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TURKEY

- **Background**

The Republic of Turkey was founded in 1923 on the basis of exclusion and discrimination. Indeed, its (first) Constitution (1924) proclaimed that the new state was composed of one people (the Turkish people) speaking one language (Turkish). These principles remain unchanged. A declared objective of the founders of this State was to build a "pure Turkish nation" on the ruins of the Ottoman Empire, knowing that modern Turkey lacked a solid foundation on which to build a nation-state, and that the empire in question had been based on religious unity (Islam) of which the Sultan was both the spiritual and political leader.

The Armenians and Greeks, two of the key nations that had composed the Ottoman Empire, were already eliminated, expelled (population exchanges with Greece) or forced into exile for the most part in the early twentieth century¹. The new Turkish state focused on assimilating the Kurdish people who formed the largest homogeneous group²; hence the creation (as of 1930) of an ad hoc ideology and of institutions to magnify the Turkish race. Turkish culture is affirmed as the mother of all great civilizations and the Turkish language as the language of origin of these civilizations: "The proposition of Turkish history and the theory of language-sun."³ This ideology provided the base for denying the existence of the Kurdish people, of the Kurdish language, and of Kurdistan⁴. In conformity with this ideology, which still constitutes the fabric of modern Turkey, policies of assimilation and repression have been implemented against the Kurdish people with their retinues of serious violations of human rights: large-scale massacres, disappearances, torture, rape, mass deportations, expropriations, assimilations, destruction (villages, forests, crops, livestock), deprivation of fundamental rights.

Between 1924 and 1945, Turkey was ruled by a single party (Republican People's Party, CHP). The Kurdish language was banned in 1924⁵, as were the Kurdish names of places and of first names. The same applied to the right to freedom of opinion and expression and of association to demand the basic rights of the Kurdish people. Turkish Kurdistan was declared a prohibited zone for foreigners until the mid-1960s. The Turkish authorities imposed martial law in Turkish Kurdistan in 1978, followed a coup d'Etat in 1980⁶ with a state of siege. The latter was turned into a state of emergency in 1987 in the 13 Kurdish provinces. Today, although the state of emergency was officially lifted, it continues in other forms such as "temporary security zones" and unrestricted permission granted to police to conduct searches⁷.

It is in this context that the armed struggle of the Workers Party of Kurdistan (PKK), qualified by the Turkish government as the 29th Kurdish rebellion in Turkey, intervened in 1984, followed by people's uprisings in Turkish Kurdistan in the 1990s. The Turkish authorities' response was violent, as much in regard to human rights defenders, particularly of the Kurdish people, as against the opponents to those in power. According to data from the Association of Human Rights in Turkey (IHD), for the period 1990-2008, the count is more than 5,000 political killings, 840 cases of forced disappearances (still unresolved to this day), tens of thousands of arbitrary arrests, the use of torture on a large scale, deportations of villages (3,848 according to official figures) of which three to four million were displaced rural Kurds, use of napalm destroying forests, crops, livestock ... attributable to police, the Kurdish militia⁸ and paramilitary groups.

Despite the overtures by of the Turkish government and negotiations undertaken during a number of months with the Kurdish guerrillas, the human rights violations continue unabated. In fact, during the first nine months of 2009, the IHD has found about 13,000 violations of human rights in Turkish Kurdistan in 25,000 arrests, 950 detentions, 70 summary and extrajudicial executions, 25 deaths due to antipersonnel mines, about 1,000 persons subjected to torture and ill treatment⁹.

The current Constitution of Turkey (3rd edition) was developed by the military, authors of the coup d'Etat, and was adopted 1982. As the preceding ones, this also denies the fundamental rights of the Kurdish people. Sections 3, 42 and 66 preach the superiority and the monopoly of the Turkish race and language. Article 4 states that amendments to Article 3 can never be proposed.

The Turkish penal code, borrowed from Mussolini's fascist Italy, still contains many anti-democratic articles used as a sword of Democles against the Kurds, political opponents and human rights activists.

