP in December rendered moot any outstanding cases against the party (see section 3).

In October a Sanliurfa court sentenced seven DTP members to two years in prison for participating in an unauthorized rally in October 2008 to protest the prison conditions of Abdullah Ocalan.

On December 24, Muharrem Erbey, president of the HRA in Diyarbakir and vice president of the national HRA, was arrested for alleged ties with the KCK, the political wing of the PKK. His house, private office, and the HRA were searched, and police confiscated all the HRA computers, books at his house, and the hard disk of his private office computer. The Diyarbakir branch of the HRA applied to the police for the return of their computers, but they had not yet been returned at year's end. The HRA claimed that Erbey was arrested for his work at the HRA and as a human rights lawyer. At year's end, Erbey was being held in the Diyarbakir prison and had not been formally charged with a crime.

In July a Diyarbakir court sentenced Leyla Zana to one year and three months in prison for "making propaganda for a terrorist organization." Zana stated that "Abdullah Ocalan is the heart and brain of the Kurds," at a panel discussion in May 2008 at a London university. An appeal continued at year's end.

During the first half of the year, the government amended prison regulations to allow prisoners to speak in Kurdish to their relatives who visited them in prison. Human rights organizations described this development as positive and stated that there were few problems with the implementation of the new rule.

The country had an active print media independent of state control. Hundreds of private newspapers spanned the political spectrum.

The government owned and operated the Turkish Radio and Television Corporation (TRT). According to the High Board of Radio and Television (RTUK), as of November there were 210 local, 15 regional, and 22 officially registered national television stations and 929 local, 98 regional, and 35 national radio stations. In addition, 77 television channels operated on the cable network, and RTUK granted eight television enterprises and two radio enterprises satellite licenses and broadcast permits necessary for operation. 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. 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 the media as a tool to build pressure against government policies.

Prosecutors harassed writers, journalists, and political figures by bringing dozens of cases to court under various laws that restricted media freedom; however, judges dismissed many of these charges. 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.

On October 7, the Court of Appeals held that individuals could sue and demand compensation from author Orhan Pamuk for his remark, "We killed 30,000 Kurds and one million Armenians." No cases had opened by year's end.

The TGS did not admit media publications perceived to hold dissenting views into its media briefings. National publications could also be denied depending on their reporting. A journalist from the daily *Evrensel*, Sultan Ciftci, did not receive accreditation during the year to the Prime Ministry after being denied in 2008 as well. Other journalists received accreditation with no reported problems.

At year's end the investigation continued into the December 2007 beating of Andreas Rombopoulos, editor in chief of the Greek-language newspaper *Iho*, outside the newspaper's office in Istanbul by two unknown attackers.

The trial of Ogun Samast, accused of killing prominent human rights activist Hrant Dink in 2007, continued at year's end. Dink, the editor in chief of the bilingual Turkish-Armenian weekly newspaper *Agos*, was killed outside of his office building in Istanbul. The trial began in 2007; Samast reportedly admitted shooting Dink and identified the weapon he used. The investigation resulted in the arrest and indictment of 19 additional suspects, eight of whom remained in detention. In an October 12 hearing, Dink family lawyers requested documents from the "Ergenekon" trial, alleging that several suspects in that case had targeted Dink as a tool to destabilize the state. In September 2008 the family of Hrant Dink filed a complaint with the Supreme Board of Judges and Prosecutors against the judges of the regional administration court who did not authorize a trial against the Istanbul security director, Celattin Cerrah, and the Istanbul Intelligence Branch's former director, Ahmet Ilhan Guler. Three state inspectors criticized Cerrah and Guler for not investigating warnings involving Dink that were received prior to the killing.

In October 2008 the Ministry of Justice approved continuance of the case against publisher and writer Temel Demirer under article 301. Demirer had been charged for a statement he made after the 2007 killing of Dink, calling for the recognition of the tragic events of 1915 as "genocide." The case continued at year's end, although Demirer was convicted and sentenced to five months' imprisonment in a separate trial for speaking about Ibrahim Kaypakkaya, a former leader of the country's communist movement.

In January the state-owned TRT devoted one television and radio station to 24-hour Kurdish broadcasts without subtitles and with no time limit on news broadcasts. TRT officials indicated that there was no censorship of content on the station. On November 13, the government approved regulations to allow privately owned television and radio stations to broadcast in languages other than Turkish. Applications were approved for three dialects of Kurdish and Arabic stations. On April 2, broadcasts began in Armenian on state television for half an hour twice a day.

The TPA reported that the banning and recall of books remained a concern, although there were fewer bans than in the previous year. Several publications were recalled without a final court decision during the year. Writers and publishers were still prosecuted on grounds of defamation, denigration, obscenity, separatism, antiterror, subversion, fundamentalism, and insulting religious values. Printing houses were required to submit books and periodicals to prosecutors at the time they are published. The TPA reported that publishers often avoided works with controversial content in order to stay out of court. According to the TPA, in 2008 and during the year, authorities investigated or opened court cases against 62 publications and 26 publishers. These cases resulted in four acquittals and 28 convictions; the other cases were in progress or pending at year's end. The TPA noted that publishers continued to be held liable for books whose authors were foreigners or living abroad.

In June authorities opened two cases against journalist Nedim Sener on charges of "publicizing confidential information" and "insulting government officials" in connection with a book he published, *Dink Murder and Intelligence Lies*, which explored the circumstances of the Dink killing. At year's end Sener faced a total of 28 years' imprisonment if convicted.

The case against Atilla Tuygan for translating two books dealing with Turkish-Armenian relations continued at year's end. The case was opened in 2007 after the books' publisher, Ragip Zarakolu, was acquitted, and the court ruled that Tuygan should be tried instead. In a second case, Zarakolu was convicted in June 2008 and sentenced to five months in prison for publishing *The Truth Will Set Us Free*, a book describing the experience of the author's grandmother during the tragic events of 1915. The court postponed the imposition of punishment, and Zarakolu and his lawyer appealed the verdict. The Court of Appeals had not ruled on the case at year's end.

Authorities routinely censored media with pro-Kurdish or leftist content, particularly in the southeast, by confiscating materials or temporarily closing down the media source. On October 2, the media reported that police in Mardin confiscated Kurdish-language textbooks for a new "living languages" institute at the Artuklu University to check them for "terrorist propaganda." The police returned the books to the university after inspection.

Some members of the AKP and Prime Minister Erdogan continued to file suits against journalists and cartoonists during the year. Human rights organizations, publishing associations, and journalists alleged that those litigious tendencies created an environment of self-censorship.

In June an Ankara court ordered politician Yasir Nuri Ozturk to pay 7,500 lira (approx. \$5,000) to Prime Minister Erdogan for insulting him on a television program on March 1.

In July an Ankara court forced CHP leader Deniz Baykal to pay 10,000 lira (approx. \$6,700) in compensation to Prime Minister Erdogan for insulting him. Baykal called Erdogan a "bully" at a rally in Sinop on February 28.

The civil case against cartoonist Mehmet Cagcag for using Prime Minister Erdogan's image in a critical photomontage was denied by the court. The court ruled that the cartoon was protected freedom of expression.

On September 9, the Aydin Children's Court closed a case against a 13-year-old who had yelled, "God will punish you!" at Prime Minister Erdogan at a campaign rally in Aydin in March. The Aydin public prosecutor had demanded imprisonment from one to three years for the child for insulting the prime minister.

Several large holding companies that owned news agencies in the country were concerned over losing business opportunities if their journalists wrote articles critical of the government. One journalist reported that his senior management discouraged the company's journalists from writing articles critical of the AKP or its members.

During the year the Ministry of Finance levied a total of 5.9 billion lira (approximately \$3.9 billion) in tax fines against the Dogan Media Group, one of the largest media conglomerates in the country. These fines nearly equaled the total value of the company's assets. The fines raised some observers' concerns, because the Group's editorial line had been considered critical of the government and prime minister. In its October progress report, the European Commission stated that the fines "undermine the economic viability of the group and therefore affect the freedom of the press in practice." Other observers described the fine as having a chilling effect on journalists and reported that the government was using it to silence opposition. The government maintained that the fine, which observers alleged could cause the corporation to go out of business, was a legitimate exercise of the Finance Ministry's taxation authority and that it had no political motivation.

