



European network against racism

# ENAR Shadow Report 2010-2011

## ENAR SHADOW REPORT

### Racism and related discriminatory practices in Turkey

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Human Rights Research Association (HRRA)

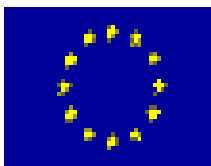
Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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## I. Executive summary

In Turkey, globalisation and a transformation of the national identity are happening very quickly, thanks to the increasing modernisation of the country. However, some ethnic, religious, and cultural minority groups face nationalist and discriminatory disadvantages. Nationalism, which has escalated in recent years, can cause intolerance and discrimination against minority ethnic and religious groups and in some cases even cause hate crimes. Kurds, religious groups, and Roma people are the groups which face such crimes the most. The developments concerning the basic problems faced by groups that are vulnerable to discrimination in Turkey can be listed as follows:

**Employment:** There was unemployment in general in 2010 because of the economic crisis. Refugees and other vulnerable groups suffered from this problem. As the required legal arrangements have not been made yet, refugees cannot work legally in Turkey. As for Kurds, they usually have to work seasonally and for very low wages.

- The necessary amendments should be made to the Law in order to enable refugees to work legally.
- By means of passing the required laws, all workers in Turkey, including those with a Kurdish background, must be paid the same wages for the same work.

**Housing:** Refugees and Roma people have the most serious problems in terms of housing. Moreover, there was clear ill treatment towards Roma in the urban planning in many cities, especially in Istanbul, in 2010. Roma people are often forced to leave where they live and such evictions are publicised as being carried out in order to fight against crime, this leads to an exacerbation of integration problems. Refugees have to take shelter in satellite cities, and they are not given housing support or similar supports, which causes them to live in very bad conditions. Furthermore, “guest houses”, where the refugees are detained, are known as places where many people are kept under substandard conditions and their human rights are violated.

- Urban planning must ensure fair treatment of Roma.
- Refugees need to receive better housing support.
- The conditions in refugee ‘guest houses’ must be drastically improved by the government.

**Education:** The problems concerning education differ between the groups. The education of refugees’ children is an issue: they cannot have full access to education because of the fact that their future is unknown according their legal status. Moreover, refugee children face language problems in education. The Ministry of National Education should make a special integration program for primary education so that the children of refugees are enabled to overcome the social problems they face at school.

**Health:** There are some problems for vulnerable groups such as refugees and Roma when trying to access health services. Although refugees have been given the legal right to make use of health services, they face different levels of receptiveness in health institutions depending on the provinces that they are located in.

- There should be a common standard national procedure for all health institutions concerning healthcare for refugees.
- Legal arrangements should be made to ensure and facilitate refugees' right to have access to the health services.
- Roma people should be aided in obtaining social insurance documents in order for them to be able to access health care services.

**Criminal justice, policing, and ethnic profiling:** It is well known that security forces are prejudiced towards foreigners and Roma people. As there is a lack of accountability or significant punishment for prejudiced or discriminatory behaviour by the security forces, there is no real deterrent for them.

- The measures which are taken with the aim of strengthening security should not cause the elimination or weakening of fundamental rights and freedoms

**Racist violence and crime:** Racist attacks increased in 2010, especially in the second half of the year. There were several attacks reported in the media, especially on people of Kurdish origin. It was also reported that there were attacks on people from minority groups. Furthermore, racist hate speech by politicians in the run up to the general election, which was held on 12 June 2011, is thought to be linked to the rise in racist violence

- Highly publicised convictions of perpetrators of racist crimes are necessary to deter such behaviour and to avoid a sense of impunity.
- There must be legal restrictions on the use of hate speech and accountability for politicians who engage in such practice.<sup>1</sup>
- A new law should be introduced in terms of the punishment of hate crimes.

**Access to goods and services in the public and private sector:**

Discriminatory and racist attitudes are often directed at minorities when they try to access goods and services. Vulnerable groups are likely to face such problems in hospitals, police headquarters, schools, and shopping centres.

- Awareness campaigns and training should be targeted at those working in the provision of goods and services in order to overcome discriminatory attitudes.

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<sup>1</sup><http://bianet.org/english/minorities/111513-president-files-lawsuit-against-parliamentarian-for-accusing-him-of-armenian-origin>, accessed 25 October 2011.

**Media, including the internet:** Due to the fact that internet use is more widespread throughout the nation, racist and xenophobic discourse can be spread more easily. Websites which attack different beliefs and ethnic groups are common and are especially favoured by the youth. It was also observed that politicians used nationalist discourse and hate-based language in their speeches in preparation for the general elections in June 2011 and this was widely published by the national media, including on the internet.

- Media should be monitored in terms of language that constitutes hate speech, xenophobia, and discrimination.
- Deterrent arrangements should be made to prevent hate speech in the media.

**Political and legal developments in anti-discrimination:**

The law draft, which was prepared in 2010, on fighting against discrimination and the establishment of an independent Turkey Equality Institution, caused a positive attitude amongst the public. This law is aimed to protect and ensure the rights of disadvantaged people. Moreover, the work of NGOs for the elimination of discriminatory practices increased during this period.

- In parallel with the contemporary world movements and based on a multicultural axis, Turkey should make policies that do not cause any ethnic, cultural or religious group feel “otherized” and that contribute to the creation of a common area for living for all groups and the creation of a private area for each group so that they can sustain their existence.
- Education for raising awareness of discrimination, racism, and hate crimes should be given to all politicians, public figures, officials, and civil servants.

**Migration and integration:** Migration and asylum seeking were issues which the members of government and bureaucrats worked on in cooperation with NGOs in 2010. Talks were carried out so that the conditions of admission centres for refugees will be developed in a manner that will ensure that they will cease to violate human rights. However, refugees cannot sufficiently access services such as accommodation, health care, and work because of the fact that they have an indefinite status. The fact that refugees do not have any economic support in the satellite cities, and that there are legal obstacles preventing them from working, weakens their possibilities for adaptation and social participation. Thanks to the Government’s aim to eliminate the problems faced by the Roma people, the ‘Roma People Initiative’ is about to be applied. In particular the urban transformation projects were discussed by civil society in terms of their influence on Roma people.

- A concept of citizenship grounded in universal values and human rights should be promoted to minorities and the general public in order to facilitate integration and encourage interaction between minority and majority groups.

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### III. Introduction

2010 saw very important developments in terms of the history of democracy in Turkey. There was an indictment against the Ergenekon Terrorist Group, which is an illegal structure created by militarist and anti-democratic state structures, and also the 'Balyoz' (Sledge Hammer) legal case began, investigating the Junta construct in Turkish Armed Forces.<sup>2</sup> These cases broke new ground in terms of democracy in Turkish political and legal history and also caused polarisation between communities. This polarisation was clearly visible during the process of the Constitutional Amendment Referendum which was held on September 12 2010 and received 58% of votes in favour. It continued by means of public and political discourse consisting of subject matter such as "the future of the secularist regime", "life styles", and "nationalism". This polarisation, which appears in many areas from domestic policy to foreign policy and from daily political stances to plans for the future, caused huge potential for discrimination from nationalists when it was added to the previously existing polarisation over the other problems in Turkey such as the Kurdish issue, the Allewi issue and the headscarf issue. There were racist attacks on Kurds in the Inegöl district of Bursa province and Dört Eylül district of Hatay province, in summer of 2010<sup>3</sup> which obviously proved that discriminatory nationalists potentially pose danger whenever they have an opportunity.

This report analyses the effects of the nationalist and discriminatory attitudes in question throughout the whole of Turkey. It focuses on the developments between March 2010 and March 2011, and highlights the groups who are most frequently subjected to racism and discrimination. For the first time, it lists these groups in accordance with the degree of racism that they are subjected to: refugees, Asians, asylum-seekers, Kurds, Roma people and religious minorities.

In the following parts of the report, examples are provided about how vulnerable groups are subject to discriminatory treatment, nationalistic oppression, and nationalist attacks, and this is analysed in detail. Suggestions for draft legislation and basic policies against racism and discrimination are outlined in the report and various important recommendations are made.

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<sup>2</sup><http://www.todayszaman.com/news-248724-34-balyoz-generals-admirals-may-be-forced-to-retire-at-yas.html> accessed 14 December 2011.

<sup>3</sup> For more information on these attacks please see: Migrant Rights Group International 'State of the World's Minorities and Indigenous Peoples 2011 Events of 2010' p. 203 <http://www.hrw.org/sites/default/files/reports/wr2011.pdf>, accessed 25 October 2011.

## IV. Communities vulnerable to racism and discrimination

The population of Turkey includes people from many ethnic, religious and cultural identities. Moreover, it is a country of passage because of its geographical position. The groups most vulnerable to racism and discrimination in Turkey are as follows:

### **Refugees and Asylum-seekers:**

Turkey, which is a party to 1951 Convention, which is relevant to the EU' Legal Status of Refugees and 1967 Protocol,<sup>4</sup> continues to apply geographical limitations in regard to the right to asylum.<sup>5</sup> According to the "geographic limitation" only refugees who come from the European Council member countries have the right to apply for refugee status in Turkey, but those who come from other countries, such as Middle Eastern, Asian, or African countries, are not permitted to apply for asylum.

Therefore, non-Europeans who seek refuge in Turkey are handled by the UNHCR. The refugees who do not come from the continent of Europe have to make an application with the authorities of Turkey as well as with the UNHCR because of parallel status determination applications.<sup>6</sup> The nationalities of the refugees, asylum-seekers, and immigrants in Turkey are different. Most refugees applying for asylum in this way in Turkey in 2010 were from Iraq, Iran, Afghanistan and Somalia, and they were fleeing their home countries due to threat to life or security as a result of regional upheaval, poverty and continual armed conflicts. According to the data provided by the Directorate General of Security Affairs, 6736 people submitted asylum requests in 2009 and 8653 persons made asylum applications in 2010. The provided figures indicate that the number of those who want to be included in the asylum-seeking procedure has increased. The General Directorate of Security Affairs revealed that 176.944 foreigners had their residence permit continued in 2010 (including those who work and who are students).<sup>7</sup>

In regard to the age of refugees in Turkey: 70% of refugees are between the age of 18 and 59. The proportion of refugee children who are under 18 years old is 30% of all refugees, and the ratio of female refugee children to all refugee children is 40%. Therefore, the needs and problems of this group, which is considered vulnerable, should be dealt with systematically.<sup>8</sup>

<sup>4</sup> <http://www.unhcr.org/pages/49da0e466.html> accessed 14 November 2011

<sup>5</sup> For more information please see <http://bianet.org/english/world/131856-turkey-sticks-to-limited-application-of-the-geneva-convention>, accessed 27 October 2011.

