

# THIRD INTERNATIONAL CONFERENCE ON THE EU, TURKEY AND THE KURDS

EUROPEAN PARLIAMENT, BRUSSELS,  
16TH – 17TH OCTOBER 2006











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## Acknowledgments

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The Bar Human Rights Committee is the international human rights arm of the Bar of England and Wales. It is an independent body primarily concerned with the protection of the rights of advocates and judges around the world. It is also concerned with defending the rule of law and internationally recognised legal standards relating to the right to a fair trial. The remit of the BHRC extends to all countries of the world, apart from its own jurisdiction of England & Wales.



medico international was founded in 1968 in the context of the Biafra and Vietnam wars. It is registered as a non-profit welfare organisation, independent of political or religious affiliations, that struggles for the human right to the best possible access to good health. In doing so it supports local partners, primarily in Africa, Asia and Latin America in their endeavours to create economic, social and cultural conditions which allow each person to attain the highest health standard possible. In particular, medico stands by those who are in situations of emergency and in poverty, including refugees and the victims of war.



Founded in the humanistic tradition of the Helsinki Accord, the aim of the Rafto Foundation is the promotion of the fundamental human rights of intellectual and political freedom and free enterprise. Established in 1986, in fond memory of Professor Thorolf Rafto, it awards the annual Professor Thorolf Rafto Memorial Prize to recipients who are active participants in the struggle for the ideals and principles underlying the Human Rights Charter, or who are a symbol of these. Four Rafto Laureates have later received the Noble Peace Prize.



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### List of Abbreviations

BHRC	Bar Human Rights Committee
DEHAP	Democratic People's Party
DEP	Democratic Party
DGM	State Security Courts
ECtHR	European Court of Human Rights
ECHR	European Convention on Human Rights
EEC	European Economic Community
EU	European Union
Göç-Der	Migrants' Social Solidarity and Culture Association
HADEP	People's Democracy Party
HEP	People's Labour Party
HPG	People's Defence Force
HRFT	Human Rights Foundation of Turkey
IDP	Internally displaced person
IHD	Human Rights Association of Turkey
KDP	Kurdistan Democratic Party
KDPI	Kurdistan Democratic Party of Iran
KHRP	Kurdish Human Rights Project
Kongra-Gel	Kurdistan People's Congress
MEP	Member of the European Parliament
NGO	Non-governmental organisation
PACE	Parliamentary Assembly of the Council of Europe
PKK	Kurdistan Workers' Party
PUK	Patriotic Union of Kurdistan



## Editor's note

The third annual EU-Turkey Civic Commission (EUTCC) Conference was held on 16-17 October 2006 at the European Parliament in Brussels. Themed *Time for Justice, Dialogue and Solution*, the event was hosted by the founders of the EUTCC, namely, the Bar Human Rights Committee of England and Wales (UK); the Kurdish Human Rights Project (UK); medico international (Germany); and the Rafto Foundation (Norway), and was supported by members of the European Parliament.

This publication sets out the majority of the speeches and papers of the 2006 Conference, including the Final Resolutions; in this way it attempts to shed light on particular areas of concern for a successful accession process. A brief account of the background to the Conference can be found below; for a more comprehensive guide to the issues discussed, and related recent developments in Turkey, the Background Paper given to Conference delegates is included in this publication (Appendix I).

For the purposes of publication, the speeches reproduced here have been edited and in some cases abridged or translated. Where given, the title of each speech has been included. Fuller versions of these speeches are available on the EUTCC website at [www.eutcc.org](http://www.eutcc.org). Some speeches were not available in written form and so are not included. The speeches that have been omitted are listed at the start of each section.

*The opinions expressed in this work do not necessarily represent the views of the EUTCC.*



## Introduction

The EU-Turkey Civic Commission (EUTCC) was established in November 2004 as the outcome of the first international conference on ‘The EU, Turkey and the Kurds’ held in the European Parliament in Brussels on 22-23 November 2004. The EUTCC aims to both promote and provide suggestions for Turkey’s bid for EU accession, and to help guarantee respect for human and minority rights and a peaceful, democratic and long-term solution to the Kurdish situation. The EUTCC monitors, and conducts regular audits of, Turkey’s compliance with the accession criteria, as defined in the accession agreements; it also makes recommendations, acts as a point of contact, and exchanges information, with the institutions of the EU and other governmental and non-governmental organizations.

The conference brings together leading academics, writers, legal experts, human rights organisations, and prominent Turkish and Kurdish intellectuals, from all over the world, with the goal of exchanging information and ideas to produce resolutions and recommendations to advance the EUTCC’s aims and activities. Following the first conference in 2004, a second conference (2005) was called to evaluate the development of Turkey’s EU accession process during the first year of accession negotiations. The speakers noted the escalating military conflict in southeast Turkey and the failure of various State institutions to adhere to their obligations under the European Convention on Human Rights. Also discussed was the slowing of the reform process in Turkey, just as EU accession was beginning to be viewed as a certainty. The conference also focused on concerns over the new Anti-Terror legislation, continued restrictions on freedom of expression, and issues of torture and ill-treatment during detention. The Conference reiterated its support for the creation of a multi-cultural Europe and called upon leading European politicians to take a central part in the debate. It concluded with the unanimous adoption of declarations concerning the accession process, specifically calling upon the British presidency of the EU to ensure that talks with Turkey opened as planned on 3 October 2005, and to urge Turkey and other member states to foster a climate of peace so that a democratic platform for dialogue can be established between Turks, Kurds, and other constituent peoples and minorities resident in Turkey.

Building on this, the 2006 Conference focused on implementing a solution to the Kurdish issue—the most problematic issue for Turkey in its bid to develop a democratic country. The conference also focused on the need for fundamental

changes to the judiciary; on the situation of internally displaced people; on continued violations of human rights; and on suggestions for compliance with the Copenhagen Criteria, specifically the obligation to respect and promote the rights of minority groups. The Conference concluded with the adoption of new resolutions.

Within months of the 2006 Conference, there were major setbacks in the accession process. Promised reforms have not been implemented, regular violations of human rights are reported, and detention issues have continued to intensify. Turkey is not making sufficient progress towards meeting the Copenhagen Criteria. The European Commission's Progress Report of 2006 acknowledged the slowdown in the reform process, and stated that Turkey must address a number of areas if it is to meet international human rights obligations. However, the report failed to adequately impart the urgency of the need to reinvigorate Turkey's previous progressive path.

As this publication goes to print, there are serious concerns over the ability and commitment of Turkey to reform, nearly three years into the accession process. In December 2006 the EU suspended accession talks with Turkey in 8 key policy areas; however action was resumed in March 2007 on thirty-five new issues. Continuing concerns include the increase in actual or threatened armed conflicts by the Turkish military, including Turkey's recent threats to invade Kurdistan Iraq in a bid to crush the Kurdistan Workers' Party (PKK); Turkey's failure to adequately implement recent legal reforms; sustained reports of ill-treatment or torture during detention; and the lack of respect for freedom of expression.

At the time of writing, the Turkish state continues to finance military oppression and has increased the military presence in south-east Turkey to 250,000 soldiers in recent months, declaring the move necessary to combat the PKK near the Iraqi border. A potential cross-border operation by the Turkish military into Kurdistan, Iraq to prevent PKK violence is still a possibility and this has been a source of great concern to the international community, particularly due to the destabilising effect any such incursion would have of Iraq's only relatively stable region.

Turkey has continually failed to respect or properly administer European standards of human rights, including freedom of expression and the freedom of the media. Examples include the imprisonment and alleged mistreatment of the Kurdish leader Abdullah Öcalan; the Ministry of the Interior's call for the dismissal of Mayor Abdullah Demirbaş and the dissolution of his Sur Municipality in Diyarbakır after his attempts to provide multi-lingual services to its citizens; and the repeated prosecution of Armenian journalist Hrant Dink for insulting Turkishness, which many believe led to his murder in January 2007. These instances all indicate that Turkey is neither adequately implementing the core standards of the Copenhagen Criteria nor meeting the expectations of the international community for the protection of all its ethnic groups. The speakers at the 2006 Conference expressed

concerns in all these areas, and the Conference's resolutions provided a programme of action to try to initiate more rapid progress on them.

The conference planned for December 2007 will again provide a platform for discussion of these issues and seek to assess the progress of the accession process and continuing problems faced in resolving the Kurdish question.



## Addresses from the Patrons

### *Bianca Jagger*

It is an honour to be a patron of the Third International Conference on the EU Turkey and the Kurds, and a privilege to join Nobel Peace Laureates Shirin Ebadi, Archbishop Desmond Tutu, and Harold Pinter, and Kurdish writer Mehmed Uzun. I would like to express my support to the organizers of the conference and welcome all participants. I wish I could have been with you; unfortunately, I will be in Nicaragua prior to the elections that will take place 5<sup>th</sup> of November 2006.

The motto and main theme for the Conference is apt: *Time for Justice, Dialogue and Solution*. At the current time, there is a pressing need for the European Union, the Turkish government, Kurdish communities and political parties, politicians, writers, lawyers, human rights defenders, and concerned citizens to meet and engage in meaningful dialogue and consultation to secure a better future for all. Support needs to be extended to those movements and initiatives that aim to secure 'justice, dialogue and solutions' to problems faced by the Kurds and others. At the moment, there are many interests that seek to derail initiatives for peace, equal rights and the right to life: We must stand firm and support initiatives such as the ones that are being explored and debated at the EUTCC conference in Brussels.

With Best wishes from Managua

Bianca Jagger

### *Mehmed Uzun*

Dear friends,

First of all, I congratulate your conference, which takes place today in the European Parliament.

Unfortunately, I will not be able to participate in this conference due to my illness, but my heart is with you!

As you know, your conference takes place in a very sensitive period of time, and my wish is that the conference will be an important step towards giving the Kurds their rights.

Although I'm not with you now, I'm sure that you are going to have a constructive conference and add a new step to the struggle of Kurds for their rights.

And, finally, I sincerely wish you a successful conference!

With my warmest greetings,

Mehmed Uzun  
15<sup>th</sup> October 2006  
Diyarbakır

### *Leyla Zana*

I have been very honoured to receive an invitation to the third conference on 'Kurds in Turkey'. The subject that you are discussing concerns not just a region, but peace in the whole Middle East and indeed the world. The recent PKK-declared ceasefire has been welcomed as a positive new development in Turkish politics. What is more this message has also been positively welcomed by central political parties, and they are discussing the subject. Even public opinion in Turkey wants a resolution to this problem more than before. At this stage all the supporters of the installation of peace in Turkey are becoming more important than before. The silencing of the gun and the instigation of peace in public life, a helping hand to realise democratic lives and to establish civil politics in my country, are the hopes of myself and my people. I think this hope is shared by the entire Turkish public; however not by the anti-democratic groups.

As this subject is important for Kurds and Turkey it is also important for the Middle-East, and I should say that your steps regarding this sensitive subject are honourable actions.

I want to thank you again for your kindly invitation and I wish you good luck.

Leyla Zana.

## Opening Remarks by the Moderators

*Kariane Westrheim*

Dear Patrons, EUTCC Advisory Council, Distinguished Speakers and Moderators, Honoured Guests, Ladies and Gentlemen!

It is a great pleasure for me, as the Chair of the EU Turkey Civic Commission, again to welcome you to Brussels and to the Third International Conference on the EU, Turkey and the Kurds. In November 2004, by a joint initiative, the Rafto Foundation, Kurdish Human Rights Project, Bar Human Rights Committee of England and Wales, and medico international hosted the First International Conference in the European Parliament. As an outcome the above mentioned organisations, based on the Conference Resolution, they agreed to establish and sponsor a standing Civic Commission, the EUTCC.

The aim of the EUTCC is to promote the accession of Turkey as a member of the EU, in order to guarantee respect for human rights and a peaceful, democratic and long-term solution to the Kurdish question. We believe that, in spite of many hindrances and challenges, there exists an opportunity to transform Turkey into a stable democracy. The EUTCC also believes that the resolution of the conflict in Turkey's Kurdish regions (the southeast) is central to the establishment of a stable and democratic Turkey, and for an end to human rights violations in the region.

This year's conference is very important due to the fact that 2006 has been an extremely difficult year for the Kurds, and for Turkish society as a whole. There has been increasing military intervention by the security forces; there was the uprising in March/April in Diyarbakır and the nearby cities, which I witnessed myself; and so forth. Many people have lost their lives so far this year.

The developments both in Europe and Turkey over the last year indicate that the time has come for a solution to the most important issue - the Kurdish problem. This problem is the result of more than eighty years of harsh assimilation policy and denial of the rights of Turkey's Kurdish population, and also the rights of other minorities in Turkey, for instance the Assyrians.

Even if the EUTCC are not able to solve the problem by ourselves, we truly believe that now is the time for establishing a new policy and new initiatives to secure justice, dialogue and peace for the Kurdish people, as well as for the Turkish population.

Experiences from other parts of the world have shown that solutions to ethnic, nationalistic and religious conflicts cannot be imposed from the top down; and what we believe the Kurds have really succeeded in is to mobilise the grassroots. The Kurdish social and political movement now represents a major force in the struggle for basic human rights. Experience shows that in all political conflicts people must be included on all levels, in order to find a solution that can secure peace and promote reconciliation in a longer term. And peace can only come about through dialogue and negotiations. In the case of Turkey, the EU should be able to play an important role in establishing a platform that makes such processes possible, and these processes should start now. Turkey cannot enter the EU without internal peace.

It is vital that Turkey is not admitted to the EU before the country has implemented the reforms necessary to meet the Copenhagen Criteria. This includes first and foremost an end to military intervention, violence and oppression; secondly that Turkey expresses an explicit will for consultation and dialogue with Kurdish representatives. Through this Conference we wish to contribute to this dialogue, by providing a platform where different views and perspectives are presented and discussed.

Even if there are many challenges ahead, and even if this year has been extremely difficult, some promising steps have been taken. I would especially like to mention the declaration of ceasefire stated by the PKK October 1, 2006. Many democratic forces have encouraged this initiative, among them intellectuals; DTP politicians and Mayors; and Kurdish and Turkish individuals. The EUTCC welcomes this decision and regards it as an important step towards peace.

This conference is sponsored by the EUTCC founding organisations; however, I would again like to express our gratitude to the Left Groups of the European Parliament, and to our dear friend Stefano Squarcina for hosting and facilitating the Conference. The EUTCC annual conferences would never have been what they are if it had not been for their generosity and solidarity. I would also like to thank all speakers, moderators, EUTCC Advisors, and participants for their contributions.

The patrons of the Third International Conference are Archbishop Emeritus Desmond Tutu and Shirin Ebadi, both Nobel Peace Prize Laureates; Goodwill Ambassador to the Council of Europe, Bianca Jagger; playwright Harold Pinter; the world renowned scholar and writer Noam Chomsky; and the beloved Kurdish

author Mehmed Uzun, who due to serious sickness was not able to be with us today. Dear audience, on behalf of the EU Turkey Civic Commission, I wish you all an interesting conference. Thank you!

*Ahmet Turk*

Esteemed friends, I greet you all with respect.

The Kurdish question will be discussed from many aspects within this two-day Conference by our friends. Therefore I will briefly present my thoughts regarding this.

As you all know, there is a 20-year-old ongoing conflict in our country. This period of conflict has resulted in extreme material and moral losses. However, lately, an increase in tension between peoples and a wave of chauvinist nationalist sentiment which we did not see even during the most intense periods of the conflict, has spread and influenced the society. Many incidents occurred. Just to name a few of them: the lynch attempt on a Kurdish youth in Akyazı; attacks on shopkeepers in Seferihisar; attacks on Kurdish families in Armutlu. The tension between amongst people in society is a sign that we could be about to enter a very dangerous period.

We have analysed this threatening trend that has developed in Turkey. For this very reason, for a civil democratic dialogue to mature, we made a statement on 6 March 2006, composed of a three stage package for the democratic resolution of the Kurdish question, calling on the PKK to totally disarm. It received support and a positive approach from our people, from civil society and from intellectuals.

On 11 September 2006 we made a call for a ceasefire to open the path to a civil democratic resolution. Our objective with the call for a ceasefire, by creating a democratic atmosphere, was the total disarmament of the PKK and the resolution of the Kurdish question via peaceful methods.

Our call was welcomed by the PKK and they announced a cease-fire on 1 October 2006. The positive response of the PKK to our call generated great satisfaction from the region's society. It was recognized as a new opportunity for peace.

There were four ceasefires before; however, none of these opportunities was seized upon. Some circles perceived the Kurdish question as only an issue of security, and they thought that to listen to the calls of their citizens would mean to give concessions. Everyone - people who have taken part in fighting the PKK in the past, and who have tried every method of violence - today states that such an approach will not yield a conclusion.

I want to express this with all sincerity; I believe that this ceasefire is a great chance. As Turks, Kurds, basically all of us, for this ceasefire to transform into a permanent peace we need to put in effort. This ceasefire is an opportunity for our people to make peace, and for this reason we regard it as important. In the event that this opportunity is not seized upon, we fear that the trust and will to live together among our people will be greatly damaged. We may see greater suffering.

In all our calls up to this point, we have stated that the Kurdish question is a domestic issue and can only be solved through internal dynamics. However, in the globalizing world, human rights have not only become a domestic issue but one that is an international question. As the Kurdish question has not been solved through domestic dynamics, it has evolved into an international matter.

The solutions to issues in our era are found not in violence and conflict, but in dialogue and mutual understanding. We believe that a Turkey which has embarked on the European Union accession process, and which has established domestic peace by solving the issues of its citizens, will become a well-regarded country abroad. Likewise a Turkey which has found a just and democratic solution to the Kurdish question and completed the democratization process, will be a model in the Middle East.

If Turkey does not complete the democratization and civilizing process, it will not attain membership of the European Union, but also is at a very high risk of turning into a typical Middle Eastern country. We can see that in our region, in which the culture of democracy is weak, although the dictatorship of Saddam Hussein has collapsed the establishment of democracy has not been achieved. Likewise, the mentality of solving issues through violence in Israel has resulted in the HAMAS governing power, and Hizbullah in Lebanon, becoming the legitimate conscience of the people.

In Turkey, if we do not show the ability to solve issues through democratic means, we will establish ground for the development of radical Islam and chauvinist nationalism.

As the Democratic Society Party, we will continue our effort to evolve the ceasefire into a disarmament process and the democratic resolution of the Kurdish question. However, it is not something in which we can succeed alone. We need the support of all circles in the spirit of fraternity and democracy.

On this occasion I would like to make a call to our European friends, politicians and intellectuals. Be in solidarity with us, the forces of democracy. For the ceasefire to produce what it gave the opportunity for - permanent peace - initiatives to encourage the government of Turkey must be taken.

Recently, the Turkish writer Orhan Pamuk received the Nobel Literature Prize. For this achievement I would like to congratulate him. I believe, in the coming year, that the politician who will contribute to the resolution of the Kurdish question will be awarded the next Nobel Peace Prize.



## Session 1. EU-Turkey Accession Talks: Status of the Reform Process

The first session discussed the following issues: 'EU-Turkey Accession, the Future'; 'EU-Turkey Accession Progress: Developments after the last EC Regular Report'; and 'A Step Backwards: The Effects of the New Anti-Terror Law on Fundamental Rights and Freedoms'.

The session began with opening remarks addressed by Ms Jean Lambert and Mr. Jon Rud. The speeches on the topic were delivered by Mr Kerim Yildiz, Mr Vittorio Agnoletto, Mr Doğu Ergil, Mr Alyn Smith, Ms Eren Keskin, and Mr Desmond Fernandes. Of these, the speeches of Mr Agnoletto and Mr Smith are unavailable; those of Mr Yildiz, Mr Ergil, Ms Keskin and Mr Fernandes are reproduced here.

### 1.1 EU-Turkey Accession, the Future

#### *Kerim Yildiz*

On Turkey's way to Europe there are many problems to resolve. For example, there are problems of increasing scepticism in Europe; lack of religious freedom; significant barriers to free speech; the role of the military; and, of course, the Cyprus problem. The EU Turkey Civic Commission is supportive of Turkey's decision to become a member of the European Union, provided that Turkey complies fully with the political criteria for accession.

The developments - both in Europe and Turkey - over the last year indicate that the time has come for a solution to the single most important issue that inhibits Turkey from developing into a country which respects European standards of human rights and particularly minority rights: the so-called 'Kurdish problem'. This problem is the result of more than 80 years of harsh assimilation policy imposed by the Turkish state, and denial of the rights of its Kurdish population. The wounds run deep and will not be easily healed. It requires a change of mentality, and 'countering the ugly face of the past', as MEP Joost Lagendijk recently said.

Differences in culture and language must come to be seen as positive, and not as a threat to an antiquated, monolithic state structure. In addition, fundamental

changes in Turkey's Constitution and legislation are needed, and these changes must be solidly applied and implemented in everyday life. Even with the best of will and ability among the political leadership, this requires time.

The steps taken so far by the Turkish government have only scratched the surface. The historic political statement of Prime Minister Erdoğan in August 2005, recognising the Kurdish problem and promising a solution, has so far remained just idle words. No effective new steps - and even less a comprehensive strategy - have been outwardly taken to resolve the Kurdish problem. In fact, some of the visible steps taken appear regressive; for example the new Penal Code and the new Anti-Terror law, as well as Erdoğan's incitement of the security forces - killing innocent bystanders, including children- during demonstrations in the Kurdish region in March of this year.

The EUTCC believes that now is the time to establish a new policy and new initiatives to secure justice for the Kurdish people, as well as for all of Turkey's citizens. The judiciary needs a complete overhaul.

Experience over the last year has shown that both public prosecutors and many judges remain blind to the substantial legal reforms that have been made in the statute books. Instead, they seem to be subservient to the diktats of nationalistic and military groupings, rather than applying the European human rights standards that are now part of Turkish law. In addition legislation, at all levels, must be cleansed of all discriminatory elements, which prevent minority groups from enjoying their rights.

That the government, so far, refuses to accept both the internationally recognised definition of minorities and the rights of such minorities is discouraging, to say the least.

Furthermore, it is equally counterproductive that EU institutions are trying to hide the Kurdish problem under a carpet of diplomacy, for example by describing this complex problem as 'the problems in the southeast'.

The EUTCC also believes that now is the time for dialogue, to examine the possibilities of reaching a genuine, fair and lasting solution of the Kurdish problem. Experience from other parts of the world, including Europe, has shown that a resolution of ethnic, nationalistic and religious conflicts cannot be imposed from the top down. Those who are most affected by the problem must contribute to a solution, and this can only come about through peaceful dialogue and negotiation.

In the case of Turkey, the EU could and should play an important role in establishing the parameters of such a dialogue, and indeed in seeing it right through to a successful completion. But this must begin now. Turkey cannot enter the EU without internal peace.

The path to peace was given a considerable boost on 1 October 2006, with the announcement from the Kurdistan Workers' Party (PKK) of a unilateral ceasefire. The space created by an end to armed conflict from both sides provides the opportunity for dialogue and resolution, and the EUTCC urges the Turkish state to respond positively to the announcement. Recent months have also seen the appointment of three coordinators who have the potential to contribute to peace. Representatives of Iraq, Turkey and the US have been appointed to deal with the issue of the PKK. The EUTCC calls upon these representatives to pursue a democratic solution through dialogue with the all parties, and to denounce a military solution to this complex issue.

Many options are available for peaceful, democratic resolution of the so-called 'Kurdish problem'. The political models range from some form of autonomy or devolved authority at the local level, to various forms of federalism. More important in the initial stages is to establish a plan, a programme and an environment based on a genuine respect for the rights of the Kurdish population, and policies and practice consistent with international human rights norms.

This would include social and cultural rights, non-discrimination, a fair election system, full freedom of expression and of association, and in general all steps that are required to comply with the Copenhagen criteria, specifically the obligation to respect and promote the rights of minority groups.

This is the third international conference organised by the EUTCC, once again providing a democratic platform to debate and discuss the possible resolution of the Kurdish question. The EUTCC does not exist to prescribe the solutions to problems in the varied Kurdish regions, nor to advocate the form of governance that should administer them. Questions of self-determination are for Kurds themselves to answer. The EUTCC's sole remit is to insist that the fundamental rights of all are upheld.

This goes a long way towards creating the conditions in which a peaceful and democratic future can be established for the Kurdish people in dialogue with the Turkish government.

There remains a plain contradiction between the attitude towards minorities outlined — or rather, I should say not outlined— in the Turkish Constitution and that of the European Convention on Human Rights. The lack of recognition of the Kurds as a national minority goes against the spirit of tolerance and respect enshrined in the principles of the Convention. For the peace and security of the region, Turkey must resolutely address this contradiction to bring its domestic attitude in line with its external rhetoric.

If the EU and Turkey fail to confront fairly the Kurdish question and commit to greater democratization, they threaten the long-term stability and public order of the Middle East and Europe. We believe that the EU must acknowledge and fulfil its responsibilities to do all in its power to facilitate dialogue between Turkish and Kurdish people; to find an end to the present conflict; and to facilitate the establishment of a peaceful and democratic solution to the benefit of all.

## **1.2 EU-Turkey Accession Progress: Developments after the last EC Regular Report**

*Doğu Ergil*

### *Introduction*

The twenty-five nation bloc officially started entry negotiations with Turkey on 3 Oct 2005. Most likely they will drag on for at least a decade. But then they may not; for public opinion in both Turkey and the EU is losing enthusiasm for various reasons. Indeed, elite consensus in Turkey, which was in any case precarious in the first place, seems to have undergone substantial regression lately against the country's membership to the Union. The nationalist-statist domestic elite has formed an undeclared ominous alliance with their nationalist xenophobic counterparts in Europe to keep Turkey out of the Union. So, even while we are discussing problems of progress in Turkey's accession process, there is a strong current that may abort this process in the foreseeable future.

As many observers admit, bold and significant reforms have been undertaken in Turkey since 2001. However, the pace of change has slowed down in the past couple of years due to growing unwillingness on the part European peoples to incorporate Turkey into the Union, and corresponding Turkish perceptions of European insincerity and xenophobia.

*What Has Been Done and What Ought to be Done?*

In December 2004, the European Council stated that:

The European Council welcomes the decisive progress made by Turkey in its far-reaching reform process [that] sufficiently fulfils the Copenhagen Criteria to open accession negotiations.... on 3 October 2005.

On 3 October 2005, accession negotiations were opened with Turkey. The EU made clear that:

The advancement of the negotiations will be guided by Turkey's progress in preparing for accession, within a framework of economic and social convergence.

The period under scrutiny in this presentation covers the period from October 2005 to October 2006. It looks at what has been carried out in the past year and examines the overall level of Turkey's alignment on the basis of decisions actually taken, legislation actually adopted and measures actually implemented by Turkey in preparing for accession. These are areas that fall under the expertise of a social scientist; technical issues are omitted.

The political dialogue between Brussels and Ankara that will be assessed, involves political reforms including demilitarization, human rights, Cyprus and the peaceful settlement of disputes. On these issues the EU Commission adopted an initiative pertaining to a communication on the subject of civil society between the EU and candidate countries. The aim of this initiative is to help promote dialogue in the EU and in Turkey, within civil society in a broad sense, in order to address issues and concerns relating to enlargement. This communication sets out a general framework on how to create and reinforce links among civil society in the EU and in candidate countries. The civil society dialogue is expected to contribute to societal debate around accession, with a view to allowing a wide participation and informing of civil society during the enlargement process. The concept of 'civil society' includes all societal structures outside of government and public administration, including local communities and administrations/governments, municipalities and all elected local/regional councils.

There are two problems in incorporating Turkish civil society into a dialogue with the national state and the national state's relationship with other state or supra-state bodies like the EU. First of all, civil society is overwhelmed by the political or formal

state apparatus, reducing the former to a role of clientism. Secondly, in the absence of a strong bourgeois and working class, there is hardly any counterbalancing civic power to challenge the omnipotence of the state and the bureaucracy that runs it. The patronage of the state over society emanates from the paternalistic political culture where the state was and is the primary political actor and guiding institution in public life. Turkish civil society needs a certain level of development and further social differentiation, to facilitate the formation of social classes that will strike balances among themselves, and render the ruling bureaucracy a service sector in a full fledged democracy born out of this balance of powers.

Although accession talks with Turkey have started as this country demonstrated an overall state of preparation in respect of the Copenhagen Criteria, there are yet substantial areas where further development is needed. For example further democratization, facilitated by the democratization of political parties and amendment of the election law excluding minority opinions and interests, has not yet been realized. Political parties remain major actors in political patronage and clientism, which serves to perpetuate the predominance of the state over society as the primary patron. The high election threshold (10%) as it exists today, is unfair and helps concentration of power while on the other hand excludes large portions of the population from participating in politics. Hence, reforms so far enacted have to be broadened and those that are realized must be consolidated.

Turkey has made further progress in acceding to the relevant international and European Conventions and has increased its efforts to execute decisions of the European Court of Human Rights (ECtHR). The protocols pertaining to the European Convention on Human Rights and the European agreement relating to persons participating in proceedings of the European Court of Human Rights provide justice to many persons who felt they could not receive justice in Turkey, or have been frustrated by exhausting Turkish legal procedures in vain in pursuit of their legal rights. Today each Turkish judge has to look after 200 cases each day, which is impossible from both the human and legal perspectives. Hence many citizens of Turkey are faced with the difficulty of getting a fair trial or even a full hearing, because of congestion in the legal system and a lack of personnel in the judiciary.

Another difficulty of the legal system is the incomplete separation of powers. The legislative and the executive branches are fused together in the idiosyncratic parliamentary system of Turkey. This fusion spills over to the legal authority and draws this institution close to the influence of the executive. Recently, Turkey has witnessed cases where prosecutors were sacked because they have written indictments against members of the security bureaucracy. Additionally, some judges have admitted that they could not rule objectively in matters concerning 'national

security'. This means that some institutions and their members may remain above the rule of law. This is seen as a matter of fact or simply 'reasonable' by a part of the ruling elite, because for them loss of the country precedes loss of justice.

### *Torture and Ill-treatment*

The Turkish government has remained committed to the fight against torture and ill treatment in the past year. It continued to pursue a zero-tolerance policy towards torture, however in reality cases of torture and ill-treatment continue to be reported. Detainees are still not always made aware of their rights by the law enforcement bodies, and prosecutors are not always enthusiastic in conducting investigations against security officials accused of torture. More sanctions and insistent imposition are needed to prosecute perpetrators of torture and ill treatment.

### *State of Freedoms*

The new Penal Code, which introduced improvements in particular in relation to women's rights, non-discrimination and the fight against torture and ill-treatment, entered into force on 1 June 2005. In spite of some improvements, the problem of discrimination on the basis of gender remains a cause for concern. Furthermore, full enforcement of new legal developments will require commitment, and the attrition on the ground of practices and values that favour male superiority over women.

Additionally, the new Penal Code has a fundamental deficiency in aligning its overall framework for the fundamental freedoms with European standards, because security concerns are put before the rule of law, and the prerogative of the state over society and individual rights. As regards freedom of expression, amendments to the Penal Code have not provided even the limited progress that the government (especially the Minister of Justice, Mr. Cemil Çiçek) has claimed. Since it entered into effect, Article 301 has been used by chauvinists and ultra-nationalists as a sword dangling above the head of intellectuals, writers and scholars, based on fuzzy principles that do not provide clear definitions but help define acts that may just as easily be interpreted as fair criticism, as treason or subversion. Abuse of the fuzzy nature of Article 301 has reached the point where fictive characters of novels were prosecuted and tried.

On freedom of association and peaceful assembly, a new law entered into force in November 2004, marking a significant improvement in the development of civil society. However, a regulation adopted in March 2005 introduced some restrictions that later hampered both the establishment and functioning of associations and

foundations (NGOs). Such civil organizations have never been immune from official pressures. But what is more confounding are the public reflexes that see autonomous civic organizations, especially those that receive funds from or cooperate with foreign NGOs, as subversive and fifth column agents that threaten the unity and stability of the country. This obtuse public feeling makes it easier for official bodies to make life harder for civic organizations.

### *Freedom of Belief*

Despite lip service to the secular nature of the state and the tolerant nature of the majority religion, there are serious problems regarding religious issues. The declared quality of being a citizen is ‘Turkishness’; however, the undeclared quality is the Sunni creed of Islam. The primary victim of this definition is the large Alevite population that is not acknowledged as a religious community. Their assembly halls (*cem houses*) are not recognized as religious shrines and they are not represented in nor served by the Administration of Religious Affairs, which is the single authority that oversees religious affairs for the Muslim majority of Turkey.

As regards the non-Muslim religious communities, they still struggle with official irregularities as well as the intolerance of the conservative Muslim population that sees these communities as external to Turkish society and agents of foreign powers. The difficulties they encounter continue to be connected primarily with legal personality and property rights. The property lists asked from each and every religious organization (mostly endowments) in 1936 in order to dry out the financial sources of obscurantist Muslim organizations by the Kemalist regime (during the life of President Mustafa Kemal Atatürk) were later subverted by subsequent governments in the souring climate of the pre-second world war years against non-Muslim citizens, who came to be viewed with suspicion. Everything they acquired after this statement was given (1936) was confiscated, and in time some of it was sold to third parties. Now under the jurisdiction of the European legal standards, non-Muslim religious endowments are claiming back their unfairly confiscated property. Faced with both a serious financial obligation and the difficulty of reclaiming property that was sold out decades ago, the present government finds it more expedient to play for time.

Protection of minorities and the exercise of cultural rights have entered the radar of public concern only in the last decade. EU legal standards and Conventions Turkey chose to sign made it necessary to comply with rules and laws that governments and the ordinary citizen had not heeded much in the past. Together with a vivid soul searching, many laws and regulations went into effect to fill this gap. However, implementation is limping to catch up with the newly adopted legal standards and

obligations. Broadening of further liberties and repairing old damages done due to discrimination against non-Muslim and Alevi religious-cultural organizations, will be the litmus test of Turkish democratization and progress toward creating a state structure respectful of rule of law.

### *Civil-Military Relations*

Civil-military relations have been a sensitive spot in the political system in Turkey. Every able male has to perform his obligatory military service. And every one of them knows that living under a military regime is very strict and confining. They would not vote or opt for such a choice. However in every public opinion poll the Turkish armed forces (TAF) emerges as the most trusted and respected institution among the sundry institutions of the republic including the parliament, judiciary and the presidency. Why is this? Expressed in an allegorical way the relationship between different groups and institutions of the state works as if the state structure is a bus. The passengers are the people. The driver is the government. Often the driver proves to be either inept or reckless and tends to run the bus off a cliff. The TAF acts like the side rails in the road of public administration. It saves the endangered passengers from a road accident. That is how the armed forces are viewed in Turkey; not as the primary political actor but as the primary protector of the regime. Given this political culture where even (previous) prime ministers call the nation an 'army-nation', the role of the TAF as the protector of the country and guardian of the nation is an internalized value. That is why when the government evinces religious fundamentalism or when public safety is endangered as in the case of political violence, the army is expected to step in as it does, based on existing laws that perpetuate its *noblesse oblige*.

Yet in recent years one of the bodies that gave the armed forces an active role in politics, namely the National Security Council, was restructured. Now it has a civilian Secretary-General as opposed to a military one in the past, and the majority of its members (consisting of 7 cabinet ministers and 5 generals) are civilian. However, more efforts are needed to ensure full civilian control of the military establishment, including financial control of military spending and defence strategy that has so far been basically the prerogative of the army.

### *Security Issues*

The definition and perception of security has always been problematic in Turkey. 'Security' is always understood as 'hard security' accomplished by police measures or military means. Of course, this approach has missed the human side of security that is often referred to as 'soft security', attained by dispensing justice; respecting

diversity; providing better living conditions, inclusive politics, higher standards of education, health, and housing; and offering opportunities in education and employment. The fact that the human side of security is missing in Turkey is clearly realized today. However, significant measures in this direction have not yet been taken. Nevertheless, this conceptual breakthrough is expected to yield healthier results.

Criminalization of the 'Kurdish issue' is in large part due to the old understanding of security. The emphasis in security was put on the struggle for the country. However, the nature of the struggle now is about citizenship. When Turkey begins to acknowledge that citizenship is neither a racial or ethnic, nor a religious, matter, but a political partnership that acknowledges the citizens for what they are, then the Kurdish issue will no longer be political but a matter of citizenship and the satisfaction of human needs.

