

NEWSLETTER CIVIL RIGHTS IN SOUTHEAST ANATOLIA

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STATUS OF THE USE OF KURDISH LANGUAGE REGULATIONS IN TURKEY

Since its foundation Turkey has been anxious to insist on the use of Turkish language not only by the administration and authorities, political groups and law but also in public and private, in schools and universities, in media and publications. This has not hindered quite a number of non-Turkish citizens in this country to continue using their mother tongue and not to speak or understand the official country language. The authoritarian way of insisting on the use of Turkish language has made the refusal of Turkish and the use of other languages particularly among the several million Kurdish citizens in the Southeast of the country a political issue and an ideological and national question. But today young generations also lose contact to the Kurdish language. During our seminars in Tunceli a poll among locals in this historic Kurdish town found that less than 20% in town understand or speak Kurdish. The elder generation – particularly women – however often does not understand Turkish and thus has no or little access to important messages from the authorities for example in time of security measures against the bird flu.

With the EU approach of Turkey quite a number of reforms have been voted by the parliament and laws banning Kurdish language have been lifted. Though restrictions often remain on the local and regional level, administrative regulations restrict the use of Kurdish in media, local governments are brought to court when they publish in this language.

Ending discrimination and fear is not only a matter of changing laws. It needs time to be adapted by judges and police, authorities and the public. The EU promotes the use of Kurdish language not only to assist women in Southeast Anatolia but also to help to include these citizens into the Turkish society and to end a century long exclusion from the country's social and economic development.

The Commission report concludes: "A return to normality in the Southeast can only be achieved



Do you speak Kurdish?

by opening a dialogue with local counterparts. A comprehensive strategy should be pursued, to achieve the socio-economic development of the region and the establishment of conditions for the Kurdish population to enjoy full rights and freedoms. Issues that need to be addressed include the return of internally displaced persons, compensation for losses incurred by victims of terrorism, landmines as well as the issue of village guards."

I. The Turkish constitution

Article 3: "Turkey is with its territory and people an indivisible unity and its language is Turkish." -
Article 4: "The language cannot be changed and all demands for a change are banned."

History

The Constitution of 1982

Article 26 Freedom of expression

Par. 3: The expression and distribution of opinions may not be done using a language that is forbidden by law

Article 28 Regulations about the press and publications

Par. 2: Publications in a language forbidden by law is not permitted.

On 13 October 1983 the Kurdish language was totally forbidden in a specific law outlawing publications in any other language than Turkish. On 15th January 1991 this law has been lifted.

With the reform of the penalty laws the special article of anti-terrorism laws foreseen for a certain time period in Turkey has been lifted.

By the new law adopted on 3rd of October 2001 article 26 has been changed and article 28 par. 3 has been deleted.

Article 42 of the 1982 Constitution is still valid:

Article 42 Right and obligation for education and formation

Turkish citizens may not be educated in public education and formation institutions in another language than Turkish.

With the enforcement of law no. 2923 in 1983 the Education Ministry adopted a regulation in 1983, which regulates in article 2a and c of law 2923 on education and formation of foreign languages of the year 1983 that the „council of ministers upon advice of the suggestions of the national security council decides on those foreign languages which may be taught in Turkey.” Thus Kurdish language has been outlawed without mentioning it by name.

Turkey’s approach to **minority rights** has not changed. According to the Turkish authorities, under the 1923 Treaty of Lausanne, minorities in Turkey consist exclusively of non-Muslim religious communities. The minorities associated in practice by the authorities with the Treaty of Lausanne are Jews, Armenians and Greeks

The **TURKEY 2006 PROGRESS REPORT**

adopted on 8 November 2006 **by the European Commission** (COM (2006) 649 final) states that “some progress can be reported in the area of broadcasts in languages other than Turkish at local and regional level.” But freedom of expression is not yet guaranteed by the actual legal reforms.



IFIAS Women workshop in Tunceli 11-15 March 2007

In April 2006, a Kurdish association was ordered to close by a Court in Diyarbakır on the grounds that its statute included the objectives of setting up a Kurdish archive, museum and library and that its activities would be carried out also in the Kurdish language, says the report.

In February 2005 the OSCE High Commissioner on National Minorities visited Ankara to discuss this issue with the Turkish government but ever since no progress has been made.