<sup>6</sup> 'In countries where Refugee Status Determination (RSD) is conducted either by the government or jointly by the government and UNHCR, the Office may occasionally carry out RSD under its mandate in parallel procedures for reasons related to protection and/or durable solution' <http://www.unhcr.org/4ce531e09.pdf>, accessed 27 October 2011.

<sup>7</sup> <http://ihad.org.tr/aciklama-130510.php>, accessed 17 July 2011.

<sup>8</sup> [http://www.egm.gov.tr/egm\\_iltica\\_siginmaci\\_istatistigi.htm](http://www.egm.gov.tr/egm_iltica_siginmaci_istatistigi.htm), accessed 10 August 2011



There are about 1500 Chechnian refugees living in Turkey. Most of them live under very tough conditions in the Ümraniye, Beykoz, Fenerbahçe and Yalova camps as well as in leased houses in various districts of Istanbul such as Başakşehir, Zeytinburnu, Sefaköy and Beylikdüzü.<sup>9</sup>

Considering **unaccompanied children**: the Social Services and Child Protection Agency, has very important functions in regard to unaccompanied children's access to shelter, education, and health services, but does not provide protection to unaccompanied children because of the fact that it has a limited capacity and does not have staff that are trained in refugee and asylum issues. According to the notice which was issued in March 2010 by the General Directorate of Social Services and Child Protection Agency those children who make an asylum application will benefit from the services of Social Services and Child Protection Agency, which is pleasing.<sup>10</sup> However, making it a requirement that unaccompanied children who need the protection of the state must make an application for refugee status is not in accordance with legal standards.

The number of unaccompanied refugee children coming from Iran and Afghanistan has been increasing in recent years,<sup>11</sup> these children need to be included in the protection procedure. The asylum applications are made to the UN Local Coordinator but there are problems with regard to helping unaccompanied children who are under 18 to be transferred to a third party country because of the legislation. According to legislation on minors /unaccompanied children settlement to a third country is possible in cases of family reunification, a physical security risk, and physical and psychological trauma.<sup>12</sup>

The **Kurdish population** constitutes one of the vulnerable groups in Turkey. In particular they face problems with regard to a lack of education in their own language and a lack of representation in parliament. According to estimates, there are between 12 and 15 million Kurds living in Turkey. There are no official statistics as national censuses do not take account of people's ethnic origins. The main population of Kurds is still in the South-east of Turkey although many of them have left the region as part of the drift to the towns and also because of the armed conflict that went on for several years between the authorities and the PKK. There was forced displacement of Kurds from the South East towards the West of Turkey because of increased violence within the context of Kurdish issue and the armed conflict in the South-East of Turkey. Hundreds of thousands of people were forced to abandon their villages which were burned to the ground in

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<sup>9</sup> Çetin, Selvet. Human Rights Association. *Turkey Monitoring Report on Right to Refuge and Asylum*, <http://panel.stgm.org.tr/vera/app/var/files/2/0/2010-turkey-monitoring-report-on-right-to-refuge-&-asylum-2.pdf>, accessed 28 October 2011.

<sup>10</sup> <http://www.shcek.gov.tr/2010-03-sayili-siginmaci-multecilere-ait-islemler-konulu-genelge.aspx>, accessed 15 August 2011.

<sup>11</sup> Can Metin, Kaya Hasan, vd. *Yakılan Köylerden Bir Kesit*, (Ankara: İHD Yayınları, 1994), p.19.

<sup>12</sup> [http://www.hyd.org.tr/multecielkitabi/kitap10\\_.asp?idm=mands](http://www.hyd.org.tr/multecielkitabi/kitap10_.asp?idm=mands) accessed August 2011.

1993. After this displacement Kurds faced, not only economic and social problems, but also increased discrimination and intolerance against them. The role of instant demographic changes and social and cultural mismatches after the displacement cannot be disregarded as a background context of the ethnic hate crimes against Kurds in the western cities of Turkey.

It is very important to overcome the obstacles that are hindering the political participation of Kurds so that the current issues for the Kurdish population can be solved in a peaceful manner. The 10% election threshold, in particular, poses an obstacle for Kurds to be elected to the Parliament.<sup>13</sup> Due to this election threshold, political parties failing to receive at least 10% of the vote cannot be represented in the Parliament.

**Roma people:** The accurate number of Roma people living in Turkey is not known, they have a population of 500.000 according to some sources, and 2,5 million according to some other sources.<sup>14</sup> Roma people have a socio-cultural structure that they live en mass whether they are nomadic or not. They mostly live in the poorest outskirts of the cities, and do not have access to basic facilities and services such as housing, communication facilities, transport, running water, schools, security, and health services. The local authorities, especially municipalities, do not tend to have a meaningful dialogue with Roma communities and often have an inhumane attitude towards them.

#### **Examples of NGO Good Practice**

**The Karadeniz Ereğli branch of Human Rights Associations** held an exhibition in the city centre so that Roma people would be more visible in their region.<sup>15</sup> The exhibition was opened with the participation of the Mayor, representatives of NGOs, and Roma people. The ten-day exhibition drew intense interest in the county. There was also a high participation rate of Roma people. This participation increased day by day. During this exhibition, it was observed that most of the Roma people had never seen a photograph of themselves in their life. They stated, in their way, that it was very important to them to see themselves framed in a photograph

**Minority religious groups:** It is known that there are members of the Sunnite/Shafii, Shiite/Caferi, and Alewi sects of Islam, as well as Catholic, Orthodox, and Protestant Christians, and other religions such as Jews, Bahais and Yezidis, in Turkey, as well as members of Sunnite/Hanifi, which is approved by the official religious policies of the state. Turkey accepts the existence of religious minorities

<sup>13</sup> <http://www.turkishelections.com/> accessed 13 November 2011

<sup>14</sup> [http://digm.meb.gov.tr/uaorgutler/AB/AB\\_IR2006.html](http://digm.meb.gov.tr/uaorgutler/AB/AB_IR2006.html), accessed 8 August 2011.

<sup>15</sup> <http://www.sosyalhizmetuzmani.org/romanlarlaberabercalisma.htm>, accessed 14 July 2011.

but it maintains that they are not language-based or ethnic minorities. The Lausanne Treaty, which is the background for Turkish law on minorities, and is the only reason that the existence of Armenians, Roma, and Jews, has been recognised, does not legally accept the members of other religions as minorities.<sup>16</sup> Therefore, other religious congregations such as Assyrians and Yezidis cannot make use of important rights and freedoms, especially the right to education in their religion<sup>17</sup> as their religion is not taught at the state schools.

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<sup>16</sup> [http://www.lib.byu.edu/index.php/Treaty\\_of\\_Lausanne](http://www.lib.byu.edu/index.php/Treaty_of_Lausanne) accessed 14 November 2011

<sup>17</sup> Çetin Selvet, Ensaroğlu Yılmaz, , Nefret Suçlarının Önlenmesinde Sivil Toplumun Gücünü Kullanmak (Making Use of NGOs in Prevention of Hate Crimes), (Ankara:İHAD Yayınları, 2010), p. 4.

## V. Racism and related discrimination in employment

### VII.i Manifestations of racism and related discrimination in employment

Discrimination exists in employment in Turkey and the economic crisis has increased the levels of unemployment among migrants and other vulnerable groups.

Roma people face problems when applying for a job. Even though they do manage to get given certain jobs they are usually forced to receive a very low wage. It is also not possible for a Roma person to become a director or attain a high management position in a state office due to his or her ethnic identity.<sup>18</sup>

Mehmet Taşer, a drill operator, stated that he applied in August 2010 to TransAtlantic and Viking, a joint venture of American and Norwegian companies which explore for oil in Diyarbakır, but he was rejected with the statement “We do not employ the citizens of Diyarbakır.”<sup>19</sup>

People from Kurdish regions in Turkey, where people have a proportionally lower income, travel to other regions such as Aegean, Marmara, and the Black Sea regions in order to work as seasonal workers. There have been instances where security forces have obstructed seasonal workers’ access to the job market on the pretext of security. In this context, the Governorship of Ordu created a scandal by issuing a notice for the prevention of access to social gatherings and accommodation for Kurdish agricultural workers coming from Kurdish provinces in order to collect hazelnuts. Ali Kaban, the Governor of Ordu, stated that they did not have areas for accommodation or social gatherings for the agricultural workers coming from the Kurdish region, unlike in previous years, and that the workers must act accordingly. Moreover, the Governor of Ordu stated that they are in the state of readiness in case that the PKK will enter the Black Sea region. He also stated that they would not allow workers without work certificates to enter the city.<sup>20</sup>

### VII.ii The political and legal context

There are international instruments with regard to asylum-seekers’ right to work in the countries where they seek refuge. In this context, the conventions which

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<sup>18</sup> Adrian Marsh, ‘Eşitsiz Vatandaşlık: Türkiye Çingenerinin Karşılaştığı Hak İhlalleri’, içinde *“Biz Buradayız: Türkiye’de Romanlar, Ayrımcı Uygulamalar ve Hak Mücadelesi*, (İstanbul: Helsinki Yurttaşlar Derneği Yayınları, 2008), p. 58.

<sup>19</sup> Human Rights Association, *Report on Human Rights Violations in 2010 in Turkey*, [http://www.ihd.org.tr/images/pdf/2010\\_yili\\_insan\\_haklari\\_ihlalleri\\_raporu.pdf](http://www.ihd.org.tr/images/pdf/2010_yili_insan_haklari_ihlalleri_raporu.pdf), p.611., accessed 15 August 2011.

<sup>20</sup> Giresun Ekspres Daily Newspaper, *Fındık Sezonu Öncesi Tedbir (Precaution before the Hazelnut Harvesting Season)*, 10.06.2010.

Turkey has ratified guarantee that all refugees and asylum-seekers, regardless of their nationalities, have the right to work in a job that they consider appropriate for them.