Connected with the security issue is the normalization of relations in southeast Anatolia, which has been the battleground of ethno-political conflict for more than two decades. Unfortunately resumption of hostilities has delayed progress in dealing with the situation of internally displaced people. Funds that could otherwise go to infrastructure, clearing of landmines and dismantling of village guards are spent on an unnamed civil strife involving ethno-political violence.

Today, everyone in Turkey realizes that violence, as a method of demanding rights, is counterproductive, disrupts the social fabric, and toughens the political system to the point of inability to change. Yet, those actors who appear on the political stage as 'warriors' fall short of being innovative politicians, if the definition of politics is negotiation on the principles of living together in peace and order.

### *The Cyprus Problem*

Turkey has continued to support efforts for a comprehensive settlement of the Cyprus problem within the UN framework and in line with the principles on which the Union is founded. The referendum that took place in 2005 broke the mould of a political position that lasted for decades. Turks of the island voted for a federative Cyprus where they would be equal partners. However, Cypriot Greeks refused a life together and made their position clear: they only wanted to afford minority status to the Turks, nothing more. Despite repeated efforts of the new Turkish leadership both in north Cyprus and in Turkey, the Greeks of the island made it obvious that they did not want to live with the Turks but they could put up with their existence as a dependent people. Consecutive polls conducted in the south of the island recently clearly confirmed this.

Given this fact, the Turkish government in Ankara still faces the tough task of extending the additional protocol adapting the EC-Turkey Association Agreement to include the Cyprus Republic, referred to in Turkey as South Cyprus Administration. Indeed, Turkey signed this protocol in acceptance of the accession of 10 new states in May 2004. However, soon after, Turkey issued a declaration stating that signature of the Additional Protocol did not mean the recognition of the Republic of Cyprus. This declaration was rebutted with a counter-declaration by the EU on the 21st of September the same year, indicating that Turkey's declaration was unilateral and did not form part of the Protocol, bearing no legal effect as far as the EU is concerned. Turkey is expected to comply with its obligations under the Protocol, starting by opening its air and sea ports for the movement of goods and people from (south) Cyprus.

The Turkish government is aware of its obligations; but no elected body can take the initiative to give what the Greek Cypriots want without getting anything back, despite the efforts of the international community and the UN Secretariat for a fair settlement on the island. So how this impasse will be resolved is a multilateral issue. Insistence on a unilateral solution by the EU will be met with great resistance by the Turks who already feel misguided and mistreated.

### *Danger Ahead*

Most Turks feel besieged and unfairly pressured into positions they do not deserve. The growing sentiment is that the EU is producing unfair conditions for accession, like the Cyprus issue, and that the Turks have done their part. Another issue is the latest codification of severe penalties in France concerning denial of a particular genocide without an international court ruling to establish whether an act is really genocide or not. Constant denigrating statements by EU politicians and statesmen emphasizing difference of culture, religion and history to divert Turkey's accession process into a lesser relationship have reduced support for EU membership in Turkey to a low ebb.

The danger does not merely emanate from the feeling of a probable 'train crash' as Mr. Olli Rehn said during his last visit to Turkey this month, but from the feeling that 'the rails are dismantled' to block Turkey's advancement, by major EU members. There has always been a strong anti-EU vein among a part of the ruling Turkish elite who do not want to liberalize the system or make it more transparent - whereby they would lose their power and privilege - and they find more allies among the common people lately. It seems that we are witnessing the dictum, 'politics make strange bedfellows' coming true.

The xenophobes, nationalists and parochials are in alliance to deny Europe's role as a global actor in incorporating Turkey (of tomorrow) by way of taking responsibility for her development; these Turks deny their nation the benefits of becoming an affluent, plural democracy that reconciles different ethnicities, cultures and religions and presents a formidable challenge to growing illiberalisms and intolerance in the new geography and the world alike.

### **1.3 A Step Backwards: The Effects of the New Anti-Terror Law on Fundamental Rights and Freedoms**

#### *The Kurdish Question and Freedom of Expression in the Republic of Turkey*

*Eren Keskin*

Although here today, the subject of this session is the Anti-Terror Act, I believe that to evaluate the freedom of thought and expression issue in Turkey strictly along the lines of the new Anti-Terror Act or Article 301 of the Turkish Penal Code, will be seriously inadequate. Without discussing Turkey's settled system and its militarist structure, all debates will be insufficient. I believe that all violations in Turkey must be evaluated together with the whole system.

The Republic of Turkey was founded as a nation-state. As the nation was founded a monolithic mentality was adopted, which was strictly Turkish and Sunni Muslim. The various ethnic and religious identities in our geography were almost denied; in fact the Kurdish identity, as it is known, was subjected to assimilation. The Kurdish identity was banned. The names of Kurdish villages were changed. Naming children of Kurdish families with Kurdish names was prohibited. The Kurdistan terminology became a taboo.

The Republic of Turkey was founded as a militarist republic. Since the founding of the Republic, the legislation, executive, judiciary and most of the media have been under the influence and pressure of militarism. In Turkey the militarists not only possess weapons, but at same time, possess a very large capital. OYAK (Aid to the Military Institution) was established in 1961 with a new law. It is active in 38 different commercial fields. In no other democratic system in the world does the military take part in the commercial system. Naturally it is not easy to oppose this organized force, which has in its possession weapons and capital.

The militarist system, when designating domestic and foreign policy, requires red points. For example, the Kurdish question, the Armenian genocide issue, the headscarf issue, and the Cyprus issue, are today the red points in Turkey. Those who think differently from the official ideology on these issues are at great risk in terms of life security. It really does not matter if they are being judged under Article 301 of the Turkish Penal Code or the new Anti-Terror Act.

We should not forget that until recently Article 8 of the Anti-Terror Law was recognized as the greatest obstacle against freedom of thought. This article has been revoked. However, Article 301, which was substituted for Article 8 in the new Turkish Penal Code, is of an even shoddier character. More so, the Republic of Turkey is still governed by a Constitution prepared by soldiers (a military coup Constitution). The Constitution itself is the greatest obstacle to freedom of thought and expression.

Although ostensibly there is a parliamentary system in Turkey, every government that comes to power fails to implement their political programme. In reality the administration programme of the state of the Republic of Turkey consists of the National Security Policy Document; and the military general staff officials prepare this. Up to now this document has included the current government's programme; yet now, although the government has constitutional change on its agenda, it cannot change the military coup Constitution.

The most important red point in Turkey is certainly the Kurdish question. This question is the subject of erroneous debates by certain circles. The Kurdish areas, since the establishment of the Republic of Turkey, are administered by separate laws; and since the beginning of the Republic the system has been exploited. Thus the Kurdish question did not begin with the armed opposition of the PKK. Personally, I think that the militarist system always desires a force which is strong enough to be controlled, because the system requires enemies. For this reason it produces various fears, it creates a totalitarian society.

For this very reason I think that the ceasefire process, including the end of the armed conflict, is seriously important. I believe political struggle is always more effective than armed struggle.

The Kurdish question is not just an issue for Turkey. Kurds live in Iran, Iraq, Syria and Turkey and even in many countries in Europe. When the Halabja massacre was perpetrated in South Kurdistan the world was silent. Despite all the human suffering that they lived through, today the gains that the Kurdish people of South Kurdistan have realized naturally give hope to all Kurds.

I think it is necessary that Europe question itself on this matter. There are still today in Diyarbakır, Mardin, Hakkari and in many Kurdish provinces thousands of extra-judicial contra-guerrilla killings that have not been exposed. Unfortunately these killings were mostly perpetrated using weapons sold to Turkey by European countries.

I want to talk about an erroneous belief that has settled in Europe regarding the evaluation of the system in Turkey. Some circles think that the strongest force against the rise of Islamism is the Turkish military. I am totally against the politicization of Islam. However, it should not be forgotten that enforced religious education was implemented during the 12 September military coup. The opening of the Imam Preacher Schools mostly occurred during the military coup process. To talk of real democratic secularism in Turkey is impossible.

I thank you very much for giving me the opportunity to speak here today, as a person who wants democratization and for this reason appreciates the importance of Turkey's entry into the European Union. And I would like to repeat once more, as a person who has been imprisoned for 6 months, expelled from her profession for one year and currently has a 10 month pending prison sentence, that discussions limited only to articles of penal codes, which do not evaluate the system as a whole, will always be inadequate.

### *Turkey's US-Backed 'War On Terror': A Cause For Concern?*

*Desmond Fernandes*

With the US government stating its aim to vigorously assist the Turkish state in hunting down and eradicating the so-called 'rebel' Kurdistan Workers Party (PKK), many human rights organisations, Kurdish and Turkish civilians, peace campaigners and public interest groups fear a return to the genocidal practices and chilling psychological warfare that went on in the region during the 1990s. It is important to appreciate why there is concern over a resurgence of intensive US-backed support for the Turkish state's 'War on Terror'.

During the 1990s, when such support was last provided, as Noam Chomsky observes:

there was no 'looking away' in the case of Turkey and the Kurds: Washington 'looked right there', as did its allies, saw what was happening, and acted decisively to intensify the atrocities, particularly during the Clinton years.

The US did not 'fail to protect the Kurds' or 'tolerate' the abuses they suffered any more than Russia 'fails to protect' the people of Grozny or 'tolerates' their suffering. The new generation [of western leaders] drew the line by consciously putting as many guns as possible into the hands of the killers and torturers [...] sometimes in secret, because arms were sent in violation of congressional legislation. At no point was there any defensive purpose, nor any relation to the Cold War [...] In the case of the Kurds, helping them would interfere with US power interests. Accordingly, we cannot help them but must rather join in perpetrating atrocities against them.

During the major US-backed Turkish counter-terrorism and counter-guerrilla offensive, supposedly directed only against the 'terrorist' PKK and its members, thousands of Kurdish civilians were tortured and extra-judicially executed by state-linked paramilitary forces. Many women were raped by Turkish state-linked forces. Turkish counter-guerrillas would commit crimes and blame them on opposition groups in what are known as 'false flag' operations. Chomsky continues:

Often, they disguised themselves as PKK guerrillas and went to villages to torment and kill people, burning houses, crops and animals, then blaming it on the PKK.

False flag operations were all in keeping with advice given by US training manuals which had been supplied to the Turkish state for years:

On some 140 pages the manual offers, in non-euphemistic clear-cut language, advice for activities in the fields of sabotage, bombing, killing, torture, terror and fake elections. As maybe its most sensitive advice, FM 30- 31 instructs [...] secret soldiers to carry out acts of violence in times of peace and then blame them on the Communist enemy in order to create a situation of fear and alertness.

Reports in *The Turkish Daily News* (13 July 1994) confirmed that Turkish military officials, commanders and chiefs of staff were being briefed and advised by US Pentagon staff, high-ranking members of the US armed forces and psychological warfare organisations such as Special Operations Command. They were even being pinned with Legion of Merit medals. Between 3 and 5 million Kurds were forcibly displaced, Kurdish forests were set alight and between 3500 and 4000 villages and hamlets were evacuated and bombed in the Kurdish southeast by Turkish state forces, creating devastation on a horrific scale. Atrocities were also committed by the Turkish state against Kurdish civilians during anti-PKK incursions into what

was supposed to be a US- and UK-protected safe haven in northern Iraq during this period, without formal complaints being issued by the US or UK governments.

Indeed, President Clinton is known to have given permission for a major Turkish incursion into northern Iraq in 1995. Hartung confirms that, with Clinton's clearance for the 1995 incursion,

Turkish troops did plenty of things in Northern Iraq, including a number of documented cases of killings and displacement of Kurdish civilians.

And as John Deere noted:

Were this Kosovo, we would be hearing words like 'genocide' and 'ethnic cleansing.' You see, to kill Kurds all you need is the proper hunting license. In this case that license is a perk of NATO membership.

According to Chalmers Johnson, we need to be aware of the effect of a law passed by Congress in 1991 which authorised the Joint Combined Exchange Training (JCET) programme.

This allowed the Department of Defence to send special operations forces on overseas exercises with military units of other countries. The various special forces interpreted this law as an informal invitation to train foreign military forces in numerous lethal skills [...] Stripped of its euphemistic language [it] amount[ed] to little more than instruction in state terrorism.

Ted Galen Carpenter has revealed that, as part of this programme,

In 1997, the US European Command's special operations branch conducted joint training exercises with Turkey's mountain commandos, a unit whose principal mission is to eliminate Kurdish guerrillas. That unit had been responsible for atrocities against Kurdish civilians and the razing of Kurdish villages.

Ward Churchill has concluded that

both the US and British pilots [were] assigned to provide air support to Turkish military forces conducting a large-scale counter-insurgency campaign in northern Iraq against Kurdish guerrillas seeking to establish

an independent state. With regard to air support missions flown in support of the Turks, violations of the 1923 Hague Rules of Aerial Combat, the 1949 Geneva Convention TV and Additional Protocol 1, UNGA Res. 2444, and the 1978 Red Cross Fundamental Rules of International Humanitarian Law Applicable in Armed Conflicts are apparent. In view of the non-self-governing status accorded the Kurds by both Turkey and Iraq, violation of UNGA Res. 1514 (XV) — the 1960 Declaration of the Granting of Independence to Colonial Countries and Peoples — is also at issue.

The US administration and intelligence agencies were also actively involved in facilitating the illegal capture and abduction of Abdullah Öcalan, chairman of the PKK, in Kenya in 1999. It has also been established that Hüseyin Kocadağ, Chief of the Special Forces in Hakkari and Deputy Chief of Police in Diyarbakır ,

one of the most bloody enemies of the people who organised the units of the ‘head-hunters’ in Kurdistan [...] was trained at a CIA school in the US.

The Human Rights Watch Arms Project has additionally exposed the way in which

US troops, aircraft and intelligence personnel [...] remained at their posts throughout Turkey, mingling with Turkish counter-insurgency troops and aircrews in southeastern bases such as Incirlik and Diyarbakır [...] throughout Turkey’s wide-ranging scorched earth campaign against Kurdish civilian settlements and PKK hideouts and encampments.

This campaign, in the view of many peoples and organisations, was clearly genocidal in nature: in 1997, the human rights campaigning group, Article 19, stated that it believed there was

ample evidence to indict the Turkish government of gross violations of human rights which constitute infringements of [...] the UN Convention on the Prevention and Punishment of Genocide, among other treaties to which Turkey is a party.

The UK Parliamentary Human Rights Group, after field visits to the region and detailed analyses, concluded that,

the depopulation of the Kurdish region is, we believe, part of a deliberate strategy aimed not merely at eliminating a few thousand guerrillas, but at extinguishing the separate identity of the Kurdish people.

In Britain, as elsewhere, the question of Turkish Kurdistan is often presented as one of a reasonably democratic government seeking to cope with an intractable problem of terrorism. We believe that the reality is one of military terrorists aiming to extinguish the identity of a people, and we were much alarmed by the parallel with the Armenian holocaust of 1915-1916. The PKK, like some Armenians during the First World War, took to arms because they could see no prospect of gaining their legitimate political objectives by peaceful means. The response of the Turkish state, as in 1915 and earlier with the Armenians, was to use conciliatory language for external consumption, while unleashing huge military force against the virtually defenceless civilian population. To characterise the revolt of a subject people against their oppressors as 'terrorism' is a woeful misunderstanding which could only arise from ignorance of facts and history.

To Fevzi Veznedaroğlu, chairperson of the Turkish Human Rights Association (RID) in Diyarbakır ,

especially since 1991, the counter-insurgency forces targeted the leaders of the democratic struggle. The aim [was] to target a wider group of people. [It was] not only Kurdish intellectuals and leaders [who were] targeted, but villagers, women and students have been murdered. These human rights violations [were] not just aimed at fundamental rights, at the right to life, [but were] aimed at reducing the Kurdish people to refugees in their country. The torture chambers [were] kept busy [in] a dirty war against the whole population.

A disturbing testimony from a death squad killer named Murat İpek, if true, further suggests that US forces were directly implicated in the training and co-ordination of the genocidal death squads: 'an American [...] controlled and instructed the contra-teams'.

There has been no attempt by the US government to take responsibility for its past actions or to guarantee that there will be no repeat of such criminal and deeply unethical behaviour. Indeed, there are now suggestions that the US government, in the name of the ongoing post-9-11 'War on Terror', is increasingly supporting the Turkish state once again in its offensive against Kurdish civilians, human rights activists, peace campaigners and PKK militants in the region.

US Special Forces and intelligence agencies, it needs to be recognised, are extensively liaising with their Turkish counterparts in publicly unaccountable anti-PKK targeting and 'internal defence' actions that deploy covert psychological warfare methods. The Turkish state in recent months appears to have been re-issued with the hunting

license that seemingly enables it to intensify its violence against suspected Kurdish terrorists and target civilian communities in northern Iraq (south Kurdistan) and southeast Turkey (northwest Kurdistan), now that the PKK and Öcalan have been compared by US administration officials to Osama Bin Laden and al-Qaeda. Post 9/11, a US administration official in September 2005 stated the absurdity that she viewed the PKK threat as being as grave as that of al-Qaeda:

Nancy McEldowley, representing the US embassy at an 11th September commemoration service in Ankara, said in a speech that there was no difference between al-Qaeda and the PKK or between Abdullah Öcalan and Osama Bin Laden.

But as the Socialist Party of Kurdistan has noted with alarm, in the post 9/11 period,

what is clear is that Turkish politicians and the Turkish media don't just mean the PKK when they speak of 'terrorists' but all Kurdish organisations, Kurdish associations and even the Kurds themselves.

The following examples of who is targeted as supposed terrorists make for disturbing reading:

- At Adana, on May 28th 2004, Şiyar Perincek [...] who is the Human Rights Association's (İHD) representative for eastern and south-eastern Anatolia was killed in front of the İHD building. According to the BIA News Centre

the İHD announced that the police in Adana murdered Şiyar Perincek [...]. During a press conference in the İHD Istanbul office it was announced that police fired at Şiyar Perincek [...] as he was driving a motorcycle in Adana. Police then stepped on his back when he fell off from the motorcycle and killed him with a bullet to his back. İHD said there were witnesses who saw the incident, 'Executions without trials are continuing [...]. The murderers are free among us,' said the RID press statement.

- Twelve-year-old Kurdish Uğur Kaymaz and his father, Ahmet, were killed in November 2005 in the south-eastern town of Kızıltepe in what officials said was an operation against 'armed terrorists'. Preliminary investigations, including one by parliament's human

rights committee, concluded that the two were unarmed and may have been innocent civilians. Media reported that Uğur Kaymaz was hit by 13 bullets, and that his family said he was helping his father, a truck driver, to prepare for a trip to Iraq.

- In terms of proposed anti-terrorist actions, Prime Minister Recep Tayyip Erdoğan declared that the Turkish

security forces will intervene against the pawns of terrorism, even if they are children or women.

- Just as troublingly:

Turkish Human Rights Chairman Mates recalled on his part that there were numerous allegations related to the killing of PKK militants in the recent months. 'There are claims that the bodies are being mutilated; that their organs are being cut off, that even if they are caught alive, they are tortured and killed, as well as allegations that chemical weapons are being used. How are these going to be investigated?' he asked.

- In the US-backed 'War on Terror', schoolchildren, students, poets, musicians, writers, publishers, human rights campaigners, academics, lawyers and artists are all being targeted. Moreover,

according to a report in the Turkish newspaper *Hürriyet*, a case has begun before the state security court in Diyarbakır against 27 children aged between 11 and 18, because they had demanded the right to native [Kurdish] language tuition [...] the state prosecutor [...] accused the children and adolescents of 'aiding a terrorist organisation' through their demands, and has called for prison terms of 3 years and 9 months.

- In 2002, students' petitions calling for the right to merely receive some optional instruction in the Kurdish language were incriminated

on grounds of being instrumental to the PKK's efforts to establish itself as a political organisation. State Prosecutors were briefed by the Ministry of the Interior in January 2002, to bring charges of 'membership in a terrorist organisation' punishable with 12 years

imprisonment against any students or parents who lodge petitions demanding optional Kurdish lessons. By 23rd January 2002, a total of 85 students and more than 30 parents ha[d] been imprisoned and over 1,000 people (among them some juveniles) detained [for] having demanded optional first language education in Kurdish.

The Turkish government is also guilty, according to the academic Tove Skutnabb-Kangas and other respected analysts, of 'linguistic genocide' against Kurds and additionally of being in breach of two articles of the United Nations Genocide Convention:

in fact, education of Kurds in Turkey, even today as the [proposed 'reform'] law package is being implemented, is genocidal. It still fits two of the definitions of genocide in the UN International Convention on the Prevention and Punishment of the Crime of Genocide (E793, 1948) [...] Turkey tries to forcibly make Turks of Kurdish children through education, i.e. Turkey tries to transfer the children linguistically and culturally to another group. This is genocide, according to the UN definition.

Even today, as Turkey is engaged in the EU accession process, programmes in Kurdish for children on radio or TV remain prohibited. To merely peacefully and non-violently protest against the state's ongoing genocidal policies, or to advocate the basic cultural right of Kurds (who represent 20-25% of the population in Turkey) to be educated in their mother tongue, is, in the eyes of the Turkish state, to act in support of PKK terrorism.

We also need to be aware of a wider destructive plan around which the US backed Turkish state 'War on Terror' is taking place. In September 2002, the Socialist Party of Kurdistan (PSK) drew attention to a 'Secret Plan of Action', masterminded by members of the Turkish 'deep state'. According to the PSK:

the main aim of this plan is to make Kurdistan Kurd-free, to eradicate the Kurdish language and culture and thereby dispose of the Kurdish question. Dam projects which will flood historical towns of Kurdistan, flood the fertile agricultural land of the region and flood the valleys of incomparable natural beauty are part of this plan.

Whilst a local Kurdish, national and international initiative aimed at halting one such dam in the area - Ilisu - succeeded in halting one consortium from proceeding with the project in 2002, another consortium seems to have taken its place and

been supported by the Turkish government. Despite substantive local Kurdish and international opposition to the project, the Turkish prime minister, on August 5th 2006, provocatively laid the foundation stone for this vast dam.

Maggie Ronayne's findings are worth reflecting upon at this point:

The US-led war against the world is not only waged by military means [...] but [also] by development projects. [...] These very profitable projects [can] displace large numbers of people and have devastating cultural and environmental impacts. The GAP development project [in south-eastern Turkey, which includes the Ilisu dam], in which US and European companies and governments are involved, is a prime example of all this. The action of the Prime Minister [in laying the foundational stone of the Ilisu dam] appears designed to put pressure on the affected communities and on European governments.

The project would flood over 300 square kilometres in the Kurdish region [...] displacing up to 78,000 villagers. Local people would receive little or no benefit from the project. On the contrary, impacts of the dam would include more severe poverty, health problems, break-up of families and communities, environmental pollution [...] and wide-ranging cultural destruction. [...] The dam threatens to destroy thousands of years of culture and heritage and their survival into the future — first of all by targeting women and all in their care. It highlights women's opposition to cultural destruction by dams and war. Targeting women like this threatens the cultural destruction of the entire community. Indeed, the very area where [the] Prime Minister laid the foundation stone has not been surveyed at all and this is therefore a breach of international law, including European Union directives, not to proceed with any construction in the absence of archaeological survey and testing.

Within the context of a US- and UK- supported 'War on Terror', pro-Kurdish teachers who have sought to simply learn the Kurdish language in preparation for a time when they might be allowed to teach it in schools, have also been targeted by the 'Anti-Terror Police' and tortured. Yedinci Gundem reports that

12 people, of whom 11 were teachers, were allegedly tortured while being detained by police after having been arrested in Kızıltepe for learning Kurdish together. The 12 people, 11 of whom were members of the teachers' trade union Eğitim-Sen, were arrested in an apartment [...] in Mardin on May 7th. A magistrate had issued warrants for their arrest. The Mardin

branch of Eđitim-Sen said in a written statement that: ‘Our colleagues were subjected to various methods of torture; they were sprayed with high-pressure water, they had plastic bags pulled over their heads, they were forced to sing marching songs and to do the goose-step, they were brutally beaten, left for 3 days without food or water, they were stripped naked, and had their testicles crushed.’

Parents have been murdered in the ‘War on Terror’ simply because their children have been involved in legal pro-Kurdish cultural and political activities overseas. As Derwich Ferho, the chairman of the Kurdish Institute in Brussels has noted, his parents - who were in their 80s - were murdered by state-linked contra-guerrilla death squads in south-eastern Turkey in March 2006 because of his work and that of his brother (who works for the Kurdish satellite Roj TV station, also in Belgium):

they were killed in a horrible way in their village. Earlier they were threatened, because of the activities of my brother and me in Belgium [...] My father was sick and bedridden [...] He was killed in his bed and his ribs were broken. My mother must have resisted, because her throat was cut and she had many wounds inflicted by stabbing. My parents were threatened several times last month. People were saying: your sons must be wiser.

Charges are also levelled at peace campaigners in the name of the ‘War on Terror’. Most recently, in June 2006, three ‘Kurdish activists’ were placed on trial

on anti-terrorism charges after they attempted to stage a peaceful protest near the Iraq border [...] They were arrested on May 2nd as they prepared to walk to the boarder of Iraq to peacefully protest the recent killings of civilians by security forces in south-eastern Turkey [...] All three are officials of Kürt-Der, a Kurdish association that Turkish authorities closed last month for conducting its internal business in the Kurdish language.

A report by Sevend J. Robinson on behalf of the Commission for Democracy, Human Rights and Humanitarian Issues, which was accepted by the annual OSCE Assembly in July 2002, additionally confirmed that,

in Turkey, [pro-Kurdish party] HADEP Mayors are continually persecuted. For example, the Mayor of Hakkari was prosecuted for issuing a calendar in the Kurdish and English languages - because it was a risk to the state [...] The Kurdish language continues to be banned in education and in the

media [...] In Van, security forces have detained 500 students because of a petition in which they requested the right to Kurdish language tuition.

Kerim Yildiz (Executive Director of the Kurdish Human Rights Project) and Mark Muller (as barrister and Vice President of the UK Bar Human Rights Committee), in 2005, observed that Turkey was, indeed, refusing

even to concede that the armed conflict in the [Kurdish] southeast is symptomatic of the broader issue of her subjugation of the Kurds, defining the situation purely in terms of security and/or terrorism and refusing to become involved in bilateral negotiations with the Kurds.

On 25th August 2006, for example,

Turkish officials dismissed [an] offer from the terrorist PKK for a conditional ceasefire. The PKK's second in command, Murat Karayılan, proposed a conditional ceasefire to the Turkish government, saying, 'We are ready to observe a ceasefire on September 1st, coinciding with the World Peace Day, and opt for a peaceful and democratic settlement to the Kurdish issue in Turkey'. He requested Turkey to put forward a 'political project' that will meet their demands [...] Karayılan also made a similar offer last June, saying, 'We appeal to the Turkish government, asking it to end military operations in order to open the path for dialogue, and we are ready, on our side, to declare a cease-fire'.

Kongra-Gel had also 'appealed its armed forces to take a decision of 'No Action' between 20th August and 20th September 2005'.

Mustafa Karahan, the head of DEHAP — the pro-Kurdish Democratic People's Party — in Diyarbakır, described the way in which his party was even being restricted in its dialogue with the press, let alone the deep state:

the pressure faced by DEHAP is very obvious. When we want to say something to the press, our members get arrested. Many members of DEHAP are now arrested and in prison.

Meanwhile, the official view of the Kurds in Turkey, in writer Mehmed Uzun's opinion, remains 'one of deep hatred. The phobia of Kurds is evident; ultra Turkish nationalism is nurtured by their abhorrence of Kurds'. Mark Thomas, in April 2006, observed the marked

failure of the Turkish state to work with the Kurds to take advantage of the PKK ceasefire. Ankara has refused to negotiate. ‘We will not talk to terrorists’, the Prime Minister, Recep Tayyip Erdoğan, declares. And he has done so with the backing of the EU. Instead of urging dialogue, the EU has followed the UK and the US in proscribing the PKK, even though it announced a ceasefire and formally renounced violence. Just about every attempt by grass-roots Kurdish groups to form inclusive democratic movements has been regarded by the EU and the UK as merely another group to add to the list of terrorist organisations.

Behiç Aşçı, a member of the Turkish Association of Progressive Lawyers, has sought to alert people to the repercussions of these policies on political prisoners:

The Turkish legal system provides no protection for [...] political prisoners held in isolation. In one instance, when a guard demanded one of Aşçı’s clients to stand up for a prisoner count, she responded that given [that] she was in an isolation cell, there was no need for her to stand to be counted. Enraged at this small show of defiance, the guard attacked the prisoner, crushing her skull against the cell wall. When Aşçı appealed to the court to protest his client’s mistreatment, his suit was rejected on the grounds that it was part of a ‘terrorist campaign’ against F-type isolation prisons.

We need to recognise and confront the fact that there does not appear to be any effective public insight into the nature of accountability of these deep political US-Turkish arrangements and operations. Key questions arise: will US special forces continue to provide JCET training or assistance to Turkey’s notorious mountain commandos? As Chalmers Johnson has noted:

Republican representative Christopher Smith, chairman of the House of Representatives Subcommittee on International Operations and Human Rights, says: ‘Our joint exercises and training of military units - that have been charged over and over again with the gravest kind of crimes against humanity, including torture and murder - cry out for explanation’. But the US Secretary of Defence seems to be unconcerned.

There is certainly concern that the US state will choose to maintain collaboration with Turkey’s notorious mountain commando brigades and other special military/paramilitary/police forces. In recent months it has been announced that,

after completing a six-month intensive training course, 242 [Turkish] special forces personnel have been appointed to posts in the [Kurdish] east and southeast [of Turkey]. Reports say that with the newly appointed

personnel, there are now 3500 members of the Special Forces in Hakkari, Şırnak, Tunceli and Bingöl.

An April 2006 report in The Turkish Weekly suggests that Turkish special forces have, indeed, been given the green light by the US to intensify the basis of their offensive psychological warfare operations against the PKK in northern Iraq:

Turkish armed forces, using infra-red cameras, spotted PKK terrorists crossing the border near Çukurca town, after which a special force team of around 100 soldiers proceeded to cross the border into Iraqi territory. The go-ahead to send in the special forces team was reportedly given from Ankara over the weekend. Recent meetings between Turkish and US officials have indicated that the US has given the nod to Turkish action on this front.

US operational support for psychological warfare which targets PKK leaders in northern Iraq - as recently as July 2005 - has also been confirmed by a leading Turkish military source:

the Turkish army said [on] Tuesday [that] the United States had ordered the capture of commanders of the rebel Kurdistan Workers' Party in Iraq [...] The United States 'have issued a direct order for the capture of the leaders' of the PKK, General İlker Başbuğ, the army number two, told a group of journalists.

According to a 21st April 2006 report by the Cihan News Agency,

The Turkish NTV news channel report [...] that the US has been providing intelligence to Turkish security forces carrying out anti-terror operations in southeast Turkey near the Iraqi boarder. NTV claims that the CIA and US army intelligence have tipped off the Turkish security forces during operations in which a total of 31 PKK terrorists were killed in two separate areas.

We also know that US International Military Education Training (IMET) courses were conducted with Turkish forces in 2001 and 2002, and were requested for 2003. This programme has been

harshly criticized in Congress for having trained soldiers in Colombia and Indonesia who went on to commit human rights violations.

We also know that the US Congress approved IMET training with Turkish forces for 2005 and President Bush requested further IMET funding for the financial year 2006. It is also known that Turkey was the recipient of a US Foreign Military Financing (FMF) programme in 2005 and President Bush, again, requested further FMF for Turkey in 2006. FMF, it needs to be appreciated,

provides grants for foreign militaries to buy US Weapons, services, and training. Although the majority of these funds are used to buy weapons, mobile training teams are often deployed as a facet of weapons sales packages to train the foreign country's forces in the operation and maintenance of the weapon system(s). In other cases, aid recipients use this money to buy training for their soldiers in specific skill areas. In such cases, US mobile training teams, usually made up of Special Operations Forces, are sent to the host country for up to six months.

The Federal Bureau of Investigation (FBI) and Drug Enforcement Agency (DEA) have also provided assistance to Turkish forces involved in the 'War on Terror':

the FBI is [...] involved in training foreign police and paramilitary forces. This training is justified primarily as part of its efforts to counter drug trafficking, terrorism, and organized crime [...] No annual report provides public information on FBI foreign training programs [...] The DEA, also part of the Justice Department, conducts international police training as well [...] The international police training programs of the FBI and the DEA are funded at least in part out of the annual appropriation for Justice Department operations and are, therefore, exempt from the vetting requirements.

FBI director Robert Mueller said:

we are working with our counterparts elsewhere in Europe and in Turkey to address the PKK and work cooperatively, to find and cut off financing to terrorist groups, be it PKK, al-Qaeda.

That the DEA and FBI are providing extensive and ongoing anti-terrorist and anti-narcotics assistance to Turkey's security, military, and paramilitary forces is ironic, given the heavy involvement in organised crime, state terrorism and drugs trade among these sectors. Confirmation that the FBI and CIA were coordinating their anti-PKK initiatives with the Turkish state came in a December 2005 Hürriyet report:

Following the visit of FBI director Robert Mueller to Turkey, CIA chief Porter Goss followed in Mueller's footsteps and paid a visit to Ankara for talks with officials from the Turkish General Staff and the intelligence service MIT. The visits have triggered speculations that the US might start a serious initiative for the neutralization of PKK after the Iraqi elections. Turkey will also convey to Goss its concerns about developments that might pave the way for the founding of a Kurdish state in Northern Iraq [...] Turkish Land Forces Commander General Yaşar Büyükanıt was currently in the US for talks with US officials [over these matters].

A report from the blog group Winds of Change observes that,

the most interesting details of the [December 2005] meeting seem to have appeared in *Cumhuriyet*, which states: 'During his recent visit to Ankara, CIA Director Porter Goss reportedly brought three dossiers on Iran to Ankara. Goss is said to have asked for Turkey's support for Washington's policy against Iran's nuclear activities, charging that Tehran had supported terrorism and taken part in activities against Turkey. Goss also asked Ankara to be ready for a possible US air operation against Iran and Syria.'

The Bush administration's need to secure Turkey's assistance in its joint plans with the Israeli state to restructure the Middle East has probably also meant that it will, in return, have had to commit itself, once again, to aggressively supporting the Turkish state's war against the PKK.

It seems reasonable to conclude that a new intensified phase of joint US-Turkey psychological warfare operations is under way. The US Embassy in Ankara, for instance, recently confirmed that General Joseph W Ralston (USAF, retired) had been appointed as Special Envoy for Countering the PKK with responsibility for coordinating US engagement with the governments of Turkey and Iraq to eliminate the PKK and other terrorist groups operating in northern Iraq and across the Turkey-Iraq border.

This appointment underscores the commitment of the United States to work with Turkey and Iraq to eliminate terrorism in all its forms.

For instance, local news sources in northern Iraq (south Kurdistan) reported on August 14 2006 that

over 100 Turkish MIT (National Intelligence Agency) agents had been permitted to cross over into the Region together with members of the Turkish Special Forces.

These cross-border military incursions into Iraq - supposedly a US protectorate - are unlikely to have taken place without a green light from Washington.

If, as we are now informed, the Bush administration, in its wisdom, is committed to destroying the PKK, additional questions arise. Will there be, as many Kurdish and human rights analysts contend, a resurgence of false flag operations? Will initiatives that seek to resolve the Kurdish question through military/paramilitary means, rather than through peaceful dialogue, be intensified? Will there be a resurgence of anti-terrorist abductions, disappearances, massacres, and torture sessions for Kurdish civilians, intellectuals, schoolchildren, students, journalists, politicians, lawyers and other perceived pro-Kurdish supporters in Turkey and northern Iraq?

We also need to ask ourselves whether the Bush administration will persist in using a terrorist definition of the PKK which it will have been furnished with by its Turkish counterpart. Certainly, Condoleeza Rice, during her most recent visit to Turkey, did not publicly express any concern over such definitions when she provided assurances that the Bush administration was fully supportive of Turkey's 'War on Terror'. The Bush administration appears to be minded to accept the absurd and dangerous definitions that are being provided and used under the new Turkish 'Anti-Terrorism Law' to criminalise individuals and organisations. These definitions have the capacity to criminalise the non-violent activities of many Kurdish and non-Kurdish people.