The European Commission report suggests:

“The deepening of such a dialogue between Turkey and the OSCE High Commissioner on National Minorities is necessary. It needs to include relevant areas such as minority education, minority languages, the participation of minorities in public life and broadcasting in minority languages.”

“This would facilitate Turkey’s further alignment with international standards and best practice in EU Member States to ensure cultural diversity and to promote respect for and protection of minorities.”

Turkey’s reservation towards the UN Covenant on Civil and Political Rights (ICCPR), regarding the rights of minorities - to which a number of EU Member States objected as being incompatible with the object and purpose of this Covenant - and its reservation to the UN Covenant on Economic, Social and Cultural Rights (ICESCR), regarding the right to education¹², are of concern. The reservation stated by Turkey reads as follows: “The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes.”

Turkey has not signed the **Council of Europe Framework Convention for the Protection of National Minorities** or the European Charter for Regional or Minority Languages. The 2005 recommendations of the European Commission against Racism and Intolerance (ECRI) on school curricula and textbooks as well as on the functioning of minority schools have not been recognised by Turkey.

Further efforts are also needed to remove discriminatory language from Turkish textbooks. The management of minority schools in Turkey including the dual presidency remains an issue of concern, suggests the EU Commission.

As regards **cultural rights**, permission was granted to two local TV channels in Diyarbakir and to one radio in Şanlıurfa to broadcast in Kurdish. However, time restrictions apply, with the exception of films and music programmes. All broadcasts, except songs, must be subtitled or translated in Turkish, which makes live broadcasts technically cumbersome. Educational programmes teaching the Kurdish language are not allowed.

The Turkish Public Television (TRT) has continued broadcasting in five languages including Kurdish. However, the duration and scope of TRT's national broadcasts in five languages is very limited. No private broadcaster at national level has applied for broadcasting in languages other than Turkish since the enactment of the 2004 legislation.

The European Commission deplores also, that "children whose mother tongue is not Turkish cannot learn their mother tongue in the Turkish public schooling system. Such education can only be made by private education institutions."

As concerns Kurdish all such courses were closed down in 2004. Therefore, there are no possibilities to learn Kurdish today in the public or private schooling system. Furthermore, there are no measures taken to facilitate access to public services for those who do not speak Turkish.

According to the Kurdish Institute in Diyarbakir the facilities for private Kurdish courses were subject to complicated administrative orders for registration. The private institute had to prove that they were not giving Kurdish courses for free but that participants had paid relevant fees (which were in most cases too expensive) Otherwise the institution was closed by administrative order, IFIAS has been told in November 2006.



Participants of the Tunceli women seminar 11-15 March 2007

SEMINAR FOR TURKISH JUDGES AND PROSECUTORS IN DIYARBAKIR

The Council of Europe and the European Community are based on the same values and pursue common aims with regard to the protection of democracy, respect for human rights and fundamental freedoms and the rule of law. These common aims have led the Council of Europe and the European Commission to develop a very tight network of relations and cooperation links (participation of the European Commission to meet Council of Europe activities, accession of European Union to Council of Europe Conventions, etc.). One significant instrument of this cooperation is the conclusion since 1993 of a number of joint programmes, for essentially cooperation with countries which have joined the Council of Europe since 1989. The same countries have developed increasingly close links with the European Union, or have applied for membership. By combining forces in this way, the complementarities of respective activities of the European Commission and the Council of Europe have been enhanced. In April 2001 an important step was taken through the signature by the European Commission and the Council of Europe of a Joint Declaration on Cooperation and Partnership, which, among other things, offers more systematic means of joint programming and priority-setting.

In this context, the Council of Europe implements projects funded by the European Commission in Turkey in co-operation with Turkish governmental institutions. As starting from December 2006, the Council of Europe has started to implement "Project on Support for the Implementation of Human Rights Reforms in Turkey" in co-operation with the Human Rights Presidency of the Turkish Prime Ministry, the Ministry of Interior, and the Ministry of Justice. The project aims to enable Turkish officials, in particular judges, prosecutors, judicial inspectors, governors, high-ranking police and gendarmerie officers to take into consideration European human rights standards and use the European Convention on Human Rights and the case law of the European Court of Human Rights in their daily work. On 22 and 23 February 2007, a seminar for Turkish judges and prosecutors on "The Implementation of the Criminal Code in Light of the ECHR, the Freedom of Expression, and

