

TURKEY AND HUMAN RIGHTS

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As human rights is one of the most important political criteria for accession to the EU, the effort that is put to improve the situation in Turkey resulted in a fast change. Many reforms have been made and legislative measures are strengthened in the scope of the zero-tolerance policy on torture. There have also been many improvements in the civil society dialogue. Besides making the reforms, Turkey considered the implementation of these reforms very seriously. Therefore, many projects have been made aiming at application of these reforms effectively. One example of these is the project of 'Support to the Implementation of Human Rights Reforms in Turkey' that was carried out by Human Rights Presidency. This project included training components for law enforcement officials, trainings for 931 Human Rights Boards in Provinces and Sub-Provinces which are composed mainly of civil society representatives. In the scope of this project there have been activities which aimed at increasing public awareness among the society about human rights and application procedures in case of a violation.

Since last year most of the applications of the allegations of human rights violations have been about property rights. The allegations of violation of right to life and torture are received for only a few cases and these were seriously taken into consideration. Therefore, the nature of the violations that are alleged to be violated are changing as well.

In November 2006, as very significant step in the perception of human rights, Turkey ratified the First Optional Protocol of ICCPR¹ and also signed UN Convention on the Rights of Persons with Disabilities in March 2007 following its adoption by the UN General Assembly.

In order for more progress in the field of human rights, first of all, we would like to improve structural and institutional capacity of human rights. The Human Rights Boards in Provinces and Sub-Provinces conducted more visits to places of detention and the state-sponsored social services this year. However, in order for them to receive more applications and for the Human Rights Presidency to process these applications more efficiently, the Boards and the Presidency need to be strengthened. There is also a need for more public awareness activities so that the Boards and the Human Rights Presidency can become well-known among the society. During the course of these public awareness campaigns we foresee an increase in the applications about violations at the beginning, and then we expect a gradual decrease of the amount of complaints and severe cases received.

Another very important development that we are planning is the transformation of the Human Rights Presidency to an institution more in line with the Paris Principles.²

¹ First Optional Protocol of International Covenant on Civil and Political Rights foresees the recognition of the parties of the competence of UN Human Rights Committee to receive and consider complaints from individuals on human rights violations.

² The decision numbered 1992/54, dated to March 3rd, 1992 by UN Human Rights Commission and the decision numbered 48/134 of the UN General Assembly, dated to December 20th, 1993, relates to the status and functioning of national human rights institutions.

When we look at the EU progress Report of this year, comprising the period between September 2006 and September 2007, there are criticisms on the hindering effects of existing legislation on especially the freedom of expression. The anti-terror law is also criticized. However, for instance, when we look at the other EU member states like UK and France, the anti-terror law in these countries and the regulation of detention periods are far stricter compared to Turkey's practice. In UK's anti terror law, it is possible to condemn people who conduct speeches which are in nature of indirect incitement. Taking this example into consideration, which show the difference in application at home and demand from others, it is difficult to predict when Turkey is going to be less criticized. Despite all these, whether Turkey is criticized or not in the EU Progress Reports, we would like to increase the level of human rights in Turkey so that our citizens can enjoy their rights and freedoms in even a more advanced way compared to many European countries. The accession criteria are not only seen as the criteria that are to be fulfilled but they are seen as necessary for the well-being of our people especially in terms of human rights. We will carry out our work accordingly.

It is obvious that the balance between security and freedoms is hard to achieve. As we mentioned before, for instance, the anti-terror laws in different EU member states, introduce strict measures. We also have some measures so that our citizens can live in peace and security. However we believe that the problems arising from the security measures and restrictions facing freedoms can be surmounted by increased dialogue with the civil society. The correct and complete information transfer to the people is very important in order to solve the problems arising from the balancing between security and freedoms. For instance, when we talk about freedom of expression, according to European Convention of Human Rights, in the article 10(a), it is mentioned that everybody is free to express their opinions and views without having any fear to be prosecuted. However in the second paragraph of the same article, the limits where the freedom of expression can be restricted are mentioned. These limits are presented as to prevent the possible violations of right to privacy of other people and to prevent the possible damages to happen as a result, towards the security of state and to that society.³ Therefore, if we present the freedoms to the society as if they are limitless, this situation may cause the violation of other rights and also may cause tenseness, imbalance between the rights and security among the society. As we said before in order to achieve a good balance between security and freedoms the civil society dialogue and the correct transfer of information about rights to the people is very important.

Unfortunately, as well as the advantages, there are some disadvantages that Turkey has for improving the human rights situation in Turkey. The willingness among the civil society to actively participate the decision making about human rights is not sufficient. This arises from the lack of awareness among the society about human rights. However this disadvantage can easily be surmounted by implementing awareness rising policies and projects.

The advantages of Turkey to improve human rights situation is the tolerance culture that is inherited from the multicultural Ottoman Empire where many different nations and religions lived together for centuries. Another advantage is knowledge that we inherited from that old administration culture. For instance the Ombudsman Institution itself originates from the Ottomans. During the time when the King of Sweden (Karl XII), stayed in the Ottoman Empire, he observed that there was a mediation institution that served as a platform where the citizens and the administrators come together and the administrators listened to citizens' complaints about the administration. This institution served to find solutions to the problems

³ Article 10 (b) of European Convention of Human Rights.

between citizens and the administrators in the Empire. When the King of Sweden went to his country, he established this institution as the Ombudsman Institution in Sweden. This institution is still very important and continues to exist in many European countries.

The Ombudsman Institution will contribute to the improvement of human rights situation in Turkey as well. The Ombudsman Act is already prepared. In terms of its structure and budget it will be in line with the Paris Principles⁴.

The Human Rights Ombudsman will have many different functions besides being a mediator. With its experience and the investment on its human resources the Human Rights Presidency will continue to exist as the backbone of the new institution. Therefore the Human Rights Ombudsman will continue to carry out the coordination role between the other human rights departments, the civil society and the Ombudsman institution besides receiving the regular reports and applications about human rights violations, from the Human Rights Boards in Provinces and the Sub-Provinces. The institution will also conduct internal training activities.

The most important contribution of the Human Rights Ombudsman will be the authorization and the institutional structure will be clear cut. In the mean time the advancement and the capacity improvement activities for the Human Rights Presidency will continue until this institution is established considering the positive effect that it will have on the new institution.

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