Concerns over this matter were even recently expressed by the UN Special Rapporteur:

[A] letter, sent on May 21 [2006] to the Parliament Justice Committee by Martin Scheinin, UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, informed Turkey that the new law fails to meet the requirement of proportionality in the use of force by security forces, introduces 'improper restrictions on freedom of expression' and reflects the danger of punishing civilians not involved in violence. He said that 'this danger is exacerbated by the very broad definition of terrorism and the very long and wide list of terrorist offences'.

According to the lawyer Nalan Erkem, a member of the İzmir Bar Association Prevention of Torture Group (IOG):

The arrangements that the draft makes with regard to access to an attorney take away all of the rights of the defendant [...] While it opens the way for torture and mistreatment, the draft also aims to prevent lawyers from proving their existence.

Erkem argued that the draft was in the nature of an insult to lawyers in Turkey, stripping away the defence rights that were enshrined under Turkey's accession plans with the EU.

Representatives of 17 non-governmental organisations (NGOs) read a press statement in front of Istanbul's Sultanahmet Justice Hall [...] where an appeal was made to [...] reject it. The move came after similar appeals from leading Turkish human rights groups including HID and MAZLUMDER. The country's Human Rights Foundation (TIHV) joined in the criticism and said the law would not only shift Turkey from its previous EU projections, but also meant a turn to a 'tolerance policy towards torture'.

In reflecting upon the current situation, it is worth noting that the Bush administration has set in place a series of arrangements that are aimed at securing immunity from prosecution of all US, Turkish and Israeli forces who may be charged with war crimes or genocide crimes. The US government, it seems, has not only been seeking to unethically provide immunity from prosecution of its own military and civil personnel at the International Criminal Court (ICC), but also those of its client states, Israel and Turkey in particular:

senior (US) officials have stated repeatedly and quite categorically that they will continue to reject any jurisdictional arrangement allowing international prosecution of its own civilian authorities or military personnel for war crimes as 'an infringement upon US national sovereignty'. Objections have also been raised with regard to any curtailment of self-assigned US prerogatives to shield its clients - usually referred to as 'friends' - from prosecution for crimes committed under its sponsorship - e.g. [...] Turkish officials presiding over the ongoing 'pacification' of Kurdistan.

The information gathered in this article shows that

an important part of the political function of the 'War on Terror' has been

the way it legitimizes political intimidation by a range of allies beyond the Bush/Blair/Aznar axis. In effect, the 'War on Terror' has given a license to internal repression in countries supporting this war.

And that includes Turkey, of course.

As in many civil wars, demonising one party has created space for the abuses of others. As Michael Mann observes, labelling opponents as al-Qaeda allows repressive governments to do what they want with limited international criticism.

Not only has the US government's stance allowed the Turkish government to act repressively and ruthlessly with regard to the Kurdish question, it has actively assisted it, as it did throughout the genocidal period of the 1990s, through its ruthless anti-terrorism initiatives. We need to seriously reflect upon these issues and act to expose and end these unacceptable actions and activities.



## Session 2. Democratic Future of Turkey and the Kurds

In this second session of the Conference, issues discussed were ‘Turkey’s EU Candidacy and the Deep State Roadblock’; ‘Armed Conflict and the EU Accession’; ‘Turkey’s EU Accession: A Chance for Peace and Reconciliation?’; and ‘Implementation of Reforms’.

The speeches of Mr Michael M. Gunter, Mr Richard Howitt, Ms Yüksel Genç, Mr Cengiz Aktar, and Mr Şinasi Hazendar are reproduced here. Speeches by Mr Yusuf Alataş, Mr Adem Uzun, Mr Joost Lagendijk, and Mr Ufuk Uras, were unavailable. The sessions’ opening remarks were addressed by Mr Jan Beghin and Ms. Feleknaş Uca.

### 2.1 Turkey’s EU Candidacy and the Deep State Roadblock

#### *The Deep State Roadblock to Turkey’s EU Candidacy*

*Michael M. Gunter*

The Kemalist Republic of Turkey was founded on a concept of exclusive Turkish national identity that, among other factors, proved hostile to any expression of Kurdish identity. Since it would be a contradiction in terms to maintain such a situation in a true republic, an arcane Deep State (*Derin Devlet*) developed alongside or parallel to the official State to enforce the ultimate principles of the Kemalist Republic. This Deep State became ‘an omnipotent force with tentacle-like hands reaching everywhere ... a state within the legitimate state.’ The colourful but enigmatic phrase ‘Deep State’ referred to how this secret ‘other’ state had penetrated deeply into the political, security, and economic structures of the official State.

Today, however, Turkey is seeking to join the European Union (EU), a candidacy supported by a large majority of its population and an initiative that promises to help solve Turkey’s longstanding Kurdish problem. Clearly, a Republic of Turkey that is truly a pluralistic democracy cannot be constituted along the lines of the Copenhagen Criteria necessary for Turkey to join the EU, until the Deep State

is dismantled. The first problem in doing so would be to get to grips with what constitutes the Deep State. What is the Deep State?

Many observers dismiss the idea of the Deep State as simply a conspiracy theory. Yet Turkish citizens (both ethnic Turks and Kurds alike) seem particularly susceptible to such theories. For them, nothing is as it seems. Always there is some deeper, usually more cynical explanation for what is occurring. Only the naïve fail to understand this. On the other hand, who can doubt that there is more to be known about the motives that drove Mehmet Ali Ağca, supposedly a right-wing Turkish nationalist possibly working for the Soviet Union, to attempt to assassinate Pope John Paul II on May 13, 1981, or to murder Abdi İpekci, the chief editor of the liberal daily *Milliyet*, in 1979 and then escape from prison and make the attempt on the Pope?

More recently, what mysterious court decision temporarily freed Ağca in January 2006 before a public outcry led to his return to prison? As one recent analysis concluded:

Somebody with omnipresent tentacle-like hands that can extend to anywhere - from judiciary to army, security forces or any other institution - within the state makes a plan to kill a journalist, or to kill young students whose ideas they deem to be a threat to the state, and that same somebody skilfully protects its bloody pawns from justice.

When the author of this article visited Abdullah Öcalan, the leader of the Kurdistan Workers Party (PKK) in March 1998, moreover, Öcalan spoke often of the 'hidden games' all sides in the Kurdish struggle were playing. Although it would usually be judicious to avoid accepting conspiracy theories, one must also remember that even paranoids have enemies.

Given its arcane nature, it is not possible precisely to define and document the Deep State according to normally acceptable scholarly standards. However, if the concept is simply ignored until scholars possess 100 per cent proof, it may be too late to deal with it. Lack of full documentation, therefore, is no excuse for not trying to analyse it.

A useful recent definition found the Deep State to be

made up of elements from the military, security and judicial establishments wedded to a fiercely nationalist, statist ideology who, if need be, are ready to block or even oust a government that does not share their vision.

Military and security elements determined to preserve the Kemalist vision of a Turkish nationalist and secular state are the key elements of the Deep State.

To some extent, all of these ingredients have long been institutionalized in the *Milli Güvenlik Kurulu* (MGK) or National Security Council. The official job of the MGK was, and still is, to advise the elected government on matters of internal and external security. Until the recent reforms mandated by Turkey's EU candidacy supposedly gave civilian authorities more control, the MGK also often served as the ultimate course of authority in Turkey. Before these recent reforms the MGK was clearly under the control of the military. It consisted of 10 members: the president and the prime minister of the Republic of Turkey, the chief of the general staff and the four military service chiefs, and the defence, foreign affairs, and interior ministers.

The modern Republic of Turkey, of course, was founded by Mustafa Kemal Atatürk, whose power originally stemmed from his position in the military. Thus, from the beginning, the military played a very important and, it should be noted, very popular role in the defence and, therefore, politics of Turkey. Following the military coup of May 1960, the new Constitution, which went into effect in 1961, provided a constitutional role for the military for the first time by establishing the MGK.

Over the years, the MGK has gradually extended its power over governmental policy, at times replacing the civilian government as the ultimate centre of power over issues of national security. After the 'coup by memorandum' in March 1971, for example, the MGK was given the power to give binding, unsolicited advice to the cabinet. After the military coup of September 1980, for a while all power was concentrated in the MGK, chaired by the chief of staff, General Kenan Evren, who later became president from 1982 to 1989. Although the MGK greatly reduced the rampant terrorism in Turkey at that time, a major price was paid in terms of human rights.

During the 1990s, the MGK began to exercise virtually total authority over security matters in dealing with the Kurdish problem. In his role as chief of staff, General Doğan Güreş exercised a particularly strong influence over the elected Turkish government headed by Prime Minister Tansu Çiller, to the extent that the phrase 'as good as thirty men' was reportedly being used to describe her. The 'postmodern coup' in June 1997 toppled Turkey's first Islamist government and was sanctioned by an MGK edict issued a few months earlier.

One important way the MGK exercises its control behind the scenes is through issuing a rather lengthy, top-secret National Security Policy Document (MGSB) once every four years and updated every two years. The MGSB defines and ranks

Turkey's priorities in domestic and international security, and outlines the national strategy to be followed. The precise content of the document is revealed only to the top generals and highest ranking state administrators. Thus, some have referred to the MGSB as 'the 'state's secret constitution' or the 'red book' on the basis of which the State is run.' In other words,

the real responsibility of running the State is not with the Cabinet, but actually lies elsewhere [in] . . . the military [and] other dubious and secret formations involving people either directly from within the institutions of the state or those who are very close to this establishment defined as the Deep State.

The most recent MGSB was approved on 24 October 2005, by an MGK expanded to include more civilian members, but only after a dispute between the Turkish military and the new civilian officials of the ruling moderate Islamic AK Party had been settled. This disagreement reportedly dealt with Islamic fundamentalism, especially over women wearing the *turban* or Islamic headscarf, as well as the usage of military force versus diplomacy in foreign policy. Separatist terror (the PKK) and radical Islam (Osama bin Laden's Al-Qaeda and Hizbullah) were ranked as the top terrorist threats. Other specific issues included water, minorities, and extreme leftist movements. The issue of Greece extending its territorial waters to 12 miles around Greek islands in the Aegean Sea and thus largely shutting it off to Turkey was still referred to as a *casus belli*.

An article from the MGSB issued in 1997 concerning the threat of extreme right-wing groups attempting to turn Turkish nationalism into racism, and the ultra-nationalist mafia attempting to exploit the situation, was dropped from the most recent MGSB. Also deleted as domestic security concerns were national education, science, technology, and public administration. In foreign matters, statements on northern Iraq and the Iraqi Kurdish parties as well as Syria were also eliminated from the latest document.

In addition to the MGSB, an MGK Secretariat General bylaw also held great importance in the past, but has now been discontinued due to the EU reforms. This MGK bylaw supposedly had recently defined the Turkish public as 'a threat to itself' and spoke of 'psychological military operations' against the public to protect the country from that threat. The fact that the contents of these MGK documents have recently been publicised may indicate that they are no longer as important due to the recent formal reforms required by Turkey's EU candidacy. Whether this is true, however, remains to be seen.

In addition to the MGK, other Turkish state security organs that may help institutionalize the Deep State include the *Milli İstihbarat Teşkilatı* (MIT) or National Intelligence Organization, the *Devlet Güvenlik Mahkemesi* (DGM) or State Security Courts, and the shadowy JITEM or the Gendarmerie Intelligence and Counter Terrorist Service. Officially established in 1965, the MIT combines the functions of internal and external intelligence services. Although in theory reporting to the prime minister, the MIT in practice remains close to the military.

Over the years, the MIT has been accused of using extreme rightists to infiltrate and destroy extreme leftist and Kurdish groups. For example, it appears that it was involved in the notorious Susurluk scandal that, among other actions, illegally used criminals to try to destroy the PKK. Indeed criminals carrying out various illegal activities including drug smuggling, murders, and assassinations are also elements of the Deep State. JITEM, for example, reportedly became involved in such extralegal activities as arms and drug smuggling during the war against the PKK.

Avni Özgürel, a journalist well known for his supposed insider knowledge of the Deep State, has argued that

if the PKK conflict granted you unlimited access to confidential funds of the State . . . and if the southeast had become a heaven for revenues from the drug trade, that would mean that there would certainly be balances supported by all this dirty money.

Each one of the 18 State Security Courts consisted of two civilian judges, one military judge, and two prosecutors. These courts had legal jurisdiction over civilian cases involving the Anti-Terrorist Law of 1991. This law contained the notorious Article 8 covering membership of illegal organizations and the propagation of ideas banned by law as damaging the indivisible unity of the state.

The State Security Courts took a leading role in trying to stifle violent and non-violent Kurdish activists, and in so doing provided a veneer of legality to the state's campaign against Kurdish nationalist demands. Thus, these courts closed down newspapers and narrowly interpreted the right of free speech. Nurset Demiral, the former head of the Ankara State Security Court, became both the symbol and reality of the problem these courts presented to democratic freedoms. For example, Demiral demanded the death penalty for Leyla Zana and the other members of the pro-Kurdish Democracy Party (DEP) members of parliament who were accused of supporting the PKK. Later, Demiral joined the ultra-rightist Nationalist Action Party (NAP) led at that time by Alparslan Türkeş. Turkey finally abolished the State

Security Courts in an attempt to help meet the requirements for membership of the EU.

During the late 1970s, Türkiyeş' notorious *Ulkuçus* (Idealists) or Gray Wolves played a leading role in the sectarian violence that raged throughout Turkey. Observers have commented on how many members of the Gendarmerie's counter guerrilla special teams or *özel tim* seemed to be associated with Türkiyeş' party. Their attire served to identify them. The three-crescent flag of the Ottoman Empire, a symbol of ultra-Turkish nationalism, decorated the barrels of their guns. Picture of grey wolves, another ultra-nationalist symbol, were etched on their muzzles. An additional touch was their moustache, which ran down from the corner of their lips. Seemingly contradictory, the Deep State also apparently used extremist Islamic groups in these violent campaigns.

The Deep State is probably not a specific organization with a specific leader, both of which could be identified. Rather, it is a mentality concerning what Turkey should be, namely strongly nationalist, statist, secular, and right-wing; not Islamist, reformist, or a member of the EU. Members of the military and intelligence branches of the Turkish government in particular, but also those from any other agencies of the government such as the cabinet, parliament, judiciary, bureaucracy, etc., or for that matter outside the government such as business interests, and even religious figures or criminals - anyone who would be motivated by the vision of an ultra-nationalist state and the need to protect it even at the cost of violating the technical laws of the official State - can become a member of the Deep State for particular purposes.

Indeed, sometimes those who might be motivated mostly by pure financial gain, such as criminals, can become members. Then when the purpose is completed, that person simply returns to working for the official State or whatever other organization he previously served. Or one could simultaneously 'serve' the Deep State for a particular purpose, while at the same time work for the official State in other more mundane capacities.

In this sense of being a subjective, psychological mentality rather than an objective organization that can be specifically identified, the Deep State is even deeper than most have thought because it is in the minds of people. Thus, the only way to dismantle the Deep State would be to convince or re-educate its 'members' that Turkey is not the object of some imperialist conspiracy plot to control and even dismember it, that the vision of a genuinely pluralistic democratic Turkey for all its citizens is legitimate and should be defended and promoted according to the laws of the official State. When such a pluralistic democratic mentality genuinely pervades the official Turkish State, the Deep State will have been dismantled, the Kurdish

problem on its way to being solved, and Turkey a fit candidate for membership of the EU.

## 2.2 Armed Conflict and the EU Accession

### *Richard Howitt*

I wish to express my solidarity with the cause of the Kurdish people in Turkey and to congratulate the EU-Turkey Civic Commission for its work.

I first make a few points about our recent visit to Turkey, from the perspective of the Human Rights Sub-Committee. We went down to Hakkari to look at the Kurdish question in the region. We saw absolutely intense military presence and activity there. There were approximately 200,000 troops in three sets of headquarters. Such a situation itself creates an atmosphere of its own kind, even if there aren't mistreatments involved. We also saw evidence of past practices carried out on behalf of the Turkish military, particularly in terms of illegal detention and use of torture, quite often outside the detention centres (in order to avoid such activities being detected and reported). The fact that such activities do not appear in official figures explains the different perceptions between us and the Committee against Torture of the Council of Europe, which has been present in the region only from December 2005. In terms of accession, those activities are utterly contrary to the Copenhagen Criteria and inconsistent with membership of the European Union. There is no question about that. We sounded our concerns on those issues both in the country and in our return.

We were there at a time when an announcement of ceasefire was only days ahead. Ceasefire was privately hoped for and expected although not yet announced. I would position myself on line with the other speakers in saying that what it seems, and what the most people in the region suggest, is that a ceasefire would simply mean the absence of provocation as far as the Turkish military is concerned, and although we would see a reduction of incidents, fatalities and injuries, it is not enough. I align myself with the other speakers in saying that this must be the opportunity for a political step forward. Mr. Erdoğan made his promise to back down in mid-2005, and that political promise must be honoured. And I believe that the international community must now take advantage of that promise, with either the EU or the UN appointing a special representative to go to the region and mediate on the Kurdish question.

The last matter arising from our visit surrounded General Büyükanıt and his role

as the Chief of Staff. We received a lot of direct evidence for the *Şemdinli* case. The prosecutor, who suggested that Büyükanıt personally was possibly involved in the *Şemdinli* case, now appears to be losing his job and his career. This shows what happens when someone in the judicial system in Turkey stands up to the military. We have seen, over the course of the last year, increasingly hard-line statements not just from Büyükanıt but from other members of the Turkish military as well. There appears to be an increasing schism between the AK party and the military.

Four years ago, in 2003, Turkey was taken off the list of armed conflicts, and the rule of law is said to be operating there. In fact, if you look carefully at the Copenhagen Criteria, there is nothing in there that says that a country that is involved in an armed conflict is not able to be an accession state of the EU. That may be a strange omission but it appears to be the case. The Copenhagen Criteria seem to be very much concentrating on external security, and a situation where there are internal security issues in a region is not covered in quite the same way. The Criteria are very much dealing with individual human rights - individual political, linguistic and cultural rights - rather than the collective rights of the Kurdish population.

Of course, if you put it in a wider context of other accessions, the UK and Ireland joined in 1973 when severe political violence was occurring in Northern Ireland; Spain joined in 1986 when there was no agreement over Gibraltar between the UK and Spain. And of course in 2005 the Eastern European countries joined when there were no agreed borders between some of those countries and Russia. The EU in the past has been very good at pushing these issues to one side in relation to accession and hoping that the accession itself is going to assist them, which certainly in the case of Northern Ireland it has done. But the current commissioner Mr. Olli Rehn has simply said in relation to the Armenian question that there must be stable and orderly relations between Turkey and its neighbours, and this is the most that he has been prepared to go into that issue.

There are three areas in which we could more strongly encourage the Commission to pressurise Turkey.

### *1. The role of the courts*

We know that in Turkey there is deep dissatisfaction in the Establishment about the role of the European Court of Human Rights, which remains extremely important to all of us. We should also bear in mind that Turkey has failed to align itself with the European Union in its position on the International Criminal Court. The more we can get Turkey to commit itself to the international legal mechanisms, the better. There should be a bigger push from us in Europe on Turkey's compliance and alignment with the EU's position on the International Criminal Court. Ultimately, this will help matters relating to the Kurdish question.

## 2. *War on Terror*

We all have our own political views about this and given the shortage of time, I simply wanted to say this. Whether it is in Turkey, Israel or Columbia or any other country around the world, the rhetoric of the 'War on Terror' has often been used to hide actions that are invidious as far as respect for human rights is concerned. We have to be against terrorist violence, and we have a right to say that on a public platform. However, we have to make sure that when the European Commission is having talks with Turkey about combating terrorism, it is not itself becoming involved with breaches of human rights. We must ensure that we are not having one discussion on the accession and the Copenhagen Criteria and another completely separate discussion with Turkey in combating terrorism that is in fact undermining the first discussion.

## 3. *Chapter on Justice, Freedom and Security*

The Chapter on Justice, Freedom and Security is an absolutely crucial set of negotiations and it will not be one of the first we will deal with. But the sort of things that will be said by the European Commission and the member states about that Chapter will all be about stronger action in relation to the judicial system, combating crime etc. It is absolutely necessary, again, that respect for human rights is an essential part of the negotiations.

There are still some key elements in the reform package that have not been addressed. Firstly, the role of the Chief of Staff needs to be dealt with. Secondly, the European Commission a year ago announced a civil dialogue between Turkey and the EU as part of advancing the accession negotiations and discussion. But what we learned in our most recent trip is that almost nothing has happened as a result; this is maybe not exclusively, but at least partly, due to a reluctance on behalf of the Turkish authorities to really engage in that civil dialogue. The dialogue could include cultural exchange, such as women's groups in Turkey meeting women's groups from Britain, Greece and Poland etc. In other words, real people to people exchanges. I think that is a problem in itself but I also think it is an opportunity in relation to the Kurdish question. Active dialogue could bring extra recognition and understanding to the Kurdish question.

## *Yüksel Genç*

I am grateful to address such a diverse and sensible assembly. Where people do not talk to each other, problems turned into taboos, anyone dealing with those taboos is considered an offender, and a culture of deep and hard-to-destroy prejudices is created; and as someone coming from a such culture, I have to admit that this platform is significant for me.

Every participant here will probably have different life stories and political choices, and representations derived from those stories. Feeding from such reality and having no other example anywhere else in the world, I am of the opinion that our story, too, will contribute to this meeting.

After the call of Mr Abdullah Öcalan on 1 October 1999 for a peaceful and democratic solution to Kurdish issue, our deep belief required us to pursue this; and as a display of goodwill, with 8 other friends from the guerrilla, I came to Turkey. A military force sending one of its groups of mountain personnel, with their weapons, to meet the soldiers they fought with, not knowing how they would be dealt with, and showing such courage to do so - I am of the opinion that there is no more meaningful goodwill and honest approach than this.

Ultimately, when set on the way, we knew that it was highly likely that there would be death, at best a prison sentence lasting for years and years. But, if the peace did not happen then the death toll would increase to thousands. And we believed in the need for peace to such an extent that we confronted these risks. When the entire world was talking about the marching of Zapatas to the capital of Mexico, we reached the Turkish soldiers after a long, dangerous and difficult peace walk. The moment of our meeting with the soldiers, and the way our surrender was handled, is a modest example of how we can still make peace. That day, together with the soldiers watching us coming down from the mountains, we all lay down our weapons. Our hands instead of feeling the coldness of the handle of the weapons felt the warmth of each other with the words 'we want peace, too'. This small mis-en-scene was realised once. The possibility of this happening for the whole Kurdish movement and Turkey is still waiting to be realised.

Brought by ourselves, written by the leadership council of PKK, we submitted to them four letters to be handed to the President, Prime Minister, and leaders of the Parliament and General Staff; explaining that for the peaceful solution to the Kurdish issue they would do what is required of them. On that day we tried to explain to the soldiers that the PKK's peace efforts and approach for a political solution were genuine, and explained the practical actions taken in relation to this; if they wanted and employed a positive attitude, the guerrillas were ready to lay down arms, and did not consider war as a strategic tool for the solution of the Kurdish issue; if they displayed a positive attitude towards us then the guerrillas would consider this standpoint towards themselves as a whole and would pay value to it. We explained that the burying of the weapons was in their hands.

However, despite all this, our democratic and peaceful approach was given prison sentences ranging from 15 to 24 years. In spite of this, this time the PKK sent 8

members to Turkey from amongst its personnel undertaking political activities in Europe. The fate of those friends, I have to say with sadness, was the same. On 2 August the same year, in order not to be seen as a threat to Turkey and in order to declare that it saw the peace as a strategic method, the PKK pulled its guerrillas from Kurdistan of Turkey to the Kurdistan of Iraq. However, while this misunderstood step was taking place, under assault from the Turkish Armed Forces (TSK) hundreds of guerrillas lost their lives.

Attempts to pull the state away from denial and destruction and to encourage it towards a peaceful solution, invaluable important steps for the Kurdish movement, unfortunately could not be appreciated. On the contrary, rather than giving value to such steps, which were taken by pushing the PKK's own sociology, questioning of their sincerity became the justification for practical irresponsibility. Despite some reformist approaches, those steps were mistakenly seen as the triumph of the soldiers and brought destructive tendencies. As militarism was not abandoned, solitary confinement of Mr. Abdullah Öcalan – he who for the Kurds is of the utmost sensitivity and value – was increased.

Thus, after costing the lives of 500 guerrillas, nearly 6 years of unilateral ceasefire and related single-sided arrangements and practices have produced no result. The negative peace process could not be turned into a positive one. Things done, unfortunately, did not amount to a democratic and peaceful solution to the issue. The opportunity created for peace, unfortunately, was not considered by those who govern or by other strata of the society. One has to state openly, that that period went unconsidered not only by the state, but also by some elements of the Kurdish movement and the civil movements in Turkey.

No matter how much our moves are misunderstood and subjected to various punishments, what we lived through, far from damaging our faith in peace, enabled us to see that the peace as a phenomenon was to be more insisted upon. Because, as our life experiences taught us, in a society that is enslaved by fighting and violence, the opening of the solution channels to the problems was not possible.

This is why, having been discharged from prison, we felt that the disrupted peace initiative should be continued from where we left it; and we considered this, above all else, as a conscious and humanitarian responsibility.

We knew that a reality with historical foundations, such as the Kurdish issue, would not be resolved easily, and the solution process would involve a long-term, widely participated in and collaborative effort. We also learned through our experiences that acting in the name of peace would bring certain costs. Even what we have lived

through by taking to the streets in the name of participating in the Democratic Republic, and only working for the peace, practically proved that the joining of the guerrillas in civil and political life would not be so easy as we had thought. The deepness of the prejudice created in the society, and misinformation, almost portray barriers closing the ways to live together. When we went to submit our good wishes to collectively establish the peace, because of the sentences we served, 3 of our friends were arrested at the doors of the Parliament and later charged with penalties; this proved that asking for peace in Turkey was a crime. Nevertheless, as people who believe in accepting the full cost of our pursuits in advance, we continued our peace efforts.

Having updated our initial objective and mission of coming to Turkey years ago, our work firstly involved undertaking meetings with people in various situations. Then, we reached out to thousands of people with diverse backgrounds and beliefs including intellectuals, writers, NGOs and political party managers. What we have found after face to face discussions was that although we all believed in the peace as our common ground without argument, we saw that everyone was trying to create peace in small and different groups, and this type of peace process was far away from bringing any solutions. This was especially true for a state such as Turkey which works in a traditional way.

Consequently, in order to bring peace efforts in the Kurdish issue to a collective platform and discuss the practicalities, we conducted simultaneous meetings in Ankara, İstanbul, Izmir, Diyarbakır and Samsun. Composed of NGO representatives, union representatives, political party representatives, intellectuals, writers, artists and academics, some 1500 people participated in these meetings. In these meetings meaningful decisions about the need for peace, descriptions, gatherings and the emergence of frankness in sharing the pains of the war, were rather like a preface to the peace conference in Turkey in December. Our efforts as peace-lovers in Turkey showed us that neither brother denying brother nor brother fighting brother would be accepted anymore, and, it proved that the time to get rid of history's legacy was due. Before it's too late, these efforts proved that an end to the violence - which incites mutual feelings of revenge, causing huge damage to social life and nature and destruction of public spaces, and removes the opportunity for resolution - is a necessity; and they also proved that for the Kurdish issue to be resolved through dialogue, willingness and justice, a permanent peace is absolutely necessary.

The recognition of Kurdish identity through rejection of the identity hierarchy and discrimination, on the basis of avoidance of words and suggestions that may encourage violence, and in an environment of free discussion where very different opinions and suggestions can be put forward, will lead to a democratic, just, equal and free environment where peace can be created. It has been understood clearly

that all those forces who are gathered on the side of peace to initiate a long process of peace struggle, have seen how important and essential it is to do so. Basic desires in these meetings were: instead of denial and rebellion, application of democracy with all its institutions and rules; urgently ending the anti-democracy practices which are the reasons for fighting; laying down weapons and ending the violence in a democratic and peaceful environment.

In short, these suggestions were put forward:

- To manage the peace activities all over Turkey, by creation of a 'Peace Initiative'. The existing peace initiatives to be joined together.
- In order to create a peaceful and democratic solution to the Kurdish issue, a mutual ceasefire to take place, along with opening up the path to dialogue; in order to increase the numbers of those who are in favour of peace, setting realistic and careful steps.
- In order to open the way for politics and dialogue, and enable everyone without discrimination to enter into the public and political spheres, relevant conditions to be prepared as soon as possible; and in order for these conditions to be provided, firstly an honourable general amnesty, and then opening the way for every kind of legal and societal policies to be provided.
- All the barriers against the cultural rights and political representation of the Kurds to be lifted. To find solutions, efforts to be put into promotion of the Kurdish people's language, culture, identity, social and democratic demands.
- Unconditional recognition of Kurdish political representatives as real representatives of the Kurdish issue.
- Being the greatest barriers to democracy and the peace process, changes to the Constitution, Political Parties Act, Election Act and Criminal Act are of foremost importance; as are prosecution of anti-democratic practices (JITEM, secret war organisations, etc) and dismantling of the Village Guards.
- Working towards the removal of the election quota so that all our fellow citizens can be represented in Parliament.

- Getting in touch with various institutions, and receiving contributions from the media, in order to secure societal peace (the Peace).
- Working on Prime Minister Recep Tayyip Erdoğan's call to 'lay down the weapons, sit at the table.'
- Abandoning the Combating Terror Act [Terörle Mücadele Kanunu].
- Lifting the oppression of the Democratic Society Party [DTP] and regional municipalities, and ending the widely practiced arrests in the region; normalisation to be provided in the region and violence against civilians to be stopped.

The 5th ceasefire of the PKK one month ago created a climate of solution with high growth potentials. However, it should not be forgotten that these climates have been seen in the past. Each time becoming hopeful and then feeling let down, our people are this time approaching the process more realistically, and find this to be more relevant; they consider EU states' and others' positive contribution to the process, and would consider this as a sign of sincerity. Rather than a perspective of solution to Kurdish issue, the majority of states in the previous ceasefire processes took a standpoint of political gains; in the eyes of most Kurds, the existence of a Freedom Movement, and declaring this movement as a terrorist organisation in a time of serious works on peace efforts, meant that Turkey's desire for status-quo was able to feed upon this standpoint, and this resulted in a breakdown of the Kurds. While it was important to encourage Turkey to break its historical taboos, by not having an open and realistic policy on solving the Kurdish issue, and by not insisting on furthering and realisation of reforms, Turkey causes the Kurds to consider themselves as outsiders. Nevertheless, for the solution of the issue the Kurds are still expecting support from the EU states. Because of that, Turkey's EU accession process will provide strong contributions to democratisation, and this is of foremost importance for the Kurds and the Kurdish Movement who support this process; thus it provides the dimension of expectation. During Mr. Abdullah Öcalan's last call for ceasefire, too, what is expected of the EU states was openly stated. Kurds are expecting support from the EU that is suitable to its own philosophy.

The political destitution in Turkey and the solving of these issues by militarist methods; the conducting of these by soldiers; and mentality of choosing security over freedoms, unfortunately, despite all efforts, have not been broken down. Up until now all four ceasefires of the Kurdish Movement have been sacrificed to this status-quo mentality. Every opportunity for resolution was met by statements that

‘the PKK will be taken as collocutor, Öcalan will be taken as collocutor’, and this mentality imprisoned the issue in an unanswerable state. In contrast, through moral obligation - instead of having concerns over collocutor - those who honestly seek a solution should embrace those who take responsibility for the issue.

Besides, the PKK is not the cause but the result of the Kurdish issue. In solving the Kurdish issue, it is not a barrier, but one of the collocutors in the debate. One has to ask those who regard the PKK’s laying down arms and solution efforts as wanting to become political, whether they themselves would prefer weapons or politics. Not seeing this reality and insisting on not solving the issue, naturally makes one think. Despite all the experiences, the Koma Komalén Kurdistan (KKK) in its declaration in August stated

while having many times submitted solution suggestions and projects to the public, which cannot be refused by any force, up until now there has not been a single solution project put to us. We believe that if Turkey displays a will for solving the Kurdish issue, then one day the ceasefire will be secured and the issue will be put on track to a solution. As our Leadership stated years ago, ‘we are looking for a collocutor’.

These words are meaningful in terms of expressing rather than abandoning the Peace. Again, as Mr. Abdullah Öcalan stated

let’s all together, in Turkey and in the Middle East, forever put an end to the use of weapons as a method of getting results. Let’s bury weapons. For all of these to happen, I am doing my share and asking the PKK to hold ceasefire.

The quality in these words gave responsibility to all those involved. And in response to this, the PKK on 1 October 2006 unilaterally declared its 5th ceasefire. As long as not approached with destructive aims, the PKK announced that it will not use weapons, and declared that it will do whatever its share is, without falling into past mistakes, to make this ceasefire permanent, honourable and to turn it into a just peace. For this, rather than considering the collocutors as a cause of the issue, we have to start considering these elements as part of the solution, and begin to develop solutions to real issues thereafter.

The world has experienced various armed forces’ recognition as collocutors, and the path of politicisation and finding solution then began. The IRA and ETA experiences are examples of this. If it is recalled that in 1999 the British Foreign

Secretary stated that ‘for the solution I will even sit at the table with the Devil’, and this saying is in our memories as the formula for genuineness in solving these issues. Ultimately, what the PKK is asking as the solution, I believe, will be considered by you as natural democratic demands and secured human rights. The KKK in its latest solution declaration stated that if the weapons are silenced and barriers to dialogue lifted, then its commitments in the second stage will continue; their demands, listed below, are suitable to the EU’s spirit of freedom, justice and equality. Besides, what is asked to help an ancient people of 30 million to survive is very modest. It will be discovered upon investigation, that these demands are also in accordance with the wishes of large sections of those attending the peace meetings we conducted in Turkey.

These demands are:

- Recognition of Kurdish identity and constitutional assurance of all other identities under the umbrella of higher or super-identity of *Türkiyelilik* (of Turkey).
- Lifting the barriers to Kurdish language and culture; recognising the right to education in the mother tongue; and in the Kurdistan region, together with Turkish, Kurdish to be recognised as second official language; besides this, respect to be shown to other minorities’ cultural rights.
- Rights of freedom of thought, belief and expression, free politics and the right to organise to be granted; in the Constitution and in other laws, foremost regarding sexual discrimination, all societal discrimination to be abolished.
- Through a societal project, both societies to forgive each other; in order to establish peace, release of all political prisoners, including the PKK Leadership, and unhindered participation of these people in political and societal life.
- The stationing of forces in Kurdistan, because of the special war, to be withdrawn; the Village Guard system to be abolished; and in order for the villagers to return to their villages, social and economic projects to be developed.
- In parallel to realisation of the above articles, following a mutually agreed date, the guerrilla is to lay down arms in stages, and start the process of joining in legal, democratic societal life.

These demands, at the same time, are within the Copenhagen Criteria of the European Union. The EU's claim of its own legal and philosophic approach in this situation is also the expectation of the Kurdish people. It should not be forgotten that the dimensions of the Kurdish issue today were influenced by the past politics of the European states. I would like to thank you again for the opportunity given by your Parliament, and I believe it is undeniable that the outcomes of the Conference will serve the cause of a resolution.

### **2.3 Turkey's EU Accession: A Chance for Peace and Reconciliation**

#### *Europe in Turkish mirror*

##### *Cengiz Aktar*

Recently, a French visitor summarized the prevailing mood in France regarding Turkey's EU membership by saying that 'France, which can't handle its mainly Muslim suburbs, sees Turkey as a huge suburb'. No better quote to make clear the general uneasiness in France, but also in other circles and countries in Europe, regarding Turkey's EU prospects.

Turkey's candidacy for the European Union was always an immense challenge. But the challenge Turkey faces in order to meet the membership criteria is as arduous as the challenge Europe has taken up in accepting the candidacy of a country considered at the same time very close and so far-off.