Although the 27469 Legislation on the Right to Employment for Foreigners, which was issued by the Ministry of Labour and Social Security guarantees that refugees and asylum-seekers can make an application to the Ministry of Labour to request to be allowed to work and that their applications should be answered as soon as possible, it is known that in reality the practice is not always in accordance with the law.<sup>21</sup> Although foreigners with residence permits, and asylum-seekers and refugees, can submit an application for a residence permit to the relevant authorities, it is almost impossible to find asylum-seekers and refugees who have received a work permit for working in satellite towns. The asylum-seekers and refugees who do not have the opportunity to work in insured work, work uninsured in crowded metropolitan cities and intern for a very low wage. In this way, asylum-seekers are forced to work as a cheap labour force and are open to exploitation.<sup>22</sup>

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<sup>21</sup> Law Regarding Work Permits for Foreigners (the "Law No. 4817") published in the Official Gazette dated March 6, 2003 and No. 25040, <http://www.mevzuat.adalet.gov.tr/html/21521.html>, accessed 17 August 2011.

<sup>22</sup> Çetin, Selvet. Human Rights Research Association, *2010 Turkey: Monitoring Report on Right to Refuge and Asylum* (2011), <http://panel.stgm.org.tr/vera/app/var/files/2/0/2010-turkey-monitoring-report-on-right-to-refuge-&-asylum-2.pdf>, accessed 28 October 2011.

## VI. Racism and related discrimination in housing

### VI.i Manifestations of racism and related discrimination in housing

Roma people are forcefully displaced in provinces where urban transformation projects are intensely applied. This causes terrible consequences and suffering in the communities affected. As the rental prices of the houses which are given to Roma people are so high, they cannot afford pay their rent. A research study conducted in Izmir on this subject includes the responses of Roma people to urban transformation projects: according to the research, the common opinion of people is that the aim of urban transformation, which is conducted by the Housing Development Administration of Turkey (TOKI), is to seize the high value land in such places.<sup>23</sup> They believe that the projects in question will never improve their lives or their living environments in any way. They think that this project seized their houses and deprived them of housing. Most Roma people state that they have difficulty in paying the rent for the flats which are given to them by TOKI.<sup>24</sup>

In the 1950s, Roma people were given the right to have ID cards and houses if they ended their nomadic lifestyles and they “adapted” to permanent settlement. As only a very small number of Roma people responded to this initiative, the aimed for result was not achieved.

A group of Roma people whose homes were demolished by the Municipality of Kadıköy in Istanbul, on the pretext that they were unlicensed, started living in tents among the ruins near the Sub-Governorship of Araşehir. Hüseyin Gani, a Roma person who was living in a nylon tent with his wife, died of starvation and want of care. This finally prompted the Government to act: they agreed to give Roma people the Green card for health insurance.<sup>25</sup>

Asylum-seekers who live in Turkey have many problems with regard to shelter, education, health, and the right to employment. The most important problem with regard to asylum-seekers is that there is no regular social aid mechanism concerning shelter that is organised by the authorities and applied in the towns. However, sufficient shelter is a right guaranteed by the International Convention

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<sup>23</sup> Örgen Uğurlu, *Kriz ve Kentsel Yerinden Edilme Sürecinde Çingenerler*, <http://www.sehrinuzerindekieller.org/wp-content/uploads/2011/06/orgen-duru-cingene-17-May%C4%B1s-2011.pdf>, accessed 8 August 2011.

<sup>24</sup> Örgen Uğurlu, *Kriz ve Kentsel Yerinden Edilme Sürecinde Çingenerler*, <http://www.sehrinuzerindekieller.org/wp-content/uploads/2011/06/orgen-duru-cingene-17-May%C4%B1s-2011.pdf>, accessed 8 August 2011.

<sup>25</sup> Seda Alp, Nejat Taştan, *Türkiye’de Irk veya Etnik Köken Temelinde Ayrımcılığın İzlenmesi Raporu: 1 Ocak-31 Temmuz 2010*, (İstanbul: İstanbul Bilgi Üniversitesi İnsan Hakları Uygulama ve Araştırma Merkezi Yayınları, 2011), p. 49.

of Economic, Social and Cultural Rights,<sup>26</sup> to which Turkey is a party. The asylum-seekers should live in locations which are secure, in accordance with the fundamental standards and in harmony with the social fabric so that they are protected against risks.

In regard to refugee reception centres, there are 'guest houses' in Istanbul, Edirne, Kırklareli, Izmir, Hatay and Van. Furthermore, all the provinces of Turkey have a branch of the Directorate General of the immigration police where foreigners in an irregular situation may be detained.<sup>27</sup>

Although seven Reception centres are still being constructed, and have been designed so that each of them includes 750 asylum-seekers, it is being discussed by state officers and NGOs, how these centres will meet the requirements and whether they will be in accordance with international standards.<sup>28</sup>

According to a report by the Human Rights Research Association (IHAD), asylum-seekers and refugees stay in guest houses for foreigners that are overcrowded and have very unhealthy conditions. The state does not provide special shelter conditions for asylum-seekers; therefore, many asylum-seekers stay at hotels, which have very poor living conditions, in different provinces. Those who want to lease a house for themselves have to pay very high rents; therefore they stay in shanty houses in very poor conditions. Asylum-seekers have difficulty in adapting to the social environment in their new living environments and sometimes they face intolerance and discrimination.<sup>29</sup>

On June 12 2008 there was a very serious incident in the Kırklareli Gaziomanpasa guest house: the refugees and asylum-seekers living there protested against their living conditions and security forces intervened to end the protest. During the intervention a policeman shot a refugee by the name of Adam Terry and he died. After this some refugees and asylum-seekers began a hunger strike to protest against the inhumane conditions, but little changed.<sup>30</sup>

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<sup>26</sup> International Convention of Economic, Social and Cultural Rights, <http://www2.ohchr.org/english/law/cescr.htm>, accessed 28 October 2011.

<sup>27</sup> Migreurope, *Europes' Murderous Borders*. <http://www.epim.info/wp-content/uploads/2011/02/Rapport-Migreurop-nov2009-en-final.pdf>, accessed 28 October 2011

<sup>28</sup> Çetin, Selvet. Human Rights Association. *Turkey Monitoring Report on Right to Refuge and Asylum* <http://panel.stgm.org.tr/vera/app/var/files/2/0/2010-turkey-monitoring-report-on-right-to-refuge-&-asylum-2.pdf>, accessed 28 October 2011.

<sup>29</sup> Çetin, Selvet. Human Rights Association. *Turkey Monitoring Report on Right to Refuge and Asylum* <http://panel.stgm.org.tr/vera/app/var/files/2/0/2010-turkey-monitoring-report-on-right-to-refuge-&-asylum-2.pdf>, accessed 28 October 2011.

<sup>30</sup> [http://www.mazlumder.org/haber\\_detay.asp?haberID=1307](http://www.mazlumder.org/haber_detay.asp?haberID=1307), accessed 28 October 2011.



The living conditions in Gaziosmanpaşa, Kırklareli and Kumkapı Guest Houses are not sufficient for refugees. Housing problems, drinking water and sanitation problems are common in the guest houses.<sup>31</sup>

There has been no improvement in the guest houses in 2010 because they are overcrowded, are not ventilated, are not heated and have unhealthy conditions.<sup>32</sup> In addition to 'guest houses' refugees are also kept in custody in cells in police stations and there are also cells in airport transit zones used for this purpose.<sup>33</sup>

### Examples of NGO Good Practice

Although at this time NGOs which deal with asylum have to deal with the multi-dimensional problems of refugees and asylum seekers, a more rapid development process is needed. The most important development among NGOs in 2010 is, undoubtedly, the **Refugees Rights Coordination** which consists of eight NGOs defending refugees' rights.<sup>34</sup>

The Coordination is constituted of: Helsinki Citizens Assembly; Human Rights Investigation; Human Rights Research Association; Human Rights Association; Human Rights Agenda Association; The Association of Human Rights and Solidarity for Oppressed People (Mazlumder); Office of Amnesty International in Turkey; and the Association for Solidarity with Refugees. It aims to conduct rights-based joint work with regard to asylum and immigration as well as to work for the improvement of refugee law, refugees' access to the law and to conduct an effective defence of refugees' and asylum-seekers' rights in the courts. In this context, the members of the Refugee Rights Coordination participated in a meeting with Thomas Hammarberg, the Commissioner of European Council of Human Rights, during his monitoring visit in 2010 in order to issue a joint notice with regard to the basic problems faced by refugees and asylum-seekers in Turkey, which included suggestions for solutions.<sup>35</sup>

## VI.ii The political and legal context

In terms of economic and social effects, a residence fee continued to be demanded of refugees and asylum-seekers in accordance with the Act of Fees, in the early months of 2010; therefore, asylum-seekers who were already living in

<sup>31</sup> [http://www.mazlumderistanbul.org/default.asp?sayfa=rapor\\_detay&rapor=47](http://www.mazlumderistanbul.org/default.asp?sayfa=rapor_detay&rapor=47) accessed 13 November 2011

<sup>32</sup> Human Rights Research Association, *2010 Refugee Report on Turkey*, <http://www.ihad.org.tr/file/reports/2011/2010%20YILI%20TURKIYE%20ILTICA%20&SINMA%20HAKKI%20IZLEME%20RAPORU.pdf>, p. 14, accessed 19 July 2011.

<sup>33</sup> Migreurop, *Europes' Murderous Borders*. <http://www.epim.info/wp-content/uploads/2011/02/Rapport-Migreurop-nov2009-en-final.pdf>, accessed 28 October 2011

<sup>34</sup> <http://www.multecihaklari.org/> accessed 14 December 2011

<sup>35</sup> [http://www.multecihaklari.org/index.php?option=com\\_content&view=category&layout=blog&id=47&Itemid=150](http://www.multecihaklari.org/index.php?option=com_content&view=category&layout=blog&id=47&Itemid=150) accessed August 2011.



bad conditions faced new victimisation.<sup>36</sup> In order to benefit from education and health services and to have an ID number and residence certificate, foreigners are required to pay a residence fee. A notice from the Ministry of Interior Affairs, dated March 19, 2010, referred to the Act of Fees and stated that those who cannot afford to pay the residence fee should inform the local authorities of their condition and those who are considered to be poor shall be exempted from paying the residence fee.<sup>37</sup> However, in some regions the submitted petitions are not dealt with or the authorities treat them arbitrarily, which is against the provisions of the said notice. The new refugee draft law<sup>38</sup> must include the exemption of asylum-seekers and refugees from the obligation to pay the residence fee. Furthermore, the residence fee should be abolished with an amendment to the Act of Fees No. 492.<sup>39</sup>

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<sup>36</sup> According to chapter six 'Liability and fees' of the Residence Act, <http://www.iuscomp.org/gla/statutes/AufenthG.htm>, accessed 28 November 2011

<sup>37</sup> <http://panel.stgm.org.tr/vera/app/var/files/2/0/2010-turkey-monitoring-report-on-right-to-refuge-&-asylum-2.pdf>, accessed 28 November 2011

<sup>38</sup> [http://gib.icisleri.gov.tr/default\\_B0.aspx?content=1035](http://gib.icisleri.gov.tr/default_B0.aspx?content=1035), accessed 28 November 2011.

