

International Initiative Analysis I

# **Human Rights in Turkey 2009: One step forward, two steps back**



International Initiative  
“Freedom for Abdullah Ocalan–Peace in Kurdistan”

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## About us

On the 15<sup>th</sup> of February, 1999, the President of the Kurdistan Workers' Party, Abdullah Ocalan, was handed over to the Republic of Turkey following a clandestine operation backed by an alliance of secret services directed by their corresponding governments.

Disgusted by this outrageous violation of international law several intellectuals and representatives of civil organisations launched an initiative for the release of Abdullah Ocalan. With the opening of a central coordination office in March 1999 the "International Initiative Freedom for Abdullah Ocalan – Peace in Kurdistan" started its work.

The International Initiative regards itself as a multi-national peace initiative working for a peaceful and democratic solution of the Kurdish question with Kurds and Turks peacefully living together.

Even after his imprisonment Abdullah Ocalan is still regarded as the undisputed leader by a majority of the Kurdish people. Hence it seems reasonable to assume that the solution of the Kurdish question in Turkey will be closely linked to his fate in the future. Many Kurds see him as a safeguard for peace and democratisation. Therefore the Ocalan case needs a feasible perspective for a solution. The International Initiative is committed to play its part by intense lobbying and public relations work. Regular publishing and a balanced policy towards the public are a central part of its work.

## About this document

With our series "International Initiative Analysis" we provide insight into topics regarding the Kurdish issue, human rights developments in Turkey and the Middle East and the situation of Abdullah Ocalan.

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### First Signatories of the International Initiative

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# Human Rights in Turkey 2009: One step forward, two steps back

## Introduction

2009 has brought a lot of positive discussions about Turkey's major problem, the Kurdish issue, but little results. The AKP government declared that it wanted to solve the Kurdish issue. To this end a broad dialogue has been set off, taboos broken and many important issues have been addressed in a public discourse that is unprecedented in the near history of Turkey. However, quickly it became clear that the government did not really want a discussion with Kurdish representatives, and thus the dialogue has subsequently transformed more into a monologue.

In this analysis we aim to shed light on the developments in several areas including some lesser discussed topics. We highlight issues related to human rights, political rights, the Kurdish issue in particular and European policies and thus provide an alternative perspective to the "Turkey 2009 progress report" of the European Commission.

## Human Rights

### General observations

The AKP government has recurrently promised to improve the human rights record of the country. The AKP was very vocal in communicating these aims, especially in Europe. However, the figures published by the renowned Human Rights Association (İnsan Hakları Derneği, İHD) show a steady, creeping rise of human rights violation under the AKP government. For instance the number of recorded torture cases rose from 825 in 2005 to 1546 in 2008.<sup>1</sup> While 9 publications were banned in 2004, this rose to an appalling 100 in 2008, and a further rise is expected in 2009.<sup>2</sup>

### Torture

The AKP government came into office with the promise to implement a "zero tolerance policy" on torture. This policy, if at all seriously pursued, can only be described as a failure. Not only have the figures of torture cases and deaths in custody risen continuously throughout the last 5 years. Turkey has also still not ratified the OPTIONAL PROTOCOL TO THE UN CONVENTION AGAINST TORTURE<sup>3</sup>, making the alleged engagement against torture at the least dubious.

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<sup>1</sup>[http://www.ihd.org.tr/images/pdf/1999\\_2008\\_karsilastirmali\\_bilanco.pdf](http://www.ihd.org.tr/images/pdf/1999_2008_karsilastirmali_bilanco.pdf)

<sup>2</sup>ibid.

<sup>3</sup>Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, <http://www2.ohchr.org/english/law/cat-one.htm>

According to human rights organisations, instead of detention centres torture takes place on the streets or before detention, when as yet there are no official records of the person detained. This a direct result of the new police law.