The official concept of the struggle "against terrorism" aims at the Kurdish people directly. Each Kurd claiming his identity is considered to be a political opponent or a potential terrorist". For example, leaders and members of pro-Kurdish parties are routinely subject to repression (murders, kidnappings, arrests, intimidation ...)¹⁰. These parties are also routinely prohibited. Their successors suffer the same fate. The Party for a Democratic Society (Demokratik Toplum Partisi, DTP), represented at the Great Assembly (Parliament) of Turkey by 21 deputies, argues for the democratization of Turkey and the recognition of the identity and rights of the Kurdish people. Again this year, 450 of their leaders, managers and members were incarcerated. Among them are former and currently elected officials (mayors and councilors in particular). Others are prosecuted, such as deputies who are subject - among others - of 200 trials for speaking in Kurdish in public! Recently, October 21, 2009, Mr. Resul İlçin, a DTP member, was killed while in custody in Idil (sub-prefecture of Sırnak). Although the official (police and governor) argues that Mr. İlçin reportedly died after a fall, the results of the first autopsy, conducted at the State Hospital of Diyarbakir (capital of Turkish Kurdistan), indicate assault on the head and different parts of the body of the victim¹¹.

It is therefore not surprising that the European Court of Human Rights (ECHR) has condemned Turkey 1'668 times (between 1998 and 2008) for serious violations of human, such as the right to liberty and

security (329 times) or for the practice of torture (144 times)¹².

In this context, the observation made in 1994 by Marc Galle, MEP, keeps all its relevance: "Turkey is a country that is run but not governed in the sense we understand it, that is, by political institutions based on popular vote. The totalitarian phenomenon in Turkey seems like a wave that breaks without causing surf and whose waters continue to stagnate on the banks. Thus, it is no longer prominent, but remains diffused in the wheels of the state as a sort of praetorian dictatorship that is rigorously protected by the Constitution which serves it as pretext."¹³

It is in this context that it is necessary to analyze the human rights violations in Turkey, which are reported in this paper.

- **Right to life and security¹⁴**

In 2008, 116 people were killed in Turkey including 37 resulting from firing by police (at events, non observations of summons or summary and extrajudicial executions), 45 held in detention (under torture, ill treatment or deprivation of medical care) and 34 by "persons not identified"¹⁵. Since 2000, the number of people killed for the reasons mentioned above amounts to 829.

This macabre trend is on the increase (70 executions in Turkish Kurdistan since the beginning of 2009), given that the amendment of Law No. 5681 on the function and power of the police (Polis ve vazife Salahiyet Kanunu) in June 2007 facilitates the use of firearms and the use of disproportionate force of law enforcement.

To this have to be added the victims of antipersonnel mines (one million mines planted by the army in Turkish Kurdistan). Indeed, between 2002 and 2008, 289 people, mostly children, were killed and 684 injured by mine explosions.

In addition to the disappearances listed above, the police are using more and more means of torture and abuse, not only in places of detention, but also during identity checks and searches and during transfer of suspects in police vehicles. In 2008, IHD identified 1'546 cases of torture and ill-treatment suffered by one-third of these cases occurred outside official places of detention.

- **Right to freedom of opinion and expression**

Article 301 of Turkish Penal Code¹⁶ is often used to restrict freedom of opinion and expression. It is not the only one, as 14 other articles¹⁷ and the Anti-Terrorism (Law No. 3713) are interchangeable with section 301 for the same purpose. The laws on crimes against Atatürk (Law 5816)¹⁸, media (Laws No. 5187 and No. 4676) and Political Parties (Law No. 2820) are also frequently used with the same objective¹⁹.

In 2008, IHD verified: the raid and search by police in 103 local associations, trade unions and political parties, the confiscation and prohibition of 100 titles and publications (newspapers, periodicals, books, programs television, etc.), the prosecution of 2,641 persons for exercising their right to freedom of opinion and expression. After 177 trials, 380 people were sentenced to a total of 432 years, seven months and five days imprisonment and fined²⁰ 321'847 Turkish pounds²¹.

This trend continues in 2009. Indeed, during the first three months of 2009, 110 persons, including 60 journalists, have been prosecuted²². Currently, eight editors and 33 writers and journalists are still imprisoned in Turkey.

One example among many others: arrested on 30 September 2009 in Istanbul, Mr. Murad Akincilar (47 years old, union secretary at Unia in Geneva) was imprisoned on 4 October 2009 under the Turkish anti-terrorist law. Economist, trade unionist, trainer and writer, Mr. Akincilar is a Turkish intellectual who campaigned for human rights and democratization of his country. In Turkey, he worked, among others, with Özgür University (Vrije Universiteit), Iktisat Dergisi (Economic Review), directory of Petrol-Is union, the Social Forum of Mesopotamia and the magazine Democratic Transformation. In a recent article published in that magazine, Mr. Akincilar analyzes policies of the Turkish authorities against social movements and Kurdish popular movements in the context of the economic crisis²³.