<sup>39</sup> <http://panel.stgm.org.tr/vera/app/var/files/2/0/2010-turkey-monitoring-report-on-right-to-refuge-&-asylum-2.pdf>, accessed 28 November 2011

## VII. Racism and related discrimination in education

### VII.i Manifestations of racism and related discrimination in education

“Everybody” has the right to education as a fundamental human right. However, the conditions change according to the level of education. There should not be any discrimination between the citizens and foreigners in regard to the right to education. As well as it being a right for individuals, the right to education is also an obligation for citizens in accordance with the Article 42 of Constitution.<sup>40</sup> This obligation is also for foreigners living in the country.

Refugees and asylum seekers can make use of Turkish educational institutions. Foreign students are obliged to obey the rules of the educational institutions in which they are enrolled, the Passport Law, the Law on Foreigners’ stay and travel in Turkey,<sup>41</sup> and the provisions of other related legislation. According to Turkish Laws, the foreigners who want to access education in Turkey have to follow the required formalities and provide the required documents. A foreigner has to be staying in Turkey legally (by visa or visa-free period or be given a temporary residence permission) in order for them to access education in Turkey.

Refugee children can face problems during their education. The Directorates of the Ministry of National Education do not give sufficient information about refugee children in regard to the education system and do not provide guidance services concerning the psychological needs of refugee children. As the current arrangement of the Ministry of National Education for the education of refugee children is insufficient, they face, not only official bureaucratic problems, but also may suffer from the following psycho-social problems:

- Loss of consciousness of place and time.
- Always feeling themselves to be a foreigner and resultant mistrust and loss of self/identity
- Language problems

Refugee children often enter school programs which are below their real level because they do not have their education certificates and the educational environment is frequently not adequate for facilitating or allowing their adaptation to school life.

**Discriminatory Attitudes towards Roma Children:** It is commonly known that Roma children who make use of their right to education are faced with prejudice by their teachers and their peers, they are isolated, teased and discriminated

<sup>40</sup> <http://www.constitution.org/cons/turkey/>, accessed 28 November 2011

<sup>41</sup> Passport Law No: 5860, Law on Foreigners’ stay and travel in Turkey No.5863

against. Such attitudes negatively affect the success of Roma children at school and strengthen their feelings of hostility.<sup>42</sup>

### Examples of NGO Good Practice

**The Human Rights Research Association (IHAD)** carried out a project entitled “**The Education Right of Refugee Children**”, which it has been conducting for meeting the psycho-social requirements of refugee children in 2010-2011. Within the scope of this study, which was carried out with educators from seven different provinces, teaching methods are dealt with and suggestions for alternative methods of education for local needs are put forward.<sup>43</sup>

**Kaf Der**, which is an NGO that was established in 1993 in Ankara by Turkish citizens of Caucasian origin. They give importance to education in their own language as well as local folk dances.<sup>44</sup>

### VII.ii The political and legal context

**Education in Mother tongue:** The Law 2923 on Education of Foreign Languages prohibits all languages apart from the Turkish language from being used as an education language.<sup>45</sup> Although Western languages such as English, German, and French can be used in education, it is not possible to have education in Kurdish, the Circassian language or the Laz language which are the languages of Anatolia. The prohibitions preventing use of these languages in education have not been abolished. Kurds and Circassians conduct rallies asking for their languages to be used in education.

Thousands of Circassians held a rally in Abdi İpekçi Park on 12 March 2011.<sup>46</sup> The Circassians who got together in Toros sokak in Sıhhiye held banners reading “We did not know Turkish when we were killed for the sake of these lands”, “We demand education in our mother tongue”, “No to Imposed Identities”, “Abızsua zcıdzız zegi yacıdzid- Those who lose their own language, lose everything they have” , “A language can’t live without education”. Circassians state that they do not want their language to be eradicated and they want to pass on their heritage and protect their language, culture, and identities. They demanded the right to have education in their mother language for their children and to establish radio and TV channels for themselves.<sup>47</sup>

<sup>42</sup> <http://www.bianet.org/bianet/kategori/cocuk/55008/roman-cocuklarin-sorunlari-ve-oneriler>, accessed 14 August 2011.

<sup>43</sup> <http://ihad.org.tr/faal-multeci-ank.php> accessed 14 December 2011.

<sup>44</sup> <http://kafkasfederasyonu.org/> accessed 14 December 2011.

<sup>45</sup> <http://mevzuat.basbakanlik.gov.tr/Metin.Aspx?MevzuatKod=1.5.2923&MevzuatIliski=0&sourceXmlSearch=> accessed 14 December 2011.

<sup>46</sup> [http://www.haber365.com/Haber/Cerkezler\\_Anadil\\_Talebi\\_Icin\\_Yurudu/](http://www.haber365.com/Haber/Cerkezler_Anadil_Talebi_Icin_Yurudu/) accessed 14 November 2011

<sup>47</sup> <http://www.emekdunyasi.net/ed/kultur/11668-cerkesler-anadilleri-icin-yurudu>, accessed 9 August 2011.

**Compulsory Religion Lessons** Participation in religion lessons is an obligation because of the Constitution of 1982, put in effect after the military coup of September 12.<sup>48</sup> According to ECRI's report, a new regulation needs to be made for the abolishment of religion lessons. According to this report, the principles of Islam are stressed according to Article 24 of Constitution and Article 12 of Law No. 1739 on National Education.<sup>49</sup> Making an amendment to the curriculum of religion lessons, by means of including the beliefs of different religions and various philosophies, is considered insufficient and so is the request is that religion lessons become a free elective rather than compulsory. Another discussion is about the statement of those who want to take the religion lessons and of those who do not. Allewi circles demand that those who want to go to religion lessons should make a statement in favour of taking such a lesson: otherwise, those who do not want to take the course will suffer peer pressure and they will not act of their own free will.

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<sup>48</sup> <http://www.constitution.org/cons/turkey/>, accessed 28 November 2011

<sup>49</sup> ECRI Report on Turkey, February 2011.

## VIII. Racism and related discrimination in health

### VIII.i Manifestations of racism and related discrimination in health

There are important problems in Roma people's access to health services in Turkey. Most of the time, health officers act reluctantly because of the fact that Roma often do not have the required documents. Also, because many health officers are prejudiced against the Roma, they may provide the service negligently. The government started an initiative in April 2010 so that registered Roma people can make use of green card for health service free of charge. Nomadic Roma people cannot make use of their "green card for health service free of charge".<sup>50</sup>

It was reported that Nazife Gül, 59, who went to Izmir from Varto county of Muş province and consulted Atatürk Education and Research Hospital in Izmir for a health check-up was insulted by the physician because of the fact that she did not know Turkish.<sup>51</sup>

#### Examples of NGO Good Practice

The branch director of IHD, took on the complaint of a patient who was insulted by their physician and published a press release on this issue. IHD stated that the physician approached the patient in a discriminative manner because of his ideology and continued as follows "Depriving somebody of medical treatment because of the fact that the patient does not know Turkish is discrimination in providing a service. It is "wrongful conduct" in accordance with Article 76 and 257 of Turkish Penal Code, which is on Genocide Crime. We will inform the Ministry of Health and Chamber of Physicians about the issue. We will demand that they undertake a disciplinary procedure against the physician. Moreover, we shall file a complaint before the Public Prosecutor's Office. We will inform the related authorities about the discrimination."<sup>52</sup>

<sup>50</sup> <http://www.sde.org.tr/haberler/930/roman-acilimi-ya-da-en-alttakilerin-sesini-duyabilmek.aspx> accessed 14 November 2011

<sup>51</sup> Human Rights Association, Report on Human Rights Violations in 2010 in Turkey, [http://www.ihd.org.tr/images/pdf/2010\\_yili\\_insan\\_haklari\\_ihlalleri\\_raporu.pdf](http://www.ihd.org.tr/images/pdf/2010_yili_insan_haklari_ihlalleri_raporu.pdf), p.611., accessed 15 August 2011.

<sup>52</sup> Human Rights Association, Report on Human Rights Violations in 2010 in Turkey, [http://www.ihd.org.tr/images/pdf/2010\\_yili\\_insan\\_haklari\\_ihlalleri\\_raporu.pdf](http://www.ihd.org.tr/images/pdf/2010_yili_insan_haklari_ihlalleri_raporu.pdf), p.611., accessed 15 August 2011.

## VIII.ii The political and legal context

Refugees and asylum-seekers have the right to make use of physical and spiritual, health, and medical services like every human being. However, there are big gaps in the related legislations with regard to asylum-seekers' making use of these rights and their access to health services without being discriminated against. The health service that is provided by the Social Assistance and Solidarity Foundation in the satellite towns is very limited and most asylum-seekers do not know that such services are provided.

The fact that asylum-seekers and refugees are not among those who can make use of general health insurance by means of the amendment in the Social Security and General Health Insurance Law which was put in force in April 2008, makes it very difficult for the asylum-seekers and refugees to have health services.<sup>53</sup> Although it was stated in a notice<sup>54</sup> after the legal amendment that asylum-seekers and refugees are within framework of the Social Security and General Health Insurance Law, it is highly likely that refugees will not be given this right because of the legislation, apart from those who will make use of it within the geographical restriction (those who come from Europe). Therefore, the legislation which prevents asylum-seekers and refugees from making use of the health service needs to be amended and NGOs, as well as the UNHCR, should make more efforts for this purpose.

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<sup>53</sup> <http://www.sgksorgulama.com/index.php/mevzuat/45> accessed 14 December 2011.

<sup>54</sup> <http://mevzuat.basbakanlik.gov.tr/Metin.Aspix?MevzuatKod=1.5.5510&MevzuatIliiski=0&sourceXmlSearch=> accessed 14 December 2011.