## Police law

The new police law<sup>4</sup> which came into effect in 2007 widened the powers of the police considerably. The most striking result was a remarkable increase in shoot-to-kill action which cost the lives of 53 persons in two years.<sup>5</sup> The Human Rights Foundation of Turkey points to the changes made in the legislation responsible for the deaths. Here we see an example of a legal “reform” that is presented as a progress but in fact contains many drawbacks in terms of human rights.

## Children’s rights

One of the most horrifying development in recent years is the increasing brutality of police and jurisdiction against children. Under the anti-terror law children can now be sentenced as adults before specially authorised assize courts dealing specifically with organised and terrorism crimes. This leads to absurdly high punishments and is in contradiction to the OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT that Turkey has signed and ratified. The “Justice for Children Initiative in Turkey” published an extensive report on this topic.<sup>6</sup> This must be regarded as the consequence of an anti-terror legislation gone mad.

## Political rights

While the closure case against the governing AKP has ended, the closure threat for the DTP, fourth largest party in the Turkish parliament, is still imminent. Other than that, more than 900 party officials and trade unionists have been detained and more than 400 hundred have been imprisoned for the last six months later, still awaiting trial.

While cases for corruption and other accusations are pending against roughly 300 members of the Turkish parliament, the only ones whose trial continues despite parliamentary immunity are the political cases against members of the DTP group in Parliament. A court has decided to bring them forcefully to testify in court.

These massive and discriminatory attacks on legal, democratic politics have dealt a major blow to the allegation that Kurdish rights could be obtained through legal political action. It is difficult to see how the armed Kurdish guerrillas could interpret this attack as an invitation to lay down arms and continue their struggle inside legal parties in the political sphere of Turkey. On the contrary, one cannot help interpreting the police and juridical actions other than major blows to democratic politics and therefore a serious threat for groups that might be ready to disarm.

EU and the Council of Europe were very vocal in condemning the closure trial against the AKP when it was still on the agenda. Without doubt it is right to criticise the ease which with

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<sup>4</sup>Law on Police Duties and Powers or Polis Vazife ve Salahiyet Kanunu (PVSİK)

<sup>5</sup><http://bianet.org/english/health/115284-report-53-people-killed-by-police-in-two-years>

<sup>6</sup><http://www.ihop.org.tr/dosya/cocukadalet/opaceng.pdf>

parties are closed down in Turkey. However it is highly hypocritical to apply this criticism only to the governing party and not to a smaller opposition party. If Europe is to support the process of democratisation, it should clearly condemn politically motivated attacks against all parties in Turkey including the DTP.

## Ergenekon trial

An interesting development is the so-called “Ergenekon” trial against a GLADIO type rightist terrorist network that has killed in the name of the state. Without doubt it is positive that some of these crimes come before a court after they have been covered up rather than investigated by the jurisdiction for many years. Unfortunately alleged or real crimes against the government are in the focus of all investigations, whereas torture, murder and forced disappearances of Kurdish civilians during the “dirty war” in the 1990’s are widely neglected. For these and other reasons<sup>7</sup> the Ergenekon trials are not suited to build up trust in the rule of law.

## New constitution

Turkey is still being ruled with the constitution of the 1980 military coup. This constitution is a major problem before democratisation, and without a new constitution, Turkey’s problems will not be solved. At the core of the problem are the first three articles, defining every person living in Turkey as a Turk. Although the current government insists that this can be interpreted in a way that it does not *exclude* non-Turkish ethnic groups but rather *includes* them on the basis of citizenship of the Turkish Republic<sup>8</sup>, there is little evidence that this is actually the case. Different ethnical and religious groups continue to be excluded as soon as they ask for the rights of their respective groups.

