

# THE SILENT REVOLUTION

Turkey's Democratic Change and  
Transformation Inventory

2002-2012



REPUBLIC OF TURKEY  
PRIME MINISTRY  
UNDERSECRETARIAT OF PUBLIC ORDER AND SECURITY

## **THE SILENT REVOLUTION**

Turkey's Democratic Change and Transformation Inventory

(2002-2012)

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## ABBREVIATIONS

A	: Article
BELDES	: Municipality Infrastructure Support Project
CCT	: Conditional Cash Transfer
CMK	: Criminal Procedure Code
CMUK	: Code of Criminal Trial Procedure
CoE	: Council of Europe
ECHR	: European Convention on Human Rights
ECtHR	: European Court of Human Rights
EMASYA	: The Protocol on Cooperation for Security and Public Order
EU	: European Union
HCJP	: High Council of Judges and Prosecutors
HMK	: Code of Civil Procedure
IYUK	: Code of Administrative Procedure
KDRP	: Return to the Village and Rehabilitation Project
KHK	: Decree Law
KÖYDES	: Village Infrastructure Support Project
MoNE	: Ministry of National Education
NCS	: National Security Council
RTUK	: Radio and Television Supreme Council
SMC	: Supreme Military Council
SODES	: Social Support Programme
SSC	: State Security Court
TCK	: Turkish Penal Code
TGNA	: Grand National Assembly of Turkey
TMK	: Counterterrorism Act
TRT	: Turkish Radio and Television Corporation
UN	: United Nations
YOK	: Higher Education Council





## FOREWORD BY THE PRIME MINISTER

In the last decade, we have provided extensive services, made large-scale investment and undertaken radical reforms, thanks to our un-failing love and devotion to our nation and country. Undoubtedly, democratic reforms are of unique and particular importance among the services that we have provided to our country in the last 10 years. The steps that we have taken to make Turkey a more democratic, free, prosperous, peaceful and safe country have transformed the image of our country. Steps taken towards democratization have had a direct impact on economy, foreign policy and social life and supported the strong growth that Turkey has achieved in all fields.

Our deep-rooted and long-time tradition is based on a very beautiful saying by Sheik Edebali: “Let man flourish so that the state shall flourish!”. The State exists for mankind and to serve the people. A state that does not value its people, excludes and marginalizes them, discriminates among its citizens and protects itself against its citizens, cannot generate services, cannot guarantee rights and cannot ensure economic growth and welfare. The state is not an entity which positions itself against its citizens but an entity which has to coexist with its people and which is responsible for providing service to its people.

In the last decade, we have made great efforts to make the state a servant for its people and to eliminate the problem of trust exist-

ing between state and nation, in other words ensuring that state embraces the whole nation. In this process, we have implemented local government reform with the understanding of “democracy and development starts at the local level”. In addition, we have taken significant steps in socio-economic fields through projects such as KÖYDES, BELDES, Return to Village and Rehabilitation and SODES programme with a view to compensating the losses borne by victims of terrorism. Furthermore, we have significantly reduced regional disparities thanks to incentives we have provided, and extended welfare around the whole country to cover even the smallest settlements.

In parallel to initiatives taken to boost development, we have taken significant steps in the fields of democratization, law and fight against terrorism, each of which is deemed as “the silent revolution”. We have never made concessions with regard to democracy, security or freedom. We have embraced a paradigm-shifting approach as our foundation in order to restore peace in the society and developed a new “security paradigm”. We have ended the practice of maintaining a state of emergency. We have abolished State Security Courts and Special Authority Courts. We have established the Undersecretariat of Public Order and Security. Most importantly, we have effected a revolutionary change in the mindset through a social peace initiative that we call the “National Unity and Fraternity Process”.

This revolution has introduced an understanding that recognizes differences as diversity and puts the emphasis on serving the citizens instead of a statist approach which sees its own citizens as a threat. We have ensured that various languages and dialects can be taught at all levels and can be used in political propaganda and broadcasts. We have made it possible for detainees and convicts kept in prisons to speak their mother tongue when meeting relatives. We have employed interpreters for different languages and dialects with a view to enabling our citizens to make more efficient use of public services.

We have introduced regulations on the protection and promotion of human rights that are based on the current criteria of the present day world. We have followed a “zero tolerance to torture” policy. We have paved the way to enable retrials on the basis of judgments of the European Court of Human Rights. We have introduced the right to information. We have broadened the scope of the freedom of association. We have provided safeguards for the activities of political parties. We have established Institution of Ombudsman and Human Rights Institute of Turkey.

Within the cope of public reforms, we have also introduced significant regulations in the area of the judiciary. We have demolished the pro-tutelage approach dominating the judiciary and replaced it with a more civilian and liberalist structure, which enshrines the principle that “it is not the law of the powerful but the power of the law”. We have changed the structure within the Constitutional Court and the High Council of Judges and Prosecutors and made it more democratic. We have introduced the right to individual application to the Constitutional Court, in addition to improvements towards fair and speedy trials. We have raised our democracy standards, with the accompanying support of our people, through serious changes made to the essence of the pro-tutelage articles in the 1982 Constitution, which was the product of military intervention.

Similarly, we have undertaken reforms in the area of civilianization such as the change in the structure of the National Security Council, narrowing the jurisdiction of military justice, annulment of the EMASYA Protocol, discontinuation of the practice of military members in some public agencies and institutions, introduction of judicial remedies against Supreme Military Council decisions, opening judicial avenues for trial of those responsible for September 12 Coup d'état and establishment of inquiry commissions within TGNA.