Freedom of Assembly and Association" was organised in Diyarbakir. 50 participants -judges and prosecutors- has attended the two-days seminar and both international experts of the Council of Europe and local experts of the Turkish Ministry of Justice have delivered speeches on "Overview of fundamental rights and freedoms guaranteed under Article 10 and 11 of the ECHR", "The protection of freedom of expression (Article 10) and freedom of assembly and association (Article 11) in Turkish legislation and practice", and "Article 10 and Article 11 of the ECHR and possible restrictions", "The case Law of the Turkish Court of Cassation within the scope of fundamental freedoms guaranteed under Article 10 and Article 11". During the seminar, Turkish judges and prosecutors have also found opportunity to discuss with international and national experts on the mentioned questions and issues in theory and in practice.

At the end of the seminar, both Turkish authorities as the beneficiary party and the Council of Europe officials as the experts and the organisers have found the activity in Diyarbakir, Turkey very fruitful.



2006 Campaign for freedom of speech and non-violence of the Turkish Human Rights Association and Mazlunder

Chapter 10: Information society and media

Extract from the Commission report

In the area of **media and audiovisual policy**, Turkey's level of alignment with European standards and the EC audiovisual *acquis* is limited. Progress on most of the related priorities of the Accession Partnership is lagging behind considerably.

Despite progress made in terms of legislation and the entry into force of the new Penal code, freedom of expression is not yet guaranteed by the current legal framework. Defamation is a criminal offence carrying prison sentences. In addition, the new Anti-Terror Law, recently adopted by the Parliament, expands the scope of crimes punishable as terrorist acts and includes restrictions on the news media. So far, the circulars issued by the Minister of Justice to the judiciary failed to ensure application of the provisions of the Penal Code in accordance with European standards (*see also section on human rights and the protection of minorities*).

Alignment with such standards in the media area is very limited.

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As regards access to radio/TV broadcasting, progress was achieved on broadcasts in languages other than Turkish at local and regional level. However, in accordance with the regulation on TV and radio broadcasting in other languages and dialects used by Turkish citizens (2004), TV broadcasts remain limited to 45 minutes per day, 4 hours a week. Radio broadcasts are limited to 60 minutes per day, 5 hours per week. The Radio and Television Higher Council (RTUK) decided in May 2006 to lift these restrictions as far as music and cinematographic works are concerned.

However, as this decision was not officially communicated to broadcasters, they refrained from exceeding the previous limitations for fear of sanctions. News and current events continue to be subject to time limitations. Live broadcasts are not banned, but rendered very difficult in practice by the requirement for subtitles or consecutive translation of all programmes. Broadcasts cannot be educational programmes teaching the Kurdish language or directed at children, and have to be accompanied by Turkish subtitles. An appeal against this regulation is pending. Out of twelve applications, three media outlets received authorisations and started broadcasting in Kurdish dialects (*see also section on human rights and the protection of minorities*).

On the national level, the Public Turkish Radio and Television Corporation (TRT) is broadcasting in Bosnian, Arabic, Circassian, Kirmanji and Zaza. However, these emissions are limited to five days a week, 30-35 minutes daily and only cover news, sports, music and documentaries, and not, for example, children's programmes.

II. Law on political parties

Article 81 b: "Political parties may promote no other language and culture than the Turkish language and culture. They are not allowed to represent minorities harming the unity of Turkey."

- Article 81-c: "Political parties are allowed in writing their statutes or program to use no other language than Turkish. All publications inside or outside a party congress, in manifestations and propaganda are not allowed to use other language than the Turkish language." (...) "Party constitution and program may only be translated into languages that are not forbidden by law."

According to this Law on Political Parties, the use of languages other than Turkish is illegal in political life. The court case against the Rights and Freedoms Party (HAK-PAR) regarding a speech in Kurdish continues. DTP arrests in February/March prior to the Nevroz Festival were mainly based on accusations related to party posters and publications using Kurdish language.

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Diyarbakir Sur Municipality faces investigation due to "Kurdish wall posters"

Ministry of Interior, launched an investigation into Sur Municipality due to putting Turkish and Kurdish (in both Kurmanc and Zaza/Dimili dialects) wall posters up around district to promote

Human Rights Week. Previously a number of investigations were launched against Sur Municipality due to her multilingual services and activities.