## The Kurdish Issue

### Cultural and linguistic rights

The issue of linguistic rights, one of the key issues for Kurds and other ethnic groups, is still very inadequately addressed. The use of other languages but Turkish is still considered a threat. This is the more appalling since members of the governing AKP—including prime minister Erdoğan—can demonstrate their more or less elaborate Kurdish at every occasion they like. But as soon as Kurdish politicians do this, the use of Kurdish remains to be prohibited. One of the most tragicomic incidents of 2009 is the criminal prosecution of Medya Örmek, a 9 year old girl, for teaching neighbouring children Kurdish.<sup>9</sup>

The introduction of Kurdish state television (TRT6) is normally touted as a major achievement by the Erdogan government. While this is clearly a progress, we can see the emergence of double standards: While the state is allowed to use Kurdish, Kurds aren’t. Private televisions that want

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<sup>7</sup>Some of the other reasons are covered in Gareth Jenkins’s report “Between Fact And Fantasy: Turkey’s Ergenekon Investigation“ , <http://www.silkroadstudies.org/new/docs/silkroadpapers/0908Ergenekon.pdf>

<sup>8</sup>As seen in the governments reply to the Hammarberg report, see footnote on the following page

<sup>9</sup><http://bianet.org/english/english/116778-mayor-defends-child-prosecuted-for-teaching-kurdish-at-home>

to broadcast in Kurdish are bogged down by a plethora of restrictions. And—most important of all—Kurdish is still non-existent in the public education system. Even a planned faculty for Kurdish at a university cannot be called “Kurdish language” or “Kurdology”; it will be called “faculty for living languages”. All this shows that the general mentality towards the use of Kurdish has not changed.

On 1 October 2009 Thomas Hammarberg, Commissioner on Human Rights of the council of Europe, issued two comprehensive reports on Turkey. One of them deals with the human rights of “minorities”, as they are called in the report.<sup>10</sup> The sheer number of problems that Mr Hammarberg points at and the fact that Turkey still signed neither the UNESCO CONVENTION ON THE PROTECTION AND PROMOTION OF THE DIVERSITY OF CULTURAL EXPRESSIONS of 2005<sup>11</sup> nor the Council of Europe’s FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES (FCNM)<sup>12</sup> shed light on how Turkey avoids to make real commitments in regard to ethnic and religious groups other than Turkish Sunnites. Whether she will follow the commissioner’s recommendation and sign and ratify said conventions will be an important litmus test for Turkey.

## The Ocalan case

One of the cases of human rights violations that at the same time is bearing high significance for the Kurdish people is the imprisonment situation of Abdullah Ocalan. While he is being hailed by millions as the symbol for the struggle for Kurdish rights and regarded by many, including the political party DTP, as the natural person to speak with about a peaceful solution to the conflict, the Turkish government still refuses to grant him even the basic rights that exist for all prisoners in Turkey. In a very unusual move Council of Europe’s anti torture watchdog CPT visited the isolation prison of Imrali Island four times and published no less than four reports<sup>13</sup> on Ocalan’s situation, denouncing his prison conditions as “*indisputable isolation*” and underlining that “*whatever the circumstances, there can be no justification for keeping a prisoner in such conditions of isolation for eight and a half years*”<sup>14</sup>. Another 18 months have passed since, but the isolation continues to date.

We have therefore insisted that an end to this isolation torture must be the first step if the Turkish government is seriously interested in gaining the trust of the Kurds. But even regardless of such political reasoning, the European Union must insist that human rights standards apply universally and cannot be disregarded in special cases. Such a hypocritical and tactical approach only encourages those inside the Turkish bureaucracy who already also have a merely hypocritical and tactical approach to human rights.

## Military operations

Since the beginning of 2009, there have been more than 50 military operations conducted against the forces of the PKK related People’s Defence Forces (HPG). These operations resulted in at least

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<sup>10</sup>“Turkey” at [http://www.coe.int/t/commissioner/WCD/visitreportsbycountry\\_en.asp#](http://www.coe.int/t/commissioner/WCD/visitreportsbycountry_en.asp#)

<sup>11</sup><http://unesdoc.unesco.org/images/0014/001429/142919e.pdf>

<sup>12</sup><http://www.coe.int/t/dghl/monitoring/minorities/>

<sup>13</sup>CPT’s reports are published at <http://www.cpt.coe.int/en/states/tur.htm>