As a consequence of all of these radical reforms as well as civilianization and democratization initiatives, we have built a country that is

stronger, richer, more prosperous, more democratic and more liberal. We will continue to undertake reforms with great determination in order to ensure that Turkey achieves the objectives that it has set for itself for the year 2023 and attains a more efficient and prestigious position in its region and in the world as well as to achieve our ideal of “Great Turkey - Again”. I believe that Turkey will become a more significant actor in its region as long as it achieves the required transformation and change as well as the reforms and it will continue to be a rising star in the world with its strong economy, advanced democracy and active foreign policy.

This booklet provides you with an inventory of radical public reforms that we have undertaken between 2002 and 2012 and that are regarded as “silent revolutions”. I believe that this significant study, which can be considered as a road map for the upcoming reform process, constitutes an important source and an important reference point for the generations to come. I would like to take this opportunity to extend my profound thanks to those who have contributed to preparing and implementing these reforms. I would also like to celebrate all the institutes and people who have contributed to the preparation of this booklet.

Hoping to bequeath a more powerful and prosperous country to generations to come...

**Recep Tayyip ERDOĞAN**

Prime Minister

## **FOREWORD by the DEPUTY PRIME MINISTER**

The period between 2002 and 2012 marks a very unique time in history in terms of strengthening democracy and human rights in Turkey. Indeed, the last decade has seen significant steps towards laying a permanent and solid foundation for our democracy, as well as ensuring that citizens from all segments of society enjoy fundamental rights and freedoms in the most extensive manner. Such steps have diminished the distance between the state and public, or in other words, reinforced the trust that our people have in their state. The Justice and Development Party government has lent an ear to our citizens whose rights and freedom have been denied and whose requests have been disregarded in the previous period due to pro-security approach and institutions defending the tutelage. Thus a balance has been created between security and freedom and efforts have been made to ensure that our citizens' legitimate requests are granted in the most extensive manner, without any discrimination because of who they are.

The steps taken by Justice and Development Party governments in this period augur a historic turning point, which will make Turkey greater and stronger in the future. Turkey not only has ranked among the top countries in terms of democratic standards but increased its reputation in the region and in the world as well. This achievement is closely related to the fact that our government maintains an equal distance to all citizens regardless of their ethnic, cultural, religious

and political differences and regards all of them as “equal and free citizens” of our country. Furthermore, while making arrangements towards democratization, our government members have placed great importance on healing old wounds.

It would be the right approach to qualify this extensive change and transformation process that Turkey has experienced in the last ten years as a “silent revolution”. This is because reforms that aim to raise the bar for human rights and democracy were undertaken one after the other in Turkey between 2002 and 2012. Undoubtedly, our government will sustain reforms towards democratization and political liberalization, without pausing. However, it is imperative to acknowledge the progress that we have made in the last decade in order to define the upcoming road map accordingly. Hence, the Undersecretariat of Public Order and Security has conducted a study in which they have depicted the main democratization steps between 2002 and 2012. This study aims to demonstrate the transformation that the outlook for Turkey that we had inherited in 2002 has undergone by 2012. In addition, this study can be qualified as an inventory that lists the reforms undertaken in the past and as a guide explaining the ideal that our government has for democratization and liberalization.

Why was there a need for such a study? One defect that human nature has is to forget and it is not easy especially for new generations to know what happened in the past. In fact, just looking at this study will help us understand how different Turkey is now when compared to a decade ago. Furthermore, this list is so impressive that even those who have not experienced that period can notice and understand this striking difference. This study has been undertaken for these reasons. Let's be fair to Turkey and ourselves. Turkey has made great progress in its journey towards democratization and human rights. Achieving this progress was and still is the main mission of Justice and Development Party governments. We will continue our journey to become a country with a free and fair society.

As someone who has experienced the previous situation in Turkey and who knows why such efforts have been made recently, I consider that this impressive study is of great importance. I would like to thank those who contributed to this study in the hope that it will make it possible for the people in Turkey and abroad to better understand Turkey's progress on its democratization journey achieved in the last decade through the "Silent Revolution".

**Beşir ATALAY**

Deputy Prime Minister





## **FOREWORD by the UNDERSECRETARY**

There have been intense struggles to overcome problems facing our democracy at different periods starting from the beginning of the multi-party political system until the 2000s. However, our democratization process has been interrupted from time to time due to extraordinary interventions. Despite prospective steps taken and efforts made to this end, it was not possible for our democracy to reach universal standards for many years. Therefore, a kind of disconnect between the state and society has emerged and political powers were unable satisfactorily to meet society's demands for change.

One of the most comprehensive democratization initiatives since the inception of our Republic has been undertaken in the last decade with a view to resolving problems which had become evident in social and political life. The main goal of the steps taken in the last decade is to eliminate a system of government shaped by bureaucratic oligarchy and special power groups and replace it with a system of democratic government ruled by the will of the public. As required by the adopted human-oriented management approach, reforms have been undertaken to improve fundamental rights and freedoms in every field and in accordance with universal criteria. Many local and international observers agree that such reforms, which can be considered a "silent revolution", have helped us achieve significant progress.

In this period, policies that strove to eliminate the disconnect between the state and society and to put the individual at the center were developed. In addition, certain arrangements have been introduced to ensure that our people can enjoy the fundamental rights and freedoms in the most extensive manner with an understanding of equal citizenship, without discrimination. Considering the sensitivities of different segments within society, we have eliminated unjust treatment displayed in the past and those who have caused suffering due to such treatment have started to be held accountable.