On June 18, the Constitutional Court ruled that the law that prohibited editors at media organizations from disclosing the identities of public personnel fighting terrorism was unconstitutional and struck it down.

During the year cases against the press under the Antiterror Law continued. The HRF reported that the law contains an overly broad definition of offenses that allows ideologically and politically motivated prosecutions. There are at least 550 cases against the pro-Kurdish daily newspaper *Ozgur Gundem* under the Antiterror Law. There were some convictions, but most cases remained open at year's end.

#### Internet Freedom

The Internet was widely available in the country. It was used in schools, libraries, private Internet cafes, and other public locations, and the government encouraged its use. There were some restrictions on Internet access. According to International Telecommunication Union statistics for 2008, approximately 33 percent of the country's inhabitants used the Internet.

The Internet law allows the government to ban a Web site if there is sufficient suspicion that the site is committing one of eight crimes: encouraging suicide, sexual abuse of children, facilitation of drug abuse, provision of dangerous substances for health care, obscenity, prostitution, gambling, or crimes regulated in Turkish Code 5816 (crimes against Ataturk). Upon receiving a complaint or as a result of personal observations, a prosecutor may file an application to prohibit access to the offending site or, in an urgent situation, the prosecutor or the Telecommunication Presidency (TP) may impose a ban. In either case, a judge must rule on the matter within 24 hours. Following a judicial ban order, the Internet service provider (ISP) must block access within 24 hours. If the judge does not approve the block, the prosecutor must ensure access is restored. The ISP may face a penalty ranging from six months' to two years' imprisonment for failing to comply with a judicial order. The law also allows individuals who believe a Web site violates their personal rights to request the ISP to remove the offensive content. By May 11, courts and prosecutors had issued 2,601 orders to ban Web sites in response to approximately 81,691 complaints, a significant increase over the approximately 1,475 bans ordered for 17,768 complaints in the previous year. According to the human rights Web site "Bianet," the TP stopped reporting statistics in May because they were getting too high.

In May 2008 an Istanbul court banned access to the YouTube Web site to block a cartoon video that lampooned the country's founding father, Ataturk. Access remained blocked at year's end.

Government authorities on rare occasions accessed Internet user records to protect "national security, public order, health, and decency" or to prevent a crime. Police must obtain authorization from a judge or, in emergencies, the highest administrative authority before taking such action.

## **Academic Freedom and Cultural Events**

There were generally no government restrictions on academic freedom or cultural events; however, there was some self-censorship on sensitive topics.

The 2008 conviction of Gazi University professor Atilla Yayla under a law pertaining to the "protection of Ataturk" for saying in 2006 that Kemalism was "more regressive than progressive" remained under appeal at year's end.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The law provides for freedom of assembly; however, the government restricted this right in practice. Significant prior notification to authorities is required for a gathering, and authorities may restrict meetings to designated sites.

The HRF reported that security forces killed seven persons during demonstrations and injured 269, and there were reports that police beat, abused, detained, or harassed some demonstrators during the year. The HRF reported that security forces detained 1,414 persons and arrested and charged 369 during demonstrations during the year.

The TNP reported that police detained 1,737 persons involved in the 14,310 demonstrations that took place through October 25. These detentions varied in length from several hours to several days.

The approximately 180 public events around the country celebrating the Nevruz holiday (the Kurdish and Persian New Year) in March were generally peaceful. The HRF reported no incidents during Nevruz celebrations in the year, compared to numerous deaths and injuries during the previous year.

The May 1 Labor Day celebrations were generally peaceful. Human rights organizations alleged that police beat some union activists, but no arrests were reported.

HRF lawyers indicated during the year that the 2006 case against 54 police officers for allegedly using excessive force during a 2005 International Women's Day demonstration in Istanbul was no longer being pursued.

### **Freedom of Association**

The law provides for freedom of association; however, several restrictions on this right continued in practice.

Under the law persons organizing an association do not need to notify authorities beforehand, but an association must provide notification before interacting with international organizations or receiving financial support from abroad and must provide detailed documents on such activities. Representatives of associations stated this placed an undue burden on their operations.

According to the Third Sector Foundation of Turkey, an advocacy NGO, the criteria for NGOs to obtain public benefit status that entitles 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.

In 2008 the ECHR found five violations of the right of assembly and association under the European Convention on Human Rights.

Unlike in 2008, no organizations were closed by the government or courts.

## **c. Freedom of Religion**

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) 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 all who requested services equally.

Academics estimated the Alevi population at 15 to 20 million, including ethnic Turks and Kurds. In general, Alevis follow a belief system that incorporates aspects of both Shia and Sunni Islam and draws on the traditions of other religions found

in Anatolia as well. The government considers Alevis a heterodox Muslim sect; however, some Alevis and Sunnis maintain that Alevis are not Muslims.

Alevi "cem houses" (places of gathering) have no legal status as places of worship in the state. However, Kusadasi and Tunceli municipalities ruled that Alevi cem houses could receive free water and electricity from the municipality like other recognized places of worship, but they did not have the authority to grant formal "temple status" to cem houses.

During the year the government took steps to recognize and address the concerns of the Alevi population. The government held quarterly Alevi workshops aimed at addressing the concerns of the Alevi population. Some Alevi groups complained that these workshops did not address the needs of all Alevi groups, but only the ones close to the government.

Mystical Sufi and other religious-social orders (tarikats) and lodges (tekkes and zaviyes) are officially prohibited; however, tarikats, tekkes, and zaviyes remained active and widespread. Many prominent political and social leaders continued to associate with these religious-social orders, lodges, and other Islamic societies.

A separate agency, the General Directorate for Foundations (GDF), regulated a few administratively critical activities of non-Muslim religious groups and their affiliated churches, monasteries, synagogues, and religious property. The GDF recognized 161 "minority community foundations," including Greek Orthodox foundations with 74 sites, Armenian Orthodox foundations with 48 sites, and Jewish foundations with 12 sites, as well as Syrian Christian, Chaldean, Bulgarian Orthodox, Georgian, Armenian Catholic, Protestant, and Maronite foundations. The GDF also regulated Muslim charitable religious foundations, including schools, hospitals, and orphanages, as well as nonreligious foundations.

In 2007 the Jehovah's Witnesses were officially registered as the "Association for the Support of Jehovah's Witnesses." However, due to their stance as conscientious objectors to military service, they continued to face difficulties. In the early part of the year, court decisions based on zoning laws against the use of two Jehovah's Witnesses places of worship (kingdom halls) were rescinded in the appeals process. However, two other kingdom halls continued to appeal court decisions restricting worship due to zoning laws. At year's end members of Jehovah's Witnesses had three applications pending with the ECHR that alleged government mistreatment pertaining to places of worship and conscientious objection to military service. Two Jehovah's Witnesses were in jail at year's end for refusing to perform mandatory military service.

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, and have expressed their concerns to the government. The General Directorate of Populations allowed persons to leave the religion section of their identity cards blank or change the religious designation by written application. However, the government continued to restrict applicants' choice of religion to a strict list.

Some members of the military, judiciary, and other branches of the bureaucracy continued to wage campaigns against what they labeled proponents of Islamic fundamentalism. These groups viewed religious fundamentalism as a threat to the secular state. The National Security Council categorized religious fundamentalism as a threat to public safety, and the Jandarma monitored missionary activity throughout the year.

The military periodically dismissed religiously observant Muslims from military service. Such dismissals were based on behavior that military officials believed identified these individuals as Islamic fundamentalists, which they were concerned could indicate disloyalty to the secular state. There were unconfirmed reports that officials in some governmental ministries faced discrimination because they were not considered by their supervisors to be sufficiently observant of Islamic religious practices.

According to the military, officers and noncommissioned officers were periodically dismissed for ignoring repeated warnings from superior officers and for maintaining ties to what the military considered to be Islamic fundamentalist organizations. The government reported that there were five military dismissals during the year that pertained to alleged Islamic fundamentalism.