In October 2005 Turkey started the crucial phase of membership negotiations with the EU. Since then and even before, an ever-growing nervousness has emerged among various European circles who, for different reasons, are against a European Turkey. Taking advantage of unsympathetic public opinion in almost all Member States towards Turkey, the anti-Turkey lobby has been working in a systematic way to derail the process. Who are they?

Certainly, there are small but vocal Armenian and Greek groups, who prefer their passions to their interests and choose to keep Turkey at bay instead of discussing mutual grievances within the European common house. There are also Christian fundamentalist circles often collaborating with extreme right minorities. But the real threat comes from governments and administrations who overtly oppose Turkey's membership of the EU. Building on negative sentiments prevailing among public opinion in their countries, these governments are constantly and systematically working against the process at all existing layers. The 'Pope factor' should also not be underestimated, as the Pontiff has a critical influence on European Christian Democrats who are the driving political force of the anti-Turkish cabal.

*Franco-German opposition*

Today there are two opposing groups of countries regarding the European future of Turkey. The divergence of views on Turkey looks like the epiphenomenon of the debate over what future these two groups are foreseeing for Europe.

France and Germany are the backbone of the group that prefers to keep Turkey outside the decision mechanisms of the EU, preferring a sort of close partnership - one that no one has so far managed to define. They see Turkish membership as an American-British ploy intended to dilute the chances of a strong political Europe. Other countries including Austria, Cyprus, Denmark, Greece, the Netherlands and Slovakia sporadically, and for different motives, join the Franco-German core, and work against the ongoing negotiation process. The executive arm of the EU's enlargement policy, the Commission, is more and more at odds with these Member States on the subject of the very aim of this policy and its future prospects.

Despite pre-election statements to the contrary, the German coalition government is so far playing the game and seems consistent with the principle of *pacta sunt servanda*. But in the long run the CSU-CDU politicians especially are eager to see another type of relationship with Turkey that falls short of full membership. Thus, they may not be working against the process but they are not giving it any support either, as they did with the Central European states.

France is another story. It was never too keen on enlargement. Its sole tangible contribution to the process in recent times was to try to introduce the 'absorption capacity of new members' as a new criterion. At the end of the day, France has no sympathy for Bulgaria, Romania or Poland, either, and not even for its next-door neighbour, let alone Turkey. Thus, with the noticeable exception of President Chirac, French politicians have never actively supported Turkey's membership.

In fact, the French model of integration equalizes and dissolves differences through secularism and republicanism; though not all differences. Muslims in France were never really included in the integration process. For instance there is not a single MP of North African extraction in the Assemblée Nationale today. The French 'republican communitarianism' as we can call it, hardly considered Muslim North Africans as part of the community. Just as they don't see Turkey in the EU!

This France does not see Turkey as a European partner. 'Turkey's contribution to the EU and the EU's contribution to Turkey' are not pertinent topics for her. Consequently, people holding anti-Turkish sentiments dominate French public opinion. For the last three years, the French public has learned about Turkey from the insulting writings of ultra-fascist author Alexandre del Valle. French politicians such as Alain Lamassoure ('If Turkey enters, France leaves'), Françoise Grossetête

(‘The start of the negotiations is an insult to democracy’) and Philippe de Villiers (‘No to Turkey’) made statements that would never have been uttered about any other partner country.

The other group comprises Belgium, Finland, Italy, Poland, Portugal, Spain, Sweden and the UK. The Baltic countries, the Czech Republic, Hungary and Slovenia support them. These countries consider Turkey’s membership as an asset in all spheres, be they geo-strategic, geo-economic or geo-cultural – not forgetting for the potential for dialogue between religions, cultures and civilizations. They also consider enlargement as probably the most momentous policy tool the EU possesses nowadays to assert its soft power. They want enlargement to be continued unabated and consider its achievements as some sort of proof of political Europe in the making. In that sense the Franco-German dream of a political Europe has gathered momentum thanks to much-hated ‘Anglo-Saxon’ policies favouring enlargement.

In the years to come the fate and success of Turkey’s EU membership bid will tell the fate of the EU’s political significance worldwide. We will watch and see whether the EU will miss or grasp the opportunity to become one of the driving forces in world politics. The outcome of the challenge depends on which one of the two schools will prevail.

## 2.4 Implementation of Reforms

### *Şinasi Haznedar*

Esteemed Participants,

The EU experience of Turkey, which began 40 years ago, continues to create more debate inside and outside Turkey. The EU process sped up, relatively, after Turkey was given an official applicant status at Helsinki on 10-11 December 1999. In 2002 the process evolved to a new period and finally, as the EU leaders came together in Brussels on 17 December 2004, it was decided that the negotiations with Turkey may begin.

Turkey has defined itself as a ‘democratic, secular, social state of law’, as stated in the 2<sup>nd</sup> article of the 1982 constitution. However, according to us, the Turkish human rights activists, Turkey is still one the most disputed countries in the world in the practice of democratic rights and freedoms. If it was the contrary, Turkey would not have needed to amend the constitution eleven times, take nine adaptation packages in order to reform its institutions and anti-democratic laws, and struggle so much, to adapt to EU standards.

For years the human rights problems in Turkey were denied by the political elite. To prevent discussions it was alleged that those who debate human rights problems seek to destroy ‘our national unity and tie’ and this is supposedly put forward or exaggerated by ‘internal and foreign enemies.’ For years, administrations in the country, instead of proactively seeking to solve the problems – this could easily be said about every government in the history of the Republic – have either acted merely to prevent potential exclusion from Europe (because the founding ideology has such objective) or implemented only cosmetic changes that lack true reform ambition. The state has not implemented any reforms, or has done it very slowly, because it sees every legislative change as a threat to its hegemony over Turkey’s institutional structure and society. Non-implementation of these reforms creates serious restrictions of fundamental rights. Despite positive changes in the custody regulations, security forces continue to conduct torture and ill-treatment. Article 301 of the Turkish Penalty Code (TCK) is an indicator of the anti-democratic practices concerning intellectuals, writers and journalists who desire to utilize their right to express their thoughts. The gendarmes continue to list-target prosecutors and even governors. The properties of minority foundations are not resituated to their true owners. Excessive force is used on peaceful demonstrators or on opposition. Anti-military demonstrations result in ‘lynch’ attempts; and many perpetrators of all these violations are not put before the justice system.

The constitutional changes and nine adaptation laws in Turkey have been granted many praises, however, the ‘bleeding’ wound of Turkey, the ‘Kurdish question’, remains and continues today. There are no long term or permanent resolutions to the question; in fact its existence is denied, and there are no signals of a peaceful solution. The changes do not guarantee constitutionally free practice of Kurdish language and culture. Minority rights remain the priority problem. Although the prohibitions over the practice of Kurdish language and traditional languages have been lifted, authorization for private radio and television is still barred. The half an hour per week broadcast on TRT (Turkey Radio Television Institution) barely meets the necessities. In fact, despite the new laws regarding private channels, the monopoly of TRT continues. The bureaucratic obstacles over Kurdish language courses do not allow their full realization.

Another serious question is freedom of religion. Obstacles over the right to practice religion, especially for Muslims, need to be lifted. The right to formally practice beliefs and the equal utilization of public places continue to be issues that are not included on the official state agenda. The hegemony question of civil and military relations continues. The changes in the law of the National Security Council (MGK) did not change the fact that the generals in Turkey are the world’s most zealous generals. The expression that Turkey has special conditions is an excuse not to implement universal democratic and human rights standards. There are no deep rooted changes in the field of economic and social rights. Along with workers’

poverty, violence and sexual discrimination against women continues. There are only some, deficient, legal arrangements to appease the problems and status of women.

Unfortunately, state policies and implementation practices in Turkey continue almost unchanged. Due to deficiency in the understanding of democratic culture and civil organisation in the society, the current state structure, instead of being there to serve the people, establishes itself on the grounds of controlling the people. Because of this mentality, together with the resistance of the administration, Turkey has not achieved serious progress on fundamental issues and the fulfilment of the Copenhagen Criteria.

For example, the first thing that comes to mind when hearing the word 'constitution' is a social contract, which guarantees human rights and freedoms. However, all the constitutions in the republic of Turkey have been prepared during extraordinary periods, such as when the military cadres take control over the administration.

The current 1982 Constitution, prepared during the military regime at the beginning of the 1980s, is authoritarian not only in form but also in content. Its mentality is qualitatively exclusive. Despite the several amendments, the constitution remains the greatest obstacle in the development of human rights and democratization in Turkey. The constitution cannot be corrected by retouching here and there. When it was prepared it accounted for possible individual and social threats. International agreements that Turkey had signed were not considered. Gone is the 1961 Constitution in which 'human rights is a basis', replaced by the 1982 Constitution that 'respects human rights'. According to the 1982 constitution, no individual or institution can escape from the scope of the 'legal structure designated by the libertarian democracy and requirements of the Constitution'. The person is only given 'the right and authority to develop materially and morally by utilizing the fundamental rights and liberties of this Constitution'. In this manner, human rights and democracy are localized and rights and freedoms are put into second place by binding them to the state and authorities. Therefore, precedence is not given to the principles of universal law or human rights standards, but to the Constitution and laws.

From 12 September 1980 until 7 December 1983 all legislative authority in the fields of social, political and public life was in the hands of the National Security Council. The majority of the laws in the Constitution are directly or indirectly related to human rights. Therefore, despite the fact that the packages of the EU adaptation process brought about many positive arrangements, these were inadequate to resolve the social problems in Turkey. Also, the legal changes are yet to be put into practice. Hence, despite the constitutional reforms the situation has not dramatically changed.

It can be said that the adaptation packages were adopted without any serious preparation. Changes were prepared without any serious brainstorming regarding the deep rooted and permanent resolution of the problems in Turkey. The changes were made obligatory in effect of internal or external dynamics. However, the changes were made not to resolve the issues - the articles in the law were changed section by section - but to eliminate the prevailing criticism. As a consequence, continual re-patching of acts became necessary.

Certainly these package documents have brought some seriously positive arrangements. For example, state emergency regions were lifted; the length of custodies was reduced; geographic discrimination in judgements was resolved; the intervention right of the defence during interrogation and judgement in State Security Courts (DGM) was allowed. The abolition of the death penalty and the creation of some new acts such as the Press Act and the Association Act, have brought about greater freedoms. However, even within these packages there exist some meaningless arrangements for human rights. For example, a time limit of first 2 months, then 6 months has been given to the registration of immovables. A written statement to the General Administration of Foundations with the signature of the MGK Vice-General Secretary states that the 2 months should be 'utilized in the best of fashion'. The interpretation of this sentence in our bureaucratic language is the following: 'Stale them within these 2 months as best as you can, the applications for the requests of real estate property should be left inconclusive'. When the appeals and reactions did not end, the period was extended to 6 months in the later adaptation packages. This was not sufficient, and with the later act, the period was further extended to 18 months. There is no such time restriction for the registration of immovables of the Mehmetçik (meaning Turkish Soldier) Foundation or National Youth Foundation. As all of them are Turkish citizens, one may argue that political interests are put before human rights.

Many acts are presented to the public as though they were serious reforms. For example, for foreigners to present petitions in Turkey a reciprocity basis has been put forward. This means that if the same right is given to Turks residing in the country that the persons are citizens of, Turkey acknowledges their right. Let's say – in the expression of Mr. Mustafa Erdoğan – that we are up against a fascist state, therefore there is no justice and the country is extremely oppressive and authoritarian ... now must we treat them as they are treated in that country? In human rights and justice there is no room for reciprocity. Human rights are there because humans possess this right as human beings. For this reason, the current packages have extensive and positive arrangements along with extremely meaningless and non-functional arrangements. In some ways meaningless reforms only strengthen the status quo (for example by increasing the number of civilians in the MGK). That does not help us in any way but perhaps changes our image before the international community. But there are far worse arrangements that are a step back in human rights. For

example, the reforms made in the human rights field might include documents that emphasize 'the indivisibility and unity of the state country and nation' or 'the fundamental criterions of the Republic'. Such articles are not included in any international human rights documents, and seriously undermine the original purpose of the reform by restricting the expression of thought.

Turkey, in order to meet the Copenhagen Criteria, has changed 44 articles in the constitution with 9 adaptation packages, amended 76 laws and adopted 63 new laws. The Constitution has been amended 12 times. However, despite all these changes, the desire of the state to impose itself though identity, belief, and social life, alongside the fact that the state also divides the entire society, has not changed.

In conclusion, Turkey, despite all the EU reforms, continues to violate human rights and to promote injustice. Instead of concentrating on some adaptation laws and local, cosmetic changes of the Constitution, the entire Constitution should be opened to debate. A new Constitution is needed that would be established on the basis of human rights (not in respect of them), and in accordance with universal measures and values. A participatory constitution is needed, which encompasses the entire society and which does not have an ideology. This also means that Turkey meets an image of a democratic state that can be empathetic and is not the source of all the problems in the society.

The main obstacle in Turkey joining the EU is the Constitution, not the people. Once this is eradicated the state will lose its greatest anti-democratic feature and Turkey can finally become a true democracy.



## Session 3. Human Rights, Minorities and the Rule of Law

The third session covered issues including ‘Political Representation of the Kurds, Freedom of Expression and Association’; ‘Separation of Powers and Independence of the Judiciary’; ‘Promoting Cultural, Social and Economic Rights: The Process of Decentralization and Local Governance’; ‘The situation of Internally Displaced Persons’; and ‘The Situation of Women’.

Reproduced here are speeches by Mr Tuncer Bakirhan, Mr Andrew Duff, Mr İbrahim Bilmez, Mr Osman Baydemir, Ms. Margaret Owen, and Ms. Sevahir Bayındır. Speeches unavailable for reproduction were also made by Mr Ergin Cinmen, Mr Naman Adlun, Mr Gıyasettin Gültepe, and Ms. Luisa Morgantini. The speeches were preceded by opening remarks from Ms. Tove Skutnabb-Kangas and Mr Luigi Vinci.

### **3.1 Political Representation of the Kurds; Freedom of Expression and Association.**

#### ***Tuncer Baiirhan***

Today, I would like to speak to you all on the subject of democratisation and the peace process.

The core components necessary for democracy are free expression of thought and freedom to organise. These two are the cornerstones of democracy, and political parties are shaped under these vital conditions. Since the formation of the Republic, Turkey has passed through many phases in its attitudes to democratisation. Turkey, which has in the last fifty years seen two military coups, one warning and a post-modern civil coup, has not been able to operate democratically throughout these various institutions and rules. An intensifying struggle is still continuing on this point. I would like to bring to attention the experiences of the last twenty years.

Turkey is still ruled under the 12 September Constitution which came into force after the 1980 military coup. The amendments made at various stages have meant that a modern and democratic Constitution could not be formulated. Our people are still being prosecuted for expressing their thoughts. The amendments made to Articles 141 and 142 in the 1990s were realised to be deceptive after a year. Articles 7, 8, 312 and 159 of Act 3713, which replaced Articles 141 and 142, were in many ways worse than them. The New Penal Code which came into force on 1 June 2004 underwent changes within one year of coming into force. The last few months in Turkey have revolved around trials under Article 301. This Article is on the agenda of the government, opposition, non-governmental organisations, human rights defenders, conservatives, everyone. Article 301 has become Turkey's number one topic, as though it was the 'essential' condition for democratisation. Practical failures of the reforms made since 2002 as part of the harmonisation laws for the EU, were clearly demonstrated by Article 301. The EU Progression Report on Turkey also discussed the practical backwardness of the harmonisation reforms which have made greater progress since 2000.

The legal amendments made on various subjects do not leave Article 301 in the shadows. Today, if writers such as Orhan Pamuk, Elif Şafak and Hrant Dink were not taken to court as a result of this article, it would not have been on the agenda. Let us also look at Kurdish broadcasting, which was permitted in 2002 within the framework of the EU harmonisation pact.

Kurdish broadcasts began on the state channel, TRT, on 9 June 2004, and private broadcasting began in March 2006. As a result of restrictions only two channels in Diyarbakır and two radio channels in Batman and Urfa obtained the right to broadcast. As a consequence of the obstructions placed on Kurdish broadcasting, only one private channel in Diyarbakır continues broadcasting. Furthermore, although languages such as English, Arabic, Persian, French and German can all be taught in the same schools, because separate schools are enforced for Kurdish courses, all Kurdish courses have now been closed. The legal amendments made on this subject are so restrained that they have not yet found life in practice. Is it right to call amendments 'reform', when they have not had the chance to be put into practice?

Today, we are discussing Article 301. However, fifty-six Mayors from my party are now being investigated for sending a letter to the Prime Minister of Denmark, Rasmussen, expressing their opinions, in order to stop the closure of ROJ TV.

The product of the 12 September Constitution, the election threshold in Turkey has been in place since 1983. The main aim of political parties is to organise within

the legal framework and to obtain representation for the masses they organise. The election threshold placed in the name of political stability has stopped the will of 56 percent of electors being expressed in the 3 November elections. This has brought injustice in the name of political stability. CIP which was kept out of parliament in 1999; MHP and DYP which were kept out of parliament in 2002; and three political parties with groups in parliament, all oppose abolition of the threshold. Taking the 2002 elections as a basis, if the election threshold practiced by Turkey was not in place, my party, DEHAP- DTP, would have been the third largest party in Parliament with the traditional fifty-three members of parliament.

At present Turkey's core problem is the Kurdish question. In the last twenty years political parties such as HEP, DEP, DDP, HADEP have been closed down because they adopted the Kurdish problem in their manifestoes. Even though closing down parties is harder today, the antidemocratic 10 percent threshold is still implemented, and continues to prevent my party's representation in parliament (TBİVİM). The government has not found these measures adequate, and in order to prevent us entering parliament as independent candidates they have taken some legal amendments to parliament in order to block independent candidates.

Whether one terms it the Southeast Problem or the Kurdish problem - let us term it however we like - we hold the belief that this problem must now finally be solved. In contrast to the idea that the election threshold is in place to maintain political stability, although a third of the parliament is currently formed by an AKP majority it is still not possible to talk of political stability in Turkey. Today, Turkey is facing a process of debate over the presidential elections. Superficial arguments like these delay the resolution of the Kurdish problem.

My party is the last turning point in the struggle of the Kurdish people to search for their identity and rights. Since the 1990s the efforts and initiatives by the Kurdish people to express themselves within legal-democratic processes have been a stimulus for the democratisation process, and Turkey has also gained much for the struggle to free the Kurdish identity. It is a turning point in Turkey's political history for the Kurdish people to participate in legal-democratic politics. For the Kurdish people to establish a legal-democratic platform, was a litmus test for Turkey's democratic dilemmas, the barriers and the prohibitions placed on democracy.

From its formation, the Kurdish movement has included all its supporters in the decision making process, forming a bottom-up model based on their choices. This practice introduced a new model to the political life of Turkey. Furthermore, DTP was the first party to adopt the joint leadership model - which is practiced in many

countries in Europe but not in Turkey - and to include this in its programme and statute.

As a result of the prohibitive understanding of the Political Parties Act, which has already undergone fifty-seven changes; the warnings from the Constitutional court; and the threat of the closure of the party, the joint leadership model was taken out of the statute. Nonetheless, the joint leadership model continues to be a party concept and initiatives have been taken for legal changes to be made. DTP took its place in the political arena of the Turkish Republic with its positive approach and effort for peace in Turkey. DTP is facing attempts to marginalise it, like other parties in the past that have held the similar political views about peace in Turkey.

There has been always an argument against these political parties regarding the possible relationship they had with the PKK (Kurdistan Workers Party). This argument is now being used in different ways against DTP in order to restrict it and make it collapse ideologically. In order to stop the free expression of opinions there has been a high level of violence used against people, which has sometimes reached the level of 'terrorism'. Violence is not always about using a physical instrument; it can be seen as blockage of the political and social arenas and isolation in political lines. Today the restrictions being used against DTP are clear examples of this kind of violence.

I would like to emphasise one more time that the PKK is not the cause of the 'Kurdish Question'. The PKK is the result of the official denial of, and attitude and approach towards, the Kurdish question. We have always expressed that the conditions for the termination of the PKK's existence are only possible if there is an abolition of the denial of Kurdish question, an end to the violation of cultural identity, and an acceptance of Kurdish identity.

It is also very clear that we cannot engage in politics without considering the requests and demands of the Kurdish people made by the PKK. We also do not deny that we have many requests and demands with in common with PKK, which we declared in the political arena. We should emphasise that these requests have been shaped by the social and political conditions of Kurdish people.

We believe that we cannot create a realistic solution by being against beliefs and values that are part of the identity of Kurdish people, which existed in the recent past with the existence of the PKK. Therefore we have to be realistic.

The Kurdish people have faced being denigrated and constrained ideologically through the PKK's existence. We have clearly said at every platform we presented that we cannot accept this situation anymore. It is not possible to give up the values that shape the identity of our political party that is created by the Kurdish people. Despite new legislation for democratization, there still prevails an approach of not accepting the political representatives of the Kurdish people. Due to the fact that these democratic reforms are not being reflected appropriately in society, and the party in power is not being open about it, the Kurdish people have come to have no trust in the parties in power and they criticise them.

I would like to express my thoughts openly: in order for Kurdish and Turkish people to live together, the conflict between them should be ended, peace should be achieved, and a democratic political agreement should be accommodated. We are ready to offer any support to the party in power and to the parliament to achieve this.

To praise new democratic legislation does not help Turkey take responsibility for making changes concerning a solution to the Kurdish question; at the same time, to see the tragedy that Kurdish people have been facing for years and expressing your thoughts and feelings about the politics of Turkey does not help, and is not enough to solve our problems. For time to time the US authorities tend to perpetuate the status quo in Turkey by praising and supporting new legislation and believe that a democratic process will be possible that way. On behalf of my party and the Kurdish people, I would like to say that despite the tragedy and unpleasant experiences we have all have had, DTP supports the unity of Kurdish and Turkish people. Therefore Europe should take political action to support equality for both Kurdish and Turkish people. They should take advantage of their relations with Turkey to influence it in order to help create a democratic solution to the Kurdish question. This is our expectation from Europe.

We the DTP, despite of all the difficulties we have faced with regards to organising and representation, claim consistently, as we have in the past, that we want a solution for peace, freedom and democracy in Turkey. We took the lead to open a new opportunity for Turkey. We had meetings and discussions with community members, community organisations, and intellectuals, and this was followed by a ceasefire from PKK. Following Mr Abdullah Öcalan's call for this, the PKK announced a formal ceasefire, and this is now a great hope for our whole society. If this ceasefire, announced on 1 October, is maintained, and the people who are involved in armed groups are given an opportunity to become involved in normal politics, it will be a unique opportunity to open a new era both for Turkey and Europe.

Although there is an urgent need to maintain this ceasefire and to take appropriate action, there are presidential and general elections on the way which may move the political agenda in different directions, and this causes concerns that positive actions for democratisation and peace in Turkey will not be taken in time. I would like to emphasise that Turkey does not have the luxury to delay the realisation of this opportunity by one more year, and on behalf of my party I would like to say that we are ready to do everything to maintain the ceasefire and provide and maintain peace in Turkey. I believe that every one of you is ready to make the necessary efforts for the same aim.

### *Andrew Duff*

I am a firm believer that full Turkish integration into the EU will be of key strategic importance to Turkey and Europe and across a much broader front. And I should express my serious concern that the process of accession is at risk and in danger of collapse. Turkey is faced abroad with growing prejudices opposing its accession to the EU. There is a Turcophobia in many, perhaps the most, of the European countries and the political class. We have a rise in nationalism in Turkey, and growing tensions between the popular Islam and official secularism. We have the intractable problem of Cyprus, and we have the Kurdish question.

Now confronted with all of these essentially political questions and problems, we also have the absolute necessity of social and economic progress, which cannot be fulfilled without more stable, peaceful and profound democracy. It is in my view a question of managing a revolution. It is a gradual revolution and its management, a craft of stirring profound social and political change to constructive purposes to avoid the pitfalls of violence and extremism, is proving to be extremely tough for the Turkish authorities. We need from the Turkish parliament and political parties a far more direct commitment, and a far clearer and more permanent commitment, to the construction of liberal democracy; to the putting of national state sovereignty within the European framework; to the absolute supremacy of civilian political forces over the military; and of course a far more flexible approach among Kemalists in embracing such change.

Kurds can and should be contributing to this positively, to this task of managing the revolution. The first thing we need to hear from Kurdish representatives is far greater clarity about Kurdish political priorities. What is the essential catalogue of reforms for the Kurdish culture, for the economic and social development and political decentralization of the southeast; what do Kurds see as their priorities? After years of following and trying to engage with the Kurdish problem there is a central absence of clarity, and precisely what is desired by the respectable majority of Kurds is not yet apparent. The second point is that the PKK cannot be defeated

by military means. I think that if the PKK could have been defeated simply by the armed forces it would already have occurred. I, of course, greatly welcome the ceasefire but I have two important questions to put.

Firstly, can the PKK keep it, can it sustain the ceasefire beyond previous experiences of ceasefires. And secondly, can Turkey become capable of reacting sensibly to the ceasefire. If one studies closely the official statements of the Turkish authorities one can see clear divisions of opinion over the appropriate way to react to ceasefire. Prime Minister Erdoğan says that the army will only react if is attacked. General Büyükanıt says that he is resolved to continue the armed struggle until all terrorism is expunged.

The first thing that the EU should be seeking to achieve is an agreement between the civilian government and military in Turkey of precisely of what the reaction ought to be. We are expressing our concerns that the Anti-Terror law will be exploited to strengthen the repression of Kurdish fundamental rights. I am often told that the Anti-Terror law is designed upon the British model. It is true that in the UK we are adjusting our response to terrorism, to the security threats, and certain sacrifices of personal liberty are certainly a price that must be paid to square up the increased terrorist threat. But in Britain we have a police force and a legal system which broadly speaking is clean and fair, and an administrative justice at a level at which Turkey is far from approaching.

The second thing that Europe should be saying is that the Anti-Terror law should be revised quickly to ensure that abusive state power cannot be exercised beneath its umbrella. The third and most pressing thing for Brussels to say is that before parliamentary campaigning begins in Turkey in the summer there must be radical improvement in electoral system. There should be a preferential quota so that women will be more successful in finding their way into parliament. The threshold must be cut; alliances between political parties must be allowed; and a proportional system for a percentage of MPs should be granted. The fourth element that has yet to be exposed in the accession process will be to emphasize the strength and importance of citizenship. There has been an awful lot of talk of the collective interest of the Kurdish minority but I must say, frankly, that the European preference is a commitment to the growth of citizenship of an individual because our experience is that the collective rights tread on the interests of certain other groups.

To summarise, four things are needed:

1. Greater clarity
2. Greater commitment

3. Successful and permanent ceasefire
4. Reform of the parliamentary and electoral procedure

If we can achieve all these things there is a small chance that the accession process for Turkey can be successfully concluded.

### 3.2 Separation of Powers and Independence of the Judiciary

#### *The Question of the Independence of the Judiciary and the Öcalan Case According to the Principle of Separation of Powers*

*İbrahim Bilmez*

The precondition to a libertarian political system is the transformation of the state into an ideologically neutral one. Hence, in contemporary libertarian democracies the state is on equal grounds towards all ideologies. The state should be tolerant and neutral; it should not enforce a certain ideology on its citizens and the preference should be left to them. One of the fundamental bases of constitutions in these types of states is to protect ideological pluralism. Only in such cases can the development of 'peaceful unity', despite differences, be attained.

The 1982 Constitution does not have this incentive. On the pretext of a militarist-politic leadership, the ideology has become an 'official ideology', and this ideology has become the fundamental basis of its existence. The legislature, executive, judiciary, institutions, individuals and the society have been bound to this ideology. Instead of the precedence of human rights and law, the official ideology has become predominant.

For this reason, there are two obstacles to the separation of powers and independence of the judiciary. The first is the dominant ideology, which rejects difference and pluralism. The second are the institutional guarantees of the Constitution and judiciary, which have become dependent on the executive. Therefore, the question of the independence of the judiciary in Turkey is an issue originating from the system.

*1. The Dependence of the Judiciary on the Constitution, which is dominated by the Official Ideology.*

The current Constitution in Turkey is far behind the level of precedence of the judiciary, and the three fields of human rights and freedoms, in the international arena. The ideology dominant in the Constitution is based on 19th century thought that rejects differences and ideological, political and social pluralism. It is a homogenous nation-state ideology, which aims to create a monolithic society and state. This ideology has the highest position, over legislature, executive and judiciary, individual and society. A mission of directing and shaping the society has been presented to the state in the scope of this ideology.

In this manner, this state has become a trusteeship and has taken control in all walks of life, over the individual and society, including the executive-judiciary and all institutions with a totalitarian tendency in the framework of its ideology. For this reason the current Constitution in contemporary terms does not carry the principles of independence of the judiciary in relation to the legislature-executive-judiciary relationship and the separation of power.

*2. The Independence of Judiciary and the Öcalan Case*

Discussions in Turkey's official circles have interpreted narrowly the independence and impartiality of the courts. They have advocated that the exclusion of the military prosecutor from the State Security Courts (SSC) and later the change of the SSC to the High Penal Court is adequate in terms of independence of the judiciary. However, the decision given by the ECtHR on Mr. Öcalan states that, although during the judicial proceedings the military prosecutor of the SSC was changed and later the SSC was changed to High Penal Court, this is not enough alone for the independence and impartiality of the court.

According to the decision by the Higher Board of the ECtHR given on 12 May 2005,

in respect to the change of the military judge to a civil judge before disposing a decision, the court in order to be an independent court was not bound to the limits of the composition. For Article 6 to be appropriate to the standards of independence, the related court, in execution and legislation, must be independent during all three phases of the investigation, judgment and sentence phases.

These conditions do not exist in Turkey; therefore during judgments the decisions lead to continual violations of the right to judgment at independent impartial courts. This was most evidently the situation during the case of Mr. Öcalan, and still continues today. In the example of the ECtHR decision on 12 May 2005, generally, high level bureaucrats and even the judges and prosecutors during the first court proceedings stated both during and before the decision that ‘even if he [meaning Mr. Öcalan] is judged a thousand times the same verdict will be given.’ Therefore the sentence was given in advance on my client Mr. Abdullah Öcalan, and these statements were published in the written and visual press. With this stance, according to the ECtHR decision, not only has the right of Mr. Öcalan to be independently and impartially judged been taken from him, the court has been influenced and psychologically pressured.

This has resulted in suspicions regarding the ‘independence and impartiality of a court’ in regards to both Mr. Öcalan and us, his defence; as we indicated above this stance is due to the system of the 1982 Constitution, and shows how damaged the judiciary is in terms of institutional independence. The judiciary is weak and ineffective against the legislature and executive. The continuance of the judiciary without changes in its structure brings great suspicion. The decision of the Ankara 11th High Penal Court and the confirmation of the Istanbul 14th High Penal Court to the request of Mr. Öcalan to be retried shows that the case of Mr. Öcalan is not legal but has become political.

The 90th article of the Constitution states that international agreements are superior to domestic law. Therefore, when a domestic law is in contradiction with the European Human Rights Agreement, norms indicate that Article 6 of the European Human Rights Agreement (EHRA) is directly implemented; this is in requisition of the precedence of the judiciary.

In this case the law and constitutional verdict become obsolete in principles of the precedence of the judiciary. Therefore for a fair judgement to be implemented, the 4793 Numbered Law and 1412 Numbered Law of the old Penal Court Precedence Act, article 327; the 5271 Numbered Law that came to effect from 1 June 2005; the 5353 Numbered Law and the second paragraph of article 311 of the Penal Court Act; should not be implemented. Therefore, with the request of Mr. Öcalan to be retried, the case was to be retried.

However the courts, instead of using the basis of the 90th article of the Constitution, which is the principle of the precedence of law; are formulating ‘legal’ obstacles, on grounds directed by the Constitution - which is based on official ideology - or due to political and ideological motives that the legislature and executive is based on.

On the basis of these 'legal' obstacles, due to the pressured statements of the Justice Minister and many state officials during and before the case, the court has rejected the appeals for retrial; the law article violates equality and impartiality. The court has preferred to implement the laws, which are judicially obsolete. The independence of the judiciary, as indicated, expresses that the judiciary is independent of the legislature and the executive, it is bound to law and the precedence of law. However, in Turkey, especially in the case of our client, the legislature and executive have continually intervened in the activities of the judiciary.

Following the 12 May 2005 ECtHR decision regarding Mr. Öcalan, the new laws that came to effect from 1 June 2005, which are laws particularly and discriminatively targeting our client, are a concrete example of intervention by the legislature directly influencing the judiciary. There have been new changes in the penal code, enforcement act and the penal judgment act, especially, to observe the legal situation of our client.

Law Number 5271 of the Penal Court Act (CMK) and article 311/2 are legal obstacles that were presented following the ECtHR decision; there is concrete evidence of this. Along with this, article 151/2 of the same act barred 12 active lawyers of Mr. Öcalan. Again with article 59/4 of the 5275 Numbered Act that came to effect on 1 June 2005, during all meetings with Mr. Öcalan there must be a third person present, and all discussions must be recorded. Hence, the secrecy of attorney-client meetings has become obsolete. Therefore all the conditions for the just retrial of Mr. Öcalan according to the ECtHR decision in Turkey have become obsolete with 'laws' that are contrary to the judiciary. The courts in conformity with the laws have rejected the request of Mr. Öcalan to be retried. This situation is a concrete example in the case of Mr. Öcalan of the intervention of the legislature in the judiciary.

After the intervention of the legislature, following and before the decision, in regards to the application to the court by Mr. Öcalan and his lawyers, the Justice Minister Cemil Çiçek in his press briefing made the following directive to the court: 'according to us the case of Öcalan has finished'. On this basis after the court presented its decision this time he praised the court decision, stating, 'the court has done what is necessary. The retrial of Öcalan is not possible.' The application of Mr. Öcalan, according to the 12 May 2005 decision of the European Court of Human Rights on Mr. Öcalan, to be retried in an independent and impartial court, in just conditions, was rejected by the Courts of Turkey, and therefore the paths for domestic judiciary have been exhausted.

Until the laws allocated especially for Mr. Öcalan, such as the CMK 311/2 law, are changed, it is obvious that Mr. Öcalan will not be tried in Turkey in conformity

with the spirit of the ECtHR decision. It is exactly due to this, under heavy political influence and contrary to law, that the courts have rejected the application of Mr. Öcalan for retrial.

This conclusion alone conveys the situation of the jurisdiction. Because the right to be fairly judged in an independent and impartial court is a fundamental human right, it is a right that needs to be granted in all conditions, without any exceptions or discrimination.

Such a mentality in the legislature, which can bring an exception to an absolute right, and the fact that the judiciary does not even have the courage to touch on this mentality, show openly how bound the judiciary is to the legislature and executive. It is impossible to think that justice can be maintained in this country. We can see in relation to human rights and freedom in Turkey, especially in relation to Kurds, why thousands of cases were brought to the European Court of Human Rights. Therefore, the fundamental necessity for Turkey is the institutionalization of an independent judiciary, which is bound to the precedence of law. For this to become a reality many changes must happen, beginning with the Constitution. We must not forget that due to the lack of independence of the judiciary, justice has been handed over to dark forces, mafias, gangs and illegal structures. This situation is obvious to everyone in society. For this reason in this country trust in justice has been damaged considerably.

The way out of this confusion is to change the homogenous nation-state ideology of the Constitution. To achieve a state structure which is both institutional and functional, based on democratization and the three fields of human rights and freedoms, where the precedence of law is dominant and its guarantee is the independence of the judiciary in conformity with international standards, is vital.

### **3.3 Promoting Cultural, Social and Economic Rights: The Prospects of Decentralization and Local Governance**

*Osman Baydemir*

Saluting the Third International EU, Turkey and the Kurds Conference, I want to express my pleasure that we are convened here to finally discuss 'Justice, Dialogue and Solution'. That this Conference has coincided with the debates in Turkey over ceasefire and a peaceful solution to the Kurdish issue makes this effort even more

important. However, I want to repeat a criticism that I raised in the last year's conference. The reason for the ongoing situation of irresolution is the lack of dialogue and prospects for democratic debate among the parties to the Kurdish conflict. My hopes are for a time when we can form such democratic platforms under the roof of the Grand National Assembly of Turkey as a significant step towards the solution of the Kurdish issue.