Undoubtedly, democratization and expanding individual freedoms is a journey that will never end. To illustrate, even the countries that are deemed to have reached the most advanced level can face problems in terms of human rights and democracy. However, the most important point here is that the system is equipped with mechanisms that will ensure institutionalization of democracy, safeguarding fundamental rights and freedoms and preventing people from resorting to unlawful means. Our country, which has achieved significant progress in the last decade to erase the mistakes made in the past, should sustain its efforts towards building a democracy that is institutionalized and transformed into a life culture.

This inventory study can be qualified as a summary of practices introduced in the last decade towards democratization and strengthening fundamental rights and freedoms in Turkey. This study will also enable people living both in Turkey and in the world to directly follow the democratization reforms undertaken in Turkey in the last decade. I would like to thank the personnel of the Undersecretariat and those who have contributed to this study and hope that this study proves to be beneficial to those interested.

**Ulvi SARAN**

Governor

Undersecretary of Public Order and Security

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## INTRODUCTION

When the era of empires ended at the end of 19<sup>th</sup> century, our world was evolving towards a new model of individual, society, state and market with the start of the 20<sup>th</sup> century. This new model was one where states were more introverted, societies were disconnected, markets were less interrelated and the individual less evident whereas in the 21<sup>st</sup> century, we are evolving towards a completely different era; an order of the world with a much different structuring of the relationships among the individual, the society and the state. Under the intense influence of globalization processes, mass communication tools, communication and information technologies, introverted societies, states and groups continually lose their potential to maintain their former status. In today's world where individuals, societies and markets have become more intertwined and classical state domination no longer carries its former meaning, it is ever more difficult to sustain practices that contradict with democracy, human rights and freedoms.

It is easily observed that such developments are closely influencing our country on a multidimensional scale. Consequently, Turkey was not indifferent to such developments to the extent that while pro-security practices were to the fore throughout the world in the aftermath of September 11, Turkey realized one of the most comprehensive democratization processes of its history in the period 2002-2012.

It is known that one of the most important problems faced by our country in the past is that there was a distance between the people and the state and that this distance gradually widened as a result of wrongful practices and policies. This was mainly caused by relying on a pro-security paradigm for the solution of the country's political and social problems. For many years, citizens' most basic demands for democracy and for the expansion of rights and freedoms have been overlooked, and even the expression of such demands was repressed. Many painful experiences revealed that the aforementioned security-oriented policies that kept the state at a distance from the general public did not contribute to the solution of the problems but on the contrary led to an expansion of them.

Significant reforms have been introduced in our recent history to raise democratic standards. Following the transition to multi-party political life, significant steps were taken in the areas of democratization and civilianization starting with the periods of Adnan Menderes and Turgut Özal. As to the steps taken in the recent period, the reforms undertaken between 1999-2001 within the context of European Union (EU) alignment process and those that introduced innovations in the area of fundamental rights are quite important. However, considering the intensity, scope, characteristics and the impact of these reforms, the 2002-2012 period carries specific importance. This period saw historical reforms in terms of civilianization, normalization, the rule of law and advancement of human rights standards, all of which can be covered under the title "democratization".

In this period, which saw one of the most comprehensive civilianization and democratization processes of Turkish history, excessive restrictions that had been introduced in almost every aspect of ordinary life under the grip of military, bureaucratic and judicial tutelage regimes have been lifted one by one and efforts towards multifaceted normalization of life were decisively carried out. The negative effects of a public bureaucracy that was lagging behind its own society and

world developments on the world, and thus became an obstacle to many changes, have been alleviated.

Democratization steps have marked in particular the first ten years of the 21<sup>st</sup> century and also set the main agenda for debate for upcoming years. These debates, that have concentrated on the “National Unity and Fraternity Project” post-2009 significantly accelerated the democratization and civilianization of the state and also strengthened the institution of politics. The provisions introduced under this process aimed to eliminate the barriers between the people and the state, ultimately aiming to

reduce the impact of the state, expand the arena of civil society and highlight the individual. While the provisions regarding various segments of society such as the Kurds, Alawi, Roma,

**These steps, that expand the area of fundamental rights and freedoms, facilitate the daily life of people in every area and reinforce the feeling of confidence in the state have been taken not merely for a particular segment but for the whole of society.**

non-Muslim citizens helped society to face these issues and also laid the ground for free discussion of the problems and for acceleration of the search for solutions. Where such ethnic, religious and cultural diversity constituting the richness of our nation was not even spoken of in the 1990s, the end of this period led to the emergence of a vastly free and dynamic atmosphere of discussion. Discussing and debating its problems openly in this atmosphere, Turkey accelerated its democratization moves.

These steps, that expand the area of fundamental rights and freedoms, facilitate the daily life of people in every area and reinforce the feeling of confidence in the state have been taken not merely for a particular segment but for the whole of society. All segments of society that had been intended to be under the yoke in every field

benefited from the practices. With these steps, which have raised the bar for freedom and democracy, and distinguished terrorist actions from legitimate demands, a more sensitive and responsible approach to all parts of society has been adopted. Suffering caused by wrongful practices in the past has been brought to an end. Thus, Turkey was transformed into a country that is freer and more secure, prosperous and peaceful for each and every one of its citizens. “Democratization policies” that had long been debated yet only came to be realized in 2000s ensured on one hand that the society faced its problems and on the other hand functioned as a kind of “social restoration”. Considering what Turkey has achieved in the last decade as a country wishing to be on the same wavelength with the change ongoing throughout the world, it would not be wrong to characterize all of these steps as a kind of “silent revolution”.