The government did not recognize the ecumenical status of the Greek Orthodox patriarch, acknowledging him only as the head of the country's Greek Orthodox community. As a result the government has long maintained that only citizens of the country could become patriarch, serve as members of the Greek Orthodox Holy Synod, and participate in

patriarchal elections. Nevertheless, the ecumenical patriarch appointed six non-Turkish metropolitans to the Holy Synod in 2004. Members of the Greek Orthodox community asserted that these restrictions threatened the survival of the patriarchate in Istanbul, because, with a dwindling population of no more than 2,500 Greek Orthodox persons in the country, the community was becoming too small to maintain the institution. Prime Minister Erdogan has stated that the Greek Orthodox patriarch's use of the title "ecumenical" should not be a matter on which the state should rule.

On August 15, Prime Minister Erdogan and members of his cabinet hosted a meeting for religious leaders of the Greek Orthodox, Syriac Orthodox, and Jewish communities on Buyukada, an island near Istanbul, to address minority religious rights.

Religious groups generally faced administrative challenges when employing foreign religious personnel, as did other entities when employing foreigners. In December 2008 the Ministry of Foreign Affairs provided one-year visas for foreign clergy working at the Ecumenical Patriarchate. Previously, such clergy had to leave and return every three months to obtain new tourist visas.

The law restricts religious services to designated places of worship. Municipal codes mandate that only the government can designate a place of worship; if a religious group has no legal standing in the country, it may not be eligible for a designated site. Non-Muslim religious services, particularly for groups that did not own property recognized by the GDF, often took place on diplomatic property or in private apartments. While police and prosecutors did not take steps to prevent or punish such gatherings, landlords were hesitant to rent to groups without confirmation that they would not be harassed by the police.

Many local officials continued to impose standards on churches, such as minimum space requirements, that are not imposed on mosques. In numerous incidents the Protestant community faced the requirement of having to purchase 27,000 square feet of land in order to construct a church, no matter the size of the congregation. Protestant representatives also faced severe difficulty in receiving the legally required municipal approval to build churches in centrally located areas due to restrictive zoning laws.

The Ecumenical Patriarchate in Istanbul continued to seek to reopen the Halki seminary on the island of Heybeli in the Sea of Marmara. The seminary was closed in 1971 when the patriarchate, to avoid the seminary being administered by the state, chose not to fulfill a government requirement for all private institutions of higher learning to nationalize. Under existing restrictions, religious communities other than Sunni Muslims cannot train new clergy in the country for eventual leadership in a manner acceptable to these communities. Coreligionists from outside the country have been permitted to assume leadership positions in a few cases, but in general all religious community leaders, including patriarchs and chief rabbis, must be citizens.

No law explicitly prohibits proselytizing or religious conversions; however, many prosecutors and police regarded proselytizing and religious activism with suspicion.

Several practicing foreign Christians who had lived with their families in various cities for many years reported governmental harassment during the year, including denial of residence and work permits that had been granted in previous years, monitoring by the Jandarma, and threats to themselves and their families. These persons reported that they worshipped in their homes but did not proselytize by distributing Bibles, going door to door, or undertaking similar activities.

Authorities continued to enforce a ban in place since 1997 on wearing headscarves at universities. 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.

The law establishes eight years of compulsory secular education, after which students may pursue study at general state schools or vocational high schools, which include imam hatip (Islamic preacher) high schools. Graduates of vocational schools, as well as general state schools, faced an automatic minimal reduction in their university entrance examination

grades if they applied for university programs outside their field of high school specialization. This reduction made it more difficult for imam hatip graduates to enroll in university programs other than theology. Most families that enrolled their children in imam hatip schools did so to expose them to more extensive religious education, not to train them as imams. Students were permitted to enroll in summer Koran classes provided by the Diyanet after completing the fifth grade (about age 11). Individuals who have completed the eighth grade or reached 16 years of age can attend yearlong Koran courses provided by the Diyanet. Unofficial clandestine Koran courses also existed outside the Diyanet's control.

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 and Syrian Orthodox, faced difficulties in obtaining exemptions, particularly if their identity 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.

Many Alevis alleged discrimination in the government's failure to include any of their doctrines or beliefs in religion courses. After the ECHR ruled in 2007 in favor of an Alevi parent who in 2004 filed a suit claiming the mandatory religion courses violated religious freedom, the government added 10 chapters of an overview of the Alevi belief system to the textbook for religious and moral instruction. Most Alevi organizations contended this addition was insufficient and lobbied instead for the abolishment of compulsory religious courses.

The "officially recognized" minorities of Greek Orthodox, Armenian Orthodox, and Jewish religious groups may operate schools under the supervision of the Ministry of Education. Other Muslim and non-Muslim minorities are not permitted to run schools of their own.

Numerous religious groups, particularly the Greek and Armenian Orthodox communities, have lost property to the government and continued to fight ongoing government efforts 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. The government expropriated other properties that were held in the name of individual community members who emigrated or died without heirs. The GDF also took control of non-Muslim foundations after the size of the non-Muslim community in a particular district dropped below the level required to elect foundation board members.

The law allows the 161 minority foundations recognized by the GDF to acquire property, and in 2008 the GDF approved 365 applications by non-Muslim foundations to acquire legal ownership of properties. A February 2008 amendment to the law facilitated the return of expropriated minority foundation properties; however, it does not account for properties that have been sold to third parties or expropriated when the associated foundations were taken under government control. These conditions applied to the majority of expropriated Greek Orthodox properties. The government extended a provisional article allowing foundations to apply for expropriated properties through August. The government was considering 1,200 applications at year's end.

On January 29, the Department of the Treasury initiated a case against the Syriac Mor Gabriel Monastery in Midyat claiming 12 parcels of land inside and outside the monastery walls. The Midyat court decided in favor of the monastery on June 24. The department's appeal to the Supreme Court was sent back to the Midyat court for more information. On June 24, the monastery lost a court case brought against it by the Department of Forestry that claimed ownership of 68 acres of land inside the monastery walls, and 15 acres adjacent to the outer wall. In its defense the monastery presented tax records for the property dating back to 1937 as well as ownership documents dating back to 1935. An appeal filed by the monastery to the Supreme Court was sent back to the Midyat court in December for more information.

In September 2008 a cadastre court upheld the results of a May 2008 cadastral regional land survey that reclaimed all but 30 percent of the monastery's land. Also in September 2008, three village muhtars (the lowest level elected official with no political affiliation and limited local authority) in Midyat filed a criminal complaint against the monastery alleging it illegally appropriated territory by building a wall. A cadastre court ruled in favor of the monastery on May 22. Official papers from the 1950s documented the provincial administrative board's approval of the monastery's borders. The monastery did not have legal status and was represented by a foundation established during the Ottoman Empire. The muhtars appealed to the Supreme Court, and the case was pending at year's end.

After a December 16 ECHR decision against the government on Armenian property cases, the government paid the settlement but did not restore the properties.

In July 2008 the ECHR ruled that the country had violated the Ecumenical Patriarchate's property rights to a former orphanage on Buyukada Island. However, a domestic court case continued at year's end to determine the correct foundation owner.

The law has no provisions to accommodate those who conscientiously object to military service. In December, Enver Aydemir was arrested for refusing to perform military service because he stated it would conflict with his Islamic beliefs. Aydemir did not consider himself a conscientious objector.

#### Societal Abuses and Discrimination

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 they were effectively blocked from careers in state institutions.

Reports of attacks on persons practicing Christian faiths dropped. Authorities took measures during the year to implement a 2007 Ministry of Interior circular to governors requesting action to prevent violence against non-Muslims. Non-Muslims in Ankara, Izmir, and Trabzon reported that police took extra security measures during special religious services.

On December 4, three men threatened a priest at the Diyarbakir Syriac Orthodox Mother Mary Church with death if he did not demolish the bell tower associated with the church within the week. The priest reported the situation to the police, who arrested the men six days later. The priest subsequently withdrew his complaint against them.