Now as a continuation of these investigations, the Ministry of Interior has launched another investigation into Sur Municipality due to putting up multilingual wall posters which were prepared for the Human Rights Week activities in December 2006. "Human is human with his/her rights" was written on them in Turkish and Kurdish ("Insan, haklariyla sandir", "Mirov bi mafkn xwe mirove", "Merdim bi mafkxo merdimo"). Sur Municipality put posters up in various places of district on 10 December 2006.

One of the latest and most serious of these investigations was about the Sur Municipal Assembly's decision toward providing municipal services in local and international languages (Kurdish, Arabic, Syriac, Armenian and English) on 06 October 2006. Although most of the previous cases and investigations ended with dismissal of proceedings (nolle prosequi) or acquisition of municipality from all charges, upon the news about decision in press on 5 January 2007, The Ministry of Interior launched an investigation with the Municipality. Later, The Ministry of Interior, upon the ministry's inspector general's report regarding the decision as an act violating the Constitution, appealed to the State Council to dismiss the mayor and dissolve the Sur Municipal Assembly. The case is still before the State Council and the court's decision is expected in the near future



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PRESS RELEASE

Eight court cases against the Diyarbakir Mayor

The mayor of Diyarbakir Metropolitan Municipality, a lawyer and former vice president of the Human Rights Association OSMAN BAYDEMİR is facing several public prosecutions

#1 At Diyarbakır 2nd Peace Criminal Court is case no. 2006/524: The Mayor has sent invitation cards for a New Year reception in 2006 to deputies of the Turkish Parliament, Ministries, Prime Minister and President in Turkish, English and Kurdish, language. Deputies complained against him for using a Kurdish invitation text. The trial will be held on **19.04.2007**. The accusation is based on **Article 222/1, 53 and 58** (*using letters not belonging to the Turkish Alphabet*). The imprisonment period can be from two to six months.

#2 At İstanbul / Bağcılar 2. Criminal Court is case no. 2006/233: The Mayor was quoted in the Magazine "Tempo" regarding the Kurdish Question on 14.01.2006. A case was launched against the Mayor. The next trial will be held on **12.04.2007**. The referred article is 216/2 (former 312) and 218 which can lead to imprisonment from six to twelve months. As the Mayor's statement was issued in a magazine, Turkish penal Code (art 218) may raise the sentence by a half in this case up to 18 months). During the first trial the public prosecutor asked from the Court to reject the acquittal and give immediately an imprisonment sentence to the Mayor. The court declined this request. So the next trial is on 12 April is decisive.

#3 At İstanbul / Bağcılar 2. Criminal Court, case no. 2006/303: Another Mayor's quote has been issued in the "Tempo" Magazine regarding the solution of the Kurdish question, the isolation of the region and human rights violations on 06.04.2006. A case was launched against the Mayor and the next trial will be held on **26.04.2007**. The referred article is 216/2 (former 312) and 218 which regulates an imprisonment sentence from six to twelve months). As the speech was issued in a magazine the Turkish Penal Code (art 218 may increase the prison term by 50%)

#4 At Diyarbakır 6th Heavy Criminal Court, case no.06/199 : During the incidents during demonstrations on and after 28 March 2006 in Diyarbakir, 10 people (8 of them were children) have been killed by police. There is NO investigation, case or administrative interrogation of the police until now; however as Osman Baydemir tried to stop the incidents he is now accused of Article 314 of TPC (aiding of illegal organisation) which regulates imprisonment sentence from 5 years to 10 years. On **20.03.2007** the next trial will be held and as it is the last trial in this case a foreign fact finding mission would be most important. The court will give a final decision on this very day.

#5 At Diyarbakır 5th Heavy Criminal Court, case no. 06/205: 56 mayors of the Democratic Society Party, including Osman Baydemir sent a letter to Mr Rasmussen, the Prime minister of Denmark, on December 2005 requesting not to close down Roj TV as there is no right to broadcast in Kurdish mother tongue in Turkey. The Mayors are accused of Article 314 of TPC (aiding of illegal organisation) which regulates imprisonment sentence from 5 to 10 years). The next trial on this case is on **13. 03. 2007**.

According to Turkish Legislation court cases against a Mayor require approval of the Ministry of Interior in Ankara. Approving six court cases against the Mayor of Diyarbakir because of his requests for safeguarding Kurdish language is not the direct road to the European Union.

Public threats against prominent reform politicians and democratic leaders must come to an end.

Diyarbakir, 13 March 2007

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