The aim of this study is to develop an inventory of the steps taken in the last decade between 2002 and 2012 with a view to ensuring democratic change and transformation process. This inventory will help us to better see the evolution that the state has undergone in the last decade. The steps that have been taken will be communicated to generations to come more properly and correctly. Moreover, it is evident that such an extensive inventory is necessary for defining a realistic and correct roadmap for the future as the sustainability of the steps taken and the reforms and their right targeting can be ensured through attributing the right meaning to firstly the past and today. In this manner, it will be possible to inform the national and international public opinion wishing to receive information on the reform process. Therefore, the inventory constitutes a significant source of reference for those interested in the reforms carried out in the last ten years.

This inventory does not include all the efforts and studies carried out in the last decade but solely steps taken in the area of democratization and human rights as well as other factors, which facilitated such steps.



In the first chapter, the study presents an overall view aiming to indicate the progress in Turkey's democracy journey in the last decade and thus provide an opportunity to obtain best knowledge of the process. This chapter is based on thematic explanation rather than chronological method.

The second chapter covers the steps taken in detail and chronologically on a year-by-year basis. To this end, all the practices and arrangements with direct or indirect impact in the field of democratization have been addressed chronologically. Therefore, the democratization inventory of the last decade is presented. This chapter basically covers the period between 2002 and 2012. However, democratization steps taken in 2013 were included as also being of great importance.

However, it is evident that raising the bar for democratization, freedom and human rights is a process that is multi-faceted and long-term, maybe even never ending. Therefore, what should be done in rapidly changing global and national conditions is not limited to what has been done so far.

As long as this inventory constitutes a source of "reference book" for studies to be carried out by local and international researchers, experts, academicians and think-tanks aiming to analyze democratization steps taken in Turkey in the last decade with all the social, political, legal, economic and cultural dimensions considering the military, security and freedom aspects as well; it will achieve its purpose.



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**CHAPTER ONE**

**DEMOCRATIZATION**

**PROCESSES OF THE**

**PERIOD 2002-2012**

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**TURKEY'S DEMOCRACY  
AND HUMAN RIGHTS ADVENTURE IN  
THE RECENT PERIOD**

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## **TURKEY'S DEMOCRACY AND HUMAN RIGHTS ADVENTURE IN THE RECENT PERIOD**

### **1961 and 1982 Constitutions**

The transition to democracy in Turkey coincides with the transition to multi-party political life. One of the major reasons for the transition to multi-party political life was the developments in the international arena after World War II. However, the democratic order established after multi party political life did not last long and was soon interrupted by a military coup d'état. The State was reconstructed and restructured after the military coup. While large-scale dissolutions in the military/civilian bureaucracy and in universities took place, a new state structure that was in line with this new construction was rigorously established through the new Constitution.

Although the 1961 and 1982 Constitutions, adopted after transition to the multi-party political life, included principles such as “human rights”, “rule of law” and “democratic state” among the characteristics of the Republic, they embraced a specific approach within the context of these characteristics. As a result, major issues in contradiction with the principles of human rights, democracy and rule of law came up in implementation during both constitutional periods, due to reasons arising from the constitution.

The principles of a democratic, secular, social state governed by the rule of law based on human rights and the institutions and boards necessitated by these principles were included among the characteristics of the Republic for the first time in the 1961 Constitution. After 1961, the Constitutional Court and the Council of State were established as mechanisms to ensure the effectiveness of judicial review, in addition to the High Council of Judges and the High Council of Prosecutors that were intended to ensure the independence of the judiciary. However, these innovations, especially the Constitutional Court, which could have been seen as positive at first glance, later proved to bear different results in practice. From its inception, the Constitutional Court embraced an approach protective of the state, instead of working towards human rights and democracy and its rulings on structure and functioning of political life continuously became subject for debate.

It is seen that this problematic approach in question persisted in the 1982 Constitution, as well. The most important difference of the 1982 Constitution from the 1961 Constitution in this respect is that it expressed its statist/ pro-tutelage preference openly rather than implicitly; because, the state and the sanctity of the state took explicit precedence over human rights both in the foreword and the formulation of the articles in the 1982 Constitution.

### **Issue of Tutelage**

“Tutelage” is seen to be one of the striking features when considering developments following the transition to democracy in Turkey and the functioning of the democratic regime. The phenomenon of tutelage can be seen both in military coups and memorandums and in the functioning of the 1961 and 1982 Constitutions. The dominance of the actors of tutelage can be seen in the overthrow of elected parties by military coups on May 27, 1960 and on September 12, 1980 and in memorandums targeting the government parties on March 12, 1971



and on February 28, 1997. The power of these tutelage actors brought along a constitutional structure that would consolidate their position vis-a-vis the political authorities. One of the most important institutions within the context of tutelage used to be the National Security Council (NSC). The NSC, created as a constitutional institution by the 1961 Constitution, was introduced with the purpose of assisting the political authorities on issues of national security. However, due to the dominance of soldiers in the Council, decisions taken by the NSC were virtually perceived as binding by the political authorities. Moreover, as the concept of national security was defined broadly, soldiers were capable of intervening in all the areas for which the political authorities had responsibility.

Within the context of tutelage in Turkey, bureaucratic actors and powers other than the armed forces should not be forgotten either. Among these, the judiciary has a specific importance, as its judgments are binding and it is not subject to the review of any other public power; thus it has a different status. The judgments of the judiciary are binding because in a state governed by the rule of law, the judiciary makes judgments based on law. However, where the judiciary makes judgments outwith the law and these judgments are still binding, then the functioning of such a regime would completely be outwith the scope of the principle of the rule of law. As a matter of fact, as can also be seen overtly in certain past judgments of the Constitutional Court and the Council of State, there are many examples in which higher judicial bodies in Turkey acted and shaped their judgments in accordance with this pro-tutelage approach.