My speech today will focus on the intersecting points of two very basic problems of Turkey which are different, yet interrelated. These are the issues of local governments and the Kurdish issue. What links these issues with one another as problems is the fact that both originate from the almost two centuries-long histories of state centralization and state administration of our geography. We, the local governments located in the Kurdish populated region of Turkey, have to involve ourselves in politics and produce public services at the intersection of these two acute problems and with great difficulties. Local governments in the rest of Turkey also do face serious problems due to centralist state policies. Yet, the administrative, economic and political problems that local governments in Kurdish-majority regions, and particularly those Municipalities that are members of the Democratic Society Party, are confronted with differ from the others both in form and content. Let me suggest also that they are more important.

The real issue that I want to raise at this platform is not of the disadvantages that local governments in the region have been experiencing. It is how the prevailing approach to local governments has rendered the resolution of the Kurdish question more difficult. Since we took over the office by election in April 2004, a total of 53 investigations and 7 court cases have been filed against us as the Diyarbakır Metropolitan Municipality. Most of you are observing the ROJ TV case in which 56 mayors are being tried. Our Mayor of Cizre is convicted in relation to a speech he made.

The efforts by Democratic Society Party Municipalities within the realm of cultural and linguistic rights, and the pressures that they have faced, are worth mentioning separately. For instance, the Mayor of the Sur district of Diyarbakır was taken to the court in relation to a speech he gave on multi-lingual Municipalities. The Mayor of Viranşehir was, unbelievably, tried on charges of misuse and abuse of Municipal resources for having used the Kurdish language in the Municipal bulletin. The governors of Diyarbakır province and Dargeçit district refused the appeals by Kayapınar and Dargeçit Municipalities for giving Kurdish names to public spaces like parks, streets and neighbourhoods. Yet the EU's principles on local governments regard cultural and linguistic rights as inalienable elements of local government.

Almost all of these trials have been opened because of the fact that we represent a different political and cultural constituency, and that we express our opinions. Our difference is the desired object of punishment. I can briefly summarize the situation we face thus: with such trial processes, Ankara forces the democratically elected local governments to act as centrally appointed bureaucrats. However, Mayors are not only state bureaucrats. They are also people's representatives. Besides our responsibilities towards Ankara, we are responsible to the people that we represent. This is the requirement of democratic governance and the principle of subsidiarity.

In 2004, the State President of Turkey vetoed the draft-bill on Local Government Reform with the following reason:

It is of vital importance that arrangements to be made [with respect to local government] do not contravene the unity of the country and nation, the unitary character of the state, the balance between the central and local administrations, and that they are congruent with constitutional principles, public interest and the requirement of public service. (*Sep 2004*)

Ankara regards itself as the sole authority to decide on what is good and what is to public interest. The now-clichéd clause of Article 127 of the 1982 Constitution on 'the unity and integrity of the state' approaches local and grassroots demands for democracy, decentralization and rights with suspicion and fear of separation. It is evident that a 'Kurdish phobia' lingers beneath the President's expressions.

We hold that this is a groundless fear. This is because we believe that the unity and integrity of the state, as well as social security and stability, can be secured not with oppression and force, but through restructuring the state along democratic lines and facilitating popular participation in politics and government.

As you may know, most of the 19th century Kurdish uprisings were reactions against increasing centralization of state administration. Most 20th century Kurdish revolts have targeted the culturally and politically centralist policies of the nation-state. These centralist policies not only created Kurds as a 'problem', but also they brought up the issue of local governments as a problem. Centralist policies tied all local structures within state borders to the centre in economic, cultural, political and administrative terms. What motivated these persistent projects of centralization has been the project of destroying the flexible centre-periphery dynamics of the Ottoman *millet* system, and dissolving the multi-lingual, multi-cultural, and multi-religious social organization that existed on the ground by putting the local under the strict control of the centre. Now, two centuries later, it is more evident than ever before that this centralist paradigm has collapsed.

If both the Kurdish issue and the issue of local governments are products of the two centuries-long centralization policies, the resolution of both depends upon progress in the opposite direction. Making this suggestion, we are not at all intending to reject the state or deny the centre. What is at stake for us is to promote immediate solutions to the severe problems that we have been confronted with in abolishing the tutelage of the centre on the local, by reorganizing the relations between the two along democratic lines and by enhancing the authorities and sovereignty rights of the local in accordance with the principle of subsidiarity. We all want a democratic and strong Turkey. Yet this cannot be achieved by keeping authorities at the reserve of Ankara. On the contrary, the more Ankara shares its authorities and responsibilities with local governments, the more advanced Turkey shall become in socio-economic terms and the more progress shall it make towards attaining cultural and political stability.

However, we are unfortunately confronted with a very narrow and myopic perspective on the centre's part, on what the duties and responsibilities of local governments are. This view sees the duties of Municipalities as limited to collecting waste, providing drinking water and constructing salvage systems. Attesting to this understanding, soldiers in the city of Hakkari attempted three weeks ago to collect waste on the streets in plain clothes whilst holding placards that read, 'Municipality, stop separatism, do your own job'. Whereas local governments are and should be seen as one of the key vehicles of democratization, the above logic aims to exclude local governments from the arena of politics by advocating a very narrow interpretation of what public service means. However, as a 1997 report of the EC Congress of Local and Regional Authorities also states, local problems are not extra-political problems, they have a political character by their very nature.

Unfortunately, Ankara has always approached the efforts of local governments on issues of political representation, democratization and civilianization with the same separatism argument. The efforts aimed at circumscribing the responsibilities of local governments within the confines of daily municipal services are a product of the policies that aim to preserve the centre's monopoly on the political.

Encouraging us to 'stay outside of politics and collect waste', Ankara ignores two things. First, it is the local people more than anyone else who live with the negative effects of all centrally administrated decisions. Within the last six months, more than 20 civilians have lost their lives in my city, Diyarbakır . Around 60% of the active population in the city is unemployed. The destruction wrought by two decades of armed conflict and particularly by the massive in-migration caused by state-sponsored forced displacement, have paralyzed all aspects of urban life in Diyarbakır . It will be impossible to achieve social and economic development

under the shadow of arms, either. Then, tell me, no matter where a city is located in the world, who else would speak, if the mayor of such a city is not to speak?

Secondly, the most important factor behind the intervention of the Democratic Society Party Municipalities into the political realm is the fact that the Kurdish region is not fairly represented in Ankara because of the existing election threshold. The Democratic People's Party which later joined the Democratic Society Party won 8 of the 10 seats in the general elections, but could not send a single representative to Parliament. Because the city of Diyarbakır and the region are not represented in Ankara and because the region is still in a state of political chaos, neither I myself nor any single Mayor in the region has the privilege of 'collecting waste only'. Being mayor in Diyarbakır and in the region has forced upon us an unavoidable responsibility to contribute to democratization and social peace.

Closing my speech, I would like to share with you some of my opinions and suggestions on what ought to be done on the issue of local governments, based on my observations and experiences so far. Turkey has so far undertaken some reforms related to Metropolitan Municipalities; Municipalities; Provincial Private Administrations; and Municipal Unions and Associations. Although they are administratively very limited and, further, problematic in practice, these steps have provided certain improvements.

However, we cannot approach the problem simply in terms of improving the conditions of local governments by providing solutions to certain technical and practical problems that they have. The issue of local government reform is a problem of state structure. It is a product of the strict centralism that guided the process of state formation. Thus what ought to be done is not a series of small improvements in the conditions of local governments. It is to transform radically the relations between the centre and the local along democratic lines. Even though such a transformation may fall short of bringing the Kurdish issue to a comprehensive solution, it will promise to offer significant opportunities for such a solution.

What needs to be done as regards this, we suggest, entails the following:

- For a genuine democratization process to take hold in Turkey, it is imperative that the administrative, economic and political autonomy of local governments be achieved and their rights and authorities be improved.
- Turkey has signed the European Charter of Local Self-Government. We expect Turkey to put into practice the provisions of the Charter without any reservation or further delay. Moreover, we call on

Turkey to sign and put into practice the two Conventions referenced in the Charter - namely the European Convention for Regional or Minority Languages and the European Framework Convention on the Protection of National Minorities - and to realize the principles of multiculturalism and multilingualism in local governance.

- Article 127 of the 1982 Constitution should be amended so as to remove the tutelage of the centre on the local; Turkey has a responsibility to comply fully with the requirements of the principle of subsidiarity that were included in this Article.
- In order for this to happen, amendments should be made to the powers of the Ministry of Interior who is currently responsible for local governments. The Interior Minister currently has the authority to dismiss or suspend mayors from duty. This authority should be transferred to the relevant courts. Furthermore, the joining by any Municipality of an international local government organization depends upon authorization by the Ministry of Interior. This power should be abolished.
- Almost all Municipalities in Turkey are confronted with problems of securing financial resources in their attempts to provide solutions to acute local problems. Funds allocated to local governments from the national budget should be raised in order to increase the capacity of Municipalities to provide solutions to local problems. Meanwhile, local governments' efforts at creating their own resources should be supported in order to reduce local governments' economic dependence on the centre.
- Finally, the removal or at the least reduction of the election threshold to a sensible level is imperative for the realization of the principles of democratic participation and fair representation. This shall not only facilitate the resolution of the Kurdish issue, but also reduce the pressures on Democratic Society Party Municipalities and enable them to offer more effective public service.

### 3.4 The Situation of Internally Displaced Persons

*Time for action, not mere words*

*Margaret Owen*

Two years ago I was here in Brussels speaking about the pressing needs, crucial roles, and untenable situation of Kurdish women and girls, in southeast Turkey, in

the western Turkish cities, and as asylum seekers and immigrants in the UK and other European countries. We were hopeful then that with Turkey finally sitting at the Accession Table, the recommendations we put forward would be swiftly acted on, not only by the Turkish government, but also by the EU itself.

But to our regret, there has been little progress. Indeed, many of us feel that great opportunities to address and resolve breaches in implementation of reforms have been lost, and the strong hopes we had 2 years ago in this Conference Hall have been dashed by inaction on all sides. Furthermore, the violent events occurring in the southeast this year have made us all more fearful, and further dashed many of our hopes. Nevertheless, I sincerely hope that the Resolutions emerging from this year's Conference will not fall on deaf ears. For the plight of many desperately oppressed Kurdish people - men, women and children - worsens as the years of inaction drag on.

I am here to talk specifically about the plight, needs and rights of the thousands of Kurdish Internally Displaced Persons (IDPs). I also wish to draw your attention to the scandal of non-implementation of reforms in this area - as merely one example of non-implementation of reforms across a whole wide area of other issues affecting every aspect of Kurdish life.

With so many men killed, disappeared, imprisoned, or migrated, women now predominate in the Kurdish population, and among the IDPs. So its also very relevant to bear in mind the obligations of Turkey under the CEDAW; under the 1995 Beijing Platform for Action which requires governments to take action to listen to the voices of women IDPs and support them either to return to where they came from, or to resettle and reintegrate in communities elsewhere; and also in the context of Security Council Resolution 1325 which requires governments to collect information on the impact of conflict - including displacement - on women, and ensure that they are involved in consultations about their future.

Has the international community quite forgotten them? Are they turning a blind eye to the suffering, the grave and often horrific human rights abuses experienced every day by these people? In May 2005, the UN Special Rapporteur on IDPs undertook a mission to Turkey. His report vindicated and confirmed the findings of several KHRP missions. The Turkish Government consistently denies the existence of the displacement problem and has never sought European or International Assistance to meet the needs of those affected - and afflicted. Shamefully, bowing to the government's ultra-sensitivity regarding the subject, the international community has also generally avoided open discussion of the problem with the authorities,

in spite of hard evidence of human rights abuses and breaches of decisions of the ECtHR, of the Copenhagen Criteria, and of International Conventions.

The fact that Turkey actually invited the UN Special Rapporteur to visit the country was seen by many of us as an indication of a change of approach. Alas, we were too optimistic. Since the 1990s the major cities of the southeast have been inundated with villagers from rural areas. But many of the dispossessed live in those ugly centralised village settlements, struggle to survive precariously in the slum areas of the western towns, or have migrated or sought asylum in Europe, uprooted and disorientated, marginalised and merely surviving on the fringes of society, people without hope and fearful of the police and state authorities. Thousands wish to either return to their former homes or qualify for compensation and resettlement. Instead, they remain stranded and forgotten. We cannot let this neglect continue.

The Turkish authorities should consult with civil society, with NGOs representing the IDPs, and with the IDPs themselves in order to gain a more accurate picture of the immediate needs of the displaced vis-à-vis the larger population. But no comprehensive survey has been undertaken which would better inform efforts to facilitate their return and resettlement. Official statistics are unreliable, and the information concerning the IDPs and the processes for return, reintegration, or resettlement is mostly suspect, or at least biased and unrepresentative of the majority of those dispersed.

Could the EU not kick-start the process of consultation by earmarking funds to build up the capacities of CSOs involved with IDPs to initiate dialogue with the Turkish authorities on implementation of the reforms? I am indebted to Lucy Claridge, the Legal Officer of KHRP who has provided me with these latest statistics, following her fact-finding mission earlier this year:

- Van accommodates 200,000 IDPs in a population of 380,000.
- In the Bostanici district, official figures show that 90% of the inhabitants, i.e. 14,000 people, are internally displaced – although the real number of IDPs is thought to be much higher, closer to 18,000.

Before the forced evacuations from the villages, Diyarbakır had a population of 350,000. Today it has risen to more than 1.5 million. These huge increases in numbers have serious consequences for the city's original inhabitants, as services are stretched to breaking point to provide for the incomers. Sewage, sanitation, education and health facilities cannot meet the demands of such a rise in population. In addition, high unemployment causes extreme poverty, depression, violence -

including domestic violence - and prostitution. And the traffickers come in to take Kurdish women and girls far away to be raped in the brothels of western Europe. Early marriage (which may be forced) is one way families cope with fear for their daughters' safety and chastity. But these practices can lead to depression, honour killings, and suicide. In Diyarbakır the official unemployment figure is given as 20%, but the actual figure is probably nearer 60%, for many IDPs do not bother to register with the local authorities.

But vital official statistics are lacking on such areas as maternal and neo-natal mortality; age of marriage; enrolment of children in school (primary and secondary); women's health status, including mental health; education levels; domestic violence; and child labour. Information from NGOs and Human Rights Organisations, human rights lawyers, and Mayors has been used to monitor the harmful effects of dispersion, unemployment and disorientation. Poverty from unemployment, and the non-income poverty of loss of status, stigma and marginalization breeds violence, which breeds more violence. The violence unleashed by the authorities triggers domestic violence; and depression, suicide, and honour killings, as mentioned earlier, are just some of the consequences of displacement and dispersal.

The UN Special Rapporteur on Violence Against Women (VAW), Dr. Ertürk, herself a Turkish citizen, drew attention in her 2005 report to the high rate of suicide among young Kurdish girls in the southeast. It is the highest in the world among this age group of between 15 and 30. This is unacceptable and shocking. We have to see change. The literacy rate in the Kurdish southeast is lower than in Algeria and far lower than the rate in the west of Turkey. The CEDAW response to Turkey's report on the Status of Women requested statistics on the enrolment of girls in education at all levels, and in relation to the IDP children in the southeast particularly. It also wished to know if there had been research into the effects of the headscarf ban on girls' education. We know from our work with NGOs in the region that many girls have been withdrawn from school, and that numerous teachers have either resigned their posts or been asked to leave. Turkey has signed the UN Children's Convention, and these children of IDPs have rights that are universal and inalienable. But there is still little sign that the State is consulting with CSOs and NGOs as is recommended, and even required, in many international treaties and declarations.

By May 2006 195,463 IDPs had applied to the Compensation Commissions to claim their rights, yet to date only 27,011 (13.8%) of decisions have been made, and of those only 11,899% (44%) have been successful. One family, interviewed by KHRP this year, applied for compensation two years ago, had filled in all the requisite forms, but received no response. They had also applied to the Return to Village and Rehabilitation Project (launched in 1999) at the same time. They failed to win compensation or resettlement assistance because the authorities claimed that their village was burned down by the PKK and not by the Security Forces.

Another reason for failed claims is that families are often unable to produce title deeds to their destroyed houses and land, or evidence that they owned the livestock and crops they lost. The problems are compounded where it is women on their own, widows or wives of the missing, who wish to return. Women are often quite ignorant of their legal rights, and what they may be able to inherit. Besides, other male relatives may compete to get hold of the land and house, and in these situations women may fall victim to extreme violence, even murder. Honour killings have sometimes occurred in the context of such property disputes, which might also be linked to questions of forced remarriage. Many women on their own are fearful of returning due to the lack of security and the presence of the Village Guards.

When I was in Diyarbakır, Batman and Van a couple of years ago (and I don't think attitudes have changed), the Governates were at pains to explain that the IDPs don't want to go back to their villages. They are enjoying the urban life, employment, education and health services. Of course this is rubbish. We noted that 20,000 applications, in writing, from IDPs requesting assistance to return were simply gathering dust, and had not been answered. We also discovered that many people are deterred from applying to return because they cannot produce the evidence that they are victims of the PKK, or the Security Forces.

We heard many stories of people being accused of having torched their own houses, livestock, trees and possessions. Also of permission only granted if the would-be returnee agreed to be a Village Guard. The Governors (always Turkish) justify the concentrated village settlements on economic as well as social grounds, defending the policy by pointing to uncleared land mines in the rural areas, and the impossibility of linking up remote rural hamlets to electricity, school and health services. But rural people, imprisoned in concrete jungles, or urban squalor, can have no risk-free productive livelihoods in the towns. They have a right to return with appropriate assistance, building materials, seeds, fertiliser, extension services, mine clearance, protection and security. Since the authorities have no wish to see the villages re-inhabited, the thousands of claims remain neglected, and the centralised settlements - havens of vice, crime, prostitution and misery - keep the IDPs under the controlling eye and baton of the police and security services.

In addition, the failure to meet international standards of redress is demonstrated by the arbitrary calculation of claims, ridiculous assessments of values, bias in the compensation commissions (mainly government officials), anomalies such as the refusal to compensate for 'treasury' land, and no-go areas, where the authorities state that farming is impossible, citing land-mines or security concerns. The Law 5233 is totally unwieldy and in any case does not provide the justice to applicants required under Article 13 of the ECHR.

As mentioned above, the literacy rate of women and children in the southeast is very low, way below some North African countries. Many thousands of Kurdish children never attend school, or if so, only in the very early primary years, and intermittently. The enrolment rate for girls in secondary school is minimal. Besides, language constraints - Turkish being the language of the classroom - mean that many Kurdish children cannot absorb the teaching and fall far behind so that schooling seems irrelevant. Girls may never attend even the first forms of primary school. A further obstacle to education is the regular seasonal migration of IDPs from the southeast to work as agricultural labourers on the fruit and vegetable farms of the west. Whole families decamp, taking with them their children to work side by side with them in the fields. Generally paid well below the minimum wage (certainly far below that earned by 'Turkish' workers), and living in primitive accommodation, when the season is over those children will have missed some 6 months of schooling and mostly never return. Resettlement, if it ever occurs, must be accompanied by appropriate support services, including agricultural schools and extension services for the many female heads of household and their children so that they can re-establish themselves as farmers in their original lands.

The Village Guard system was set up many years ago and is infamous for its brutality. It should have been abolished, according to a Decree of 2000, but it continues to exist. The Ministry of the Interior states that as of this April, there were 57,714 Village Guards in the southeast region. Why has the system not been disbanded? It is well known that the Village Guards have been responsible for beatings, torture, murder, rape, and that many of them are today living in those very houses which belonged to Kurdish farmers, and from which they were expelled. There are numerous stories recounted of what happened when people, even those with written permits from the authorities, returned to claim their house back. They were threatened, tortured, some were 'disappeared', and others murdered. Over 5,000 crimes were reported between 1985 and 2006, approximately half of which are terror-related. The figures could be far higher as many victims are reluctant to report these crimes, fearing retaliation and revenge.

To summarise, we remind Turkey and the EU to take action on the following areas:

- Failure to cooperate with the international community on responding to the needs of the displaced.
- Failure to undertake a comprehensive survey of the displaced population, their needs and situation, in cooperation with local NGOs and CSOs working with displaced communities.

- Failure to investigate and punish perpetrators of forcible evacuations, violence, rape and destruction.
- Failure to reform the judicial system and outlaw ‘non-litigation’ clauses and other injustices.
- Failure to assist physically and practically with the return of IDPs to their villages.
- Failure to disband the Village Guard system.
- Failure to de-mine in the relevant areas of the southeast.
- Failure to release the HACETEPPE survey.
- Failure to consider the impact of this displacement on women, girls, and children, and provide for their special social, health, education, vocational, employment, and livelihood needs long-term, as well as immediately.
- Failure to respond adequately to the reports of the UN Special Rapporteur on VAW, on IDPs, and to CEDAW questionnaire.

### **3.5 The Situation of Women**

#### ***Sevahir Bayındır***

Dear MEPs and delegates,

We find this conference very useful, especially at this particular time when the Kurdish question is widely discussed at international level. In this speech I will focus on the development of women’s movements in Turkey and the struggle of Kurdish women in general.

Throughout the 20<sup>th</sup> century Kurdish women in the Middle East have had a dual disadvantage of national struggle as women as well as cultural struggle as Kurdish nationals. The concept of self-determination had a great impact on Kurdish people in their struggle for greater freedom, and this strongly encouraged Kurdish women too. The 1980 military intervention in Turkey resulted in serious human rights violations, including torture and ill-treatment of prisoners. But despite the imprisonments and torture, Kurdish women continued their fight, inside and

outside the prison. There was a connection between the Kurdish national struggle for self-determination and Kurdish women's fight for gender equality. We recognise the Kurdish women's movements as part of the global women's movement.

In the 1990s, Kurds in Turkey have used political parties in their struggle. Kurdish women formed 'Yurtsever Kadınlar Derneğini' to support the Kurdish cause as well as to promote gender equality. Kurdish women also took an active part in other political parties such as HEP, DEP, HADEP and DEHAPVE DTP. Their activities included establishing women's committees, demanding amendments of laws, etc.

One of the most important achievements of the women's struggle for gender equality in Turkey has been the inclusion of female representatives in policy making at national and local level. The 1999 local elections, in which several women were elected to local assemblies, indicated that women's struggle for greater equality was beginning to pay off and that significant changes were taking place within the society.

We have mobilized ourselves under the umbrella organisation 'Democratic Free Women's Movement' (DFWM). The aim of the DFWM is to strengthen the intellectual and organizational power of women and to ensure continuous and effective struggle for greater freedoms for women. The members of the DFWM consist of politicians, women's institutions, cultural and vocational groups, and media personalities. The DFWM believes that as women are part of society, the threats that women are facing in today's society can only be solved by tackling societal problems in general.

During wartime women suffer sexual harassment, rape, etc. Such treatment leaves serious psychological and emotional traumas. Migration and failed cultural integration are among many challenges that women are facing. Such challenges lead to poverty, prostitution, crime and suicide. We are offering Kurdish women information and advice to meet the challenges of the modern world. We work together with women's associations to form campaigns to protect Kurdish women from threats they may face in their lives.

## Final Resolution from the Third International Conference on the EU, Turkey and the Kurds

### INTRODUCTION TO THE FINAL RESOLUTION

The fundamental aims of the Resolutions of the Third International Conference on the EU, Turkey and the Kurds is to help to guarantee respect for human and minority rights, and to promote a peaceful, democratic and long-term solution to the Kurdish situation, as well as to facilitate the accession of Turkey as a member of the EU.

To this end, the Conference hereby resolves to monitor and conduct regular audits of Turkey's compliance with its regional human rights obligations and other EU related accession criteria. The Conference further resolves to periodically make recommendations of measures that could advance the protection of the human rights of the Kurds, and to act as a point of contact and exchange of information with the Turkish and European Governments, EU institutions and other governmental and non-governmental organisations involved in the Turkish EU accession process and the peaceful resolution of the Kurdish issue in Turkey.

### FINAL RESOLUTION

Pursuant to the presentation of Conference papers and interventions made by delegates, this Conference unanimously resolves to adopt the following declarations and calls for relevant action to be undertaken by the parties to the Kurdish conflict in Turkey.

#### **The Conference issues the following declarations:**

##### ***General:***

- 1) Recalling the Resolutions from the First and Second International Conferences on the EU, Turkey and the Kurds, the Third International Conference continues to give its qualified support to Turkey's EU accession process;
- 2) The Conference calls upon European Governments to publicly express support for the EU accession process, including support of all EU requirements concerning democratic and legal reform within Turkey;

3) The Conference hereby continues to acknowledge the Turkish Government's progress on reform during 2002-4, but echoes the European Parliament Resolution of 27 September 2006 expressing regret at the 'slowing down of the reform process' which can be seen in 'persistent shortcomings or insufficient progress in particular in the areas of freedom of expression, religious and minority rights, civil-military relations, law enforcement on the ground, women's rights, trade union rights, cultural rights and the swift and correct enforcement of court rulings by State services', and joins with them in urging Turkey to 'reinvigorate the reform process';

4) The Conference notes with alarm the failure of certain State institutions to adhere to their obligations under the European Convention on Human Rights and international humanitarian law, in accordance with the spirit and terms of its own recent reform packages and commitments made as part of the accession process; in particular, the Conference is dismayed that institutions of the State have continued their military activities;

5) The Conference welcomes the declaration of a ceasefire by the PKK on 1 October 2006, and hereby calls upon all relevant parties involved in the armed conflict in Turkey to forthwith stop all hostile military operations in the region and to henceforth pursue non-violent resolutions to the conflict;

6) In particular, the Conference calls upon all governments to urge Turkey and other Member States of the EU to help foster a climate of peace so that a democratic platform for dialogue can be established between Turks, Kurds, and other constituent peoples and minorities who are resident in Turkey;

### ***Human Rights and Accession:***

7) The Conference supports the undertakings by the EU that reform in the area of fundamental rights, democracy and the rule of law must be strengthened in the course of accession negotiations, and welcomes the commitment by the EU Commission to continue to monitor the reform process; this should include a complete overhaul of the justice system including how judges are recruited and chosen;

8) The Conference reiterates the view expressed in the First and Second Conferences that Turkey has not yet fulfilled the political elements of the Copenhagen Criteria, and reiterates that its support for the accession process is dependent upon the institutions of the EU robustly enforcing accession standards. It further underlines that there can be no further compromises on membership criteria akin to the EU decision to allow Turkey access to the negotiating table by 'sufficiently' fulfilling the Copenhagen Criteria;

9) The Conference specifically calls upon both the Turkish Government and the EU to ensure that Turkey fully complies with its human rights obligations in relation to torture and ill treatment, the plight of internally displaced people, protection of women and children, minority rights, and freedoms of expression, association, language and religion;

10) The Conference also calls upon Turkey to ratify the European Framework Convention on the Protection of Minorities, as well as other UN Instruments concerning minorities, and to respect the existing cultural and minority rights of all groups;

11) In reference to the above resolution, the Conference also calls on the EU to apply pressure on the Government of Turkey as a potential member of the EU to ratify said Framework;

12) Recalling Articles 2, 10, and 14 of the first Protocol of the European Convention on Human Rights, Article 8 of the European Charter for Regional or Minority languages, and the Council of Europe's Parliamentary Assembly Resolution 1519 of October 2006 on the cultural situation of the Kurds, the Conference calls upon the State of Turkey and the European Union to develop and promote a strategic plan for mother tongue education;

13) With specific reference to the reports of the European Parliament in September 2006, the European Commission of November 2005, the UN Special Rapporteur on Violence Against Women's report in July 2006, and the concerns expressed in the 2005 CEDAW response to the Turkish Report to the Committee, the conference calls on EU to ensure that Turkey addresses the Status of all of its women and girls, and particularly its Kurdish women and girls in the context of international standards;

14) The Conference expresses regret regarding the Turkish government's initiation of work on the ill-planned Ilisu Dam in August 2006, as it threatens mass displacement and loss of livelihood of the area's inhabitants, the majority of whom are Kurds; endangers the historically important city of Hasankeyf, in an apparent attempt to further disassociate Kurds from their rich heritage and culture; and will, according to several environmental assessment reports, jeopardize access to water for Turkey's neighbours and cause irreversible environmental harm;

15) In reference to the above, the Conference calls upon the Turkish government to reassess its position vis-à-vis this project, something it also asks of the bodies of the EU which are monitoring the impact of internal displacement and what the potential effects of this project are on the already overpopulated urban centres of the Kurdish regions;

***The Centrality of the Kurdish Question:***

16) The Conference asserts that the resolution of the Kurdish conflict is essential to the establishment of a stable, democratic and peaceful Turkey capable of entering the European Union. True democratic reform can only occur if Turkey undertakes new political reform of its state institutions and banishes adherence to ethnic nationalism, which is the root cause of both the conflict and Turkey's endemic instability;

17) The Conference therefore asserts that the Kurdish people and their representatives should be given a genuine participatory role in the accession process and in any debate over Turkey's democratic constitutional future;

18) However, the Conference further asserts that more can and must be done on both sides, and calls for the following confidence building measures to be adopted;

***Confidence Building Measures:***

19) In particular, the Conference calls upon all political parties in Turkey to help foster conditions within Turkey for a democratic platform for dialogue;

20) Based on the present ceasefire holding, the Conference calls upon the European Commission and Council to endeavour to actively develop a democratic platform whereby the constituent elements of Turkey, including the Kurdish people and their representatives, can freely enter into dialogue and debate with the Government over possible reform to the Constitution;

21) In this respect the Conference recalls the following declaration in the European Commission's 1998 report that:

A civil and non-military solution must be found to the situation in southeast Turkey particularly since many of the violations of civil and political rights observed in the country are connected in one way or another with this issue;

22) The Conference further recalls that the EU Parliamentary Committee on Foreign Affairs in December 2004 urged 'all parties involved to put an immediate end to the hostilities in the southeast of the country' and invited 'the Turkish Government to take more active steps to bring reconciliation with those Kurdish forces who have chosen to abandon the use of arms';

23) The Conference recognises the potential contribution to peace presented by the three newly appointed coordinators representing Iraq, Turkey and the US, and calls on them to work together to find ways forward on the issue of the Kurdistan Workers' Party (PKK). The EUTCC calls upon these representatives and all

other relevant regional and national stakeholders and policy-makers to pursue a democratic solution through dialogue;

24) The Conference also calls upon the Turkish Government to fully and unconditionally comply with all international instruments concerning human and minority rights guaranteed by the European Convention of Human Rights, in particular the rights concerning freedom of expression and association without discrimination, in order to ensure that such a democratic debate can take place;

25) In particular, the Conference calls upon the Turkish Government to ensure that all legally constituted Kurdish democratic parties are allowed to engage in peaceful political activity without interference or constant threat of closure, in accordance with Articles 10 and 11 of the European Convention of Human Rights;

26) The Conference further calls upon the Turkish Government to fully comply with all judgments of the European Court of Human Rights, particularly those that pertain to the Kurdish conflict. The Conference notes the European Commission Report's particular citation of the ECtHR case of Abdullah Öcalan v Turkey in this regard;

27) In this respect, the Conference calls upon the Turkish Government to begin a public debate about the constitutional recognition of the existence of the Kurdish people within Turkey;

28) The Conference also urges all member states of the European Union to individually assist - including earmarking funds - in the creation of a democratic platform for dialogue between Turkey and the Kurds, and to fully comply with their own freedom of expression obligations in respect of those Kurdish organisations and individuals who are concerned to promote the same;

29) The Conference endorses the recent recommendations of the Council of Europe's representative regarding the creation of a Committee for Reconciliation;

30) The Conference also urges the Governments of the EU not to criminalise peaceful dissent in Turkey echoed by Kurdish organisations situated in Europe, and to review their recent proscription of certain Kurdish organisations, especially in the light of recent ceasefire declarations and public commitments to the search for a peaceful solution to the Kurdish question within the present territorial integrity of a democratically reformed Turkey;

31) Finally, the Conference mandates its Directors, Advisors and Committees to engage and campaign on both a political and civic level across Europe in support of Turkey's accession bid to join the European Union on the basis of this Resolution.



## Appendix I: Background Paper

### Introduction

Turkish membership of the EU will dramatically change the lives of Turks, Kurds and Europeans, and offers the most favourable opportunity for decades to reach a much-needed negotiated solution to the Kurdish question. It is vital that the institutions of the EU diligently fulfil their obligations to scrutinise Turkey's progress on meeting agreed standards in the accession process, in order that Turkish accession retains credibility and fulfils its potential as a force for democratisation in Turkey. During the first international Conference in Brussels, concern was expressed that the accession process had to date fallen short of robustly attending to human rights concerns or openly and adequately addressing the situation of the Kurds.

For Turkey's citizens, EU accession offers an unprecedented opportunity to finally see Turkey embrace European standards on democracy, human rights and the rule of law. NGOs interested in advancing democratisation in Turkey, including the Kurdish Human Rights Project, medico international, the Rafto Foundation and the Bar Human Rights Committee, have universally welcomed the prospect of EU membership as a catalyst for far-reaching and much-needed change in the country.

Initially at least, it looked as if our hopes might be realised. The wealth of EU-inspired reforms embarked upon by the current AKP government appeared groundbreaking, and indeed many important changes ensued. The EUTCC gives credit to Turkey for the EU-inspired improvements in its human rights record, though it maintains concerns over Turkey's record of compliance with accession criteria. At the first annual EUTCC Conference held in Brussels in November 2004, the view was expressed that the European Commission had over-stated Turkey's level of democratisation in its then recent report on the country's progress towards EU membership, and that Turkey's fulfilment of accession standards was in fact questionable.

The second annual Conference of the EUTCC, held in September 2005, was called to evaluate developments in respect of the EU-Turkey Accession process since the decision of the European Council to enter into accession negotiations on 17 December 2004. The Conference noted with alarm the escalating military conflict

in the southeast region of Turkey and the failure of certain state institutions to adhere to their obligations under the European Convention on Human Rights, in accordance with the spirit and the terms of the state's own recent reform packages and commitments given under the accession process. It called for Turkey and other Member States to help foster a climate of peace so that a democratic platform for dialogue can be established between Turks, Kurds, and other constituent peoples and minorities who are resident in Turkey.

Since the opening of accession negotiations in October 2005, these concerns over the course of the pro-EU reform process in Turkey and the escalating violence in the southeast have only increased. The surge in reform initiatives now appears to be a series of somewhat token gestures engineered to tick EU-mandated boxes. Human rights groups in the country now report high instances of human rights violations, and these developments have made it difficult for observers to keep faith in the validity of Turkey's commitment to advancing democratic principles.

For Turkey's more than 15 million Kurds, the setbacks in Turkey's reform initiatives are particularly disappointing. Heralded as the best opportunity in nearly a century to end Kurdish oppression, the EU accession process seemed to offer the Kurds a secure future where their identity was recognised and their rights protected.

Now, with the Kurdish question seemingly sidelined from accession negotiations, at least in the public arena, and reforms ostensibly granting increased rights to the Kurds looking increasingly meaningless, Kurdish enthusiasm for accession is waning somewhat and disillusion is setting in. Meanwhile, the under-acknowledged armed violence in the Kurdish regions is increasing in intensity.

In spite of these concerns, the EUTCC believes that the EU route remains the greatest hope for securing a peaceful, democratic and pluralist Turkey in which a negotiated political solution to the Kurdish question is realised; but only if progress towards membership is based on tangible improvements in the protection of fundamental rights and freedoms, and tackling the plight of the Kurds is firmly integrated into accession negotiations.

The EUTCC does, though, anticipate that during the future course of Turkey's accession bid, the Union will ensure that the prospect of EU membership remains a powerful incentive for change in Turkey by adopting a more robust approach to ensuring Turkish compliance with accession standards than has so far been exhibited. Voices advocating the placing of human rights and the democratic resolution of the Kurdish question at the centre of accession negotiations must be heard in Brussels, and we must not shy away from adopting a critical approach to EU decision-making.