On August 3, a Christian was held hostage at knifepoint by Yasin Karasu in Kadikoy, Istanbul, until police intervened. Karasu called the hostage a "missionary dog" and accused him of breaking up the country. Karasu was held in prison at year's end.

In 2007 a hand grenade was thrown into the courtyard of the house of the president of the Syriac Churches Foundation in Mardin's Midyat district. Police opened an investigation after the incident, but there were no reports of an arrest or a court case by year's end.

The trial of 11 individuals, including five youths, alleged to have killed three members of a Protestant church in Malatya in April 2007, including a German citizen, continued at year's end. The victims were found in the office of a company that publishes books on Christianity; police caught four suspects as they tried to leave the building, while a fifth jumped out of the window and was hospitalized. A total of 11 suspects were charged in connection with the killings, five of whom remained in custody as the investigation continued. The trial began in November 2007. Five defendants faced multiple life sentences for murder and terrorist acts, and another two were charged with assisting in the planning of the murders. On December 25, the prosecutor and plaintiffs requested that the prosecutor for the Ergenekon trial probe the links between the Malatya murders and the alleged Ergenekon plan to overthrow the government. Istanbul prosecutors stated in December that they were unable to find a connection between the two cases.

In 2007 security officials thwarted a planned attack on a priest at St. Paul's Church in Antalya. The officials had been investigating a suspect for his ties to other crimes when they intercepted a telephone conversation in which he declared his intent to kill the priest. He remained under arrest at year's end for his alleged involvement in five cases of arson and was transferred to be tried in a military court for having evaded military service. However, there was no indication that authorities would file charges against him for the planned attack on the priest.

Members of the Syriac community reported that Syriacs who were forced to leave their southeastern villages during PKK-related violence in the 1980s and 1990s faced fewer problems than in previous years when attempting to return to their villages. Representatives of one Syriac community claimed that the implementation of zoning laws at times resulted in the loss of 40 to 50 percent of the properties of individual Syriacs living in villages in the southeast. Previously, local villagers, particularly village guards, often occupied the homes of Syriacs who fled and refused to leave when the Syriacs attempted to return.

A variety of newspapers and television shows continued to feature anti-Christian and anti-Jewish messages, and anti-Semitic literature was common in bookstores. In October the state-run television channel began broadcasting the series

"Ayrilik" ("Separation"), in which Israeli soldiers were portrayed murdering children in the Palestinian territories. A trailer of the series was also advertised in metro stations in Istanbul. After complaints, the government worked with the producers of the series to remove the offensive content.

The Jewish community numbered approximately 23,000. During the year there were continued reports of anti-Semitic language in newspapers and Web sites, as well as of continued societal antagonism and discrimination. Following Israel's military action in Gaza that began in December 2008, some newspaper columnists made anti-Semitic statements, and billboards around Istanbul carried images of bloody baby shoes and anti-Semitic statements. Some businesses in Eskisehir posted signs reading, "Dogs are welcome, but Jews and Armenians are not allowed entry." For a more detailed discussion, see the 2009 *International Religious Freedom Report* at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution 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. The government generally cooperated with the 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.

In September 2008 the Constitutional Court annulled the legislative arrangement authorizing the Council of Ministers to implement "compulsory settlement" at the suggestion of the National Security Council. The court based its decision on article 23 of the constitution, which forbids any limitation on the freedom of residence except for the purpose of preventing offenses, promoting social and economic development, ensuring sound and orderly urban growth, and protecting public property. The verdict specified that a village cannot be evacuated due to national security. During the year there were no reports of villages being evacuated for security. Conversely, there were reports of persons returning to villages near Bitlis, Sanliurfa, and Mardin.

The law prohibits forced exile, and the government did not employ it.

#### Internally Displaced Persons (IDPs)

There are IDPs in the country from the 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. According to the TNP, 187,861 citizens returned voluntarily to their villages during the year in the southeast.

Academic observers reported the number of displaced to be much higher, ranging from 953,680 to 1,301,200 persons between 1986 and 2005. They stated the reason for the large discrepancy between government and NGO figures was that the government included only persons evacuated by the security forces from settlements, and not those who were forced to flee because of general violence or for a combination of security and economic reasons. Other factors contributing to displacement that the violence in the southeast exacerbated included rural-to-urban economic migration, large-scale development projects, and natural disasters.

The law to compensate IDPs allows persons who suffered material losses during the conflict with the PKK to apply for compensation. In 2007 parliament extended the duration of the law so that applicants could apply for compensation through May. NGO observers noted that the law was being implemented in a way contrary to the government's stated purpose and principles of fair and appropriate redress. Rulings by provincial commissions charged with the law's implementation were described as inadequate and hindering those IDPs who would like to return to their preconflict homes, and IDPs had no avenue of appeal. Local NGOs and regional bar associations maintained that the law included unreasonable documentation requirements and awarded levels of compensation far below standards established by the ECHR. The government denied it implemented the law unfairly.

The law compensates only losses suffered after 1987, leaving out victims who suffered losses before that year. The Turkish Economic and Social Studies Foundation (TESEV) reported that many victims who fled the region because of the deteriorating economic and security situation were unable to receive compensation because they could not

demonstrate a direct link between their losses and the actions of either the PKK or security forces. Human Rights Watch(HRW) also noted that the government refused to compensate those villagers in the southeast region displaced prior to 1987.

There was no information at year's end on the status of the administrative complaint filed in August 2007 with the Siirt governorship after Jandarma and village guards forced a group of villagers to leave their homes following the military's declaration of a "special security zone" in the area. The villagers and their belongings were forcibly removed, and their access to crops and services in the village was blocked. There were some reports from residents that the situation generally improved during the year.

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 TNP reported it had provided compensation of 349,982,716 lira (approximately \$233,000,000) during the year related to losses stemming from the fight against PKK terrorists.

Foreign governments and national and international human rights organizations continued to criticize the government's program for assisting the return of IDPs as secretive and inadequate.

#### Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. However, the country ratified the 1967 protocol subject to a geographic limitation and therefore accepts its obligations only with respect to refugees from Europe. An administrative regulation provides for the granting of asylum or refugee status. The government has not established a formal system or legislation for providing protection to refugees. During the year the Interior Ministry conducted a parallel refugee status determination process subsequent to the UNHCR's determinations, affirming the latter's decisions in all but three cases out of a total of approximately 6,000. The individuals in those three cases were allowed to depart the country.

The government requires that refugees who have no durable solution in the country obtain exit permission before departing for resettlement in third countries. One obstacle to exit permission is the residence permit fee of 273 lira (\$185) that regulations require refugees to pay every six months in the city where they have been assigned to live by the government. If the fees are not paid on time each six months, back fees must be paid in full before the refugees can depart, and a late fine is also assessed. There is no penalty for living outside of the assigned city, as long as the fees are paid there. In some cases families have been charged thousands of dollars in residence fees and late fines before being allowed to depart the country. In one case a family with eight members was asked to pay a \$50,000 exit fine, calculated according to a fee schedule set by the Ministry of Interior.

In most cases the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race religion, nationality, membership in a particular social group, or political opinion. In the first nine months of the year, 214 persons of interest to the UNHCR were deported from the country and 135 had not registered with the UNHCR. This was a significant decrease from the previous year, when the number deported was 790. The UNHCR sometimes had difficulty gaining access to interview potential refugees if they had already been detained or arrested by security forces for illegal entry into the country.

The government detained refugees and asylum seekers who entered the country illegally or from a country other than their country of origin. A total of 901 persons were detained in the first nine months of the year; 100 were registered with the UNHCR. Detainees could be held for months or years. Approximately 20 Iranians who entered the country from Iraq had cases pending in the ECHR at year's end.

Iraqi citizens were generally able to obtain tourist visas upon arrival at airports in the country. However, some foreigners, including Iraqis, transiting the country on their way to Europe were returned to their countries of origin when immigration authorities determined they might seek asylum in Europe.