### **Rule of Law and the Judiciary**

The basis of the principle of the rule of law is that all people and institutions that exercise public power are bound by the law. Legislative and executive powers within a state governed by the rule of law can only exercise their powers within the limits set forward by law.

When these powers use their authority unlawfully, judicial review steps in as a compulsory mechanism. For this reason, judicial review and judicial power in the rule of law have a special status within the political system. Due to its nature, the judiciary shall make judgments based on law and on the principles of human rights. It is not possible for the rules taken as basis in the review to be always fully clear. In such cases, the judiciary shall demonstrate a liberalist jurisprudence that is in line with the general principles of law in its interpretation. The judiciary can only have a position in line with its function in a state governed by the rule of law by doing so.

On the other hand, it is difficult to say that the judiciary in Turkey has performed fully in line with this function in the recent period. Especially during periods when tutelage actors are cyclically influential or in cases where a pro-tutelage approach is dominant, the judiciary may make judgments in line with the attitude of the state and ideological preferences, rather than of law and freedoms. Moreover, the judiciary may also make judgments that might undermine the principle of the supremacy of law due to the fact that the legal norm that it takes as a basis is below universal standards. Another important issue is the training and accumulation of knowledge of the members of the judiciary. For all these reasons, the major problems and setbacks that were the subjects of various reports on increasing the impact of the rule of law and ending judicial tutelage in Turkey have arisen. In the end, as the judiciary cannot fully meet expectations in the supremacy of law, it constitutes an important pillar of the reforms to be undertaken.

### **Advancement of the Standard for Democracy, Overcoming Tutelage and Civilianization**

Entering the 2000s, internal dynamics, Turkey's international legal commitments, the EU process and regional and global developments made change inevitable. To these developments must be added

Turkey's fast developing and dynamic private sector, its large young population as well as their demands. Under the influence of all these dynamics, the need arose to raise the standards of human rights, democracy and rule of law at the constitutional and judicial level.

From the perspective of democracy, it can easily be observed that the judicial structure established by the 1982 Constitution needed significant amendments. However, wishes alone do not suffice to bring about structural reforms in a legal order. As it can be seen in various examples around the world and in Turkey, strong and determined political powers are necessary to bring about changes that can be defined as a wave of democratization. There is also a need for a stable period in order to carry out such a reform. That is why strong democratization initiatives during the 1982 Constitutional period coincided with periods of stable government, as well.

The political model foreseen in the 1982 Constitution did not meet requirements and therefore, a need for constitutional and legal reforms arose, directly related to developments. In the period since 1990, an increasing awareness of human rights has come about in Turkey. That the number of applications to the European Court of Human Rights (ECtHR) has been on a gradual increase, ever since the recognition of the right to individual application under the European Convention of Human Rights (ECHR) up until today, and the introduction of the right to individual application to the Constitutional Court in order to decrease the number of ECtHR applications is directly related to this awareness. Especially after Turkey firstly recognized the right to individual application in the ECHR in 1987 and secondly recognized the mandatory jurisdiction of ECtHR in 1990, the Court's judgments on Turkey increasingly started to occupy the agenda. Moreover, since these judgments are binding and their execution is overseen by the Committee of Ministers of the Council of Europe, constitutional and judicial reforms are placed on the agenda in order to take necessary actions according to ECtHR judgments (make it possible to imple-

ment them). Indeed, it can be seen that many of the constitutional amendments and judicial reforms that have been carried out since the 1990s also aim at taking actions required by ECtHR judgments and thus making it possible to implement them. With the help of ECtHR judgments, sensitivity for human rights started to be created within the country and thus, individuals started to use international petition mechanisms in order to protect their rights against the state.

It can be seen that external dynamics are more distinctive in the beginning phase of the democratization process. The fact that internal dynamics were not very effective at this phase is considered as an explicit characteristic of the democratization process in Turkey. However, with the reforms and political developments since the 1990s, internal dynamics started to guide the democratization process, as well. This can be observed more clearly in 2000s.

These Internal dynamics are created by various factors. Primarily, the thriving economy and the private sector's keeping up with international developments obliged political powers to put certain structural reforms into practice. As economic standards rose, the sensitivity of various social groups on rights and freedoms increased. Therefore, legislative and executive organs had to focus more on the demands for human rights because of this sensitivity.

Moreover, people started to follow developments in the national and international arenas more closely and to show more interest in developments on human rights thanks to the effect of globalization processes, diversification of mass media and improvements in communication technologies. Especially people who observed practices in other countries and compared them to the situation in Turkey started to ask for improvements and to criticize wrongful practices in the country. This situation placed more pressure on political powers to remove barriers to human rights, democracy and the rule of law.

At this point, the 2002-2012 period can be deemed as a particularly important one as regards the emergence of problems and making of constitutional and judicial reforms for the removal of these problems. Statusquo-ist resistance standing against the reforms that political powers tried to implement on democratization, civilianization, economy, social policy, human rights, law, etc. took place before the public eye, because of the extent and diversity of the mass media. The 2007 and 2010 Constitutional amendments that were made in order to overcome this resistance also took place within a process monitored by everyone.

In the aforementioned period, two major constitutional amendments were made against the pro-tutelage resistance. Firstly, the Constitutional amendment that was made based on the “Ruling 367”<sup>1</sup> of the Constitutional Court introduced the election of the President of the Republic by popular vote. With the principle of direct popular election of the President of the Republic, who is an important figure of the pro-tutelage model set forth by the 1982 Constitution, unfavorable situations such as oppression, threats, unlawfulness, crisis etc, which occurred at various times during Presidential elections since 1961, are to be eliminated.