## IX. Racism and related discrimination in criminal justice

### IX.i Manifestations of racism and related discrimination in criminal justice

The Turkish legal system considers everybody who is living within the border of Turkey as a Turk. According to Article 66 of Constitution “Everyone bound to the Turkish state through the bond of citizenship is a Turk.”<sup>55</sup> In parallel to this mentality, there are arrangements in the Turkish penal code in order to protect only Turkishness and Turkish Identity. For example, Article 301 of the Turkish Penal Code,<sup>56</sup> which also needs to be discussed herein, is for the protection of Turkishness. The reason for this approach is based on the belief that everybody living in Turkey is, and must be, a Turk. However, there are people from many different groups such as Arabs, Circassians, Georgians, Lazs, Armenians, Roma people, as well as Kurds, who are the second largest ethnic group.<sup>57</sup> The Kurdish population were forced to leave their villages in 1993.<sup>58</sup> The displacement of the Kurdish population in the southeast of Turkey caused various problems in areas like housing, employment, and education. They also face hate speech, and discriminatory treatment in their daily life.

The Grand National Assembly of Turkey (TGNA) decided to launch a special investigation concerning the case of Cemil Kırbayır, who went missing, while in detention, after the 1980 military coup. His mother, 103-year-old Berfo Kırbayır, brought the issue to the Parliament's attention on 7 February 2010 during a meeting with Erdoğan and the ‘Saturday Mothers’, an advocacy group that meets every week in Istanbul's Galatasaray Square to find justice for forced disappearances in Turkey. Kırbayır appealed to the prime minister to help her find out more about her son's disappearance. According to the report of sub-commission, Kırbayır was killed while in police custody after being tortured. Kırbayır was reportedly a member of the Marxist group the Revolutionary Path (Dev-Yol). Üskül said Kırbayır and three of his friends were taken in for interrogation in Kars shortly after his detention after the 1980 coup. Kırbayır's friends were sent back to a prison where they were held after the interrogation, but Kırbayır never was. The interrogation was reportedly carried out by police officers, officers from the National Intelligence Organisation (MIT) and military officers.<sup>59</sup>

<sup>55</sup> <http://www.constitution.org/cons/turkey/>, accessed 28 November 2011

<sup>56</sup> [http://tr.wikipedia.org/wiki/T%C3%BCrk\\_Ceza\\_Kanunu\\_301.\\_maddesi](http://tr.wikipedia.org/wiki/T%C3%BCrk_Ceza_Kanunu_301._maddesi) accessed 14 December 2011

<sup>57</sup> Ensaroğlu Yılmaz, Çetin Selvet, *Nefret Suçlarının Önlenmesinde Sivil Toplumun Gücünü Kullanmak* (Making Use of NGOs in Prevention of Hate Crimes), (Ankara: İHAD Yayınları, 2010), p.33.

<sup>58</sup> Can Metin, Kaya Hasan, Kılıç Kemal, Akar Cemal, Sincar Mehmet, Epözdemir Şevket, *Yakılan Köylerden Bir Kesit*, (Ankara: İHD Yayınları, 1994), p.19.

<sup>59</sup> <http://www2.bianet.org/bianet/insan-haklari/130236-kirbayirin-iskencede-olduruldugu-meclis-raporuyla-kanitlandi>, accessed 10 July 2011.

### **IX.i.i Policing and ethnic profiling<sup>60</sup>**

It has been observed that temporary refugees, especially those coming from Arabic, African, and former Soviet Union states, have been facing harsher treatment recently in Turkey. These people usually do not know their rights and do not have the opportunity to receive the support of legal aid. Effective inquiries and the preventive punishment of public officers, in regard to this issue, are rare. For example, no developments were made in the Fetus Okey case. Walking with his friend Mamina Oga on 20.08.2007, at about 6:00 pm, on Beyoğlu Sakızağacı Street, Fetus Okey was arrested after a passport check, along with his friend, by the police officers of Public Security Branch Office of Police Centre in Taksim. He died when he was in custody due to torture.<sup>61</sup>

Sometimes it is claimed that security forces threaten Kurds. According to IHD's Report on Human Rights, Hüseyin Ürüç filed a criminal complaint on the ground that he was threatened by undercover policemen because he was distributing Azadiya Walat and Günlük daily newspapers in Idil country of Şırnak province on August 12 2010. Ürüç claimed that policemen threatened him saying "If you distribute this newspaper once more, it will not be good for you. Moreover, you will drop one issue to the police centre every day or I will take all of them forcefully from you."<sup>62</sup>

### **IX.i.ii Racist violence and crime**

In 2010, many racist attacks were a reflection of public hate speech. NGOs made a call to the mass media to end its negative language and articles which constitute incitement to hatred and encourage these attacks.

Several members of the Peace and Democracy Party (BDP), along with majors, municipal officers, executive members of trade unions and several other associations, were detained by police since April 2009 in Kurdish Communities Union operations.<sup>63</sup> Many of them were arrested and appeared in court on charges of supporting terrorist attacks and the PKK, on 18 October 2010. Among the defendants are Muharrem Erbey, a lawyer and Deputy Chairperson of the

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<sup>60</sup> The Open Society Institute defines "ethnic profiling" as the "use of generalisations grounded in ethnicity, race, national origin, or religion - rather than objective evidence or individual behaviour - as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity".

<sup>61</sup> [http://www.ihop.org.tr/dosya/diger/Festus\\_Okey\\_Dava\\_Gozlem\\_Raporu\\_IHOP.pdf](http://www.ihop.org.tr/dosya/diger/Festus_Okey_Dava_Gozlem_Raporu_IHOP.pdf), accessed 8 August 2011.

<sup>62</sup> <http://panel.stgm.org.tr/vera/app/var/files/2/0/2010-turkey-monitoring-report-on-right-to-refuge-&-asylum-2.pdf>, accessed 28 November 2011

<sup>63</sup> KCK (Kurdish Communities Union) is an illegal organisation that is claimed to be a branch of PKK. It is claimed that the objective of the organisation is to establish a parallel state. In April 2009, hundreds of people were arrested in the interrogation. This interrogation still continues and this constitutes an important consideration regarding the situation of Kurdish people and democratic initiative [http://en.wikipedia.org/wiki/Koma\\_Civak%C3%AAAn\\_Kurdistan](http://en.wikipedia.org/wiki/Koma_Civak%C3%AAAn_Kurdistan) accessed 13 November 2011.



Human Rights Association (IHD), and executive members of the Diyarbakır Branch of IHD, Roza Erdede and Aslan Özdemir.

Kurds were detained because of political reasons. The homes of 14 Kurdish families in the village of Ovacık (Izmir) were demolished by the municipality of Çeşme. The alleged reason was that the houses were "located on agricultural land". The rubble of the houses was set on fire after the demolition. The families went to the Çeşme Municipality building after the incident and broke the windows of the building. After the police intervened, the families went back to their destroyed houses. Çeşme is a district of Izmir, a major city on the Aegean coast in Western Turkey.<sup>64</sup>

Simmering tensions in the Inegöl county of Bursa Province erupted into a fight and Kurds were attacked on 12 July 2010. According to claims, a person asked M.Ş.S., a dolmuş driver of Kurdish Origin, to pay his debt. The row turned into fight. Thereafter, M.Ş.S. took of his two friends and went to the coffeehouse, where those who had previously approached him were, and a fight broke out. Six people were wounded in the fight and M.Ş.S. and his two friends were taken into custody. After a rumour spread that one of the wounded people had died, a racist group of about two thousand people gathered in front of the police station where those in custody were detained and demanded that the detainees be given to them. This angry mob set 15 police cars on fire.<sup>65</sup>

An Assyrian citizen, Israil Demir, was wounded in the chest by a shepherd whom he did not allow into his meadow. Yuhanna Aktaş, the Head of Assyrian Culture Association of Midyat, stated "We made a complaint to authorities about the assaults on Assyrian citizens which have increased in recent years; however, no measures have been taken".<sup>66</sup>

Racist and threatening messages were written on the walls of Mor Yakup Church with spray paint by unknown persons in Nusaybin country of Mardin on July 12 2010.<sup>67</sup>

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<sup>64</sup> <http://www2.bianet.org/bianet/toplum/129589-kurt-ailelerinin-evi-tarim-arazisi-diye-atese-verildi>, accessed 13 July 2011.

<sup>65</sup> [http://www.ihd.org.tr/images/pdf/2010\\_yili\\_insan\\_haklari\\_ihlalleri\\_raporu.pdf](http://www.ihd.org.tr/images/pdf/2010_yili_insan_haklari_ihlalleri_raporu.pdf), accessed 15 August 2011.

<sup>66</sup> <http://bianet.org/bianet/azinliklar/129722-suryani-vatandas-vuruldu-dernek-baskani-aktas-onlem-alinmadi> accessed 14 December 2011.

<sup>67</sup> Ibidem

## X. Racism and related discrimination in access to goods and services

Considering that Turkish law is based on the principal of equality, it bans discrimination in access to goods and services. Article 7 of State Personnel Law No. 657, which has the heading “Neutrality and Loyalty to the State” includes the provision that state “Personnel shall provide service regardless of the language, race, sex, political views, philosophic belief, religion, sect and etc.” By means of Article 7, discrimination against those who wish to access the public services has been banned. However, the concept of discrimination has been left up to the understanding of state personnel because the criteria have not been determined.

Therefore, especially non-Muslims in Turkey are subject to abuse of rights and discrimination when they want to access to goods and services. A 13.05.2010 Notice by the Prime Ministry on “Turkish Citizens of Non-Muslim Minorities” included the statement that “It is not only required by the relevant legislation to refrain from causing problems, abusing their rights in their work and process before the state, but it is also very important for reminding them that they are a part of our state and the Turkish Nation” indicates that the discriminative application against the members of minorities is also admitted by the official authorities.<sup>68</sup> However, as is understood from emphasis in the same document, the government has been attempting to eliminate the discrimination in this area and it takes measures to ensure equality for access to goods and services. The government’s decision in August 2011, on giving back the foundation properties of non-Muslim minorities, can be assessed in this regard.