Illegal migrants detained near the country's eastern border areas were more likely to be questioned about their asylum status and referred for processing than those caught while transiting or attempting to leave the country from other locations. However, access to the national procedure for temporary asylum was hindered by the lack of reception facilities for groups of interdicted migrants, potentially including asylum seekers, and a lack of interpreters to assist security officials.

The law does not have a strict time limit for asylum seekers or require them to present a valid identity document. The law also provides for a waiver of residence permit fees for asylum seekers in "humanitarian situations." Despite this, the International Organization for Migration (IOM) reported that during the year some refugees were charged fines for late registration before being authorized to travel to Istanbul in order to leave the country for their countries of resettlement. The UNHCR reported successful interventions in most cases where asylum seekers arrived lawfully in the country after transiting one or more other countries. However, UNHCR access to persons in detention who wished to apply for asylum, to ship stowaways who wished to apply for asylum, and to persons trying to seek asylum while they were at the international areas of the country's airports remained problems.

The government provided temporary protection to individuals who may not qualify as refugees, including individuals of non-European origin. According to the Ministry of Interior, during the year the government provided temporary protection to 8,478 foreigners referred by the 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 the UNHCR or resettlement agencies.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

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.

##### Elections and Political Parties

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. Some political parties criticized the 10 percent threshold as unduly high.

In its observation report following the 2007 elections, the OSCE noted that, despite a comprehensive legal framework for elections, a number of laws that created the potential for uncertainty and scope for arbitrary interpretation constrained political campaigning and freedom of expression in a broader context. The OSCE also noted the positive efforts made to enhance the participation of citizens of Kurdish origin in political life. However, the election law continues to prohibit the use of languages other than Turkish in an election campaign.

In a polarized political climate leading up to the 2007 presidential and parliamentary elections, the military issued three statements emphasizing concern over what it regarded as deep threats posed by religious fundamentalism, the military's role as the ultimate defender of secularism, and the alleged weakening of secularism in the country. Human rights groups characterized these statements as attempts to exert pressure on the democratic process that were suggestive of the military's disproportional influence over politics. In an October report, the European Commission noted that the military "continued to exercise significant political influence via formal and informal mechanisms."

Municipal elections were held in March and were considered generally free and fair.

Political parties and candidates could freely declare their candidacy and run for election. The Court of Appeals chief prosecutor could seek to close political parties for unconstitutional activities by bringing a case before the Constitutional Court. In October the European Commission noted that the closure procedures initiated in 2007 against the DTP illustrated that legal provisions on political parties "form a system which, as a whole, is incompatible" with the right to freedom of association and freedom of expression guaranteed in the European Convention on Human Rights.

On December 11, the Constitutional Court voted unanimously to close the DTP for "being a center of activities against the unity of the state and the nation." The court's decision stated that it closed the party because of DTP members' involvement in activities that "supported the armed attacks" of the terrorist PKK. The court also found that the DTP was in "touch and solidarity" with the PKK. The closure resulted in the banning of 37 DTP members from politics for five years, including two members of parliament.

During the year police raided dozens of DTP offices, particularly in the southeast, and detained hundreds of DTP officials and members. Prosecutors also opened numerous investigations and trials against DTP members. Police raids on DTP offices in Diyarbakir province resulted in the detention of approximately 54 DTP members. Between December 24 and 31, more than 40 members of the DTP successor BDP, including local elected mayors, were arrested and charged with

ties to the KCK.

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.

There were 49 women in the 550-seat parliament and two female ministers in the 27-member cabinet.

More than 100 members of parliament and senior government officials, including at least three ministers, were of Kurdish origin.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and some officials engaged in corrupt practices with impunity. The World Bank Worldwide Governance Indicators reflected that corruption remained a problem.

Government officials are required by law to declare their property every five years; this requirement was generally fulfilled. The Prime Ministry's Inspection Board, which advises the Corruption Investigations Committee, is responsible for investigating major corruption cases. Nearly every state agency has its own inspector corps responsible for investigating internal corruption. The parliament can establish investigative commissions to examine corruption allegations concerning cabinet ministers or the prime minister. A majority vote is needed to send these cases to the courts for further action.

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.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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, although cooperation increased during the year. 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.

The HRA had 29 branches nationwide and claimed a membership of approximately 10,000. The HRF, established by the HRA, operated torture rehabilitation centers in Ankara, Izmir, Istanbul, Diyarbakir, and Adana as well as a "mobile office" in the southeastern region. It also served as a clearinghouse 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.

In December 2008 HRA Adana secretary general Ethem Acikalin stood trial in an Adana court where he faced two years in prison for propagandizing for an illegal organization. Acikalin was charged after chanting slogans during a 2007 press meeting commemorating the death of 28 inmates during a military operation in 2000. The trial continued at year's end. On August 14, police raided DTP's provincial office in Adana. Acikalin went to the DTP office as an observer joined by the HRA accountant. Police allegedly broke the accountant's arm, and charges were brought against Acikalin for resisting police. The trial had not begun by year's end. On October 7, the Adana penal court convicted and sentenced to 10 months in prison Acikalin for "making propaganda for a terrorist organization." Acikalin participated in a press conference to discuss the killing of Kevser Mizrak during a police raid in Ankara in January 2008. Acikalin was convicted earlier in the year for remarks he made at a rally to protest conditions in prisons. He appealed that case, which was ongoing at year's end. On October 9, in another case, Acikalin was convicted to three years in prison for statements he made regarding children who had been tried under antiterror legislation. Numerous other court cases were outstanding against Acikalin at year's end.

On June 12, a court convicted four members of HRA's Canakkale branch, including its chairman, to 18 months' imprisonment each for violating the Law on Demonstrations when they organized a "September 1 World Peace Day" gathering in 2007. An appeal remained pending at year's end.

In 2007 the government initiated court proceedings to close the HRA's Mersin branch claiming that the local representatives and members were involved in activities incompatible with their positions and accusing them of supporting the interests of "illegal organizations." The case continued at year's end.

In February the Istanbul Administrative Court ordered the Istanbul district governor's office to unfreeze three AI bank accounts frozen since early 2007. The governor's office appealed the decision to the Council of State; the appeal continued, but the money was unfrozen at year's end. The case originated when the Istanbul governor's office froze without notice the accounts, which were worth approximately 75,000 lira (\$62,600) and belonged to the AI branch in the country. In May 2007 the Beyoglu district governor's office issued a decision that the NGO had participated in "unauthorized fund raising" but did not specify the actions that had allegedly violated the law. In a June 2007 public statement, AI stated that it did not seek or accept money from governments or political parties for its work. The statement noted the organization's concern that the move was "government harassment intended to impede legitimate fundraising activities."

The government generally cooperated with international organizations such as the CPT, the UNHCR, and the IOM; however, some international human rights workers reported that the government purposefully harassed them or raised artificial bureaucratic obstacles to prevent their work during the year.

The Prime Ministry's HRP was authorized to monitor the implementation of legislation relating to human rights and to coordinate the work of various government agencies in the field of human rights. Despite lacking a budget and sufficient resources, the HRP carried out a number of projects with the European Commission and Council of Europe.

During the year the HRP promoted human rights by showing short films on topics such as freedom of expression, discrimination, children's rights, and torture. The HRP maintained a free, emergency human rights hotline called "Alo 150" where individuals could report information on human rights violations for transmission to the appropriate government body.

There were provincial human rights councils under the HRP in all 81 provinces and their constituent subprovinces. These bodies served as a forum for human rights consultations among NGOs, professional organizations, and the government. They had the authority to investigate complaints and to refer them to the prosecutor's office. However, many councils failed to hold regular meetings or effectively to fulfill their mandates. The HRA generally refused to participate on the councils, maintaining that they lacked authority and independence.

In December 2008 the Constitutional Court annulled the Ombudsman Law, citing its incompatibility with the constitution; its decision went into effect on April 4. The decision followed an application to the court by then-president Ahmet Necdet Sezer in 2006.

## Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these prohibitions effectively.

### Women

The law prohibits rape, including spousal rape; however, the government did not effectively enforce the law. That victims often waited days or weeks to report incidents for fear of embarrassment or reprisals hindered effective prosecution of assailants. Cases of rape were underreported.