In regards to the breaking of tutelage, the constitutional amendments that took place in 2010 focused mainly on the regulations regarding judicial tutelage. With the amendment on the establishment of the High Council of Judges and Prosecutors (HCJP), the tutelage of the Council of State and the Court of Cassation on judicial and administrative justice has been broken. On the other hand, the composition of the Constitutional Court has been rendered more pluralistic. Furthermore, the reforms to the military justice order can also make a positive contribution to the elimination of tutelage.

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1 2007/45 E, numbered 2007/54 K and dated 1/5/2007.

Both of these amendments that ensure the elimination of the protutelage structure set forth by the 1982 Constitution have been accepted by popular vote, which proves that the public is also of the view that these structural reforms need to be carried out. Along with these developments, as of 2000s, it can be seen that there is strong grassroots demand for democratization in Turkey and that democratization steps are taken based not only on external dynamics but also on internal dynamics. Following all these developments, TGNA started a constitution making process with its own initiative after the elections in 2011, upon the demand of the public, which is a first in Turkish political life.

## **Role of the European Union in Democratization Processes**

International dynamics, primarily the EU, had a significant impact on the inception phase of the democratization processes. The EU and EU harmonization process have an undeniable impact on

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Turkey's EU journey started with the signing of the Association Agreement with European Economic Community in 1963 and continued until its application to full membership in 1987. The accession process, which is one of the most concrete projects realized to reach the goal of "reaching the level of contemporary civilizations" shaping

the history of the Republic, followed a course riddled with ups and downs and sometimes it has almost come to a breaking point. However, this accession process gained momentum after Turkey was recognized as a EU candidate country in Helsinki Summit in 1999. The steps taken since 2002 are of great importance in this process. Thanks to these steps and the reforms undertaken, accession negotiations with EU were started in 2005. Therefore, an important phase began in this process which started in 1963 and Turkey moved to the status of a country holding accession negotiations with the EU from its previous status of candidate country to EU.

The Copenhagen criteria, which need to be met as required by the EU membership objective, have contributed greatly to raising the bar for democratization standard for Turkey. Three important chapters of Copenhagen criteria, namely “raising human rights standards”, “civil democracy” and “free market economy”, can be considered as absolute requisites for the democratization process in Turkey.

The Comprehensive constitutional amendments introduced between 2004 and 2010 as part of the EU harmonization process amended approximately one third of the 1982 Constitution. Therefore, significant progress was achieved in terms of democracy, supremacy of law and protecting and promoting human rights. These amendments, which were introduced as required by EU Harmonization packages, strengthened democracy and the rule of law and also ensured a more liberal and free environment in Turkey. The fact that such changes were embraced by all segments of society indicates that these steps were taken not only because the EU requested them but because they were necessary to meet social demands as well.





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# **SHIFTING THE SECURITY PARADIGM**

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## SHIFTING THE SECURITY PARADIGM

Following the fall of the Berlin Wall and the end of the Cold War, the search for a “more democratic and a freer world” at the global scale gained pace. This wave of freedom and democracy persisted until the September 11<sup>th</sup> attacks on the USA.

In spite of the waves of freedom and democracy around the world, the same situation was not true for Turkey in the 1990s. On the contrary, Turkey became more introverted in this period and these years were marked by abnormalities such as the practice of state of emergency, torture cases and murders by unknown perpetrators. Moreover, during the February 28 Process<sup>2</sup> in this period, Turkey detached from the EU process and was isolated from international developments; and started to experience a “crisis of trust” with its own citizens.

While the world witnessed a period of introversion and narrowing of freedoms after 11<sup>th</sup> September 2001, Turkey witnessed just the opposite characterized by expansion and an easing in the area of democratization and human rights. The policies implemented in the last decade have sought to create a radical paradigm shift in the

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2 February 28 Process refers to an anti-democratic process initiated by decisions taken in a National Security Council meeting held on 28th February 1997 and its repercussions. This political intervention disregarding the will of the people is qualified as a “post-modern coup” which forced out the government in power. Following this intervention, many practices violating the freedom of religion and conscience as well as other fundamental rights and freedoms started to be seen.

established understanding of security. The approach in the security policies that considered the nation and citizens as a “threat” was ended and a new approach that relies on the common sense of the nation, which has been passed down from the depths of history, has been embraced. As a reflection of the transition from an authoritarian state approach to a democratic state, a multi-dimensional strategy - instead of a mere security-centric one - has been adopted for the fight against terrorism, one of the most problematic issues for our country. Many important steps have been taken towards normalization on security issues, especially on the fight against terrorism, by abolishing approaches and methods that could be considered exceptional in a democratic state that respected the rule of law. These steps towards normalization brought along judicial procedures to hold accountable the responsible actors of anti-democratic initiatives such as military coups, post-modern coups and coup attempts.

Within this framework, the practice of maintaining a state of emergency has been abolished. The State Security Courts (SSC) and Special-Authority Courts have also been abolished. The “National Unity and Fraternity Project” was launched for the purpose of ending terrorism and establishing social peace and fraternity. The Undersecretariat of Public Order and Security has been established in order to develop policies and strategies in counter-terrorism. The Citizenship Law has been amended. Work has started to restore the former names of settlement areas. Daily life has become easier. Bureaucracy has been reduced following elimination of distrust towards citizens.