However, it is not only non-Muslims who have problems in access to goods and services. Refugees, asylum-seekers, and immigrants also face similar problems. The fact that there is not an inclusive legal framework regarding refugees and asylum-seekers prevents these people from accessing services for their children. Only one-fourth of the children of refugees and asylum-seekers who are between 7 and 14 can go to school because of financial, language, and bureaucratic problems. However, unaccompanied refugee children can benefit from a nursery service which is provided by Social Services and Child Protection Agency of Turkey (SHÇEK). It should also be stated that the United National High Commissioner for Refugees (UNHCR) and Turkish Red Crescent, in cooperation, conduct the activities for determining the families with whom unaccompanied refugee children will be placed.<sup>69</sup>

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<sup>68</sup> Seda Alp, Nejat Taştan, Türkiye’de İrk veya Etnik Köken Temelinde Ayrımcılığın İzlenmesi Raporu, (İstanbul: İstanbul Bilgi Üniversitesi Yayınları, 2011), [http://insanhaklarimerkezi.bilgi.edu.tr/data/news\\_izleme\\_raporlari\\_irk\\_etnik\\_koken\\_raporu.pdf](http://insanhaklarimerkezi.bilgi.edu.tr/data/news_izleme_raporlari_irk_etnik_koken_raporu.pdf), accessed 13 October 2011 .

<sup>69</sup> Avrupa Komisyonu Türkiye 2010 Yılı İlerleme Raporu, p. 36.

Disabled people also have problems in access to educational, health, social and public services. The physical obstacles for reaching the public buildings pose an important problem. The Law on Disabled People's Rights, which came into effect in 2005, has a provision for making all of the public institutions, paths, pavements, pedestrian crossings, open and green areas, playfields and similar social and cultural infrastructures which provide services to the public, appropriate for access by disabled people as from 2012. However, no development has been achieved in this area apart from access area projects in four different municipalities.

Furthermore, no measures have been taken for easing the access of those who do not know Turkish to public services. Although translators are required to be provided to defendants, victims, and witnesses, during an inquiry process and hearing in accordance with the effective legislation, there are problems for making use of these opportunities. Moreover, although there is an improvement in speaking the Kurdish language in prisons, use of these rights is limited because of security issues, and different management styles in the prisons have different approaches to this issue.<sup>70</sup>

During the employment application process, the prejudices of the past still continue. When attempting to use the health services or rent a house or an office, discrimination due to ethnic origin, language, city of birth, or refugee status, can cause social exclusion. Many members of minority groups have to work for a lower wage or without insurance or are obliged to rent a house for a high price in Turkey.

Ethnic origin or belief based favouritism in bureaucracy prevents equality of opportunity and it even makes it difficult for the private companies which provide services to public institutions.

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<sup>70</sup> Ibidem

## **XI. Racism and related discrimination in the media**

### **XI.i Manifestations of racism and related discrimination in the media, including the internet**

There have not only been internet publications containing racist ideology but also newspapers with a high circulation and many TV channels use discriminatory language, although usually this is not done on purpose. The language used after security forces are killed in armed conflict in particular is very agitated and has high potential to cause escalations of social tensions. The broadcasting of some local TV programs can increase social tension and even sometimes cause lynchings and conflict. For example, the upheavals in Inegöl and Hatay-Dörtyol are believed to have developed in this way.<sup>71</sup> According to IHD's Report "As a result of the examination we carried out in the county, we determined that about 40 workplaces were ruined. We also determined that the Building of BDP was ruined together with the furniture in it and its doors were broken down with sledge hammers. It was determined that the ruined workplaces remained as they were and their owners did not lay claim to them because they were afraid of being lynched. It was determined that Turkish flags were hung from the windows of almost all of the houses as well as two very large ones at the entrance of Dörtyol county. We also came across those who hung Turkish flags from their workplaces, even though they were Kurdish, because of their fear."<sup>72</sup>

Moreover, there are publications and TV programs which cause the foreigners in the country to become a target. When they mention refugees, they use negative terminology and they use the word "escape". It causes misconceptions in communities about refugees and asylum-seekers.

#### **Examples of NGO Good Practice**

Prof. Dr. Eser Köker and Assoc. Prof. Dr. Ülkü Doğanay, of Ankara University Faculty of Communication disclosed their research study entitled "I am not a racist but....Racist Discriminative Discourses in Printed Media", which outlined the role of media in structuring the ideological framework for legalising discrimination and racism.<sup>73</sup>

<sup>71</sup> For more information see <http://www.kanalturk.com.tr/haber-detay/30418-hatay-dortyol-da-gergin-gun-haberi.aspx> accessed 14 December 2011.

<sup>72</sup> [http://www.ihd.org.tr/index.php?option=com\\_content&view=article&id=2105:hatayin-dortyol-ilcesinde-meydana-gelen-olaylara-iliskin-arastirma-inceleme-raporu&catid=34:el-raporlar&Itemid=90](http://www.ihd.org.tr/index.php?option=com_content&view=article&id=2105:hatayin-dortyol-ilcesinde-meydana-gelen-olaylara-iliskin-arastirma-inceleme-raporu&catid=34:el-raporlar&Itemid=90), accessed 18 August 2011.

<sup>73</sup> [http://www.ihop.org.tr/index.php?option=com\\_content&task=blogcategory&id=32&Itemid=88](http://www.ihop.org.tr/index.php?option=com_content&task=blogcategory&id=32&Itemid=88), accessed 13 August 2011.

## **XI.ii The political and legal context**

In general the government made attempts to improve the broadcasting policies of private and state channels. And several amendments were made to the Broadcasting Law 6112.<sup>74</sup> The positive attitude of RTÜK (Radio and Television Supreme Council) about radio and TV channels which broadcast in different languages is an important part of the policies applied against discrimination. The first channel in Kurdish is now being broadcasted.<sup>75</sup> Different minority groups asked for new channels in their mother tongue. For instance the Lazebura Association applied to the Ministry of Culture to have broadcasts in their mother tongue.<sup>76</sup>

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<sup>74</sup>[http://www.rtuk.org.tr/sayfalar/IcerikGoster.aspx?icerik\\_id=5a3cac1e-b6d9-4b23-bc7a-8dcd671fceb](http://www.rtuk.org.tr/sayfalar/IcerikGoster.aspx?icerik_id=5a3cac1e-b6d9-4b23-bc7a-8dcd671fceb) accessed 14 December 2011.

<sup>75</sup> <http://www.trt.net.tr/Kurumsal/Tarihce.aspx> accessed 14 December 2011

<sup>76</sup> [http://www.haber61.net/news\\_detail.php?id=97015](http://www.haber61.net/news_detail.php?id=97015) accessed 14 December 2011.

## **XII. Political and legal developments in anti-racism and anti-discrimination**

According to Article 10 of the Turkish Constitution “All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.”<sup>77</sup>

The expression “Roma people who do not have a decent profession” which featured in Article 9 under the title 'Administrative Duties' and in Article 135 of Chapter 5 under the title 'General Duties of Headquarter Commanders' which is about Instructions on 'Police Discipline, Their Role in Ceremonies and Communities' as well as the Structure of Police Headquarters and Their Duties', was removed in 2006 because it was considered to be discriminatory. An expression which still exists although it includes discriminatory content is Article 21 of the Law on Foreigners Stay and Travel in Turkey, which was issued in 1950: “the Ministry of Interior is authorised to deport gypsies who are not the citizens of any nation or the citizens of a foreigner nation and foreigner nomads who do not have Turkish culture.”<sup>78</sup>

Turkey prepared a draft law on Fighting against Discrimination and on establishing an Equality Institution in March 2010. According to Article 3 of this draft:

Everybody is equal before law. States shall take positive measures so as to assure equality of opportunities. According to this law, discrimination based on sex, race, colour, language, belief, ethnic origin, philosophical or political view, social status, marital status, health condition, disability, age and similar criteria is banned. The ban of discrimination binds executive, legislative and judicial powers as well as all real and legal entities.<sup>79</sup>

Although this draft law, which was arranged for nation-wide restructuring thanks to the work carried out by NGOs, had a positive effect on the community, the Equality Directives of the EU are still not applied to the full extent in Turkey.

<sup>77</sup> <http://www.constitution.org/cons/turkey/>, accessed 28 November 2011

<sup>78</sup> Law on Residence and Travel of Aliens in Turkey (No: 5683), <http://www.unhcr.org/refworld/docid/3ae6b4d11c.html> (French), accessed 28 November 2011

<sup>79</sup> [www.icisleri.gov.tr/ortak\\_icerik/www.icisleri/sgb/ayrimcilik.doc](http://www.icisleri.gov.tr/ortak_icerik/www.icisleri/sgb/ayrimcilik.doc), accessed 12 August 2011

## Examples of NGO Good Practice

**Human Rights Joint Platform (IHOP)** held a meeting in which it disclosed the results of research which had been conducted for prevention of racism and discrimination because of the 21<sup>st</sup> of March, the Day of the Elimination of Race Discrimination.

Making the opening speech at a meeting which was held in Ankara on 25 March 2011 **Human Rights Association's (IHD)** president Öztürk Türkdoğan stated that the Draft Law of Fighting Against Discrimination and on establishing an Equality Institution, which was arranged by means of the recommendation of human rights associations, is still waiting in the Ministry of Interior Affairs and he hoped that it would be put in effect as soon as possible.

Giving permission to Orthodox Christians and Armenians so that they can conduct their religious ceremonies was an important development. A religious ceremony was performed on 15 August 2010 in Sumela Monastery in Trabzon, a province in northern Turkey, the first of its kind in 88 years. 500 Orthodox Christians living in Russia Federation, Greece, Georgia, USA and Turkey took part in the ceremony. Candles were lit, prayers were said and hymns were chanted during the ceremony.<sup>80</sup>

Although there are obstacles which prevent the freedoms of minorities especially in public bureaucracy, Turkey has broken more ground and developments have been made.

Six Alewi workshops were held involving around 40 non-governmental organisations, including professional associations, labour unions and human rights organisations. The aim of the workshops was to examine the role of Alewis in Turkish society and ways to better enfranchise this oft-neglected group. Although these workshops for finding a way for the elimination of discriminatory policies, they were an important step for bringing the problems experienced by Alewis on to the agenda.<sup>81</sup> Making changes in the structure of a High Board of Religious Affairs or abolishing this institution, which are the main demands of Alewis, have a constitutional dimension. This subject matter is expected to be handled through a Constitutional Amendment Change.

<sup>80</sup> <http://www.hurriyet.com.tr/gundem/15559027.asp>, accessed 20 July 2011.

<sup>81</sup> [http://www.sundayszaman.com/sunday/newsDetail\\_getNewsById.action?newsId=197334](http://www.sundayszaman.com/sunday/newsDetail_getNewsById.action?newsId=197334), accessed 14 December 2011.