## 1. TURKEY'S ROUTE TO ACCESSION

The EU granted Turkey candidature in 1999,<sup>1</sup> and in 2002 the Council of the EU ('the Council') agreed that accession negotiations would commence 'without delay' if, following a Commission report on Turkey's fulfilment of the Copenhagen Criteria and a subsequent recommendation by the European Commission ('the Commission') on the appropriateness of opening negotiations, EU leaders at the Council decided that Turkey met the required standards.<sup>2</sup>

On 6 October 2004 the Commission issued its recommendation as anticipated, concluding that Turkey 'sufficiently' fulfilled the criteria necessary to open accession negotiations.<sup>3</sup> Certain conditions were imposed, including that Turkey should first be obliged to bring into force six specified pieces of legislation.<sup>4</sup> On 17 December 2004, EU leaders largely endorsed the Commission's recommendation that Turkey was ready to begin accession negotiations at the Brussels meeting of the Council, and envisaged that talks would commence on 3 October 2005.<sup>5</sup> By 1 June 2005 Turkey had enacted each of the 6 pieces of legislation which were set out in the Council's decision of 17 December 2004 as prerequisites to the opening of formal accession talks.

On 29 June 2005 the Commission issued its draft 'Negotiating Framework for Turkey',<sup>6</sup> a document which outlines the guiding principles and procedures for accession negotiations. The Framework had to be accepted by all twenty five current member states before Turkey could commence formal accession negotiations.

Turkey signed an EU protocol on 29 July 2005 which extends the existing Ankara-EU Customs Union – an agreement that came into force on 31 December 1995 pursuant to the 1963 EU-Turkey Association Agreement – to the 10 newest EU member states incorporated into the Union on 1 May 2004. The 17 December 2004

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1 Helsinki European Council 10 - 11 December 1999, Conclusions of the Presidency.

2 Copenhagen European Council 12 - 13 December 2002, Conclusions of the Presidency.

3 European Commission, 'Communication from the Commission to the Council and the European Parliament: Recommendation of the European Commission on Turkey's progress towards accession', 6 October 2004, COM(2004) 656, final.

4 These include: the Law on Associations, the new Penal Code, the Law on Intermediate Courts of Appeal, the Code of Criminal Procedure, the legislation establishing the judicial police and the legislation on the execution of punishments and measures. European Commission, 'Communication from the Commission to the Council and the European Parliament: Recommendation of the European Commission on Turkey's progress towards accession', 6 October 2004, COM(2004) 656, final.

5 Brussels European Council 16-17 December 2004, Conclusions Of The Presidency.

6 European Commission, 'Negotiating Framework for Turkey', 4 October 2005.

Council decision had mandated that Turkey must achieve this expansion of the Customs Union prior to the opening of formal accession talks.<sup>7</sup>

On 3 October 2005, European and Turkish leaders welcomed the commencement of official European Union Accession talks with Turkey. Prime Minister Recep Tayyip Erdoğan's insistence on nothing short of full membership for Turkey paid off as the Negotiation Framework for full accession was agreed at the last minute after Austria finally conceded, after the intervention of the US, on its request that Turkey be offered an option short of full membership.<sup>8</sup>

### **The Decision of the Council of the EU**

The decision by the Council on 17 December 2004 to open accession talks with Turkey was formally based upon fulfilment of the criteria for EU membership as determined at the Copenhagen meeting of the Council in 1993<sup>9</sup> (the 'Copenhagen Criteria'). These are minimum standards which all states must fulfil before they can become recognised as official EU negotiating partners. The political elements of the Copenhagen Criteria require that candidate countries must have achieved:

The stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.

At the Helsinki European Council of 1999, it was stated that Turkey was a candidate for EU membership on the basis of the same criteria as other candidate states.<sup>10</sup>

The Commission's regular report on Turkey's progress towards accession,<sup>11</sup> submitted on 6 October 2004, examined in detail Turkey's fulfilment of the political elements of the Copenhagen Criteria. Despite citing substantial reservations on human and minority rights reforms, the Commission cast a broadly positive light on Turkey's progress and subsequently concluded in its recommendation that 'Turkey *sufficiently* fulfils the political criteria' and that accession negotiations should accordingly be opened.<sup>12</sup> The conclusions of the Copenhagen European Council had set out in December 2002 that the December 2004 decision would be based upon whether or

7 Brussels European Council 16-17 December 2004, Conclusions Of The Presidency

8 BBC 'EU hails Turkey membership talks' 4 October 2005, at <http://news.bbc.co.uk/1/hi/world/europe/4307700.stm> (last accessed 13 October 2006).

9 Copenhagen European Council 21-22 June 1993, Conclusions Of The Presidency.

10 Helsinki European Council 10 - 11 December 1999, Conclusions Of The Presidency.

11 European Commission, '2004 Regular Report on Turkey's Progress Towards Accession', COM (2004) 656 final, 6 October 2004.

12 European Commission, 'Communication from the Commission to the Council and the European Parliament: Recommendation of the European Commission on Turkey's progress towards accession', 6 October 2004, COM(2004) 656, final, p9 [emphasis added].

not ‘Turkey *fulfils* the Copenhagen political criteria’,<sup>13</sup> and therefore the Commission recommendation represented an apparent lessening of EU requirements on Turkish compliance with the Copenhagen Criteria.

The Commission’s recommendation in turn informed the 17 December 2004 decision by the Council, which followed the Commission’s line that the Copenhagen Criteria were ‘sufficiently’ fulfilled and that entry talks could begin.<sup>14</sup> The Council, in its December 2004 decision,<sup>15</sup> goes on to invite the Commission to continue to monitor Turkey’s progress in political reforms.

### **The Negotiating Framework for Turkey**

The Negotiating Framework for Turkey,<sup>16</sup> prepared by the European Commission at the behest of the Council in its 17 December 2004 decision, was drawn up in accordance with the Council decision and largely reinforces its findings on the opening of accession negotiations. The text of the framework was finally agreed at the official opening of accession talks on 3 October 2005.

In terms of the future of accession negotiations, the Framework mandates that their advancement will be measured ‘in particular’ against a series of requirements which include the political elements of the Copenhagen Criteria. The Commission continues to monitor Turkey’s progress and report on this regularly to the Council, and these reports provide the basis of the Union’s final decision as to whether the conditions for the conclusion of negotiations are met. Importantly, the Framework explicitly states that the Commission must confirm that Turkey has fulfilled the aforementioned series of requirements (to include the Copenhagen Criteria) before a positive decision on accession will be taken. The human rights ‘break clause’ is also restated.

Accession negotiations are set to proceed in the usual way through inter-governmental Conferences between the EU and Turkey, in which Turkey’s current legislation and administrative structures are comprehensively ‘screened’ against each chapter of the *acquis communautaire*: that is, the body of economic, social, administrative and environmental legislation that all member states of the EU must implement. It is stated in the Framework that the *acquis* includes ‘the content, principles and political objectives of the Treaties on which the Union is founded’, thus Turkey will have to abide by the provision that

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13 Copenhagen European Council 12 - 13 December 2002, Conclusions of the Presidency [emphasis added].

14 Brussels European Council 16-17 December 2004, Conclusions Of The Presidency.

15 Ibid.

16 European Commission, ‘Negotiating Framework for Turkey’, 4 October 2005.

The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law.<sup>17</sup>

The Framework confirms that to allow for the financial aspects of accession to be fully considered, negotiations will not be concluded until after the Financial Framework for the period from 2014 has been established. This means, in short, that Turkey will almost certainly not accede to the EU before 2014.

### **The Next Stage**

The European Commission, as part of its monitoring duties, annually reports on the way in which political reforms are consolidated and broadened on the basis of a revised Accession Partnership priorities, for example, those released in January of this year. The Commission will release its latest Regular Report on 8 November 2006.

Following the screening process, Turkey's position on the chapters of the *acquis* will be drawn up and negotiations will commence to determine the terms under which Turkey will adopt, implement and enforce the *acquis*, including the granting of any transitional arrangements whereby possibilities exist for phasing in compliance with certain rules. The Council, acting on Commission proposals, will draw up benchmarks for the provisional closure of each chapter. The results of the negotiations are incorporated into accession treaties to be ratified both by Turkey and by the other member states, and it is likely that at this stage debates will occur within EU countries over the desirability of enlargement and any pertinent issues. Provided that the accession treaties are ratified by all existing member states,<sup>18</sup> Turkey would then become a full EU member itself, obliged to comply with EU legislation and rules.

### **Background to Turkey's EU Bid**

The decision to open accession talks with Turkey was ostensibly based on its fulfilment of the objective, EU-defined Copenhagen Criteria. On paper, the most significant impediment to Turkish accession prior to 2002 has been its poor human rights record and hence, inability to meet the political elements of the Copenhagen Criteria; for years, Turkey has lagged behind Europe in meeting even the most basic human rights standards. Turkey's accession bid is, though, also influenced by the

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<sup>17</sup> Article 6, Treaty of the European Union.

<sup>18</sup> Some member states, notably France, will hold referendums on whether or not their respective accession treaties with Turkey will be signed. If one or more accession treaties are not signed on the basis of such a referendum(s), Turkey will not be able to accede to the EU.

complex backdrop of issues relating to European politics, international security and economic affairs against which it is progressing.

Turkey's forthcoming accession is strongly welcomed in some parts of the world, including by Britain and the US, as potentially creating a 'bridge' between Europe and the wider Muslim world. In today's climate of alienation, such a move has the potential to endow the EU with a strategic reach into the heart of the Middle East, and to establish an example of a progressive, secular state with a majority Muslim population within the European fold. Building closer relations with 'moderate' Islam is regarded as important in breaking down barriers and ultimately combating terrorist attacks carried out by extremists in the name of Islam. It is further hoped among the pro-Turkish elements in the leadership of the EU that the process of entry negotiation will provide clear incentives for further reform in Turkey, and that its course towards accession will have a reforming influence on government behaviour.

Key EU member states such as the UK continue to champion Turkish membership, but the doubts still remain over whether Turkey can fully attain the standards of a full EU member. Austrian Chancellor, Wolfgang Schuessel, has recently expressed disbelief that Turkey's negotiations with the EU would end in full membership.<sup>19</sup> This scepticism is in part attributable to concerns that Turkey's size and underdevelopment will potentially generate strain on EU budgets. Moreover, the presence of a large, underdeveloped state with a predominantly Muslim population within the borders of Europe is generating substantial disquiet. The dictates of electoral politics within the EU and the current predominance of anti-immigrant, anti-Muslim feeling suggest that European governments may move to allay public fears that Turkish membership would alter the cultural makeup and geographic reach of the EU and 'flood' it with immigrant labour. (It is worth recalling here that similar hysterical fears of 'mass influxes' of labour migrants from the ten new member states joining the EU in May 2004 proved unfounded).

Public opposition to Turkish accession is seen as a significant factor in the 'no' votes in the 2005 French and Dutch referenda on the EU constitution, in May and June respectively, as well as the ensuing political crisis in Brussels, which has done little to assist Turkey's EU bid. The EU's Enlargement Commissioner, Olli Rehn, has vehemently insisted that full accession remains the endgame of negotiations with Turkey. However, the replacement of France's pro-accession President Jacques Chirac by a more sceptical Nicholas Sarkozy, and the recent successes of the 'Euro-

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19 'Schuessel believes that Turkey won't be EU member' August 3<sup>rd</sup> 2006, Turkish Daily News, <http://www.turkishdailynews.com.tr/article.php?enewsid=50531> (last accessed 13 October 2006)

sceptic' Christian Democrats in Germany, portend the probable demise of Franco-German support for Turkey joining the EU.<sup>20</sup>

Should the anti-Turkey camp ultimately win through and the accession programme remain unfulfilled, the current and potential positive changes in Turkey sparked by the promise of EU membership could be undone. Prime Minister Recep Tayyip Erdoğan has successfully forged a delicate balance between diverse interests in favour of the pro-EU reform process, which may be endangered if talks over full accession break down. There is the potential that a backlash would ensue with a regression to a reactionary and repressive system of government, the possible strengthening of political Islam and/or renewed military intervention in civilian government.

At the same time, the EUTCC international Conference of November 2004 held in Brussels, documented concern over the agenda of those in favour of accession: specifically that the desire to integrate Turkey into Europe may be overwhelming objective analysis of whether or not it meets the required standards in areas including human and minority rights. Enlargement Commissioner Olli Rehn referred to enlargement in July 2005 as the 'first and foremost security policy in our era which has been described, right or wrong, as the clash of civilisations'.<sup>21</sup>

Political factors in the EU decision-making process are by no means controversial in themselves; to the contrary, the very nature of a democratic political body is that a range of strategic concerns necessarily shape its actions. With accession negotiations now in progress, the EUTCC hopes that strict adherence to EU-prescribed standards on human rights will necessitate finding a solution to the Kurdish issue.

### **Kurdish hopes for accession**

The Kurds in Turkey comprise over 15 million of Turkey's population of 70 million, potentially making up over three percent of the inhabitants of the EU and thus representing a significant population group. Kurds have been, on the whole, supportive of Turkey entering the EU. For them, accession presents the possibility of an end to decades of repression and abuse at the hands of the Turkish state, and offers an unprecedented chance to ensure that their identity is acknowledged and respected. Importantly, the prospect of EU accession was reasonably presumed

20 BBC, 'French cloud Turkey's EU dreams', 31 May 2005, at <http://news.bbc.co.uk/1/hi/world/europe/4595697.stm> (last accessed 13 October 2006).

21 Olli Rehn, European Commissioner Responsible for Enlargement, 'EU Enlargement Under Stress – The Policy of Consolidation, Conditionality and Communication', Institute for European Policy, Berlin, 12 July 2005.

to bring into focus the Kurdish question itself and to demand EU facilitation of enhanced dialogue on its resolution.

The 'carrot' of EU accession, notwithstanding the serious human rights problems which remain, has proved capable of inspiring dramatic change in Turkey where other incentives have failed. The professed centrality of human and minority rights to the accession process affords the Kurds valuable opportunities to press for their rights and to ensure that improving the human rights situation in the Kurdish regions is at the heart of Turkey's EU membership bid.

The European Commission is tasked with playing a central role in monitoring reform under the first pillar of the three pillar approach to accession set out in the Commission Resolution of October 2004,<sup>22</sup> and according to the Negotiating Framework it will closely monitor and report to the Council on Turkey's fulfilment of its human rights commitments. Reports by the Commission, including on Turkey's compliance with the Copenhagen Criteria, will determine the conclusion of negotiations and Turkey's progression to membership.<sup>23</sup> The representation of Kurdish rights and interests to the Commission as it carries out these duties would go towards ensuring that the plight of the Kurds is closely incorporated into the human and minority rights elements of accession negotiations, and so impose obligations on Turkey to recognise and abide by its obligations to the Kurdish people.

The human rights 'break clause', mentioned earlier, could also prove an important rallying point for the Kurds. A 'serious and persistent breach' of human rights can lead the Commission, on its own initiative or on the request of one third of the member states, to recommend the suspension of negotiations.<sup>24</sup> This was recently reiterated by the EU Enlargement Commissioner who has been quoted as stating that EU membership talks could be suspended because of Turkey's reticence to move forward in its relations with Cyprus.<sup>25</sup>

The 'break clause' offers a significant point of departure for Kurds to argue forcefully that accession negotiations should be suspended if there are no substantial improvements in respect for Kurdish cultural and linguistic rights, if the resurgence of the armed conflict in the Kurdish regions continues to generate human rights violations, or if Turkey maintains an unwillingness to move towards democratically resolving the Kurdish issue and or instituting a constitutional resettlement.

22 European Commission, 'Communication from the Commission to the Council and the European Parliament: Recommendation of the European Commission on Turkey's progress towards accession', 6 October 2004, COM(2004) 656, final.

23 Ibid.

24 Brussels European Council 16-17 December 2004, Conclusions of The Presidency; European Commission, 'Negotiating Framework for Turkey', 4 October 2005.

25 'Rehn Says EU Could Stop Talks With Turkey', 29 June 2006, Reuters.

More broadly, accession heralds new possibilities to press for human rights, to mainstream Kurdish concerns and to draw attention in Brussels and elsewhere to the need for political dialogue between Turkey and the Kurds. This observation is, though, qualified by the fact that the situation of the Kurds received rather scant consideration in the run-up to the Council decision of December 17 2004, with political debate and media outlets focusing instead on immigration concerns, Turkey's economic underdevelopment and, to a lesser extent, the broader human rights picture. Where the Kurds were mentioned, this was virtually exclusively in relation to Turkey's non-recognition of cultural and linguistic rights; virtually nothing has been made of the resurgence of armed conflict and Turkey's long-standing, albeit occasionally thawing, unwillingness to countenance a political solution to the Kurdish issue.

Full EU membership will impose checks on the behaviour of the Turkish state. From inside the EU, Turkey can be brought under the sway of liberal democratic ideals, and transgressions of acceptable behaviour can be controlled through political influence and legal action.

Perhaps most importantly for the Kurds, the accession process appeared to promise EU facilitation of a politically negotiated solution to the Kurdish situation. The EU has a clear responsibility to address the Kurdish question, in view both of the continuing defiance of the political elements of the Copenhagen Criteria which Turkey's treatment of the Kurds engenders, and Europe's role in creating the Turkish-Kurdish conflict in the wake of the dissolution of the Ottoman Empire. Kurds have invested much hope in seeing the establishment of dialogue between Kurdish representatives and the Turkish state set in motion by the EU, and other regional bodies including the Council of Europe have endorsed the need to establish a mechanism to foster communication between the Kurds and the Turks.<sup>26</sup> The prospect of dialogue was given a boost in August of 2005 when Prime Minister Erdogan met with several Kurdish intellectuals, visited Diyarbakır and emphasised the need to resolve through democratic means, what he himself described, for the first time, as 'the Kurdish issue'.<sup>27</sup> This was a positive step and the PKK answered by declaring six week cease-fire.

### **The EU-Turkey Civic Commission**

The EUTCC sees the EU accession process as offering by far the greatest hope to achieve genuine respect for human rights, democracy and the rule of law in Turkey,

26 Council of Europe, Parliamentary Assembly - Committee on the Honouring of Obligations and Commitments by Member States, 'Turkey: Explanatory memorandum by the co-Rapporteurs, Mrs. Mady Delvaux-Stehres and Mr. Luc Van den Brande (Co-Rapporteurs)', March 2004, § 223.

27 European Commission 2005 Progress Report, 9 November 2005, SEC (2005) 1426.

and for the realisation of lasting peace in the southeast of the country. The potential of Turkey's EU membership bid to instigate dramatic improvements has been demonstrated by recent advancements in the reform process; Turkey has achieved far more in terms of progress towards fulfilling international standards on human rights and democratisation in the past two years than over previous decades. Accession still offers the most realistic possibilities for facilitating dialogue and reaching an end to years of subjugation for the Kurds, and these possibilities must be harnessed and built upon by those in a position to influence developments in Ankara and Brussels.

The EUTCC firmly believes that for the Kurds, Turkey is far better inside than outside the EU, and it therefore supports the Turkey-EU accession process. Despite substantial reservations over how far Turkey has moved towards fulfilling the Copenhagen Criteria (expanded upon below), the opening of accession negotiations in October 2005 is on balance a positive step and, it is anticipated, the best course for prompting further democratisation in Turkey.

The EUTCC is concerned in particular by the apparent revision of the level of compliance with accession standards required by the EU as a condition for the opening of negotiations with Turkey. That is, the change from the 2002 condition that Turkey must 'fulfil' the Copenhagen Criteria to the conclusion in December 2004 that Turkey 'sufficiently' fulfils the criteria. The EUTCC contends that ultimately, if the EU does not compel Turkey to wholly fulfil its obligations under the Copenhagen Criteria prior to joining the EU, serious consequences for the Kurds and for others who face oppression and violence in the country will follow. It would also threaten to significantly undermine the democratic credentials of the Union itself as well as add merit to the fear of 'mass migration'.

Thus while the EUTCC gives its full backing to the commencement of formal accession talks, its continued support for the accession process is dependent upon the institutions of the EU robustly fulfilling their obligations to ensure that Turkey is not permitted to enter the Union before true democratisation has taken place and a lasting resolution of the Kurdish issue is secured. There should be no more compromises on Turkey's realisation of the necessary EU standards on human and minority rights in the path to reform.

The founders of the EUTCC, at the 2005 annual Conference, expressed grave concern over lack of implementation and other developments in the sphere of human rights. The Conference noted with alarm the escalating military conflict in the southeast region of Turkey and the failure of certain state institutions to adhere to their own obligations under the ECHR in accordance with the spirit and terms of Turkey's own recent reform packages and commitments given under the accession process. The Conference went on to urge the government of Turkey to renew the

reform process and to fully implement legislative reforms so far enacted. The EUTCC specifically calls upon both the Turkish government and the EU to ensure that Turkey fully complies with its human rights obligations in relation to torture, the plight of internally displaced people, and protection of women and children.

The EUTCC is committed to carrying forward the pro-EU reform process and encouraging Turkey in its endeavour towards achieving a more tolerant, European system of government, as well as tendering constructive criticism on gaps and difficulties encountered. These goals are achieved through targeted monitoring and evaluation, performed with active and sustained input from the civil society sector and facilitated by the EUTCC. Engaging key figures within the accession process in Brussels, Turkish government representatives and other European politicians with the work of the EUTCC will be crucial to ensuring that its work generates a healthy and proactive dialogue and information exchange, and that the EU is held to its stated commitment to human rights and democracy.

The EUTCC accords Turkey the recognition rightly earned for the tentative steps taken towards a consensus within the country in favour of liberal democracy. Prime Minister Erdogan, confronted by influential, reactionary elites entrenched within the Turkish administration, is negotiating a difficult course towards EU standards on democracy, human rights and the rule of law. The groundwork for today's reform process was laid by years of courageous efforts by human rights defenders, Kurds, and their supporters in Turkey, defying anti-democratic legislation and braving harassment and torture to uphold fundamental rights.

However, the EUTCC remains concerned that Turkey is moving apace towards EU membership while serious and well-substantiated failings in the pro-EU reform process are being skirted over and the plight of the Kurds appears to have been to all intents and purposes written out of the Turkey-EU equation. The approach to human and minority rights in the accession process adopted by European Commission has glossed over important ongoing problems in the country and presented an undeservedly positive picture of Turkish reform efforts.

The Kurdish issue, which is the most complex and deep-seated impediment to democratisation in Turkey, has received little open recognition by the European Commission. We are, though, heartened that other institutions within the EU have started to grasp the importance of resolution of the Kurdish issue to Turkey's reform process. The European Parliament and the European Council have both voiced concerns regarding the reform process and called on Turkey to seek a democratic solution to the Kurdish problem.

The EUTCC's qualms over Turkey's democratisation agenda have only intensified. Turkey's commitment to human rights reform appears to be waning – indeed it has

arguably become retrogressive – and EU requirements are often not met. For the Kurds, the vision of EU membership ushering in a new-found era of peace, security and respect for human rights in the Kurdish-dominated southeast is in danger of becoming no more than an unfulfilled promise.

The following sections of this paper set out some of the EUTCC's primary concerns arising in the context of Turkey's bid for EU membership, and its view on the most constructive ways of moving forward in the accession process.

## 2. ACCESSION AND HUMAN RIGHTS

EU enlargement is an important impetus for advancing peace and stability throughout the continent, and over recent years has been increasingly promoted as a means of furthering commitment within Europe to shared principles and values, including human rights. Through the approval of the Copenhagen Criteria at the 1993 Council the protection of human rights became an explicit element in preparing a candidate state for membership, and as such enlargement can act as a potent force for change in the human rights environments of potential EU members.

The EUTCC hopes that this will ultimately prove the case in Turkey, but it has significant reservations over the present course of pro-EU human rights reform in the country.

### **Fulfilment of the Copenhagen Criteria?**

The EUTCC opposes those strands of thinking suggesting that Turkey is somehow too large, too poor, too geographically distant or too Muslim to join the EU as a full member. It therefore welcomes public assertions by EU leaders and the statement in the Negotiating Framework<sup>28</sup> which defies apparent public opposition within existing EU member states to Turkish membership and reiterate EU assurances on this point.

Notwithstanding this, it is submitted that the conclusion that Turkey had 'sufficiently' fulfilled the Copenhagen Criteria misrepresented Turkey's progress on human rights, specifically minority rights. There can be no doubt that Turkey has outwardly moved towards closer compliance with international standards on human rights, democracy and the rule of law through the enactment of a noteworthy series of reforms over a very short period of time. There have been some, albeit faltering, improvements in human rights generally: the legal regulation of torture has been

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28 European Commission, 'Negotiating Framework for Turkey', 4 October 2005.

tightened and the prohibition on broadcasting and teaching in the Kurdish language has been relaxed somewhat. Permissible detention periods have been shortened and the death penalty has been abolished.

It is also true to say that the current AKP Government has staked much on achieving EU accession. It has taken steps to weaken the power of the unaccountable state by reducing, at least formally, the traditional influence of the old elites in government, though it should be added that the military continues to exert enormous influence through both formal and informal channels. The AKP has also refused to pander to the religious right on issues such as education.

There do, though, remain enormous outstanding problems with Turkey's record on human and minority rights which render the conclusion that the political elements of the Copenhagen Criteria are 'sufficiently' fulfilled difficult to sustain. The 2005 Progress Report by the European Commission on Turkey's moves towards accession<sup>29</sup> presents the reform process in Turkey in a more positive light than is deserved. While recognising that reports of torture and ill treatment remain 'frequent', the report claims that 'incidence is diminishing'.<sup>30</sup>

The founding members of the EUTCC and several other human rights organisations<sup>31</sup> have vehemently contested this conclusion, and continue to do so today. Turkey's efforts to combat torture, including by reducing detention periods and providing for access to medical examinations and legal counsel for detainees, are certainly to be welcomed. However, torture continues to reach levels unheard of in western democracies. In June 2006 alone, 34 preparatory investigations were launched against police officers in Diyarbakir alleging torture of children and adults during and after the disturbances in the city at the end of March 2006.

The European Commission's report does draw reference to a large number of grave human and minority rights problems in the realms of freedom of expression, the protection of minorities, the fight against torture and ill treatment and the freedom of association and peaceful assembly. The report refers to the Penal Code as having removed many aggravated sentences attached to a number of offences committed through the media, but states that some remain. It draws particular reference to Article 301, calling it 'vaguely worded' and mentions that 'individuals expressing non-violent opinions have been convicted and prosecuted'.

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29 European Commission 2005 Progress Report, 9 November 2005, SEC (2005) 1426.

30 Ibid.

31 Including the Human Rights Association (IHD) and the Human Rights Foundation of Turkey (HRFT).

However, the Commission's report focused on formal legislative and administrative reforms and put forward little *de facto* analysis of the situation on the ground. It failed in its wording and emphasis to reflect the depth and severity of the continued human rights violations in Turkey, at times skimming over significant shortcomings in the reform process and presenting ongoing violations as mere qualifications to generally encouraging progress. When referring to the situation in the east and southeast of the country 'where most people are of Kurdish origin' it describes progress as 'slow and uneven.' It rightly describes that '[i]n some cases, the situation has even deteriorated'. However, the report fails to comprehensively recognise the myriad injustices and discriminations faced by Turkey's Kurds, as a constitutionally unrecognised minority group. In a number of sections a positive 'spin' was put on Turkey's failings even where serious and ongoing abuses of key human rights were detailed at length, sometimes by emphasising Turkey's *efforts* at compliance rather than the *results* achieved. Other important factors central to any assessment of the situation in Turkey were substantially overlooked, notably the Kurdish issue.

The European Commission's evaluation of Turkey's progress to accession released in 2005 is once again inconsistent in its assessment of the reform process.<sup>32</sup> On the one hand, the Commission states that Turkey is sufficiently fulfilling the Copenhagen Criteria and commended Turkey for its flurry of legislative reforms and the positive moves that it took as regards international human rights instruments with the signing of the Optional Protocol to the United Nations Convention Against Torture. However, on the other hand, it criticised the rate of progress towards meeting the Copenhagen Criteria, stating that it had slowed and was inconsistent with instances of human rights abuses still being reported and that there is an urgent need to implement the reforms in force and take further legislative initiatives.

In the next update report, the Commission must be unequivocal regarding minority rights and the situation in the Kurdish regions, leaving aside euphemisms employed to avoid using the word 'Kurd'. Recognition of the link between the Kurdish identity and breaches of economic, social and cultural rights is only the first step. Acknowledgement from the EU that the Kurds are at greater risk of abuses of fundamental civil and political rights is equally important.

### **The current human rights situation**

Of further concern is the fact that it is now becoming increasingly difficult to conceive of Turkey's outwardly dramatic string of reforms enacted over the past four years as much more than an attempt to do the minimum possible to satisfy EU criteria in order to garner the economic benefits of accession without ceding to the political criteria.

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32 European Commission 2005 Progress Report, 9 November 2005, SEC (2005) 1426.

Human rights groups continue to report large numbers of breaches of human rights standards, with some in the Kurdish regions even attesting to a rise in violations. In 2005, the Human Rights Associations of Turkey (TİHV) found 193 of the 675 people who applied to them to have valid claims of torture. By contrast, in the first five months of 2006, TİHV was already dealing with 113 new confirmed torture survivors. In addition, five people have died in police custody and at least seven in prison.<sup>33</sup> Human rights advocates claimed that ‘only a small percentage of detainees reported torture and ill treatment because they feared retaliation or believed that complaining was futile.’<sup>6</sup> Regional NGOs have reported that authorities are deliberately using less detectable methods and adopting more devious practices including forms of psychological torture such as sexual harassment and humiliation, mock executions and sleep deprivation. Another alarming development is that whilst torture and ill-treatment in detention are thought to have decreased, cases of torture and ill treatment outside detention are still common; the number of reports of such cases actually increased in 2005. The report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following a December 2005 visit to Turkey published 6 September 2006 describes an increase in instances of ill-treatment being inflicted outside of law enforcement establishments, in isolated areas such as forests. Often, people suspected of being involved in terrorist activities are taken into unofficial detention. No records are kept of such incidents and suspects are generally kept until the authorities extract the information they demand.

Opening accession negotiations with a country which sanctioned internationally prohibited practices from the highest levels of government could not be countenanced, so it was imperative that there was found to be no systematic torture in Turkey before formal talks began.

Encouragingly, during 2005, courts investigated numerous allegations of torture by state security forces. However, perpetrators are rarely adequately punished. In 2005, there were 232 convictions out of the 531 cases that actually went to full verdict. Meanwhile a staggering 1005 were acquitted. Of the convictions, only 37 carried jail sentences, and the rest received fines or other reprimands. Turkey has also failed to implement much-needed independent inspections of detention facilities in spite of a recommendation to this effect by the Council of Europe’s anti-torture committee.<sup>34</sup> In such instances, effective medical examinations of detainees become

33 ‘Önen Speaks Out: Why Torture is Systematic’ BIA News Centre, 28 June 2006, at [http://www.bianet.org/2006/07/01\\_eng/news81316.htm](http://www.bianet.org/2006/07/01_eng/news81316.htm) (last accessed 12 October 2006).

34 **European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment**, ‘Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 15 September 2003’, Strasbourg, 18 June 2004, § 40.

crucially important with the increase of more sophisticated, less visible torture methods. The medical examinations are, though, inadequate; they are usually brief and informal, and detainees have been refused access to a second examination by the authorities. More training of medical practitioners is needed as only 300 out of the 80,000 doctors in Turkey have the forensic skills to diagnose instances of torture.

By abolishing ‘incommunicado’ detention and guaranteeing detainees immediate access to a lawyer, Turkey had sent a strong signal that it would make good on its promise to eradicate the practice of torture. In the case of Turkey, though, old habits die hard. The new Anti-Terror law (discussed in more depth below) which came into force in July 2006, did away with a suspect’s automatic right to see their lawyer, as Article 9 states that during detention, the detained suspect’s right to meet with a lawyer can be restricted for a period up to 24 hours – the period when the detainee is at the greatest risk of being tortured. Due to the new Anti-Terror Law Mr. Öcalan’s lawyers many times were denied the opportunity to visit him in Imrali. With instances of torture still being reported in the Kurdish regions of Turkey, the enactment of this provision could not come at a worse moment. It invites the practice of torture at a time when Turkey should be doing everything in its power to stamp out this heinous activity.

The right of freedom of association and assembly are still heavily restricted. Open criticism of the government or peaceful activities which touch on taboo subjects such as the army, the Kurdish question or the Armenian genocide are met with reprisals – anti-democratic legislative provisions are used to harass and prosecute dissension, administrative restrictions on the formation of associations still resemble those of a police state and assemblies and public meetings are regularly met with police harassment, violence and detentions. Scenes of non-violent women demonstrators being beaten with truncheons and dispersed with tear gas in March 2005 were reportedly greeted by the EU with shock and concern at the use of ‘disproportionate force’.<sup>35</sup>

Throughout 2006, security forces have continued to adopt a hard-line attitude towards unarmed civilians and aggressive dispersal tactics during pro-Kurdish protests. There have been a number of violent clashes between police and civilians, with reports of police firing on civilians and children. A fact finding mission sent by KHRP to the southeast region in April 2006<sup>36</sup> found that the rule of law was clearly put aside during the security forces’ handling of the violence that erupted following

35 BBC, ‘Turkish police beatings shock EU’, 7 March 2005, at <http://news.bbc.co.uk/1/hi/world/europe/4325347.stm> (last accessed 11 October 2006) .

36 See ‘Indiscriminate Use of Force: Violence in Southeast Turkey’ KHRP Fact Finding Mission Report, October 2006.

the funerals of PKK guerrillas at the end of March 2006. Police used indiscriminate, disproportionate and lethal force, clearly condoned by their superiors, chillingly reminiscent to many of the security force's behaviour under the state of emergency during the 1990s. Ten civilians lost their lives, including three children; hundreds of civilians were detained, many of whom have alleged that there were tortured during their detention.

Combating violence against women is another key area in which the momentum of reform is dwindling. Domestic violence, estimated by women's groups to affect up to a half of all Turkish women, remains rooted in traditional patriarchal conceptions of femininity and the proper role of women. Violence against women is a pronounced problem in the Kurdish regions. Perpetrators are rarely investigated or charged by the police, and women are not protected against aggressive husbands or other male relatives. Professor Yakın Ertürk, the Special Rapporteur of the United Nations Commission on Human Rights on violence against women visited Turkey in May 2006 to investigate suicides of women. Senior justice and law enforcement officials in provinces informed the Special Rapporteur about cases in which 'there were reasonable grounds to believe that the suicide was instigated or that a so-called honour killing was disguised as a suicide or an accident.'<sup>37</sup> While the legal system provides for equality, the Special Rapporteur found that in practice 'authorities too often lack the willingness to implement these laws and protect women from violence.'<sup>38</sup> Importantly, Turkey has failed to respond to the well-evidenced calls from women's groups for the erection of more shelters for women fleeing abuse – currently there are only 8 to cater for Turkey's population of 70 million.

For citizens in the Kurdish regions, the picture appears even bleaker. The Diyarbakır branch of the Human Rights Association (İHD) reported that following the 17 December decision to open accession negotiations, the first half of 2005 saw a marked increase in human rights violations in Diyarbakır and the surrounding provinces. DEHAP, a legal pro-Kurdish political party, also reports increases in prosecutions, arbitrary detention and other violations against its members, as well as against civil society organisations, following the Council decision.

Turkey's stated enthusiasm for human rights is further brought into question by its attitude towards human rights defenders, who seem still to be perceived as something against which the state must be protected rather than a constructive force for change.<sup>39</sup> The Turkish administration has responded to increased formal protections against arbitrary detention and torture by instigating a new strategy of launching deluges of investigations and prosecutions against human rights

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37 UN Press Release, 31 May 2006.

38 Ibid.

39 See: 'Human Rights Defenders in Turkey', KHRP, October 2006.

defenders as a means of harassing and intimidating them. Free expression is being stifled by the pursuit of spurious prosecutions against journalists, politicians and academics who put forward opinions too unpalatable for the Turkish authorities.