Violence against women, including spousal abuse, was a serious and widespread problem. The law prohibits violence against women, including spousal abuse, but the government did not effectively enforce it. In April the government created a program to train judicial personnel on the prevention of violence against women. From May to October, the government conducted seven seminars to train more than 90 judges and 90 prosecutors. Domestic human rights

organizations reported these laws were partially but increasingly effective; more women called the police emergency hotline to report domestic violence and went to police stations to file abuse reports.

In 2007 the government established a hotline to prevent the exploitation of women, children, persons with disabilities, and senior citizens. From the beginning of the year until October 31, the hotline received 80,995 calls: 5,328 were from women exposed to violence asking to be put into shelters, and 5,739 regarded negligence and exploitation of women. Women's NGOs reported that more than 150,000 women were victims of domestic violence between 2001 and 2005, the latest period for which statistics were available. The Institution for Social Services and Orphanages operated 29 women's shelters with a total capacity of 650 for female victims of domestic violence and rape. The municipalities operated 19 women's shelters with a capacity of 609. The government reported that provincial government offices, municipalities, and NGOs operated 54 shelters and that one private foundation operated a shelter. Observers noted an inadequate number of shelters in towns with populations of more than 50,000.

Persons convicted of honor killings may receive life imprisonment. The TNP reported 43 honor killings and three attempted honor killings through August. Most of these were in conservative families in the southeast or among migrants from the southeast living in large cities. Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform such killings.

Due to penalties for honor killings, family members pressured girls to commit suicide in order to preserve the family's honor. Government officials worked with advocacy groups to hold town hall meetings and set up rescue teams and hotlines for endangered women and girls.

KA-MER, the leading women's organization in the southeast, reported 63 women from the eastern and southeastern parts of the country contacted it to report that their family had threatened them with honor killings. Of these, 17 were between 13 and 18 years old, 29 were between 19 and 30 years old, and 17 were between 31 and 44 years old. The father or husband decided the fate of the woman in the vast majority of the cases. Increased education levels correlated with a drop in the rate of such crimes. KA-MER complained that, while in the past the police had shared statistics on suicides in such situations, the police did not share that information during the year.

In April, 24-year-old Leyla Gok was beaten to death in Siirt's Eruh district, apparently because of her alleged affair with a married man. The woman had returned to her family after living with her boyfriend for some time. The family reportedly did not take the body from the hospital, and the victim was buried by municipal officials. After testimonies, Gok's brother, Hayrettin, was released and her boyfriend, Sukru Batuhan, was detained in connection with the death. The case continued at year's end.

In November in the Ceylanpinar district of Sanliurfa in the southeast, Aysel Cadir was shot and killed by Muslum Bakir, her husband via an unofficial religious marriage. The victim's mother claimed that the decision to kill her was made by the husband and his "family council." Cadir was reportedly three months pregnant. Bakir was in custody and the case continued at year's end.

In January the Van penal court sentenced five members of the same family, including an older brother, father, mother, and two uncles, to life imprisonment for the 2006 murder of 15-year-old Naile Erdas, who was killed after giving birth to a child conceived during a rape. Another uncle was sentenced to 16 years and eight months.

Prostitution is legal.

The law provides different penalties for the crimes of sexual harassment and sexual assault, requiring two to seven years' imprisonment for sexual assault and three months' to two years' imprisonment plus a fine for sexual harassment. Women's rights activists maintained both laws were rarely enforced.

On September 16, the Bursa penal court sentenced Huseyin Uzmez, a journalist, to 15 years and nine months in prison for sexually harassing a minor 14-year-old girl and disturbing her mental health.

Couples and individuals in the country have the right to decide the number, spacing, and timing of children, and have the information and means to do so free from discrimination. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

A 2008 survey of health and demographics by the Health Ministry showed an improvement in mother and child health indicators over the previous five years, although regional disparities existed.

Under the law women enjoy the same rights as men; however, societal and official discrimination were widespread. The Directorate General on the Status and Problems of Women under the State Ministry in Charge of Family Affairs is responsible for promoting equal rights and raising awareness of discrimination against women. In March the parliament established the Committee on Equal Opportunities for Women and Men to monitor developments on gender equality, give opinions on draft laws, and propose steps to align legislation and practice with international agreements. It also examined complaints of allegations of inequality between women and men and gender-based discrimination.

Women continued to face discrimination in employment and were generally underrepresented in managerial-level positions as well as in government. According to a November report by the European Commission, the levels of women's employment and their political participation nationally and regionally were low. 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. The World Economic Forum reported during the year that women earned 61 percent of what their male counterparts earned for similar work. The European Commission's report in October stated that men involved in manufacturing work earned twice as much as women in the same field.

According to the European Commission's report in October, a legislative amendment granted public contractors the right to paid maternity leave at the same rate as public servants.

#### Children

There is universal birth registration in the country, but parents were generally discouraged from giving their children non-Turkish names. However, late in the year several parents were allowed to register Kurdish names for their children. The government was committed to furthering children's welfare and worked to expand opportunities in education and health.

While education through age 14 or the eighth grade was free, universal, and compulsory, only 40 percent of children received a high school diploma, according to the Organization for Economic Cooperation and Development. One in 10 girls reportedly did not attend compulsory primary school.

Child abuse was a problem. There were honor killings of girls by immediate family members, sometimes by juvenile male relatives. There were reports that children were trafficked for sexual exploitation.

In November the Malatya penal court sentenced nine women to three years and one month each in prison, and one woman for four years and two months in the criminal trial opened against 12 orphanage employees accused of abusing children at the Malatya State Orphanage in 2005. Two other women were acquitted for lack of evidence. The Malatya penal court had previously sentenced eight orphanage employees to one year in prison for "neglecting their duties" but postponed execution of the sentence in March 2008.

Child marriage occurred, particularly in poor, rural regions; however, women's rights activists claimed that underage marriage became less common in the country in recent years.

The law defines 17 as the minimum age for marriage, although children as young as 12 were at times married in unofficial religious ceremonies. In rare instances families engaged in "cradle arrangements," agreeing that their newborn children would marry at a later date, well before reaching the legal age.

The minimum age of consent in the country is 15. The law provides for imprisonment of six months to two years for statutory rape; the sentence is doubled if the offender is more than five years older than the victim.

#### Trafficking in Persons

The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to and within the country for sexual exploitation and labor.

The country was a destination point for women and children trafficked primarily for the purpose of commercial sexual exploitation. The TNP identified 78 trafficking victims during the year. The TNP stated that no male victims were identified or assisted during the year. Source countries for identified trafficking victims included Kazakhstan, Nigeria, Romania, Ukraine, Azerbaijan, Georgia, Russia, Moldova, Kyrgyzstan, Turkmenistan, and Uzbekistan. Most foreign victims were trafficked for sexual exploitation in Istanbul and Antalya, although victims were identified in cities throughout the country.

Typically, small networks of foreign nationals and citizens, relying on referrals and recruitment from friends and family members in the source country, trafficked foreign victims to the country. According to local experts and researchers, most victims arrived in the country knowing they would work in the sex industry but were subsequently threatened physically or emotionally and trapped. In fewer cases others were known to have arrived in the country to work as domestic servants and were exploited in that industry or trafficked into the commercial sex industry. In some cases traffickers reportedly continued to use physical force and threats to family members to force women into prostitution.

Penalties for trafficking in persons are sufficiently stringent and commensurate with prescribed penalties for other grave crimes, such as sexual assault. Under the penal code, the penalties for trafficking include eight to 12 years' imprisonment and heavy fines.

During the first 10 months of the year, the TNP reported that it had captured 271 trafficking suspects. A total of 198 were arrested, 57 were released pending trial, 15 fled, and one was in jail for an unrelated crime.

During the year the TNP initiated an investigation against six of its personnel for alleged involvement in trafficking. The investigations continued at year's end.

During the year the media occasionally alleged that police and other government officials participated in trafficking. According to press reports, authorities carried out operations during the year and detained some individuals, including military and police officers, who were involved in employing foreign women as prostitutes.