### XIII. Migration and integration

#### Legal Status:

Turkey is a party to 1951 Geneva Convention relating to the Legal Status of Refugees and 1967 Protocol, which are two international instruments about the right to asylum, but it continued the geographic restriction of allowing only refugees from European Council member countries in 2010.

Although Turkey put geographic restrictions on the 1951 Convention, several international agreements stipulate that every person coming to Turkey should be able to make use of the fundamental right of protection. For example the EU Convention on Political and Civil Rights, EU Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment and the Committee on Economic, Social and Cultural Rights include provisions with regard to protection of fundamental rights and freedoms of refugees and asylum-seekers.

Turkish government do not have a clear plan to cancel the geographical limitation for refugees and asylum-seekers. As a response to various political pressures imposed by the EU, the Turkish government demanded that they give some legal guarantees and to share the costs of lifting the restrictions equally. Some NGO's also think that the EU's political pressure on Turkey to undergo this burden unilaterally is not a well-intentioned approach, although the EU asylum system is based on a security axis. The Turkish government has not had a positive approach to cancelling the "geographic limitation" because of the fact that EU Member States do not accept to share the economical costs and Turkey would be forced to cope with the economical and social load alone: Turkey already faces tens of thousands of refugees every year and it may increase after the replacement of geographical limitation.

Turkey is source of refugees as well as transit country and destination country. The fact that the officials are unwilling to accept asylum applications and do not obey the procedures are factors that contribute to making access to procedures more difficult. As is stated in the Article 14 of Universal Declaration of Human Rights, seeking refuge is a fundamental human right; therefore, Turkey has to allow and process an application for asylum and to honour human rights and human dignity in spite of difficulties.

According to data from the UNHCR; considering the countries of origin of asylum-seekers who were included in asylum-seeking system of Turkey in 2010: the highest proportion of refugees are from Iraq, and they are followed by those who are from Iran. The asylum-seekers from Afghanistan and Somalia are next in terms of the proportion rate. Invasion and armed conflicts in Iraq, Afghanistan



and Somalia cause a great amount of refugees to flee their home countries. The strict approach of the political government of Iran also creates discontent and adds to the number of people seeking asylum elsewhere.<sup>82</sup>

The refugee draft law preparations which the government has begun are considered to be the most important political initiative in this area. The fact that institutions which carry out activities regarding asylum, as well as experts and academics, are involved in the drafting initiative, initiated by the Refuge and Immigration Administrative Capacity Development and Legislation Implication Office of the Ministry of Foreign Affairs, paves the way for the protection of refugees and asylum-seekers and for preparing a law that meets international standards. After the law (which is expected to be on agenda of the Assembly after the general elections in June 2011) is in force, surveillance and control of the application will be important.

An important development is the establishment of a sub-committee for asylum-seekers and refugees under the Human Rights Commission of the Grand National Assembly of Turkey. NGO contributions and suggestions to the committee will pave the way for legal improvements in this area.

Difficulties in the asylum procedure are added to because law enforcement forces that are on duty on the land and sea borders of Turkey do not have sufficient information about asylum and refugees and the people who are arrested on the border have their access to asylum procedures blocked because of 'security concerns'. As there are not enough Turkish border police with sufficient training on the Turkish land borders and sea borders, this prevents asylum-seekers from reaching the asylum procedures. In spite of the decisions passed by ECHR, there are practices which prevent asylum-seekers' from making asylum applications in transit regions and in airports.<sup>83</sup>

Officers do not give asylum-seekers information about how they can make an asylum application, and there is no preventative procedure that those who want benefit from international protection can apply for before the formalities for their deportation start. The asylum-seekers who are taken into custody are prevented from having an attorney or receiving help. In general, the asylum-seekers who are taken into custody because they have violated the Passport Law<sup>84</sup> cannot demand a lawyer because they are not considered to be in custody in accordance with domestic law as they are under 'administrative custody'. A very

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<sup>82</sup><http://www.ihad.org.tr/file/reports/2011/2010%20YILI%20TURKIYE%20ILTICA%20&SIGNMA%20HAKKI%20IZLEME%20RAPORU.pdf>, p. 10, accessed 19 July 2011.

<sup>83</sup><http://madde14.org/index.php?title=M.S.S / Bel%C3%A7ika ve Yunanistan> accessed 14 December 2011.

<sup>84</sup>Passport Law No: 5860 <http://www.mevzuat.adalet.gov.tr/html/951.html> accessed 14 December 2011.

low proportion of asylum-seekers who are kept in guest houses for foreigners can have contact with lawyers and the officers of UNHCR.<sup>85</sup>

The guest houses for foreigners, which are the places where foreigners who are taken into custody live if they have not been included in the asylum-seeking procedure and they have violated the Passport law<sup>86</sup> by entering Turkey, are far from meeting legal standards. These 'guest houses' are overcrowded, are not ventilated, are not heated and have unhealthy conditions.<sup>87</sup>

Refugees and asylum-seekers state that they have problems in making asylum applications and in following them because they are prevented from doing so as a result of arbitrary treatment in the guest houses and that they are annoyed by harsh treatment from security officers. It should be noted that although they are called 'guest houses', they are places for taking foreigners into custody and they are far from meeting even fundamental standards. Presently, many refugees and asylum-seekers are prevented from meeting their lawyers, the officers of UNHCR and the representatives of NGOs. A 2006 Application Notice made it possible for the asylum-seekers to make asylum applications from their guest houses. However, there is a general reluctance in recording asylum requests in accordance with this notice.

A report which was issued by the Commission of Human Rights of the Grand National Assembly of Turkey made it possible for the problems in the guest houses to be seen by the public authorities and to be registered. The report was a result of interviews with 44 refugees in the guest houses of Kırklareli (Gaziosmanpaşa), Istanbul (Kumkapı) and Edirne (Tunca) and those staying in Yozgat.<sup>88</sup>

#### **Example of NGO Good Practice**

The **UNHCR** have held meetings in the provinces where the Reception centres, each of which have the capacity to shelter 750 people, are being constructed and some of NGOs were represented at these meetings. However, the Ministry of Interior Affairs excluded some NGOs from participating in the meetings and from

<sup>85</sup> Çetin, Selvet. Human Rights Association. *Turkey Monitoring Report on Right to Refuge and Asylum* <http://panel.stgm.org.tr/vera/app/var/files/2/0/2010-turkey-monitoring-report-on-right-to-refuge-&-asylum-2.pdf>, accessed 28 October 2011.

<sup>86</sup> Passport Law No: 5860

<sup>87</sup> Çetin, Selvet. Human Rights Association. *Turkey Monitoring Report on Right to Refuge and Asylum* <http://panel.stgm.org.tr/vera/app/var/files/2/0/2010-turkey-monitoring-report-on-right-to-refuge-&-asylum-2.pdf>, accessed 28 October 2011.

<sup>88</sup> Committee on Inquiry of Human Rights in Grand National Assembly of Turkey, Analysis Report on Refugees, Asylum- Seekers and Illegal Immigrants in Turkey, Ankara, 2010, [http://www.tbmm.gov.tr/komisyon/insanhaklari/belge/gocmen\\_raporu.pdf](http://www.tbmm.gov.tr/komisyon/insanhaklari/belge/gocmen_raporu.pdf), p.1, accessed 22 July 2011.

applying for accreditation, which caused a reaction among organisations from the Refugee Rights Coordination.<sup>89</sup>

Short term measures are used where long lasting measures are necessary: Structural problems should be addressed and rooted improvements for the establishment of integration need to be made and not delayed any further.

A notice from the Ministry of Interior Affairs, issued in May 2010, states that the guest houses shall be renamed “Readmission Centres” within the framework of the fight to combat illegal and irregular immigration and that readmission centres which can shelter at least 50 people will be introduced in each and every province. This notice should be applied meticulously in order to guarantee the protection of the lives of those who are arrested on the border or when travelling in the country without any documents and who are taken into custody for readmission procedures. These practices must be monitored and followed closely. The refugee law which is expected to be enacted in 2011 shall raise the standards of guest houses and make these new obligations legal.

Reception centres, are being built in scope of the framework of the National Action Plan in seven provinces (Adana, Erzurum, Gaziantep, Istanbul, Izmir, Kayseri, Van).

In the current process, the social integration of asylum-seekers is possible by means of the support of NGOs and public institutions. The Provincial Directorate of National Education Kayseri gives Turkish language courses to refugees in a pilot school.

### **Examples of NGO Good Practice**

**Association of Solidarity with Asylum Seekers and Migrants (SGDD)** gives language and music education to asylum-seekers and refugee youth in its Ankara office. SGDD gives four hours of English lessons and four hours of Turkish lessons per day.<sup>90</sup> These lessons, which are given by volunteers, have important benefits but they are especially important for solidarity. For example, an Australian of Polish origin who studies in Ankara University teaches English to a young man from Somalia. Most of the course participants are from Somalia and most of them have lost their relatives. There are those who have no relatives alive and those who do not have any social company. Even a little concern and help is important for them. The lessons also have practical benefits. Learning a little Turkish is very important for these young people. Through this they learn

<sup>89</sup> Çetin, Selvet. Human Rights Association. *Turkey Monitoring Report on Right to Refuge and Asylum* <http://panel.stgm.org.tr/vera/app/var/files/2/0/2010-turkey-monitoring-report-on-right-to-refuge-&-asylum-2.pdf>, accessed 28 October 2011.

<sup>90</sup> <http://www.sgdd.org.tr/index.php?lang=en> accessed 20 July 2011

how to communicate with the community that they live in and they can benefit from the opportunities provided to them by urban life. Another purpose of Turkish lessons is having those who have had the opportunities for education teach those whose have not had that chance.<sup>91</sup> The aim of the English lessons is to speed up the adaptation of the asylum-seekers in the countries they are sent to after they receive refugee status. It is also helps them to have better education and business opportunities.

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<sup>91</sup> <http://www.umudadogru.com/dergi/tr/?id=154&kat=26>, accessed 18 August 2011.

## **XIV. National Recommendations**

### **Employment**

- The necessary amendments should be made to the Draft Law on Foreigners and International Protection to enable refugees to work legally.
- By means of passing the required laws, all workers in Turkey, including those with a Kurdish background, must be paid the same wages for the same work.

### **Housing**

- Urban planning must ensure fair treatment of Roma.
- Refugees need to receive better housing support.
- The conditions in refugee 'guest houses' must be drastically improved by the government.
- Spot checking should be introduced in detention centres without informing the centres in advance.<sup>92</sup>

### **Education**

- The Ministry of National Education should make a special integration program for primary education so that the children of refugees are enabled to overcome the social problems they face at school.