Some of the main steps, which are elaborated upon chronologically in the inventory part of this study, are explained below:

### **Lifting State of Emergency**

Procedures of emergency management are methods that the State resorts to against emergency threats or dangers, which cannot be

overcome with ordinary rules of the legal order. The 1982 Constitution sets out two types of emergency management procedures - “state of emergency” and “martial law”. Among these, the “state of emergency” is an emergency management procedure that is declared for specific reasons and includes the temporary partial or full suspension of fundamental rights and freedoms temporarily and allows the imposition of financial, occupational or in kind liabilities on citizens. As for martial law, it is an emergency management procedure that is declared due to reasons that are more serious than those necessitating a declaration of a state of emergency. It allows the temporary partial or full suspension of fundamental rights and freedoms, permitting measures contrary to the assurances in the Constitution; and it results in the delegation of police powers to military authorities.

The practice of maintaining a state of emergency began to be used in 1997 as an alternative to martial law due to terrorism in certain provinces in the Eastern and Southeastern Regions of Turkey. During the state of emergency, which was introduced temporarily on July 19, 1987 and sustained continuously until 2002 with 46 ex-

**As the first big step toward democratization, the state of emergency was ended on November 30, 2002, in other words this practice was ended twelve days after the government was formed by not taking any decision for extension. Considering the long duration of the state of emergency and martial law during the periods of the 1961 and 1982 Constitutions, it is a very important improvement for Turkey that the entire country reverted back to an ordinary civil order in 2002.**

tensions in a row, the powerful authority that the administration had and the significant limitations on human rights caused serious problems. Especially, the exceptions to judicial oversight during the state of emergency show that these periods bear serious concerns regarding

human rights. These concerns were registered with a record number of judgments against Turkey in the ECtHR. Moreover, when the additional authority granted to military authorities in this period is also taken into account, it can be seen that the practice of maintaining a state of emergency was one of the major obstacles to democratization.

As the first big step toward democratization, the state of emergency was ended on November 30, 2002, in other words this practice was ended twelve days after the government was formed by not taking any decision for extension. Considering the long duration of the state of emergency and martial law during the periods of the 1961 and 1982 Constitutions, it is a very important improvement for Turkey that the entire country reverted back to an ordinary civil order in 2002. This step should also be accepted as a symbolic turning point in the launch of the “silent revolution.”

### **Abolishment of the State Security Courts and Special-Authority Courts**

As an indicator of the precedence of security within the security-freedom balance, SSCs, which were included in our judicial system with the 1973 Constitutional amendments, were continuously at the center of criticisms. The differences in the proceedings and the fact that one of the members of the court was a military judge aggravated the criticisms against these courts. Because these courts decided cases with a predominantly pro-security approach, these criticisms were seen to be justified.

The structure of the SSCs was found to contravene the right to a fair trial in the ECHR by the ECtHR and this resulted in a judgment against Turkey. For this reason, first of all, the presence of a military judge within the SSCs was ruled out with a 1999 constitutional amendment. In 2004, these courts were fully abolished. Upon the removal of SSCs, special-authority assize courts were established instead; and these assize courts

were given jurisdiction to hear cases on crimes against the state and organized crimes. With the third judicial reform package adopted by Law No: 6352, dated 2/7/2012, the practice of special-authority courts was also ceased due to the setbacks experienced in the ten-year period. With the new regulation, it has been accepted that the lawsuits brought against these crimes are to be handled by the courts called “Regional Assize Courts” (Regional Heavy Penal Courts).

**Thus, the adventure of SSCs that started in 1973 ended in 2004; and with the removal of special authority assize courts that were authorized in place of SSCs in 2012, another important step has been taken towards normalization of the judiciary.**

Thus, the adventure of SSCs that started in 1973 ended in 2004; and with the removal of special authority assize courts that were authorized in place of SSCs in 2012, another important step has been taken towards normalization of the judiciary.

### **Launch of the “National Unity and Fraternity Project”**

The “National Unity and Fraternity Project” was launched in July 2009 in order to end terrorism and to ensure social peace and fraternity. This Project aims to develop a multi-dimensional policy for the solution of the complicated problem of terrorism that has been encountered for years. Within this framework, the purpose is to raise the standard of democratic standards in Turkey and to end or minimize terrorism. In order to achieve this, on the one hand there are progressive steps taken towards democratization, and on the other there are ongoing efforts to prevent new recruits joining the terrorist organization and towards reintegration into society of the members already recruited one way or another, by eliminating the resources that feed the organization.

**Through the steps taken within the scope of the National Unity and Fraternity Project, fears, taboos and bans are overcome; society and the state face their problems; issues that continued growing as they were ignored are now openly mentioned and debated. Thus, the fact that problems are openly discussed and the state shows such an intensive will and search for solution for the first time act as a “social restoration”.**

The National Unity and Fraternity Project, which is a continuation of the democratization and normalization process that started in 2002 in Turkey, aims to establish a pluralistic and liberalist environment where all opinions can be expressed peacefully and where proposed solutions can be discussed

with mutual tolerance, through expanding the scope of democratization by means of raising the standards of fundamental rights and freedoms.

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Steps taken within the scope of the National Unity and Fraternity Project continue and efforts are underway to strengthen the joint sense of belonging and to build up a common future.

## **Establishment of the Undersecretariat of Public Order and Security**

Turkey’s lack, in its nearly 40 year-history of fighting against terrorism, of a “holistic strategy for the fight against terrorism” or of an



organization which addressed the terrorism problem from a civilian and social sciences perspective has been constantly described as a significant shortcoming. An important step has been taken on this issue with the Law No: 5952 dated 17/2/2010, the Undersecretariat of Public Order and Security was established in order to make analysis, offer solutions and develop strategies based on scientific methods and data on the fight against terrorism and in order to ensure coordination among relevant institutions and organizations, as necessitated by a multi-dimensional and holistic approach.