<sup>14</sup><http://www.cpt.coe.int/documents/tur/2008-13-inf-eng.htm>

35 guerrilla casualties and an unknown number of casualties on the part of the Turkish army. Military activity of the Turkish Armed Forces is not limited to this, however. On 28 September 2009 Ceylan Önkol, a 12-year old shepherd girl, was blasted apart by a mortar grenade fired in broad daylight from a military base. The investigation in this case has been declared secret, the army denies any wrongdoing.<sup>15</sup>

There seems to be a widespread misconception about the character of Turkey's military operations. Military operations as the Turkish armed forces conduct them, are not aimed at establishing security. They are attacks against guerrilla units who have held up a *de facto* cease-fire since early 2009. Attacks on an armed force will inevitably provoke defensive action, thus causing death on both sides of the conflict. The military operations of the Turkish armed forces are thus *creating* an atmosphere of conflict that impedes any peaceful resolution.

Fatal in this regard is also the third prolongation of the mandate for the army to conduct cross-border attacks into Iraq. Giving the military a 12 monthly "carte blanche" for incursions into a neighbouring country in violation of international law bears a high risk of destabilising the whole region and gives the enemies of peace the trump card they long for.

## Europe's role

The promotion of human rights and conflict resolution need many actors. During the last years, many European governments and institutions have unilaterally supported the AKP in the belief that this government with their comfortable majority in parliament might solve Turkey's problems. This has encouraged Erdogan's government even more to go ahead with their own agenda without listening to NGOs, academics or circles providing alternative perspectives on Turkey's major conflict, the Kurdish issue, which is still claiming human lives.

Instead of supporting a political process for a peaceful solution of the ongoing armed conflict, Europe preferred to stay silent on this crucial issue. In today's Turkey, nobody believes anymore that the issue can be solved with so called "anti-terror"-measures. While political commentators from the whole political spectre have started to recommend an inclusion of Abdullah Ocalan and the PKK into the discussion process, the discourse in Europe is lagging far behind this. No one has ever heard the European Union recommend a ceasefire or a dialogue with the PKK—let alone seen practical steps to support and implement such a recommendation. However it is overly clear that an ongoing armed conflict is an obstacle for democratisation. The irony of this situation lies in the fact that the demands of the armed Kurdish opposition for recognition of the Kurdish identity and Kurdish culture differ very little if at all from the reform demands of the European Union. The fact that Turkey still denounces these demands as "separatist" should make Europe very suspicious about the sincerity of Turkey's will to actually implement further reforms.

Applying double standards in regard to the closure cases against AKP and DTP does not help. It is also counterproductive to follow Turkey's paradigm of confusing the Kurdish issue with a terrorism issue. By labelling all kinds of Kurdish political activities as "terrorist", Europe does nobody a favour. Instead Europe should actively encourage conflict resolution activities and dialogue between all relevant sides in this conflict—including the PKK.

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<sup>15</sup>Several articles at <http://www.bianet.org/konu/ceylan-onkol>

## Conclusion

While Turkey's AKP government periodically manages to create optimism or even enthusiasm about accomplished or planned reforms, a closer look often reveals a more bleak reality. The "Kurdish initiative" that was later re-labelled to "democratic initiative" and even later "project of national unity" has not produced any palpable results yet. The military operations continue. The police operations against the DTP continue. Small steps in the field of cultural and linguistic rights lag far behind the expectations. Until now, the "initiative" has produced little more than a hype.

Everybody interested in the further development of human rights in Turkey, including the European Union, should make sure Turkey's real problems are addressed first: Without a genuine and sincere peace process in which the reasonable demands of the Kurdish people are addressed in a proper manner, all reforms must remain patchwork without real substance. Until now, AKP has not shown a real interest in solving the Kurdish issue. Half-hearted attempts may cause more problems than they solve.



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