### **Health**

- There should be a common standard national procedure for all health institutions concerning healthcare for refugees.
- Legal arrangements should be made to ensure and facilitate refugees' right to have access to the health services.
- Roma people should be aided to obtain social insurance documents in order for them to be able to access health care services.

### **Criminal Justice, Policing and ethnic profiling**

- The measurements which are taken for security should not cause the elimination or weakening of fundamental rights and freedoms

### **Racist violence and crime**

- Highly publicised convictions of perpetrators of racist crimes are necessary to deter such behaviour and to avoid a sense of impunity
- There must be legal restrictions on the use of hate speech and accountability for politicians who engage in such practice<sup>93</sup>

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<sup>92</sup> Ibidem p.55

<sup>93</sup> <http://bianet.org/english/minorities/111513-president-files-lawsuit-against-parliamentarian-for-accusing-him-of-armenian-origin>, accessed 25 October 2011.

- A new law should be introduced in terms of the punishment of hate crimes: There is not any crime which is defined as “hate crime” in the legislation and there is no criminal prosecution of it. While Article 10 of the Constitution emphasises that everyone has equal rights regardless of his religion, language, race, sex, political thought, philosophy, sect and similar merits, Articles 77,115,125 and 216 of the Turkish Penal Code explains the criminal prosecution for the prevention of the hate crimes. Therefore, a legal arrangement needs to be made for obvious hate crimes.<sup>94</sup>
- Hate crimes affect the victim more than the other crimes and they also affect the members of the group which the victim belongs to. Therefore, any legal arrangement with regard to hate crime should include sanctions which are much heavier than sanctions for other crimes.
- Help should be provided to the victims of hate crime and they should be encouraged to get in touch with police and inform the law-enforcement officers about the attacks they are exposed to.
- Programs should be made for the staff of the General Directorate of Religious Affairs and mosque goers so as to increase their awareness of hate crimes, and therefore, strengthen the prevention and reporting of hate crimes.
- The government should work in connection and cooperation with experts who are experienced in hate crime as well as national and international NGOs and also fulfil its obligations with regard to inter-governmental organisations. We should not be afraid about facing our history and our background, ‘official history’ should be questioned and the establishment of a history of common memory should be attempted. For this reason, NGOs should fight against the concept of “the other” and strengthen pluralism and variety within their own institutions.
- The government should immediately take action to collect official data about hate crimes; however, NGOs should also always monitor hate crimes by preparing thematic and shadow reports

#### **Access to goods and services in the public and private sector**

- Awareness campaigns and training should be targeted at those working in the provision of goods and services in order to overcome discriminatory attitudes.

#### **Media, including the internet:**

- Media should be monitored in terms of language that constitutes hate speech, xenophobia, and discrimination.

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Ibidem.

- Deterrent arrangements should be made in order to prevent hate speech in the media.

### **Anti-discrimination and anti-racism:**

- In parallel with the contemporary world movements and based on a multicultural axis, Turkey should make policies that do not cause any ethnic, cultural or religious group feel “otherized” and that contribute to the creation of a common living space for all groups and the creation of a private area for each group so that they can sustain their existence.
- Education for raising awareness of discrimination, racism and hate crimes should be given to all politicians, public figures, officials, and civil servants.
- Turkey should re-evaluate its traditional policies and carry out restructuring based on equal citizenship.
- Turkish-ness and Turkish nationalism are stressed many times in the Constitution of Turkey because of national state understanding. Judicial bodies pass restricting decisions through referring to these arrangements. Therefore, this legislation which causes such discriminative applications should be scanned in general and arrangements meeting the international standards should be made.
- Activities should be carried out in communities to convince them to have a positive understanding of, and attitude and approach to, disadvantaged groups (to encourage their support for the purpose of the protection of languages and beliefs). The discriminated against groups should take part in the preparation of new activities for this purpose.
- Alternatives to obligatory military service should be found for those who do not want to use weapons because of their beliefs or because of any other reason.
- The curriculum in the military schools must be changed in accordance with the human rights principles, and include a course on human rights.<sup>95</sup>
- In-service-training programs should be arranged with regard to putting the rights of religious and ethnic minorities with regard to belief, worship, organisation and freedom of speech under constitutional guarantee and for the purpose of the prevention of discrimination against religious communities.
- Discrimination Framework Law should be drafted and enacted soon so as to fight against prejudices against different groups and the resultant discrimination which is triggered by prejudices.
- There is a need for a Constitution based on civilian and human rights
- A constitutional amendment should be made to legally define the religious minorities who are not included in those who were referred to in the Treaty of Lausanne.
- Article 66 of the Constitution, which defines the national state and single nation, “Everyone bound to the Turkish state through the bond of

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<sup>95</sup> Ibidem p.55

citizenship is a Turk” should be changed in order to consider a communal structure that is multi-cultured and has multiple-identities.

- All legislation, especially the Constitution, should be purified from regulations which have, as their main purpose, the creation of a uniform community.<sup>96</sup>
- No identity should be sublimated; in this context, articles like Article 301 of the Turkish Penal Code should either be abolished or be developed so that they include all identities.
- The required legal arrangements should be made for social inclusion of disadvantaged groups in Turkey. Cooperation should be developed with NGOs for this purpose.

### **Migration and integration:**

- A concept of citizenship grounded in universal values and human rights should be promoted to minorities and the general public in order to facilitate integration and encourage interaction between minority and majority
- The geographic restrictions on the 1951 Convention should be cancelled and the refugee legislation should be in accordance with the international standards. The individuals who have been given refugee status by UNHCR should be protected in accordance with the “non-refoulement” principle.
- A procedure should be applied for asylum-seekers in accordance with the law so as to determine those who will face risk in terms of their lives if they are sent back to their country of origin.
- The legal obstacles preventing the asylum procedure should be cancelled. Accordingly, mechanisms which guide foreigners on applying for asylum in guest houses, at the border, and in transit regions, should be implemented, and an asylum procedure that is based on human rights and that is just, effective, and quick, should be realised.
- Expert staff members should be available for all applications for asylum: translators, who are well-informed about asylum law should be appointed, and the formalities should be completed within a reasonable period of time.
- Rapid and effective investigations of any public officers who refuse to take asylum applications should be conducted, including those who do not transfer the applications to the related institutions.
- The legislation which prevents refugees from entering a third party safe country should be cancelled; the fees for exit, charges and related interests should be cancelled and it should be in solidarity with the authorities of UNHCR and third countries so that the individuals are transferred to the desired third country rapidly.

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<sup>96</sup>

Ibidem., p.60.



- The refugee law draft which shall be sent to the Grand National Assembly Turkey after it has been reviewed once again should be one of the legal arrangements to be handled in the incoming legislative year.
- Meetings should be held with NGOs and UNHCR executives during the preparation period of legislation concerning refugees and asylum-seekers and they should be invited to make contributions to legislation procedure.
- The gaps in the national refugee law should be filled immediately so that all of the refugees and asylum-seekers who need legal protection make use of protection without any discrimination.
- The physical conditions of reception centres and guest houses for foreigners in the satellite towns should be reviewed and improved in accordance with the case-law of ECHR and the fundamental principles of Human Rights Law.
- The application of the provisions of regulations and notices that have been issued for the purpose of meeting the fundamental problems of refugees and asylum-seekers with regard to education, health, sheltering and right to employment, should be audited regularly by the competent units.
- The legal guarantees for the protection of child refugees and delicate groups should be realised meticulously.
- The Ministry of National Education and Social Services and Children Protection Agency and social protection mechanisms should cooperate with UNHCR in order to meet the requirements for the education and psycho-social needs of children who are asylum-seekers and refugees.
- The basic protection provisions for refugees and asylum-seekers should be applied when the obligations in terms of a readmission agreement are fulfilled.

## XV. Conclusion

In 2010, discriminatory and racist policies which originate from legislation and its application still continue in Turkey. The awareness of the public has increased around these issues and NGOs have conducted various campaigns. The demands for making more rooted changes have increased and the communal ground has been paved for the solution of issues around the treatment of Kurds, religious minorities and Roma People. The Government launched democratic initiatives in 2010 aimed at solving the problems of these minority groups.<sup>97</sup> In this scope, the authorities attempted to improve their dialogue with Kurds, Roma People and Alewis.<sup>98</sup>

In spite of all of the steps which were taken to eliminate discrimination and racist manifestations, and the various democratic initiatives, the problems with regard to these areas still continue. The problems are especially worrying with regard to fundamental rights and freedoms such as political and cultural rights and freedom of belief being prevented. The obstruction of these rights prevents Turkey from fully entering a normalisation process in which it embraces all of the parts of the community.

The majority of the Turkish community, especially vulnerable groups, believe that the normalisation of Turkey and the solution of classic problems of Turkey is only possible through a new constitution. Four political parties which have groups in the Turkish Grand National Assembly of Turkey have promised to write a new constitution and their party program proves this. The referendum on 12 September 2010, which received 50% votes in favour, showed how important it is that political parties write a new constitution as soon as possible. However, it must be taken into consideration that NGOs have a more advanced level of understanding in regard to this issue and that they must assist in preparing the drafts of the new constitution.

The political parties, in their promise of a new constitution, and NGOs, in their drafts of the constitution, must make a promise to make a more liberal, democratic, and pluralist constitution. The new constitution can be used to address the problems that currently originate from discrimination and racism.

Discrimination and racism are still alive in Turkey today and we face it in our individual or collective, official or non-formal, relations in our daily life. Therefore, it is essential for the government to make urgent action plans and take measures for the prevention of separation/conflict in the community.

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<sup>97</sup> [http://en.wikipedia.org/wiki/Democratic\\_initiative](http://en.wikipedia.org/wiki/Democratic_initiative) accessed 14 December 2011.

<sup>98</sup> <http://www.turkishjournal.com/i.php?newsid=6935> accessed 14 December 2011.

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## **Annex 1: List of abbreviations and terminology**

EU.....	European Union
ECHR.....	European Convention of Human Rights
ECHR.....	European Court of Human Rights
IHAD .....	Human Rights Research Association
IHD.....	Human Rights Association
IHOP .....	Human Rights Joint Platform
OECD .....	Organisation for Economic Cooperation and Development
NGO.....	Non-governmental Organisation
UNHCR .....	United Nations of High Commissioner for Refugees
TGNA.....	Grand National Assembly of Turkey



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