The Platform of Solidarity with imprisoned journalists in Turkey (TGDP) rallied in his favor and declared: "The fact of despising the professionalism of journalists, opponents of the regime, accusing them without any foundation whatsoever of being 'members of 'terrorist organizations' and wanting to silence them are traditional policies of the State [Turkish ndr]. As a Platform of solidarity with the detained journalists, we strongly protest against such practice and all repression against journalists opposing the regime. We demand the release of Murad Akincilar and all detained journalists and the abrogation of Art. 301 of the Criminal Code (Anti-terrorism)."²⁴

- **Religious freedom and language**

The Treaty of Lausanne (1923), founding Act of the Republic of Turkey of today²⁵ is very clear about the religious and linguistic freedoms: "The Turkish Government undertakes to grant all inhabitants of Turkey full and complete protection of life and liberty, without distinction of birth, nationality, language, race or religion. All inhabitants of Turkey shall be entitled to the free exercise, whether in public or in private, of any creed,

religion or belief whose practices are not inconsistent with the public order and morals. "(Article 38) However, in its unilateral official interpretation the Turkish government recognizes only the linguistic and religious rights of three communities, namely, Greek, Armenian and Jewish communities which are mostly based in Istanbul. And in practice, these communities enjoy their fundamental rights to a limited extent and are subject to various repressions that result in a steady decline in their numbers²⁶.

Moreover, although modern Turkey has abolished the system of the caliph and established the principle of secularism in its first constitution, the Turkish authorities have created a parallel Department of worship which, in fact, merely promotes Sunnite Islam at the expense of other faiths²⁷.

- **Impunity**

It is extremely rare to see members of the security forces who commit serious human rights violations (killings and torture in particular) sentenced by Turkish courts. Worse, some court decisions tend to encourage human rights violations as evidenced by the following examples.

Many complaints against the practice of torture are simply classified without any follow-up as in the case of juvenile C. E. (16), arrested during the celebrations of Newroz (Kurdish New Year) in March 2008 in Hakkari and tortured in custody; to the contrary, C. E. was prosecuted in Turkey for membership in a terrorist organization with a demand of 30 years in prison²⁸.

On September 21, 2009, the Court of Cassation acquitted an army officer (GY), who had killed a passer – by (Abdullah Aydan) in 2005 when he fired on demonstrators in Siirt, arguing that it had to take into account the "particularity of the region" [Turkish Kurdistan] ...²⁹ It was the same for the murder of Ahmet Kaymaz and his son Ugur (12), riddled with bullets in front of their home October 21, 2004 at Kiziltepe (Mardin), for which the Court of Cassation concluded (19 June 2009) legitimate "self defense" of the forces of order ...³⁰

Moreover, the Interior Minister himself acknowledges that 98% of complaints, administrative and judicial, filed between 2003 and 2008 against members of law enforcement, have resulted in acquittals or classings.

- **Rights of the Child**

If children in Turkey are denied many human rights (the right to education, health and housing among others); human rights defenders are particularly concerned about the fate of children imprisoned and prosecuted under the anti-terrorist law. Indeed, between 400 (official figures) and 700 (of observers) children have been abused in custody in Diyarbakir province alone and most of them have been incarcerated. In other provinces, children have even been tortured in custody³¹.

Following the amendment of the Anti-terrorism in 2006, but under sections 220³² and 340³³ of the Turkish Penal Code, 1'572 children were brought before the courts. 250 children between 12 and 15, are to this day in custody and are judged in court..., with demands for sentences of up to 40 years in prison for throwing stones against the forces of the order or making the sign of victory during demonstrations³⁴. For example, the 4th Chamber of the Court in Van condemned last March Yakup Turgut (15 at the time of his arrest in 2006) to 90 years in prison for being involved in the attack against a Police post in Van in 2006, although the perpetrators of this attack were subsequently arrested³⁵. As to the Court of Adana, with the recent conviction of two minors, MC and Mr. A. (16 and 17 years sentenced to four years and two months each), it condemned up 103 Kurdish children to a total of 477 years and eight months in prison³⁶.

- **Trade union rights³⁷**

Trade union rights are not yet fully recognized in Turkey. Unions must obtain official permission to hold meetings or rallies, and allow the police to attend and record their discussions. Solidarity strikes, general strikes, slow-down strikes and occupations of workplaces are still prohibited. Severe penalties, including imprisonment, are foreseen for participation in these strikes. Any strike not called by a union executive board is prohibited. Strikes for non-compliance with collective labor agreements are also prohibited.

The unionized workers and union leaders are put under severe pressure as much from the employers of the private sector as they are of the government. If the former have frequently resorted to collective dismissal of unionized workers to weaken or destroy unions, the second tends to create yellow unions in its pay.