An ambassadorial-level official from the Ministry of Foreign Affairs served as national coordinator of the government's Task Force on Human Trafficking which also included representatives from the Ministries of Health, Interior, Justice, Finance, Labor, and the Prime Ministry as well as from NGOs, the IOM, and municipalities.

The government actively participated in international antitrafficking investigations and met regularly with neighboring countries and regional groups promoting regional cooperation in antitrafficking law enforcement. The government has signed bilateral antitrafficking cooperation memorandums of understanding and protocols with regional source countries, including Belarus, Georgia, Ukraine, Moldova, and Kyrgyzstan.

NGOs operated three shelters for trafficking victims in the country, located in Ankara, Istanbul, and Antalya. The Antalya shelter opened in June. The shelters in Ankara and Antalya received free rent from the municipalities, and the Ministry of Health provided free medical care to victims in the shelters. The Istanbul municipality stopped funding the shelter there in June 2008, but core services were not affected. Government financial support for these protection mechanisms was inconsistent. During the year the Istanbul shelter assisted 44 victims; through December the Ankara shelter assisted 37 victims.

The government encouraged victims to participate in trafficking investigations and prosecutions; however, most chose to return to their countries of origin and declined to participate in the prosecutions, most often due to fear of authorities or of retaliation by the alleged trafficker. During the year police began taping interviews with trafficked victims to use as evidence if the victim returned to their country of origin before trials commenced.

The Ministry of Justice through local bar associations provided free legal services to foreign victims choosing to remain in the country and to testify against traffickers. Foreign victims identified by authorities may apply for humanitarian visas to remain in the country for up to six months and may then apply for renewal for another six months. The government had a national referral mechanism which it implemented in partnership with the IOM and the shelters and which included the voluntary and safe return of victims. The IOM assisted 75 trafficking victims during the year, two of whom were men that IOM stated were trafficked for labor in a factory.

The IOM operated a toll-free hotline for trafficking victims that was answered in Russian, Romanian/Moldovan, English, and Turkish and could receive international calls. Since 2005, 165 victims have been removed from trafficking situations through the assistance of the hotline.

In July the government began a new international antitrafficking public awareness campaign with Russia and Moldova that used television and radio advertisements to promote trafficking awareness and the trafficking-victim hotline.

Antitrafficking training courses continued to be held in the country throughout the year. TNP officers received training in six cities. Law enforcement officers, judges, and prosecutors participated in "train the trainers" courses that focused on countertrafficking skills, such as victim identification and interviewing.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

#### Persons with Disabilities

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, and access in most cities was limited. The Presidency Administration for Disabled People under the Prime Ministry is responsible for protecting the rights of persons with disabilities.

According to the European Commission, mental health hospitals and rehabilitation centers did not provide sufficient medical care or treatment. In November the Initiative for Human Rights in Mental Health reported on research conducted in 12 mental health care centers between June 2007 and October 2008 with permission of the Ministry of Health and Social Services and the Child Protection Agency. The report cited a need to increase the number of professional care staff, to improve hygienic conditions, to vary treatment beyond only antipsychotic drugs and antidepressants, and to allow for greater freedom of movement.

In November 2008 a clandestinely filmed documentary on the state of public facilities for children in the country was broadcast in the United Kingdom. Earlier in the year, Duchess of York Sarah Ferguson used a disguise to enter and film two care centers for children with mental and physical disabilities for use in the documentary. The expose showed children tied to their beds with fabric and poor caretaking conditions at Saray Rehabilitation Center in Ankara and Zeytinburnu Center for the Care of Disabled Children in Istanbul. Prosecutors opened an investigation into Ferguson's activities, accusing her of breaking privacy laws when she clandestinely filmed the children. Press reports in September indicated that the government requested the United Kingdom to extradite Ferguson to the country to stand trial. There was no movement on the case by year's end.

#### National/Racial/Ethnic Minorities

The law provides a single nationality designation for all citizens and does not recognize national, racial, or ethnic minorities. 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.

In March 2008 the NGO Minority Rights Group International reported that millions of persons who belonged to ethnic, linguistic, and religious minorities faced systematic repression and that many minorities remained unrecognized. The report noted that the law is interpreted to protect only three religious minorities--Armenian Orthodox Christians, Jews, and Greek Orthodox Christians--and not other ethnic and religious minorities, such as Alevis, Yezidis, Assyrians, Kurds, Jafaris, Circassians, Laz, and Roma. The report stated that these "excluded minorities" were prohibited from fully exercising their linguistic, religious, and cultural rights and faced intense pressure to assimilate.

In January the government initiated regular, 24-hour Kurdish broadcasts on "Shesh TV" after a brief pilot period the month prior and lifted restrictions on use of Kurdish by inmates in prison. In November, RTUK began allowing private television stations to broadcast in languages other than Turkish.

Roma continued to face persistent discrimination and problems with access to education, health care, and housing. The government took no apparent steps during the year to assist the Romani community. The European Roma Rights Center, the Helsinki Citizens Assembly, and the Edirne Roma Culture Research and Solidarity Association conducted a program to train the Romani community on civil society organization and activism. Literacy courses for Romani women offered by

the Roma Culture and Solidarity Association of Izmir continued. Associations celebrated International Roma Day in Ankara.

The Roma living in the Sulukule neighborhood of Istanbul faced the destruction of their homes and were relocated outside of the city due to an urban renewal project sponsored by the municipality.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

While the law does not explicitly discriminate against homosexuals, organizations working with lesbian, gay, bisexual, and transgender (LGBT) individuals claimed that references in the law relating to "the morals of society" and "unnatural sexual behavior" were sometimes used as a basis for abuse by police and discrimination by employers. The law also states that "no association may be founded for purposes against law and morality." This article was applied in attempts to shut down or limit the activities of NGOs working on LGBT matters.

On October 16, the Diyanet released a decision declaring that homosexuality is "a behavior disorder and has been spreading in a scary way within society...homosexuality cannot be accepted." The decision went on to state that homosexuality "is against human nature, and it should be corrected without targeting homosexuals."

On June 28, a LGBT pride parade and celebration occurred in Istanbul. Police provided protection to the celebrations, and no incidents of violence were reported. The event had heavy participation and coverage by European observers. According to NGOs, LGBT events with foreign participation generally occurred without incident while those without foreigners had much higher levels of police interference.

Openly gay men were not allowed to perform military service for "health reasons" due to their sexual orientation; those requesting military exemption for reasons of sexual orientation must undergo an invasive burden of proof. LGBT groups complained that gay men were required to show photos of themselves in overt sexual positions and to undergo thorough medical evaluations to prove their homosexuality to military officials.

There were active LGBT organizations in at least five cities in the country: Istanbul, Ankara, Izmir, Eskisehir, and Diyarbakir. Other unofficial groups existed in smaller cities. All groups complained of harassment by police and government authorities. Most had problems registering as an official organization or maintaining their registration once granted. In May protesters stoned an Ankara-based group during a press conference on LGBT matters. When the police arrived, instead of protecting the group, they told the group members that they "should have known better" and demanded that they end their press conference and leave. None of the stone throwers was arrested.

On October 16, the Izmir prosecutor filed a case at the behest of the Izmir governor to close Black Pink Triangle (BPT), an LGBT rights organization in Izmir, on charges of forming an organization that was "contrary to public morality." BPT claimed that their charter was identical to the charters of similar organizations in Ankara and Istanbul. The trial had not begun by year's end.

In 2007 Bilgi University students established the country's first gay and lesbian university club. Approximately 15 parents lodged complaints with the university's administration, and the Turkish Higher Education Council opened an inquiry into the university. Bilgi's dean of students, Halit Kakinc, responded that closing the club would violate human rights. The club was operating normally at the end of the year.

LGBT groups claimed that transgender individuals were significantly persecuted during the year. Although police arrested many for unauthorized prostitution, NGOs claimed that during the year there was a significant rise in prosecutions for "offending public morals." One group reported that many transgender individuals were fined for frequenting stores or walking on city streets, officially for "disturbing the environment" or "disrupting traffic." Police claimed they were acting on complaints they had received. Transgender individuals filed a case in Istanbul court against the police in October for harassment, but there was no movement on the case by year's end.