Even the state's own human rights bodies are sidelined and relieved of any real influence. The Human Rights Advisory Board of the Prime Ministry (BIHDK), which was set up by the Turkish Government to oversee its own adherence to human rights standards, has been beset by controversy since its inception and is now out of operation. In March 2005, the Chairman of the Prime Minister's Human Rights Advisory Board (BIHDK), Yavuz Önen, felt himself compelled to resign from his post after he and his colleagues were severely criticised over a government-commissioned report calling for improvements in Turkey's record on minority rights. The Chairman bitterly criticised the government's 'insincere attitude' towards human rights and its lack of consultation with Board.<sup>40</sup> In February 2006, two members of the BIHDK, Professor Baskın Oran and Professor İbrahim Özden Kaboğlu, were charged under Articles 301 and 216 of the revised Penal Code on the basis that the report argued that 'Turk' is an identity of only one ethnic group and that Turkey also includes other ethnic groups such as 'Kurds' or 'Arabs'; a comment that was considered to be sufficient 'denigration' of the Turkish state to warrant criminal proceedings.<sup>41</sup>

This case typifies the mistrust which is shown to the work of human rights defenders by the criminal justice system in Turkey which the state's programme of human rights training seems to have done little to shift. The irony is that the Human Rights Advisory Board was set up, *by the state itself*, for viewpoints such as this to be aired and debated. Although the charges against these two eminent academics were eventually dropped, the fact that they were indicted in the first place shows that very little has changed, and that the antipathy shown to human rights defenders by prosecutors and the judiciary remains firmly entrenched.

The fact that the charges in most free expression cases are often dropped once the case provokes international condemnation does not negate the chilling effect that they have on free speech. Prosecutions, no matter how spurious, taint the work of human rights defenders with the smear of illegality and criminality, undermining their work in the eyes of the public. Court appearances are time consuming, inhibiting human rights defenders, and those organisations that rely on them, from carrying out their work and slowing down the progress of society on every level.

40 'Turkey PM rights adviser resigns', BBC, 25 March 2005, at <http://news.bbc.co.uk/2/hi/europe/4383075.stm> (last accessed 5 October 2005).

41 See: 'Suppressing Academic Debate: The Turkish Penal Code, a Trial Observation Report' KHRP, June 2006.

## The New Penal Code

After a period of pronounced controversy and wrangling, Turkey's revised Penal Code was finally approved by Parliament in June 2005. The enactment of the controversial code was made a precondition of the opening of accession negotiations in the Council's decision of 17 December 2004, in the context of the need to strengthen democratic reform – a factor which is rather troubling given aspects of the content of the code.

There are several welcome provisions in the code, including a strengthened sanctions regime for torturers, but overall it represents something of a 'mixed bag' and is by no means the great leap forward for human rights that was hoped for.

Its enactment was dominated by the debate which raged in the preceding two months over provisions which placed excessive restrictions on press freedom. The draft adopted in September 2004 was vociferously criticised by human rights groups, international press associations and journalists, delaying its entry into force which was originally projected for 1 April 2004. It was argued that the code contained provisions which could restrict reporting freedoms and result in arbitrary prosecutions of journalists and others in the media. Under Article 125, for example, criticism of a political figure can be interpreted as a personal insult and land the journalist concerned with a one year prison sentence.

Turkey subsequently made some changes to these contentious elements of the Code, including deleting most of the provisions which detailed stronger sanctions when an offence was committed by the media. However, out of the 23 changes the OSCE Representative on Freedom of the Media recommended in May,<sup>42</sup> only seven provisions of the code were subsequently amended in line with media freedom principles. The OSCE Representative responded that the amendments made by Turkey did 'not sufficiently eliminate threats to freedom of expression and to a free press'.<sup>43</sup> Prime Minister Erdogan's initiation of defamation lawsuits against two newspaper cartoonists does little to enhance the Turkish leadership's image in the realm of press freedom.

Other pertinent misgivings over the new Penal Code relate to its retention of anti-democratic articles which have been used repeatedly to arrest, detain and charge individuals legitimately exercising their right to freedom of expression. It is still a crime to insult the Turkish state and its institutions – the notorious Article 159 of

42 OSCE Representative on Freedom of the Media Miklos Haraszti, 'Review of the Draft Turkish Penal Code: Freedom of Media Concerns', Vienna, May 2005.

43 OSCE Representative on Freedom of the Media, 'OSCE Media Representative praises Turkey for changing penal code, but remains concerned', 7 July 2005.

the old code which has no place in the criminal law of a modern, European state but which appears virtually unaltered in the revised code. The deliberate ‘incitement of a section of the population to hatred and hostility’ on grounds of race, region or membership of a religious group also remains a part of the statute under Article 216. This provision has been repeatedly interpreted in a deeply arbitrary manner by the Turkish judicial system to punish peaceful, pro-Kurdish advocacy. Controversy further surrounded examples put forward in the Penal Code’s explanatory notes of offences which would be deemed against ‘fundamental national interests’, including advocating for the withdrawal of Turkish troops from northern Cyprus and attesting to the occurrence of the Armenian genocide.

As the prosecution of Professor Oran and Professor Kaboğlu demonstrated, Article 301 is proving a major impediment to free expression in Turkey. Despite being amended, the provision is still badly drafted leaving the parameters of criminal liability under the offence unclear. An individual will be guilty if the judge perceives that they have ‘denigrated’ the state but not guilty if they have merely ‘criticised’ it, as this has been specifically exempted. The ambiguity of the terms leaves too much scope for further unjustified prosecutions. If this is the best that can be achieved in redrafting this Article, it appears that the Turkish Government has no other option but to repeal the Article altogether.

In the sphere of women’s rights the new code contains some more positive developments, particularly given the deeply chauvinistic nature of the 2003 draft which criminalised adultery and did not adequately punish honour killings. Characterisations of offences committed against women based on patriarchal notions of chastity, ‘honour’ and shame are replaced with definitions based on international human rights norms and recognising women’s bodily integrity and sexual rights. Sexual crimes are denoted as crimes against the individual rather than crimes against society, marital rape is criminalised and rape is no longer legitimised where the perpetrator marries the victim. These changes came about following a constructive and sustained campaign by women’s rights groups in Turkey to incorporate a gender perspective into criminal law, which is much to the credit of the burgeoning Turkish women’s movement.

There are, though, still sticking points for women in the new code. Killing a woman in the name of ‘honour’, where she is seen to have transgressed her customary, socially-defined role, continues to occur in Kurdish regions. In June 2006, the Diyarbakır Bar Association’s Women’s Rights Centre stated that honour killings had claimed the lives of 50 women in the past six years in the southeast region of Turkey. Under Turkish law, an honour killing was a partial justification for the crime and led to a reduced sentence. This is no longer the case, but contrary to the lobbying efforts of women’s groups the new code refers to ‘custom killings’ rather than honour killings. It is not sufficiently clear that this term covers all murders committed according

to 'honour' codes. In addition, although 'genital examinations' can now only be carried out if necessary for public health or, at the behest of a court, if required for the investigation of a crime, there is no requirement that the woman's consent must first be attained. These examinations or 'virginity testing' have been used in Turkey, where pre-marital virginity is customarily seen as critical to a woman's 'honour', as a highly invasive and discriminatory means of controlling female sexual relations.

### **The new Anti-Terror law**

Following the example of a number of western European states, Turkey has in 2006 enacted a new Anti-Terror law to amend the 1991 *Law on the Fight against Terrorism* (Act 3713). The adverse effect this piece of legislation will have on Turkey's reform process and its stated goal of democratisation cannot be overstated. It targets fundamental rights and freedoms that had previously been bolstered by the amendments, and sets the democratisation process back several years. The amendments are in many ways fundamentally flawed and will undo a lot of the good work that the reform process has already achieved in areas such as freedom of expression and the freedom of the press. In terms of the rule of law, the imprecise drafting of the legislation and the use of ambiguous terms means that it will be difficult for individuals to regulate their behaviour so as to avoid criminal liability. The perhaps intentional result will be that individuals will be prosecuted for 'terrorist' acts without having any real links to actual 'terrorist' organisations.

The Law extends the number of terrorist offences, disproportionately punishing behaviour that, to the layperson, would not constitute 'terrorism'. Under Article 6, the carrying of an emblem, signs or placards of a 'terrorist' organisation and the shouting of slogans will be deemed to be spreading terrorist propaganda and can be punished by a prison sentence of up to three years. Moreover, attempting to conceal your own identity during a demonstration or wearing the uniform of an outlawed organisation are punishable under the propaganda charge.

A wide range of criminal acts such as drug and human-trafficking to hijacking of transport vehicles and forgery will become terrorist offences if they are committed with the aim of supporting terrorism. The amendments also attack press freedom, as those who publish the statements of terrorist organisations can be subject to prison terms, and the amendments provide for heavy fines for owners and editors of media outlets that commit offences and grant power to judges and prosecutors to suspend publications which are considered to be glorifying terrorist acts for up to 30 days.

The escalation of violence witnessed in the Kurdish regions of Turkey over recent months needs urgent resolution, but will not be assuaged by the enactment of draconian pieces of legislation that target the supporters rather than the perpetrators

of violence. Turkey must be made to understand that extending the list of terrorist offences will only serve to criminalise innocent people, feeding the antipathy that is felt in the region towards the current Turkish administration. This resentment is a fertile breeding ground for extremists and makes a democratic solution to the Kurdish question more remote. In a positive step towards a more peaceful era, the Kurdistan Workers' Party declared a unilateral ceasefire on 1 October. The EUTCC is hopeful that there is now a renewed potential for the end of armed conflict. When both sides denounce violence as an answer to the Kurdish issue, this will provide the opportunity for meaningful dialogue and a just solution. EUTCC sincerely hopes that the initiative taken by the PKK will be considered as a new beginning. Turkish and European institutions could consider the peace initiative as a chance for democratic processes to develop in Turkey.

### **The EU, Human Rights and the Future of the Accession Process**

In underlining the continued impediments to the realisation of European standards on human rights in Turkey, it is not the EUTCC's intention to dismiss what genuine progress has been made or to cast doubt on the real benefits of the EU accession process as a harbinger of change. The EUTCC is concerned, though, that the EU's approach to human rights has not been sufficiently robust; Turkey has enacted human rights reforms grudgingly and haltingly, interspersed with frequent steps backwards, and its commitment to change appears fragile and at times half-hearted. The Commission reports have drawn excessively positive inferences from Turkey's efforts to improve human rights while making overly brief references to a number of serious human rights issues, failing to comprehensively address the human rights situation in the Kurdish regions. Events since 17 December 2004, whereby Turkey has relapsed even on what tentative progress it had made in some key reform areas, add considerable weight to disquiet over Turkey's commitment to achieving EU standards in human rights.

It is consequently imperative that the motivational pull of EU membership is re-harnessed by the Union, and that those human rights requirements in the accession process are vigorously enforced as negotiations move forwards. Turkey must not be left to drift back into old habits.

As touched upon above, the EU has made clear that Turkey's obligations in human and minority rights reform do not end now it has been accepted as a formal negotiating partner. It expects an ongoing and robust show by Turkey that reform achievements are being strengthened and the implementation of already enacted reforms is being ensured. The 2005 Commission report states that:

Significant further efforts are required as regards fundamental freedoms and human rights, particularly freedom of expression, women's rights, religious freedoms, trade union rights.

The need for irreversibility and full implementation is reinforced by the Council<sup>44</sup> and in the Negotiating Framework.<sup>45</sup> The Framework further sets out the EU's expectation that Turkey will sustain the reform process, work towards further improvements and consolidate and broaden legislation and implementation measures. The Commission has recommended that:

It is primarily by demonstrating determined implementation of continued reform that Turkey would be able to ensure a successful conclusion of the whole accession process.

The stipulation that Turkey's progress during accession negotiations and the ultimate decision on membership will be made with reference to its fulfilment of the Copenhagen Criteria is also specified in the Framework. Negotiations are to be suspended if there is a serious breach of human rights.

EU Enlargement Commissioner Olli Rehn has underlined his insistence on 'the utmost importance' attached to the 'continuation of political reforms with the same pace and with the same intensity as in previous months.'<sup>46</sup> However, he has recently acknowledged that political tension has increased between the EU and Turkey, mainly regarding the issue of opening Cyprus's ports to traffic, and that it will take deft diplomacy to avoid a 'train crash' at the end of the year.<sup>47</sup> In a speech in October 2006 in Ankara, Commissioner Rehn drew particular attention to issues of freedom of expression, fundamental freedoms such as the freedom of religion, the rights of women especially in the area of so-called 'honour' killings, and called for a strategy for the southeast region 'that addresses its political and socio-economic problems together with the cultural rights of the Kurdish population.'<sup>48</sup>

Human rights may be set to play a more focal role in dialogue on Turkey's adoption of the *acquis* itself. The Commission has stated that human rights developments 'are in many ways closely linked to developments regarding [Turkey's] ability to

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44 Brussels European Council 16-17 December 2004, Conclusions Of The Presidency

45 European Commission, 'Negotiating Framework for Turkey', 4th October 2005

46 Olli Rehn, Member of the European Commission Responsible for Enlargement, 'Common future of the EU and Turkey: Roadmap for Reforms and Negotiations', Meeting with business leaders (Istanbul), March 8, 2005.

47 'EU enlargement chief sees tension ahead with Turkey' 29 March 2006, Turkish Daily News, at <http://www.turkishdailynews.com.tr/article.php?enewsid=39425> (last accessed 09 October 2006).

48 EU Enlargement Commissioner speaking at the International Symposium on 'European Social Model and Trade Union Rights within the EU negotiations', Ankara, 3 October 2006.

implement the *acquis*, in particular in the domain of justice and home affairs,<sup>49</sup> and the preliminary indicative list of chapter headings for negotiations includes 'Judiciary and fundamental rights,' which was not a title in the Bulgarian or Romanian accession talks.

How far the EU insists upon Turkey satisfying these requirements will prove decisive in determining the level of success of the accession process in instigating real change in the country. The expectation of joining the EU can only inspire new approaches to human rights if progression through the forthcoming stages of the accession process is in accordance with tangible Turkish realisation of EU-mandated accession criteria. The omens have not so far been positive, but the EUTCC trusts that the EU will now abide by its obligations and commitments to ensure the advancement of human rights in Turkey as an integral component of the accession process, and that there will be no more toning down in human rights accession standards comparable to the EU decision to allow Turkey access to the negotiating table on the grounds that it 'sufficiently' fulfilled the Copenhagen criteria.

Olli Rehn's confirmation that while he hopes that Bulgaria and Romania will achieve their goals in time, he is 'prepared to recommend the postponement of their membership if they do not implement essential reforms,'<sup>50</sup> is reassuring in its indication that EU accession criteria will be enforced. Also encouraging is the affirmation in the Negotiating Framework that Turkey will not become an EU member before 2014. Turkey has a long road ahead; bringing the country up to a par with European standards on human rights will be a long and challenging process which depends upon new values and ideals permeating Turkish ways of life and becoming internalised among the Turkish governing structures. A long path to accession will allow Turkey the time to counter the deep-seated mindsets in the Turkish administration which continue to oppose change, and to ensure that a genuine culture of respect for human rights and democratic principles takes root in the country.

If, however, the EU allows Turkey to proceed with accession without satisfying the conditions set by the Union, then the projected advantages of EU membership for advancing human rights will be substantially undermined. EU decision-making would wrongly imply that Turkey's behaviour in the human rights sphere is broadly compliant with international human rights standards, and disregard the severe, ongoing human rights violations taking place in the country. It would also send the message to Turkey that a genuine transformation in the human rights situation in the country is not necessary provided there is evidence of a series of outward

49 European Commission, '2004 Regular Report on Turkey's Progress Towards Accession', COM (2004) 656 final, 6 October 2004, p14.

50 Olli Rehn, European Commissioner, Responsible for Enlargement 'EU Enlargement Under Stress – The Policy of Consolidation, Conditionality and Communication', Institute for European Policy, Berlin, 12 July 2005.

efforts at reform, and the EU could ultimately find itself embracing a member state which has implemented only superficial change but is still fundamentally rooted in outdated autocratic mentalities.

It should be remembered in this context that promises to enact human rights reforms and address the Kurdish question made by Turkey prior to the establishment of the 1995 Turkey-EU Customs Union proved empty; though of course the Copenhagen Criteria are much more authoritative than the relatively insubstantial and non-binding political pre-requisites attached to the Customs Union.

On the EU side, opening membership talks with a country which continues to routinely violate fundamental rights is damaging to the EU's own human rights commitments. The EU professes itself to be founded upon 'the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law',<sup>51</sup> and its apparent relaxation of these principles in relation to Turkey could jeopardise its long-term credibility.

### 3. ACCESSION AND THE KURDS

The EU is the first institution for many years which has proven capable of exerting a reforming influence over Turkey. It currently has considerable leverage over internal developments within the country, and wields the best opportunity to emerge for decades for inducing Turkey to improve its treatment of the Kurdish population.

This prospect, though, can only be achieved if it becomes the mutual aim of Turkey, the Kurds and the EU, and to date the conduct of the institutions of the EU has provided the Kurds with little encouragement that their plight will be openly and robustly addressed in the course of Turkey's EU membership bid. The EUTCC maintains that promoting democratic dialogue on the Kurdish question and ensuring a secure future for the Kurds are intractable elements of the EU-directed democratisation process in Turkey, and must accordingly be made pivotal to Turkey's progression towards accession

#### **The Kurdish question and the decision to open accession negotiations**

At the EUTCC Conference held in November 2004 in Brussels, the EU's failure to address the situation of the Kurds in any kind of substantive or coherent manner, and the highly negative potential implications of this scenario for the Kurds, other citizens of Turkey, and the EU itself, were outlined. Turkey's movement towards EU membership was gathering pace despite the absence of any concerted efforts to achieve a Turkish-Kurdish settlement, and initial Kurdish eagerness over the

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51 Article 6, Treaty of the European Union.

probability of the accession process resulting in long-term, sustainable peace in the Kurdish regions was consequently dissipating.

Here the EUTCC reiterates these concerns, which have only deepened in the intervening period. The EU continues to appear impervious to calls for a more open and meaningful engagement with the plight of the Kurds, seemingly unwilling to use its influential position in relation to Turkey, at least publicly, to fulfil its obligation to ensure that the Kurdish question is tackled.

The European Commission's regular reports on Turkey's progress have not ignored the Kurdish issue as such. Instead they have adopted a piecemeal approach that appears to advocate resolution through responding to the Kurdish dimension of an assortment of discrete human rights abuses which were not specifically differentiated from Turkey's overall record on compliance with the Copenhagen Criteria. The section on minority rights contained in the reports makes no attempt to analyse the situation of the Kurds as a group or people within Turkey, and very little has been made of the absence of the Kurds from the definition of a minority contained in the Turkish Constitution - an issue of substantial importance for the political and legal status of the Kurds. Whether this was through deference to those who oppose defining the Kurds as a minority is unclear,<sup>52</sup> but the parts of the reports which refer to the situation in the southeast have failed to analyse the complex and deep-rooted problems there.

### **The need for a new approach**

The EUTCC does not consider the non-committal stance of the Commission towards the Kurdish issue to be an appropriate departure point for the commencement of accession negotiations. The foundations of the Kurdish question are rooted in the virulent nationalism which permeates the Turkish state and society and which insists upon cultural homogeneity in the country – all citizens of Turkey are defined as 'Turks' and alternative ethnicities are not tolerated. The Kurds, as by far the largest non-Turkish ethnic group in Turkey, have as a result been subject to brutal oppression and attempts to crush their identity for decades.

Turkey's treatment of the Kurds is, then, fundamentally anchored in hostility to Kurdish identity *per se*. Despite some improvements in their situation since 1999, Kurds who outwardly manifest their 'Kurdishness' have long been subject to harassment and coercion through spurious judicial decisions, arbitrary detention and torture. Their rights to free expression and association have been violated where they have sought to assert their identity, and they have suffered the

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52 KHRP takes no position on the question of whether the Kurds are best described as a minority, a people or by any other term.

effects of protracted armed conflict and subsequent forced displacement aimed at disbanding Kurdish regional dominance in the southeast. Turkey's antipathy towards countenancing the presence of group identities distinct from the official Turkish nationalist identity has meant that the existence of the Kurds has never been granted any constitutional recognition. The suffering of the Kurds at the hands of the Turkish state is, then, intrinsically linked to their status as Kurds.

As such, it is difficult to conceive that the compound array of interlinked injustices taking place in the Kurdish regions can be resolved by occasional reference to individual human rights issues, as apparently propounded in the European Commission report. The Commission's approach seems to be based on an implicit assumption that ingrained mentalities within the Turkish establishment which inform continued attempts to quash expressions of Kurdish identity will simply dissipate with the advancement of the pro-EU reform process. It is submitted that such an eventuality *cannot* be presumed. Such an approach fails to appreciate that human rights violations against the Kurds are not merely the mark of an occasional tendency to discriminate against a non-dominant minority, and nor are Kurds targeted in Turkey purely as a result of legislative gaps in the pro-EU reform process or inadequate controls on public authority behaviour. Turkey's treatment of the Kurds is the outward manifestation of a long-standing and deeply embedded hostility towards the Kurds as a people. The Kurds are targeted *because* they are Kurds, and human rights violations which bear no overt relation to 'Kurdish' rights as such will frequently have a Kurdish element. Torture, for example, remains most prevalent in the Kurdish-dominated southeast, but there is not even acknowledgement in the Commission report that Kurds may be particularly vulnerable to torture.

The EUTCC's concerns over the Commission's approach to the Kurdish issue and its potential for resulting in a democratic resolution are further exacerbated by the fact that Turkey has not demonstrated any real inclination to tackle deep-seated hostility to the notion of a distinct Kurdish identity, and to a significant extent the veiled forces of the highly traditionalist and reactionary deep state continue to hold sway over Turkish governance. Indeed, developments in the field of cultural and linguistic rights over recent months intimate that Turkey's string of seemingly impressive reforms enacted prior to 17 December 2004 was not indicative of a softening of Turkish antipathy towards expressions of Kurdish ethnicity; the reforms have proved little more than paper concessions presumably designed to allay EU criticism. Kurdish language schools proved expensive, unworkable and subject to bureaucratic obstruction, compelling them all to close on 2 August 2005, while Kurdish broadcasts are of poor quality and fail to attract meaningful audience numbers. A court ruling in late July found that a provision in the statute of teaching union Eğitim-Sen voicing the desire of many Kurds for mother-tongue education was contrary to the Turkish Constitution and therefore illegal.

It is put forward that entrenched Turkish mindsets opposing public recognition of the Kurdish culture and language will not be broken down merely by the enactment of rights-related legislative reforms; Turkey has shown it is inclined to simply backslide into old habits as soon as the immediate necessity of showing conformity with EU standards is lifted.

The trend towards a falling off in reforms addressing the situation of the Kurds is also discernible in other key areas. On the subject of internal displacement the 2006 European Parliament resolution notes that the right to return is hampered by the Village Guard system, which the Turkish government has refused to disband or disarm.<sup>53</sup> Statements to this effect ignore that internal displacement was a deliberate policy of the Turkish state aimed at breaking down Kurdish cultural networks and dissipating Kurdish regional dominance in the southeast.

Genuine efforts to combat displacement would intimate a sincere change in attitude by Turkey. However, since 17 December 2004, not only has there been no real progress on displacement, but what very limited positive developments could be reported at that time now appear illusory. The accuracy of Turkish government figures supplied to the EU on return numbers has been brought into question,<sup>54</sup> and the Compensation Law enacted principally to satisfy EU watchdogs contains so many obstacles to achieving redress as to be virtually meaningless for most of the displaced. Wholly unrealistic documentation requirements, an inadequate appeals process, a prohibitively expensive fee to launch an appeal and the domination of the compensation commissions by state employees all serve to massively undermine the capacity of the law to bring about justice.<sup>55</sup>

Again, displacement is a complex problem intimately tied in with the broader aspects of the Kurdish question, and EU pressure for change which fails to consider the contextual aspects of the problem and the need to combat attitudes which favour the effects of displacement is only likely to result in more sham measures by Turkey aimed at appeasing the EU.

These examples of continued Turkish reluctance to address the situation of the Kurds and recognise their rights, lend considerable weight to the EUTCC's supposition that the Commission's sidelining of the Kurdish question from its assessment of democratisation in Turkey is unlikely to result in the lasting peace and security

53 European Parliament 'Turkey's progress towards accession – European Parliament resolution on Turkey's progress towards accession' (2006/2118(INI)), adopted 27 September 2006, Strasbourg

54 Human Rights Watch, 'Still critical': Prospects in 2005 for Internally Displaced Kurds in Turkey', 1 March 2005

55 See: 'IDP s and refugees: Preliminary findings', KHRP, 2006 and 'The Status of Internally Displaced Kurds in Turkey and Compensation Rights: Fact Finding Mission Report' KHRP, 2005

in the region, which was the hoped-for result of EU accession. Impediments to realising Kurdish cultural and linguistic rights and to tackling displacement are unlikely to be resolved merely through the existing political reform impetus of the accession process. This conclusion is further supported by the fact that although there have been some improvements in the status of the Kurds in recent years, it is much less clear that Turkey is moving towards European conceptions of democratic pluralism and minority rights. Shortly before the decision to open accession negotiations, the Turkish Justice Minister was reported as saying that Turkey and the EU speak 'different languages' on minorities and warned against engaging in a debate on minority rights that would 'call into question the unity of Turkey'.<sup>56</sup> The idea that the expression of alternative identities is a threat to the unitary, secular state remains enormously powerful in Turkey. Acceptance of ethnic diversity within Turkey, rather than defining Turkey as a collective nation of only ethnically Turkish citizens and dismissing alternative identities as separatist, is a prerequisite for the emergence of Turkey as a modern, stable democracy.

It should also be noted that the Commission's unwillingness to address the situation of the Kurds as a cohesive issue provides no incentive for Turkey to do so. Indeed, in denying the integral nature of the situation in the Kurdish regions and treating the matter as if it will resolve itself as reform progresses, the EU edges out the prospect of encouraging Turkey to acknowledge that there exists a Kurdish 'issue' to be addressed at all. Instead, it implicitly upholds the Turkish view that there is no problem in the Kurdish regions requiring resolution except a 'terrorism' problem which occupies only the military domain. Turkey has long used this pretext to evade dealing with the substantive, rights-related elements of the Kurdish question. Those advocating for much needed efforts to achieve enduring peace and justice in the Kurdish regions, including the Council of Europe, are effectively sidelined.

Importantly, this also means that the Kurds themselves are precluded from effectively contributing to the search for a negotiated solution, and certainly there has been a marked failure by the Commission to consult adequately with Kurdish groups and representatives and to take into account Kurdish views. The acceptance of Turkey as the only real party to EU negotiations exacerbates the risk that the accession process will fail to address the Kurdish issue in a locally coherent way or respond to Kurdish concerns on the ground.

In short, resolving the substantial problems endured by the Kurds – surely a fundamental pre-requisite to negotiating EU accession – demands much more than the EU has yet appeared prepared to invest. Crucially, the Kurdish question is in essence a political one, and demands a political answer. It will not be resolved if it is

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56 EU Business, 'Turkey and EU speak 'different languages' on minorities, says minister', 4 November 2004, at <http://www.eubusiness.com/afp/041104162026.04et8eej> (last accessed 12 April 2006)

ignored or subsumed by human rights concerns, which form only one component of the problem. It must be addressed fully, openly, and at its ideological roots, and it is of profound importance that the EU acknowledges and responds to the need for constructive and sustained dialogue to achieve this end.

### **Conflict in the Kurdish regions**

The European Commission has also apparently disengaged itself from the resurgence of the armed conflict in the Kurdish regions. Since the end of the PKK<sup>57</sup> ceasefire in June 2004, the security threat in the area has substantially stepped up. In recent months, Turkish troops have begun to mobilise on the border with Iraq in preparation for an offensive against PKK installations in Iraqi Kurdistan. To a greater extent, parts of the southeast are reverting towards the scenes of conflict witnessed prior to 1999 as violence spirals and the death toll continues to rise.

In 1998, prior to the unilateral PKK ceasefire beginning in 1999, the European Commission issued the important assertion widely welcomed among the Kurds that

Turkey will have to find a political and non-military solution to the problem of the southeast. The largely military response seen so far is costly in human and financial terms and is hampering the region's social and economic development.<sup>58</sup>

The escalating conflict once again spreading through the Kurdish regions, though, has merited little acknowledgement. The wording of the 2005 Progress Report barely refers to the need to end the current hostilities, expressing 'concern' that 'in this difficult context...security forces sometimes respond inappropriately'.<sup>59</sup>

The other institutions of the EU are, though, beginning to show greater robustness to Turkey's failing reform process. The European Council issued a common position paper in June 2006 for the meeting of the EC-Turkey Association Council which was much more unequivocal in its discontentment as regards Turkey's progress to accession.<sup>60</sup> It highlighted that fact that the pace of change has slowed in the past year and that 'significant further efforts' are needed on the part of Turkey as regards implementation of the reforms and further legislative initiatives are needed.<sup>61</sup> The

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57 **The Kurdistan Workers' Party (PKK) changed its name in April 2002 to the Congress for Freedom and Democracy in Kurdistan (KADEK), and again in November 2003 to the Kurdistan People's Congress (Kongra-Gel), the name by which it is now known.**

58 **European Commission, '1998 Regular Report on Turkey's Progress Towards Accession.'**

59 **European Commission, 'Turkey 2005 Progress Report' COM (2005) 561 final, 9 November 2005.**

60 **European Council, Common position paper for the 45th meeting of the EC-Turkey Association Council, Luxembourg 12 June 2006, CE-TR 107/06.**

61 **Ibid.**

paper does not shy away from criticising the continued occurrence of abuses and violations of the right to be free from torture, freedom of expression and religion. Moreover, in expressing its concern about the rise in hostilities in the southeast, it is careful to condemn the PKK and expect restraint to be shown by the Turkish security forces. It actively encourages Turkey to develop a comprehensive approach 'including dialogue' to the situation in the southeast.

The European Parliament too has shown greater firmness. Joost Lagendijk, co-chairman of the Turkey-European Union Joint Parliamentary Committee, has called on Turkey to make progress regarding the Kurdish issue and freedom of speech.<sup>62</sup> The Parliament's resolution in response to Turkey's progress to accession was critical of the pace of reforms and the continuing abuses of human rights in the region.

The Parliament describes Prime Minister Erdogan's acknowledgement of the Kurdish problem as 'a courageous and promising signal' but stated that this 'has not yet been followed by substantial actions'. Yet, when referring to the role of the government and security forces in the upsurge in violence in March and April 2006, the report avoids explicitly stating the government's disproportionate response to the unrest:

the resurgence of violence in the southeast of the country and the revival of the terrorist activities of the Kurdistan Workers' Party (PKK), followed by a large-scale rise in military operations, constitute a serious threat to peace, stability and democracy in Turkey...it must be emphasised that action against terrorism must be proportionate to the threat and always respect international human rights law<sup>63</sup>

The European Parliament also calls on the government of Turkey to demonstrate its commitment to a resolution of the Kurdish question by 'meeting and entering into talks with the legal and pro-Kurdish political party, the Democratic Society Party, which has called for a cease-fire and for political dialogue'.<sup>64</sup>

Resolving the armed conflict in the Kurdish regions is of critical importance and merits much closer attention than has so far been visibly accorded to it by the Commission. From 1984, the region saw over fifteen years of conflict in which more

62 'Lagendijk urges visible progress on Kurdish issue before elections' 11 July 2006, Turkish Daily News, at <http://www.turkishdailynews.com.tr/article.php?enewsid=48577> (last accessed 13 October 2006).

63 European Parliament, 'EU Report on Turkey's Progress Towards Accession', COM (2006) 2118 (INI), 27 September 2006.

64 Ibid.

than 40,000 people, mainly Kurds, died.

In addition to the evident human cost of the return to armed conflict, it is difficult to conceive that Turkey can fully satisfy the Copenhagen Criteria demanding respect for human and minority rights while fighting is ongoing. Turkey's disproportionate reaction to the 1984–1999 armed conflict resulted in mass forced displacement from the Kurdish villages, a relaxation of judicial supervision of state behaviour under the government-declared State of Emergency which opened the door to chronic abuses, and the comprehensive silencing of the pro-Kurdish press, publishers, associations and cultural initiatives. There are real fears that the renewal of the conflict will, if not addressed, see a regression into old habits. Already, the military presence in the area is being stepped up again, and state security operations in July 2004 in which hundreds of residents of the villages of Ilıcak in Şırnak province were forcibly removed from their homes for six weeks during a state security operation,<sup>65</sup> were chillingly reminiscent of mass forced displacement in the 1980s and 1990s. Turkey's tentative, EU-inspired steps towards granting the Kurds hard-won cultural and civil rights would be significantly threatened by a return to fully-fledged state counter-terror activity.

Addressing the return to armed conflict in the Kurdish regions is also inextricably linked with resolving the Kurdish question itself. Violence between Kurdish militants and the Turkish state fuels Turkish conceptions of the situation in the Kurdish regions as a terrorist problem which requires a purely military response. It is Turkey's inability or refusal to distinguish the political and rights-related elements of the Kurdish issue from the conflict which lay behind the Commission's 1998 objection to Turkey's 'largely military response' to the problem in the Kurdish regions.<sup>66</sup> The parameters of the conflict have been determined almost exclusively by reference to security considerations, and pro-Kurdish politicians with wholly peaceful agendas are not recognised by the state as legitimate negotiating partners – they are instead dismissed as terrorists or separatists. This approach by Turkey provides her with an ostensible justification to refuse to engage in dialogue with Kurdish representatives, and leads her to characterise peaceful, pro-Kurdish politicians and those legitimately calling for improved cultural and linguistic rights for the Kurds as 'terrorists'. The revision of Turkey's security-centred perspective on the Kurdish issue is vital to achieving normalisation and long-term stability in the region.

In addition, countenancing furthering the EU accession process without tackling the security situation in the Kurdish regions is highly contentious. Stability and security, predicated on an absence of violence or armed conflict, is a touchstone

65 Human Rights Watch, 'Last Chance for Turkey's Displaced?', October 4 2004.

66 European Commission, '1998 Regular Report on Turkey's Progress Towards Accession'.

of democracy. It is simply not feasible that effective, participatory democracy and a culture of respect for human rights can exist in the Kurdish-dominated areas of Turkey while armed conflict continues. Democracy necessarily entails a commitment to the civil, non-violent resolution of disputes. It is true that armed violence is found in existing EU member states, but only where democratic, consensual government structures are in place, and multi-party negotiations have been established giving voices to both sides to the dispute through peaceful channels. As stated, Turkey refuses even to concede that the armed conflict is symptomatic of the broader issue of her subjugation of the Kurds, defining the situation solely in terms of security and/or terrorism and refusing to become involved in bilateral negotiations with the Kurds.

The EUTCC further argues that the appropriateness of the EU incorporating Turkey as a member state while an unaddressed conflict is gathering force in the country would threaten the Union's record on peace and conflict avoidance. The EU has long prided itself on its commitment to the creation of 'an area of freedom, security and justice',<sup>67</sup> seen as a fundamental element of European integration and the promotion of peace and prosperity, and the EU has also expressed that this concept will inform its policies on enlargement.<sup>68</sup> Bringing into the territory of the EU a volatile, unresolved conflict situation would undermine EU security-related achievements and commitments.

Lastly in this context, in evading the Kurdish issue the EU is also evading its own responsibilities. The critical situation facing the Kurds and the Turkish people is not a distant problem unrelated to European affairs; its roots are in the dissolution of the Ottoman Empire in the aftermath of the First World War. Europe has a moral and political obligation to facilitate democratic dialogue and to assist Turkey towards a peaceful future based on full respect for the equal and fundamental rights of her Turkish and Kurdish populations. Furthermore, the stated importance of the protection of human and minority rights and democratic principles to the accession process gives rise to the reasonable expectation that progress on accession would be predicated on the reaching of a satisfactory settlement between the Turkish government and the Kurds.

### **Prospects for Political Dialogue**

The implications of the EU's failure to prescribe or facilitate an acceptable solution to the Kurdish issue as a primary objective of accession negotiations are, then, potentially serious. Apparent EU reluctance to explicitly confront the problems

<sup>67</sup> Preamble and Articles 2, 29 and 40, Treaty of the European Union.