For example, in January 2008, the management of Çaykur Enterprise, which operates 52 plants throughout Turkey began maneuvers to force workers to join a union known to be close to the government. Of a total workforce of 14,000 employees, about 9,500 were union members TEKGIDA-Is, which represented the workers of this company to bargain collectively over 50 years. The Ministry of Labor released stripped TEKGIDA-Is of its collective bargaining rights and transferred this right to the yellow union.

During the past year, the Confederation of Workers of the Public Service of Turkey (KESK) noted an increase in persecution against members of its executive officers and sections. Thus, more than 600 of its members have been subjected to "disciplinary investigations" for taking part in union activities. Currently, 22 of the union leaders are imprisoned.

During the year 2008, many private companies have fired workers for their participation in union activities. For example, 116 workers, affiliated to the Workers Union of Cooperatives and offices (Koop-Is), were

dismissed for their involvement in union activities in stores Praktiker, Bauhaus, Ikea and Adese in Istanbul, Ankara, Izmir, Adana, Gaziantep and Konya.

Furthermore, it should be stressed that the Turkish legislation on job security only applies to companies with a workforce of 30 employees minimum. By the game's use of subcontracting and temporary contracts, nearly 95% of workplaces have fewer than 30 employees.

• **Recommendations**

To respect human rights, the fight against impunity and to prevent violations of human rights, we recommend that the Turkish government, together with human rights organizations in Turkey, to take the following measures:

- 1) respect for and full application of international human rights law, including covenants and conventions to which the Republic of Turkey is a party;
- 2) immediate implementation of recommendations of UN treaty bodies and full conformity of the national legislation with the spirit of judgments rendered by the European Court of Human Rights;
- 3) amendment of the 1982 Constitution, so that ethnic, cultural and religious exclusion ends and the protection of all human rights for all is ensured;
- 4) abrogation of all laws denying the identity, language and Kurdish culture and rehabilitating the teaching and use of the Kurdish language, including restitution of Kurdish place names and settlement names;
- 5) Use of Kurdish as an official language in Turkish Kurdistan and in areas where the Kurdish population constitute a large minority group;
- 6) Modification of the law on political parties, including the reduction of the quorum of votes needing to be obtained (from 10% to 5%) for representation in the Great Assembly;
- 7) Ending of the crackdown against the pro-Kurdish party DTP;
- 8) repeal of any laws, including anti-terrorism, that are opposed to freedom of opinion and expression;
- 9) cessation of military operations in Turkish Kurdistan, the lifting of all measures of exception in the region and the continuation of talks initiated between the Turkish government and the Workers Party of Kurdistan (PKK) to find a peaceful solution to the Kurdish question in Turkey;
- 10) proclamation of an unconditional general amnesty for all political prisoners and fighters of the PKK and the establishment of conditions necessary for their integration into society;
- 11) abolition of the system of village guards (Kurdish militia) which is responsible for numerous human rights violations;
- 12) creation of the necessary conditions (safety and compensation in particular) for the return of Kurdish displaced peasants;
- 13) demining of Turkish Kurdistan so that the land can be invested with agriculture and livestock;
- 14) creation of a truth commission, with the participation of representatives of civil society, which will investigate serious violations of human rights (political killings, enforced disappearances, torture, destruction of villages and forced displacements of peasants in particular) and will judge the perpetrators.

Appendices

1. List of victims of summary or extrajudicial executions 2008
2. List of enforced disappearances

1 Today there are only about 60,000 Greeks and 15,000 Armenians in Turkey (based mainly in Istanbul).

2 With no official census, estimated today the number of Kurds in Turkey to more than twenty million.

3 « Türk Tarih Tezi, Günes Dil Teorisi ve Kürt Sorunu », İsmail Besikçi, Ankara, June 1977, and Appeal of the Kurdistan n° 21, September 1997.

4 Indeed, following the agreement reached between the Kurdish principalities and the Ottoman Empire in the sixteenth century, the Kurdish took the name "Vilayet-i Kurdistan" (Kurdistan province, 1516). Moreover, when the Ottoman Sultan admitted in the second half of the nineteenth century the establishment of a parliament, called on the Kurdish deputies who sat the members of Kurdistan. Since the establishment of the Republic of Turkey this designation has been banned by the authorities.

5 Although a state television channel, broadcasting in Kurdish, was launched earlier this year, children and young Kurds are still denied education in their mother tongue and the use of Kurdish is banned in the public administration.

6 These last 50 years, the Turkish army has carried out three coups (1960, 1971 and 1980), not to mention its periodic direct intervention in politics in the country (especially in 1997 and 2007), see info - Türk No. 373, September 2009.