The HRF and LGBT organizations reported that the former police chief in Izmir had instituted a "point system" whereby officers were rewarded for fining transgender individuals. After the same police chief took command in Istanbul, there was reportedly a large increase in the number of detentions and fines for "offending public morals." Similar cases were reported in Ankara and other municipalities as well. Many observers noted that this practice had contributed to an increase in the levels of abuse of transgender individuals by security forces. There was no government response to these allegations by year's end.

On March 10, prominent transgender rights activist Ebru Soykan was stabbed numerous times and killed in her home in Istanbul. Police arrested Birol Can Korkmaz for the murder. Soykan had made numerous complaints to the police and the prosecutor that Korkmaz had beaten her on several occasions and asked for protection. The criminal case was ongoing at year's end.

On May 20, Halil Ibrahim Dincdag, a soccer referee, lost his job because of his self-identification as gay. He had been hired and had a long career as a referee despite his not having done his military service. According to the national soccer league's regulations, anyone who fails to complete his military service for health reasons is unfit to perform as a referee. Since Dincdag was precluded from military service for being gay, he was declared unfit to act as a referee and was fired. On August 9, the trial began for Yahya Yildiz, accused of killing his son, Ahmet Yildiz, in July 2008 in Istanbul. The case has been described as a gay "honor killing"; Yildiz allegedly killed his son because he had a boyfriend. Ahmet Yildiz had represented the country in an international gay gathering in San Francisco in 2007.

#### Other Societal Violence or Discrimination

NGOs complained that the National AIDS Commission did not have adequate funding or staffing to deal with HIV/AIDS during the year. The EU reported in 2007 an estimated 2,500 persons with HIV/AIDS in the country. The Positive Life Association (PLA) reported a rapid increase of new cases of HIV/AIDS in the country, much higher than the worldwide average, although statistics were unavailable.

The Court of Appeals confirmed a labor court decision in December that a worker had been fired wrongly for testing positive for HIV. The PLA complained that the media and medical professionals did not respect the privacy of individuals with HIV/AIDS and often reported their names in the media.

#### Section 7 Worker Rights

##### a. The Right of Association

The law provides most but not all workers with the right to associate and to form unions subject to diverse restrictions; most workers exercised this right in practice. The government maintained a number of restrictions on the right of association. Certain public sector employees are excluded from organizing.

A minimum of seven persons may establish unions 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. 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 in 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 to record the proceedings; these requirements were usually enforced.

Although official government statistics issued in July indicated that 60 percent of the labor force was unionized, union officials noted that figure included retirees and others no longer on the active list of unionized employees. Most labor experts in the country estimated that approximately 20 percent of the wage and salary workers in the labor force were unionized.

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.

The law prohibits strikes by civil servants; public workers engaged in safeguarding life and property; and workers in the coal mining and petroleum industries, sanitation services, national defense, banking, and education. In these sectors labor disputes were resolved through binding arbitration. 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.

The Ministry of Labor reported that through September 30, there were 13 strikes involving 34 workplaces.

On December 15, workers from the former TEKEL state monopoly for tobacco and alcohol held a peaceful demonstration in Ankara to protest the change in labor conditions after privatization of the industry. Ali Can Aykel, a

member of the Mus branch of the Tekgida-Is union, was allegedly beaten so severely by police that he faced paralysis and was taken to the hospital. At year's end no investigation had begun into the incident.

At a May Day union demonstration in Istanbul the police used force against protesters. The peaceful demonstration was to commemorate the 1977 killing of 37 workers in Istanbul. Although the KESK, DISK, and Turk-Is labor confederations had requested to hold the demonstration in Taksim Square, where the 1977 attack had occurred, the government denied the request. The demonstrators gathered there anyway, and the police used tear gas to disperse the crowd.

Subsequently, the DISK headquarters, where several protesters had gathered, was blocked and inundated with tear gas. There were additional reports of mistreatment by the police following the arrest of union leaders.

**b. The Right to Organize and Bargain Collectively**

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. The International Trade Union Confederation (ITUC) claimed that the law resulted in workers in many sectors not being covered by collective agreements.

On November 25, 2.5 million civil servants held a nationwide strike to demand the right to strike. The unions sought to compel the government to enforce the November 2008 ECHR decision declaring that civil servants have the right to strike. The government maintained its position that the strike was illegal and initiated investigations and temporary suspensions for some of the protestors.

The law prohibits antiunion discrimination; however, such discrimination occurred occasionally in practice. If a court ruled that a worker was unfairly dismissed and should either be reinstated or compensated, the employer generally paid compensation to the employee along with a fine. ITUC reported that private sector employers sometimes ignored the law and dismissed workers in order to discourage union activity.

There are no special laws or exemptions from regular labor laws in the country's 21 free trade and export processing zones.

**c. Prohibition of Forced or Compulsory Labor**

The law prohibits forced or compulsory labor, including by children; however, there were reports that women, men, and minors were trafficked for commercial sexual exploitation (see section 6). Internal trafficking of citizens for both legal and illegal prostitution was also reported.

**d. Prohibition of Child Labor and Minimum Age for Employment**

There are laws to protect children from exploitation in the workplace; however, the government did not effectively implement them. There were four child victims documented in 2008, with the number of Uzbek and Turkmen victims increasing. 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. Some parents forced their children to work on the streets selling tissues or food, shining shoes, or begging.

The law prohibits the employment of children younger than 15 and prohibits children under 16 from working more than eight hours a day. At age 15 children may engage in light work, provided they remain in school. 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-age children from working more than two hours per day or 10 hours per week.

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 agricultural enterprises employing 50 or fewer workers, maritime and air transportation, family handicraft businesses, and small shops employing up to three persons.

Nonetheless, child labor was widespread. In a child labor survey conducted in the last quarter of 2006 and released in April 2007, the State Statistical Institute reported that the number of child laborers between the ages of six and 17 was

960,000. These figures represented a decrease over previous years. The study found that 84.7 percent of children ages six to 17 attended school and that the 31.5 percent of children in that age group who were employed were also attending school at least part-time.

An informal system provided work for young boys at low wages, for example, in auto repair shops. Girls were rarely seen working in public, but many were kept out of school to work in handicrafts, particularly in rural areas. According to the 2006 child labor survey, 40.9 percent of child labor occurred in the agricultural sector, with 52.4 percent of employed children working in rural areas, compared with 47.7 percent working in urban areas. Many children worked in areas not covered by labor laws, such as agricultural workplaces with fewer than 50 workers or the informal economy. To combat this problem, the Ministry of National Education conducted a program in cooperation with the UN Children's Fund designed to provide primary education for at-risk girls. By year's end the program resulted in the primary-school enrollment of nearly 74,500 additional girls and 52,800 additional boys.

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. If children employed in these businesses were registered with a Ministry of National Education training center, they were required to go to the center once a week for training, and the centers were obligated by law to inspect their workplaces. According to data provided by the ministry, there were 311 centers located in 81 cities; these centers provided apprenticeship training in 133 occupations. The government identified the worst forms of child labor as working in the streets, in industrial sectors where their health and safety were at risk, and as agricultural migrant workers.

There were reports that children were trafficked for sexual exploitation.

According to the U.S. Department of Labor's 2008 report on the worst forms of child labor, approximately 50,000 children worked on streets in 10 provinces. The government's Social Services and Child Protection Institution operated 37 centers to assist such children.

#### e. Acceptable Conditions of Work

The national minimum wage of 693 lira (\$465) 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. The Turk-Is labor confederation reported that the minimum wage was insufficient, determining that a monthly minimum of 2,588 lira (\$1,725) per household was needed to stay out of poverty and to meet a family's minimum basic needs.

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.

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.

In December an explosion killed 10 workers at a privately owned mine near Mustafakemalpasa, in Bursa province. Following the incident, the government closed down the mine. Mining accidents reportedly occurred often due to safety violations, outdated equipment, and inadequate safety inspections.

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.