<sup>68</sup> European Commission, Department of Justice and Home Affairs, 'Strengthening the European Union as an area of freedom, security and justice', at [http://europa.eu.int/comm/justice\\_home/fsj/intro/fsj\\_intro\\_en.htm](http://europa.eu.int/comm/justice_home/fsj/intro/fsj_intro_en.htm) (last accessed 13 October 2006).

in the Kurdish regions as a cohesive issue founded in Turkish antipathy towards Kurdish identity as such is doing very little to advance democratisation there, and fails to account for the need to mount a robust challenge to entrenched notions of Turkish ethnic nationalism. Meanwhile, the EU appears to be squandering a unique opportunity to assist the Kurds and Turks in arriving at a negotiated solution to a conflict which has been the cause of much pain and destruction, as well as risking the further weakening of democracy in the Kurdish regions and endangering stability in the EU. If the EU were to continue in this vein, then for the Kurds, EU accession could prove yet another profound disappointment in a history of European failure to engage with their plight.

What is urgently needed is for Kurdish and Turkish representatives to sit around a negotiating table to exchange ideas and possible solutions to the situation in the Kurdish regions today. Sustained and constructive dialogue engaging representatives from all sides of the conflict could act as an important step in the use of diplomatic means to ensure the cessation of hostilities, as well as breaking down long-established barriers to co-operation and rapprochement, and furthering the interests of pluralism in Turkey. Such dialogue would also significantly enhance elements of democracy in Turkey which pertain to the preservation of peace and the management of conflict, including the facilitation of the expression of a plurality of opinions, the promotion of political participation, and the fostering of peaceful co-existence of different communities within state borders.

Ultimately, a genuine commitment by all parties to productive participation in political negotiations on the Kurdish question could result in a peaceful settlement for the achievement of long-term justice and stability in the Kurdish regions and throughout Turkey.

The EU has a historic opportunity to make use of its current sway over the course of developments in Turkey to ensure that dialogue on resolving the Kurdish question goes ahead. The accession process is generating momentum towards reform not known in Turkey for many years, and the political aspect of the accession process provides an unprecedented platform for facilitating talks on a Turkish-Kurdish settlement. These factors combine to provide probably the most plausible context for promoting an end to violence and oppression in the Kurdish regions that has arisen in recent history. In addition, the assertion in the Negotiating Framework that accession will not take place until at least 2014 allows for a gradual accession process with the political space necessary to work towards a sustainable solution to the conflict.

The propitious climate for moving forward on the Kurdish issue may be further attested by an August 2005 statement from Prime Minister Erdogan, who broke

new ground by referring to the ‘Kurdish issue’ during a speech in Diyarbakır .<sup>69</sup> It has since been reported that a document prepared in response by the military, to be presented to the National Security Council, upholds the old view that there is no Kurdish question in Turkey, only a terrorism problem. While Mr Erdoğan’s words may yet prove indicative of new thinking on the subject, the Prime Minister was widely regarded as inciting violence with comments made during a television statement in March 2006 in response to the unrest in Diyarbakır , indicating that all necessary action would be taken to quell the protests, irrespective of whether women or children were involved.<sup>70</sup>

The EU, then, must take advantage of the current environment and utilise the occasion to act as a vehicle for reconciliation. The EU’s current approach, in exhibiting reticence even towards publicly naming the Kurdish issue, has been unsatisfactory. In recent years, EU leaders have singularly failed to promote any democratic platform or meaningful discourse about the Kurdish question. The EUTCC strongly hopes that the EU will now revise its position on the Kurdish question and openly turn its attention to this matter, particularly since Turkey is now secure in her position as an EU negotiating partner. The Union should engage in transparent negotiations with the parties, advancing steps towards reconciliation and resolution. It is imperative that this is done before it is too late and this opportunity for ending years of conflict and human suffering is missed altogether.

#### 4. THE FUTURE

##### **New national programme for the adoption of the EU *acquis***

With disquiet on the EU level being expressed in regard to Turkey’s reform process and a recent national poll by the US magazine Newsweek finding that support for the EU accession process amongst the Turkish public had fallen from 70 percent to just 43 percent, the ninth harmonisation package may turn out to be the most crucial.<sup>71</sup> The Turkish administration has, of late, appeared rather jaded towards the accession process with mixed messages coming from the government. In April, the Turkish foreign minister dismissed criticism that Turkey was suffering from ‘reform

69 Turkish Daily News, ‘Erdoğan statements on ‘Kurdish issue’ music to Europe’s ears’, August 14, 2005, <http://www.turkishdailynews.com.tr/article.php?enewsid=20721> (last accessed 13 October 2006).

70 ‘If you cry tomorrow, it will be in vain. The security forces will intervene against the pawns of terrorism, no matter if they are children or women. Everybody should realise that.’ Prime Minister Erdoğan’s comments were quoted in ‘Turkey warns children off clashes’ BBC News Online, 1 April 2006, at <http://news.bbc.co.uk/2/hi/europe/4867934.stm> (last accessed 25 September 2006).

71 ‘Newsweek: Turk’s EU hopes fading away’ 15 August 2006, Turkish Daily News, <http://www.turkishdailynews.com.tr/article.php?enewsid=51470> (last accessed 13 October 2006).

fatigue' and categorically restated Turkey's intention to pursue further reforms in the ninth harmonization package.<sup>72</sup> However, two months later, Turkey's chief EU negotiator, Ali Babacan warned that people should expect a slowing down or even a pause in the reform process.<sup>73</sup> On 19 September 2006, the ninth harmonization package of legislative reforms began to be debated before the Turkish Parliament. The package will implement 30 new laws and conclude 103 secondary amendments. This marks an important step for Turkey and an opportunity to show critics at home and in Brussels that Turkey is still committed to its democratisation process and becoming a full EU member. There have been encouraging messages issued by the Prime Minister, for example, when commenting on controversial Article 301, Erdogan said it will be amended if it limits fundamental rights and freedoms. He added:

We all know that amending laws alone isn't enough to ensure rights and freedoms; a change of mentality is needed. Laws are implemented by human beings and a change of mentality doesn't come about overnight; it takes time.<sup>74</sup>

Highlights of the ninth package include more amendments to the Criminal Procedures law (CMUK) and the Turkish Penal Code (TCK) and a controversial amendment to the Law on Foundations which could see foreigners barred from running organisations in Turkey. This provision in particular has caused international condemnation as it seems aimed at preventing organisations such as the Soros Foundation, which seeks to promote democracy in Turkey, from effectively operating in the country. Perhaps the most anticipated reform though is an amendment to the Electoral law. This has been announced in anticipation of the action brought by the defunct party DEHAP to the European Court of Human Rights in regard to the ten percent electoral threshold. Mehmet Yumak and Resul Sadak, both of whom stood as candidates for DEHAP in the parliamentary elections of November 2002, were not elected due to section 33 of the Election of Members of Parliament Act (Law No. 2939), which stipulates that 'in order to secure seats in Parliament, parties must obtain at least ten percent of the valid votes cast nationally'. Although DEHAP achieved 45.95 percent of the vote (47,449 votes) in Şırnak province the party did not achieve the national figure of 10% necessary for entering the parliamentary arena.<sup>75</sup>

72 'Gül voices determination in pursuing EU reforms' 13 April 2006, Turkish Daily News, <http://www.turkishdailynews.com.tr/article.php?enewsid=40694> (last accessed 13 October 2006).

73 'Babacan: be ready for pause in EU process', 9 June 2006, The New Anatolian, <http://www.thenewanatolian.com/tna-8461.html> (last accessed 13 October 2006).

74 'No More Conditions Beside Maastricht, Copenhagen' Turkish Weekly, 27 September 2006, at <http://www.turkishweekly.net/news.php?id=39051> (last accessed 11 October 2006).

75 European Court of Human Rights, 'Chamber Hearing: Yumak and Sadak versus Turkey', 481, 5 September 2006.

Prime Minister Erdogan has recently come out in favour of lowering the ten percent threshold, a remarkable *volte face* from his position articulated at his party's retreat in 2005 when he said that the threshold will be kept unchanged for two or three more terms.<sup>76</sup>

The accession process still portends great opportunities for Turkey and the Kurds to move away from their current juncture and to bring the democratisation process begun in 2002 to fruition. The EUTCC is committed to promoting Turkish EU membership in order to achieve these ends, and sincerely hopes that unease within existing member states over Turkish accession will dissolve over the coming months and years.

Thus far, however, the course of the accession process has given the EUTCC some cause for concern. The human rights situation in Turkey is still mired in repression and autocratic attitudes among state officials, and progress has been at best faltering. Severe violations of human rights remain widespread, and the deterioration in standards brings into question the sincerity of Turkey's commitment to change.

The Commission's approach to human rights has so far underplayed the significance of ongoing violations, and the EUTCC contends in particular that the downgrading of the standards set by the EU for the formal opening of negotiations should not be repeated at future stages of membership talks. The EU's extensive stipulations that reform must be further strengthened and implemented on the ground, including the human rights 'break clause', are to be welcomed – it is of great importance that the EU fulfils its obligations to compel Turkish compliance with the criteria it lays down.

The Commission line on the Kurdish question has also prompted disquiet. All endeavours must be made to ensure that the occasion presented by the accession process to secure a democratic future for the Kurds is fully utilised. So far, Kurdish aspirations of finally seeing their status and rights protected through an EU-driven reform process in Turkey do not look set to be realised, and the Commission appears to have reneged on its earlier pledge to see Turkey reach a political solution to the Turkish-Kurdish conflict. The Kurdish question is not even explicitly recognised, and the annual regular reports make only occasional, incidental references to the situation of the Kurds.

The EUTCC is of the view that the problems faced by the Kurds are complex and deeply rooted in Turkish ethnic nationalism, and that addressing the Kurdish question in an open and comprehensive manner is critical to Turkish progress towards reform and EU membership. In particular, the EU has a momentous chance to promote

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76 'Parliamentary set to hold extraordinary session for EU', 10 August 2006, *The New Anatolian*, <http://www.thenewanatolian.com/tna-12517.html> (last accessed 13 October 2006).

democratic dialogue between the parties and to make possible the achievement of a viable, politically negotiated solution. If this course is not followed and instead the EU continues in its current vein, it will throw away a unique possibility for attaining peace and potentially bring an unresolved armed conflict into the EU.

Accession still has the potential to effect transformation in Turkey. Whether or not this proves the case will, to a significant extent, depend upon the EU. The vigour of the Commission's future approach in prescribing and reviewing political reforms and the commitment to principle by leaders in the Council will be crucial to reasserting the credibility of the accession process and ensuring its resonance among the Kurds and other victims of oppression and violence in Turkey.

The EUTCC will accordingly keep up its scrutiny of Turkey's democratisation efforts in the context of her obligations under the *acquis*, drawing attention both to successes and to setbacks in the reform agenda and ensuring that these reach the ears of EU decision makers. It will also monitor the EU's behaviour during accession negotiations and lobby to ensure that talks are indeed carried out within the structure set out in the Council decision and the Negotiating Framework. Placing both Turkish and EU decision-making under the spotlight will go towards ensuring that obligations and undertakings from both sides are not evaded.

The EU route is still the greatest hope for securing a civilised, democratic and pluralist Turkey in which a negotiated political solution to the Kurdish question is realised, but only if progress towards membership is based on tangible improvements in the protection of fundamental rights and freedoms and the tackling the plight of the Kurds is firmly integrated into accession negotiations.



## About the Contributors

### Patrons

**Noam Chomsky** was born on December 7, 1928 in Philadelphia, Pennsylvania. His undergraduate and graduate years were spent at the University of Pennsylvania where he received his PhD in linguistics in 1955. During the years 1951 to 1955, Chomsky was a Junior Fellow of the Harvard University Society of Fellows. While a Junior Fellow he completed his doctoral dissertation, *Transformational Analysis*. The major theoretical viewpoints of the dissertation appeared in the monograph *Syntactic Structure*, which was published in 1957. This formed part of a more extensive work, *The Logical Structure of Linguistic Theory*, circulated in mimeograph in 1955 and published in 1975. Professor Chomsky has received honorary degrees from University of London; University of Chicago; Loyola University of Chicago; Swarthmore College; Delhi University; Bard College; University of Massachusetts; University of Pennsylvania; Georgetown University; Amherst College; Cambridge University; University of Buenos Aires; McGill University; Universitat Rovira I Virgili, Tarragona; Columbia University; University of Connecticut; Scuola Normale Superiore, Pisa; University of Western Ontario; University of Toronto; Harvard University; University of Calcutta; and Universidad Nacional De Colombia. He is a Fellow of the American Academy of Arts and Sciences and the National Academy of Science. In addition, he is a member of other professional and learned societies in the United States and abroad, and is a recipient of the Distinguished Scientific Contribution Award of the American Psychological Association; the Kyoto Prize in Basic Sciences; the Helmholtz Medal; the Dorothy Eldridge Peacemaker Award; the Ben Franklin Medal in Computer and Cognitive Science; and others.

**Shirin Ebadi** was born in the city of Hamedan (northwestern Iran) in 1947. She has lived in Tehran since her childhood. She received law degree at the Faculty of Law of Tehran University in 1968. She began to serve officially as a judge in 1969 and was the first woman in the history of Iranian justice to have served as a judge. Following the victory of the Islamic Revolution in February 1979, as a result of the belief was that Islam forbids women to serve as judges, she was dismissed from her post. Every protest was useless and all former female judges were moved to the position of 'experts' in the Justice Department. Refusing to tolerate this, she requested early retirement, but in 1992 she succeeded in obtaining a lawyer's licence. Among the

many cases she represented are the families of victims of serial murder; she even took on a large number of child abuse cases. She also taught human rights training courses at Tehran University. In 1995 she co-founded the Association for Support of Children's Rights. In 1993 her book *History and Documentation of Human Rights in Iran* was published; her further books deal especially with children's and women's law. She has delivered lectures to university and academic conferences, and seminars on human rights in Iran, Europe and America. She received, among others, the Rafto Human Rights Foundation Prize in 2001 and the Nobel Peace Prize in 2003, for her human rights activities.

**Bianca Jagger** is renowned worldwide as an ardent worker for human rights: in 2003 she was nominated as the Council of Europe's Goodwill Ambassador for the Fight Against the Death Penalty. Walter Schwimmer, the Secretary General of the CoE, said while motivating the appointment that the right to life as the foremost human right is enshrined in the European Convention on Human Rights, which constitutes the backbone of the Council of Europe. Bianca Jagger is a firm defender of this principle and deeply opposed to the death penalty. Her impressive struggle for the fundamental idea that a civilised state must not kill, was the determining factor in proposing Ms Jagger for the position of a Council of Europe Goodwill Ambassador. She works to succeed in excluding capital punishment from the penal systems of all civilised democratic societies. Moreover, she is member of the International Board of Patrons of the Kurdish Human Rights Project.

**Harold Pinter** was born in East London in 1930. He started writing poetry for little magazines in his teens. He travelled around Ireland with a Shakespearean company and spent years working in provincial repertory before deciding to turn his attention to playwriting. He started writing plays in 1957, while continuing to play as an actor. Pinter's first full-length play (*The Birthday Party*) was produced in 1958 at the Arts Theatre in Cambridge. Pinter's characters make discussions which are wildly comic and terrifying for their absurdity. He is famous not only for his 29 plays, but also as a screenwriter and director of theatre pieces and TV programmes. He received the Nobel Peace Prize in 2006.

**Archbishop Emeritus Desmond Tutu** was a teacher in Johannesburg until 1957, when he took up studying theology. In 1961 he was ordained as an Anglican priest and studied for BA and MA degrees in Theology at King's College, London. Back in South Africa from 1967 to 1972 he drew attention to the situation of the black population, and in 1975 he was appointed dean of St. Mary's Cathedral in Johannesburg, the first black person to hold that position. From 1976, at the time of the pupil and student rebellions in Soweto, Tutu supported an economic boycott of his country. From 1976 to 1978 he was Bishop of Lesotho, and in 1978 was appointed Secretary General of the South African Council of Churches. Tutu

worked tirelessly against apartheid, preaching reconciliation between both sides, and in 1984 he was awarded the Nobel Peace Prize for his role as a unifying leader figure in the campaign to resolve the problem of apartheid. In 1986 Tutu became the first black person to lead the Anglican Church in South Africa, and after the fall of apartheid he headed the Truth and Reconciliation Commission. In 1999 he was awarded the Sidney Peace Prize for his work as Chairman of South Africa's Truth and Reconciliation Commission.

*Mehmed Uzun* is one of the most important sources of reference in Kurdish Literature, and was born in Siverek in 1953. He has been living in Sweden since 1977. His books, written in Kurdish, Turkish and Swedish, have now been published in nearly 20 different languages. Uzun has initiated a new era and established a modern Kurdish novel genre with the books he has published since 1985. Mehmed Uzun, who has undertaken a great effort to reinvigorate the Kurdish language through the aesthetics of his many novels, proves the legitimacy of both the Kurdish language and its literature. He portrays the history of efforts to revitalise Kurdish language, together with efforts to initiate a cultural movement, in his novels.

## Moderators

*Jan Beghin* studied mathematics and economics at the University of Leuven (KUL), Belgium. He has been member of the Brussels Regional Parliament since 1989. He is former member of the Flemish Regional Parliament and former Mayor of Ganshoren in Brussels. His parliamentary activities include economics, poverty and human rights issues.

*Jean Lambert*, a former teacher from Walthamstow, East London, was re-elected in 2004 as one of the UK's two Green MEPs. She is one of nine MEPs representing the Greater London region, and is uniquely able to bring a radical Green perspective to the European debate on issues that matter most to Londoners. Jean was Principal Speaker for the Green Party of England and Wales from 1992 to 1993 and from 1998 to 1999. Lambert was Chair of the Green Party Executive in 1994, and has been an active member of the Green Party since 1977. She is the Vice-President of the Green/EFA group in the European Parliament.

*Jon Rud* is a Norwegian human rights lawyer. He is a former Chairman of Amnesty International in Norway, of the Norwegian Bar Human Rights Committee and of the Norwegian Council for the Rights of the Kurdish people. He is now Chairman

of the Kurdish Working Group of the Euro-Mediterranean Human Rights Network, an organisation supported by the EU. Rud is Secretary General of the EU Turkey Civic Commission (EUTCC).

**Tove Skutnabb-Kangas** is professor at the Roskilde University. Skutnabb-Kangas' main research interests include linguistic human rights, minority education, bilingualism and language policy. She has published more than 30 books and more than 400 articles.

**Feleknas Uca** represents Partei des Demokratischen Sozialismus, Germany. Uca is a member of the Confederal Group of the European United Left — Nordic Green Left. In the European Parliament she is member of the Committee on Development and of the Delegation to the EU-Turkey Joint Parliamentary Committee. She is also member of Lower Saxony PDS Regional Executive, and founding member of Celle PDS District Association. Uca has been member of the European Parliament since 1999, and is Vice- Chairwoman of the Intergroup on Racism and Xenophobia.

**Luigi Vinci** represents Partito della Rifondazione Comunista - Sinistra European, Italy. Vinci has held numerous positions in the European Parliament, including Vice-Chairmanship of the Committee on Civil Liberties and Internal Affairs; membership of the Committee on Economic and Monetary Affairs and Industrial Policy; of the Temporary Committee on Employment; the Delegation for Relations with the Member States of ASEAN, Southeast Asia and the Republic of Korea; and of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy. Vinci was an MEP from 1999 to 2004 to the Joint Parliamentary Assembly of the Agreement between the African, Caribbean and Pacific States and the European Union (ACP-EU).

## Speakers

**Naman Adlun** was born on 20 September 1959, in Silopi. He graduated in business. For 24 years he has been resident in France. During this time he was active in the Assyrian-Celdanian social and cultural associations in France. He is currently the President of the Assyrian Federation of France.

**Vittorio Agnoletto** is member of the Confederal Group of the European United Left - Nordic Green Left. In the European Parliament he is member of the Committee on Foreign Affairs, of the Subcommittee on Human Rights, and of the Delegation

to the ACPEU Joint Parliamentary Assembly. A graduate in medicine and surgery, he was the co-founder of LILA – the Italian League Against AIDS – and its national chairman from 1992 to 2001. Agnoletto works with the IOM - International Organization for Migration - on preventive health projects in the Balkans. He was spokesman for ‘Genoa Social Forum’ during the ‘G8’ summit of July 2001 and is member of the International Council of the World Social Forum.

**Cengiz Aktar** , formerly a senior manager at the UN where he spent most of his professional life, is a leading specialist on EU matters and an advocate of Turkey’s integration with EU. He was the initiator in 1999 of a civilian initiative to have İstanbul declared the European Capital of Culture in 2010. He is also the initiator of another civil initiative called ‘European Movement 2002’, aimed at putting pressure on the legislator to speed up political reforms necessary to enter the negotiation phase with the EU. He is currently the Director of EU Studies at Bahçeşehir University in İstanbul; columnist for the Turkish dailies VATAN and Turkish Daily News; commentator at Açık Radyo on EU developments since 1999; and the Chairperson of the Greco-Turkish Friendship NGO Daphne. He is also an advisor to the French periodical La Revue du Mauss; a member of the Turkish ecological NGO Buğday; and advisor to Kagider, the Women Entrepreneurs Association of Turkey. Aktar has published several books and a number of scientific articles, mainly in France and Turkey. *Lettres aux Turco-sceptiques* , the latest book he edited and published in France in 2004, was a best-seller in its category. Born in 1955 in Istanbul he graduated from the Lycée de Galatasaray ,and completed his higher education at Panthéon-Sorbonne where he got his PhD degree in Economic Epistemology in 1982.

**Yusuf Alataş** was born in 1948 in Malatya. He graduated from the Faculty of Law of Ankara University in 1971. He worked as an inspector in TRT (Turkish Radio Television) between 1975 and 1980. Since 1980, he has worked as a freelance lawyer in Ankara. He served at the Headquarters Office of the IHD between 1990 and 2004, as Executive board member, Vice Secretary General and Vice President. He is currently the President of the Human Rights Association.

**Tuncer Bakırhan** is a graduate from the Economic and Administrative Offices at the University of Uludağ. Bakırhan entered politics at the age of 25 as a member of the youth branch of HADEP (People’s Democracy Party), and stood as a candidate for Kars city municipal mayor in 1999. After not winning the elections he participated as HADEP Kars Provincial President and in other positions in the party. He participated in the November 2002 elections as HADEP Vice General Secretary under the umbrella of DEHAP (Democratic People’s Party). After the elections he left HADEP and joined DEHAP, becoming head of the Restructuring

Committee. Bakırhan is now the Vice-President of DTP and is responsible for the party's international relations.

**Sevahir Bayındır** worked as a nurse between 1991 and 1997 at Izmir Tepecik Hospital and became active in the Sağlık-Sen (Health Union), which later changed its name to SES (Health Workers Union). From 1998 to 2002 Bayındır was the Vice-General Secretary of HADEP (People's Democracy Party), and since 2003 she has been working independently on women's activities. Currently Bayındır is the spokesperson for the Democratic Free Women's Movement.

**İbrahim BiImez** is a graduate of the Law Faculty of Marmara University. Between 2000 and 2002 he worked as a civil servant for İzmit City Municipality at the Environmental Control Office Headquarters. In 2002 he worked as a legal intern at İstanbul Bar, and from 2003 as an independent lawyer. He has been Mr Abdullah Öcalan's lawyer since 2002 and works at the Century's Law Office. He represents Mr. Öcalan before Turkish courts and at the European Court of Human Rights.

**Osman Baydemir** graduated from Dicle University's Law Faculty in 1994. He was assigned as the head of the Diyarbakır branch of the Human Right Association in 1994, and was Deputy President of the Association of the HRA in Turkey. He was chosen as an MP candidate for DEHAP in the national elections in 2002 and was elected Mayor of Diyarbakır with overwhelming support in 2004. Presently Baydemir is both the Mayor of Diyarbakır Metropolitan Municipality and President of the GAP (South Eastern Anatolian Region) municipalities.

**Ergin Cinmen** graduated from Istanbul Law Faculty in 1975, and became an active lawyer in 1978 as a member of the İstanbul Bar. For a period he was member of the Administrative Committee of the İstanbul Bar. Cinmen was the president of the Citizens' Initiative for Enlightenment Support Association, which coordinated actions titled, *One Minute Darkness for Eternal Enlightenment*. He has published numerous interviews in newspapers and magazines. Cinmen also continues his profession as a lawyer.

**Philip Cordery**, having studied languages applied to law and economics at the University of Paris X Nanterre, Cordery served on the staff of the President of the French National Assembly from 1992 to 1993. Cordery has been member of the French Socialist Party since 1985, and became International Secretary of the French Young Socialists (MJS) in 1990. Co-founder of ECOSY, the Young European Socialists, in November 1992, Cordery became its first Secretary General (1992-1997). After working for a year with the Party of European Socialists (PES), he was appointed Head of the International Department of the French Socialist Party,

a position he held between 1998 and 2004. He has been member of the National Council of the PES since 1994. On 15 June 2004, Cordery was appointed Secretary General of the Party of European Socialists.

**Andrew Duff** has been the Liberal Democrat Member of the European Parliament for the East of England since July 1999. Duff is spokesman on constitutional affairs for the Alliance of Liberals and Democrats for Europe (ALDE). He is Vice-President of the EU-Turkey Joint Parliamentary Committee, and a substitute member of the Parliament's Security and Defence Sub-Committee. He co-chairs the Parliament's Federalist Intergroup. In 2004 Duff became Rapporteur on the appointment of the Barroso Commission. In 2005, following the results of the French and Dutch referendums on the Constitution, he became the Parliament's co-Rapporteur on the Union's period of reflection on finding a way forward.

**Doğu Ergil** is professor of political science at Ankara University. He earned his advanced degrees from the University of Oklahoma and the State University of New York, Binghamton. He is the author of several works on the Turkish political system, nationalism, conflict, and conflict resolution. His 1995 survey of the Kurds living in Turkey was the first of its kind, and opened a debate about the goals of the PKK and the Turkish state, with respect to the aspirations of the Kurdish people. He has written widely on the PKK and their operations in the popular press and in academic journals. Professor Ergil is the founder of TOSAM, an NGO dedicated to engaging and educating the public on the issues facing Turkey, such as the Kurdish question. He was a fellow of the National Endowment for Democracy in 1999-2000.

**Desmond Fernandes** is a political scientist. He was Senior Lecturer in Human Geography at De Montfort University, Bedford from 1994 to 2006, specialising in 'Genocide Studies', 'Globalisation and Imperialism' and 'Sustainable Development'. He is the author of *The Kurdish Genocide in Turkey* (2007, Apoc Press, Stockholm, forthcoming), and *Colonial Genocides in Turkey, Kenya and Goa* (2006, Apoc Press, Stockholm, forthcoming), and co-author of *Verfolgung, Kneq und Zerstorung Der Ethnischen Identitat: Genozid An Den Kurden In Der Turkel* (2001, medico international, Frankfurt) and *US, UK, German and NATO 'Inspired' Psychological Warfare Operations Against The Kurdish 'Communist' Threat in Turkey and Northern Iraq* (2006, Apoc Press, Stockholm).

**Yüksel Genc** is an Istanbul University graduate in International Relations. She became familiar with the Kurdish movement during her university years. She joined the PKK in 1995 and on 1 October 1999 she joined the guerrilla. During that year she came back to Turkey as part of the Peace and Democracy Solution group.

Although she came in the name of peace she and her friends were sentenced to 12.5 years in prison for being a member of a banned organization. After being released in November 2004 she and her friends became active in peace efforts. Currently she is a columnist and also a member of the publishing board at the Ülke Gündem newspaper.

**Giyasettin Gültepe** graduated from the Construction Section of the College of 9 September University in İzmir. He retired from Van Development and Housing Administration in 2002. He worked in various fields within the Van Göç-Der (Social and Cultural Development Association for Displaced People) Administration. He has been the President of the Van branch office since 2004.

**Michael M. Gunter** is a professor of political science at Tennessee Technological University in Cookeville, Tennessee, and teaches during the summer at the International University in Vienna, Austria. He is the author of five critically praised scholarly books on the Kurdish question, the most recent including *Kurdish Historical Dictionary*, 2004; *The Kurdish Predicament in Iraq: A Political Analysis*, 1999; and *The Kurds and the Future of Turkey*, 1997. In addition, he is the co-editor (with Mohammed M. A. Ahmed) of *The Kurdish Question and the 2003 Iraqi War*, 2005; and *The Evolution of Kurdish Nationalism*, forthcoming. He has also published numerous scholarly articles on the Kurds in such leading periodicals as the *Middle East Journal*, *Middle East Quarterly*, *Middle East Policy*, *Current History*, *Journal of Muslim Minority Affairs*, and *Orient*, among others. He was a former Senior Fulbright Lecturer in International Relations in Turkey and Israel. He has been interviewed about the Kurdish question on numerous occasions by the international and national press.

**Şinasi Haznedar** graduated from KTU as a Geological Engineer. He was member of the IHD (Turkish Human Rights Association) Trabzon Branch Office from 1997 to 2002. He was also Vice President of Mazlum-Der from 2001 to 2004 and Periodic President of Trabzon KESK (Public Workers Union Confederation) from 1997 to 2000.

**Richard Howitt** is a Labour Member of the European Parliament for the East of England, first elected in 1994. Howitt is Vice-Chair of the Human Rights Sub Committee; a member of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy; and is the Labour European Spokesperson on Foreign Affairs. He is a member of the EU-Turkey Joint Parliamentary Committee, and was recently a member of the Parliament mission to the UN Human Rights Commission in Geneva, and the mission to monitor the Palestinian Presidential elections.

**Eren Keskin** has been working as a lawyer in Istanbul since 1984, and has been an active member of the Turkish human rights association İHD (İnsan Hakları Derneği) since its foundation in 1986. Together with other female lawyers, Eren Keskin founded the project 'Legal Aid For Women Who Were Raped Or Otherwise Sexually Abused by National Security Forces' in 1997.

**Joost Lagendijk** is Chairman of the Interparliamentary Delegation for Turkey to the European Parliament, and also a member of the Committee for Foreign Affairs, Human Rights, Common Security and Defence Policy. Lagendijk is a substitute member of the Transport Committee and member of the Delegation for relations with the Gulf States. He has been a member of the Green Links Delegation to the European Parliament since 1998.

**Luisa Morgantini** studied industrial sociology and economics at Ruskin College, Oxford between 1967 and 1968, and has been a Member of the European Parliament since 1999. She was Chairwoman of the Delegation for relations with the Palestinian Legislative Council from 1999 to 2004 and has also been an electoral observer for the OSCE. She was the coordinator of the Italy-Nicaragua Association from 1979 to 1991. Morgantini is co-founder of the *Women in Black* anti-war movement and the international network *Women for Peace in Conflict Zones*. She has been awarded the Israeli *Women in Black* Peace Prize (1996), and the Colomba d'Oro Prize for peace (2002).

**Mark Muller** is a barrister, currently with Garden Court Chambers. Muller was Head of Chambers at 10-11 Gray's Inn Square from 1998 -2006. He is also a Vice-President of the Bar Human rights Committee (BHRC) and Chair of the Kurdish Human Rights Project (KHRP). He mainly specialises in international human rights and criminal related litigation. Muller has conducted a multitude of cases before the European Court of Human Rights, including *Abdulla Öcalan v. Turkey* and *Issa & Others v. Turkey*. He has also provided advice and representation in human rights related actions brought before the European Court of Justice of the European Union. Muller has been instrumental in devising and providing ECHR training to lawyers throughout Europe, including Turkey, Armenia and Azerbaijan, and has published fact finding and trial observation reports detailing the systematic abuse of human rights in the Kurdish areas of Turkey, as well as numerous legal reports and a book entitled *The Kurdish Nationalist Movement* during the 1990's.

**Margaret Owen** is a British barrister. She further acts as Women and Children Programme Consultant and as a fact-finding mission member for the Kurdish Human Rights Project (an independent, non-political human rights organisation dedicated to the promotion and protection of the human rights of all persons in

the Kurdish regions of Turkey, Iraq, Iran, Syria and elsewhere), which is based in London and has been active since 1992.

**Alyn Smith** is a Scottish National Party Member of the European Parliament for Scotland. In the European Parliament he belongs to the Greens, European Free Alliance. Smith was elected to the European Parliament in June 2004 and sits as a Committee Member on Regional Development. Smith is deputy SNP spokesman for International Relations.

**Ahmet Türk** , born in 1942 in Mardin, attended the Ankara Economy and Trade Science Academy. In 1973 he entered parliament as Mardin representative of the CHP (People's Republic Party). He was a parliamentarian for two terms. Due to the 1980 military coup he was arrested and imprisoned for 22 months, and was barred from politics until 1986. He entered parliament in 1987 for SHP (Social Democrat People's Party) as a Mardin representative. Due to participating in a Kurdish conference in Paris he and 6 parliamentarian friends were expelled from SHP. He was among the founders of HEP (People's Labour Party) and for one term he was the its president. Türk was also the founding member and Vice-President of DEP (Democracy Party) and HADEP (People's Democracy Party). He entered parliament with an alliance of DEP and SHP in 1991 under the name of SHP. His immunity was lifted and he was imprisoned once again in 1994. After staying in prison for 22 months he was released. He is the founder and co-president of the Democratic Society Party (DTP).

**Ufuk Uras** was born in 1959 in Üsküdar, Istanbul. He completed his degree and postgraduate studies at the Economics Faculty of Istanbul University. He was the director of 'Economy Magazine'; and was President of the Association of the Graduates of Economy Faculty (IFMC) and the Staff Members of Education Union (OES). He was President of the Freedom and Solidarity Party (ODP). He is currently lecturing at the Economics Faculty of İstanbul University. Uras was awarded the 'Marxist Research Support' award for his book *The Presentation of Ideologies*. He has also published books entitled, *Another Policy is Possible* and *The Search for Alternatives in Politics*.

**Adem Uzun** graduated from University of Cologne as an Electronic Engineer in 1991. During his student years he became active in the Kurdish social and political struggle. For the democratic resolution of the Kurdish question, he has taken part in many activities, conferences and organisations. He is currently a member of the Executive Council of the Kurdistan National Congress (KNK), founded in 1999.

**Kariane Westrheim** is a University Lecturer and Research Fellow at Department of Education and Health Promotion, University of Bergen. She is a Board Member of the Rafto Foundation in Norway, which awarded Leyla Zana the Rafto Prize in 1994. Kariane Westrheim is Chair of the EU Turkey Civic Commission (EUTCC).

**Francis Wurtz** has since 1999 been Chairman of the Confederal Group of the European United Left - Nordic Green Left. He obtained a University Diploma in Literary Studies in 1968. In the European Parliament he is member of the Conference of Presidents, of the Committee on Foreign Affairs, and of the Delegation to the ACP-EU Joint Parliamentary Assembly. Wurtz has been a full-time Communist Party official since 1973 and has worked in the Communist Party Secretariat since 1976. He has also been a member of the Communist Party national leadership since 1979; in addition, he sits on the Secretariat of the Committee for the Protection of Human Rights. He was Vice- Chairman of the Committee on Development from 1989 to 1999.

**Kerim Yildiz** is a writer, and the founder and Executive Director of the Kurdish Human Rights Project (KHRP), the only independent non-political human rights organisation of its type dedicated to the promotion and protection of the human rights of all people in the Kurdish regions of Turkey, Iraq, Iran, Syria, the Caucasus and elsewhere. KHRP's work has contributed to important reforms in Turkey, including the lifting of the state of Emergency and abolition of state security courts. In 1996 Yildiz received an award from the Lawyers Committee for Human Rights for his services in protecting human rights and promoting rule of law; KHRP was short listed for the Liberty/Justice/Law Society Human Rights Awards in 2004. Yildiz has written extensively on human rights, including numerous essays, articles and book chapters on freedom of expression, national security and minority rights published in English, Turkish and Russian. His most recent publication is *Kurdish Cultural and Language Rights* (2004).

**Leyla Zana** was born in 1961 in Silvan, near Diyarbakır, and was elected to the Turkish Parliament for the DEP (Democracy Party) in 1991. Following the banning of the DEP, Zana was arrested with four other DEP Parliamentarians in 1994, for speaking in Kurdish and other actions when taking was released in June 2004. In July 2007 she called for the establishment of separate regional states within Turkey, including a state of Kurdistan. In 1995 she was awarded the Sakahrov Prize by the European Parliament.









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