7 Annual Report 2008 of the Turkish Foundation for Human Rights, TIHV, April 2009.

8 Residual of the Turkish army, this group was established in 1985 under the name of village guards. Armed and paid by the Turkish government, their number currently amounts to 71,000 (according to official figures), cf. the daily Milliyet, 25 September 2009.

9 Dispatch Agence ANF of October 27, 2009.

10 Created in 1990 for the first time legally under the name "Halkın Emek Partisi (HEP), the party's pro-Kurdish had since changed its name several times following prohibitions (HEP, DEP, HADEP, DTP).

11 Dispatch Agence BIANet of October 23, 2009.

12 During the period under review, the ECHR has dealt with 1,905 complaints of which 203 have been settled amicably and 34 to non-infringement, see 2008 Annual Report of the ECHR, Strasbourg 2009.

13 Mission to Turkey on lifting the parliamentary immunity of Kurdish deputies, 8-11 March 1994.

14 Special Report on the Right to Life 2008, published by the Turkish Foundation for Human Rights (TIHV) on 1st January 2009, Special Report of TIHV on the consequences of the implementation (since two years) of the Act on the power and duty of the police June 16, 2009, 2008 Annual Report on the violations of human rights by the Association of Human Rights (IHD), 2008 Annual Report of the TIHV, April 2009, Mayinsiz Bir Türkiye (A Turkey without anti-personnel mines), www.mayinsizbirturkiye.org.

15 Annex 1 - List of victims of summary executions, extrajudicial 2008.

16 This article previously punished violations of "Turkishness." With the amendment made in April 2008, it punishes those attempting to the "Turkish nation".

17 Articles 84, 125, 132, 133, 134, 215, 216, 218, 285, 286, 288, 299, 305 and 318 of the Penal Code.

18 Under this law, anyone who dares to "insult the memory" of the founder of Turkey (died 71 years ago) or damages its status one way or another is punishable by 1 to 5 years in prison. If the offense is committed collectively (from two), the penalty is increased by 50%.

19 Annual Report 2008 of the Turkish Foundation for Human Rights, TIHV, April 2009.

20 2008 Annual Report violations of human rights of the Association of Human Rights (IHD).

21 1 Turkish New Lira (YTL) is equivalent to \$ 0.75 US\$ (October 2009).

22 BIA Medya Gözleme Raporu (Report of the Observatory on Media BIA), 1 May 2009.

23 See article entitled "Kriz Konjonktüründe Sınıfı politikası ve Kürt Halk Hareketi (Policy of class and Kurdish popular movement in the crisis situation), <http://demokratikdonusum.org/arsiv/yeni1.pdf>

24 Press Release TGDP of October 6, 2009.

25 Article 37 of the Treaty stipulates that "Turkey undertakes that the stipulations contained in Articles 38 to 44 [on minorities] are recognized as fundamental laws, that no law, no regulation, nor official action shall conflict or opposition to these provisions and that no law, no regulation or official action prevail against them."

26 There are currently approximately 60,000 Armenians and 15,000 Greeks in the country while they were out of the First World War 300,000 and 1,700,000 respectively. As for the Assyrians living in Turkish Kurdistan, one of the oldest peoples of the region, they have no rights and are on the verge of extinction.

27 The latter (called Diyanet Başkanlığı) currently has over 100,000 staff including more than 80,000 imams, employees also in countries where Turkish immigrants is high (cf. [www.diyamet.gov.tr / turkish / tanitim / rapor_ms2007.pdf](http://www.diyamet.gov.tr/turkish/tanitim/rapor_ms2007.pdf))

28 Dispatch Agency BIA's September 29, 2009.

29 Dispatch Ak News Agency of September 22, 2009.

30 Dispatch Agency BIA's June 19, 2009.

31 2008 Report on children in conflict with the laws (Kanunla İhtilafa Düsen Çocuklar Raporu), IHD, May 2009.

32 Punishable by 1 to 3 years, anyone who create, lead or join an illegal organization.

33 Punishable by 5 to 15 years, anyone who create, lead or join an illegal armed organization.

34 Report entitled "Human Rights, The Kurdish Issue and Turkey", by Muharrem Erbey, Chairman of the Diyarbakir branch and Deputy National Chairman of the IHD, September 2009.

35 The daily newspaper Yeni Özgür Politika on 1 March 2009.

36 Dispatch Agence ANF of October 23, 2009.

37 See "2008 Annual Survey of violations of trade union rights" of the International Trade Union Confederation.