Thus, in parallel with the security paradigm shift, a new approach has been adopted which would not equate counter-terrorism solely with security measures but handle it with its social, psychological and legal dimensions and act based on data generated by social sciences, benefiting from international experience.

### **Reinstatement of Citizenship Rights**

It was a frequently used method to revoke the citizenship rights of individuals especially during and after military coups. The revocation of citizenship rights of our people for political and arbitrary reasons caused great injustice to these individuals and their families.

In this respect, a new Citizenship Law was adopted in 2009 that enabled the Council of Ministers to reinstate citizenship rights to those who had been stripped of their Turkish citizenship on the grounds that they had committed an act incompatible with loyalty to the motherland. This law paved the way for reinstatement of rights to individuals who had to go abroad during the course of military coup on 12<sup>th</sup> September or for political reasons and whose citizenship was revoked at that time.

## **Facilitating Daily Life**

Road checkpoints and search points practiced excessively and routinely for security reasons, and which caused kilometers of queues, used to cause our citizens to lodge valid and justified reasons. In 1990s, one of the most serious problems experienced by our citizens in the Eastern and Southeastern Anatolia Regions in their daily lives was security controls. With a circular issued at the beginning of 2010, the number of road checkpoints and search points was reduced in order to facilitate the daily lives of our citizens.

In the past, bans on the use of pasturelands and rangelands were introduced for various security reasons in the regions that our citizens lived. This situation had an adverse impact on the regional economy. These bans on the use of pasturelands and rangelands, especially in the Eastern and Southeastern Anatolia Regions, were lifted in the beginning of 2010, in order to increase the level of employment and welfare of our citizens.

## **Reverting Place Name Changes**

One of the most important pillars bridging the gap between the past and present is the names of geographical locations. Therefore, the name of every geographical location has a historical background. In the past, names of many regions and locations in Turkey were changed for political and ideological reasons. It was not possible for people to give the names that they desired to the locations where they lived in accordance with their local language and culture. This situation was detrimental to our citizens' sense of belonging. Taking into consideration the justified requests in this respect, we have paved the way to restore the former names of settlement areas. In this respect, names of some settlement areas have been changed.

## Reducing Bureaucracy by Overcoming Distrust in Citizens

There is a need for a well functioning bureaucratic system in order to provide speedy, effective, qualified and transparent public services. Prolongation of transactions in public institutions not only results in loss of labor and time, but it also causes a loss of confidence in the state and discredits it in the eyes of the public. On the other hand, detailed rules and the large number of documents demanded from citizens are seen as an indicator of distrust of the state in its citizens. The amount of paperwork and time consuming transactions within this framework mostly put honest employees and innocent citizens in a difficult position.

The aim of the activities carried out to reduce bureaucracy in the last ten years has been to facilitate citizens' access to basic public services such as education, healthcare and finances - as citizens used to be victims of rather slow and cumbersome functioning mechanisms of the public services when compared to the European countries -and to remove bureaucratic obstacles in this area to the extent possible.

Democratization efforts that have been underway since the 2000s have expanded the scope of fundamental rights and freedoms, facilitated daily life and increased the feeling of trust in the state. In this respect, the steps taken towards reducing bureaucracy and overcoming the distrust in citizens can be considered as part of the democratization process.

Within this framework, the procedures and principles governing administrations have been reorganized with a view to establishing an effective, efficient, accountable and transparent public administration based on the statements of citizens and to providing rapid, high quality simple and low-cost public services. In this respect, the "Law on Repealing Several Pieces of Legislation which are Impossible to be Executed" was adopted

in 2007 for the purpose of eliminating provisions which were no longer up to date or feasible to be executed, correcting contradictory provisions,

**With this new regulation aiming at reducing bureaucracy and simplifying administrative procedures, 421 documents have been taken out of use and the requirement for notary public approval has been lifted for 215 services. Furthermore, 46 delegations of authority from the center to the rural and 26 delegations of authority from governorates and regional directorates to lower levels have been exercised.**

simplifying legislation and enhancing its quality. To this end, with the “Regulation Regarding the Integration of Transactions in Reducing Bureaucracy and Procedures and Principles to Apply in Public Services Delivery”, put into force in 2009, The Prime Ministry made amendments to a total of 170 regulations of Ministries and various

affiliated and relevant institutions. With this new regulation aiming at reducing bureaucracy and simplifying administrative procedures, 421 documents have been taken out of use and the requirement for notary public approval has been lifted for 215 services. Furthermore, 46 delegations of authority from the center to the rural and 26 delegations of authority from governorates and regional directorates to lower levels have been exercised.

Thanks to these regulations, procedures that posed a bureaucratic barrier, increased paperwork needlessly and wasted of time and resources have been identified and reduced; thus, an important step has been taken towards rendering the functioning of public services simpler and faster to make it more effective and service-oriented. This also aims at removing regulations based on unnecessary information and statements and at preventing uncalled-for documents through changes such as providing certain services primarily through electronic means

as far as services delivered by central administration and by local authorities are considered. Services which used to be delivered by the state on paper or which were cumbersome, expensive and based on detailed formal rules are now delivered in a digital version within the scope of e-government structure in a faster, more reliable and seamless fashion. Public institutions and organizations are now able to deliver services to citizens within the current technological environment and without the barriers of bureaucracy. In official acts, it is projected to rely on the statement of the citizen and to operate based on the identity number, residential address and id and contact information of the citizen, instead of asking for the original document. E-government has not only helped the acceleration of transactions between the state and the citizens, it has also speeded up the flow of information among public institutions and increased the efficiency of public services.

Another one of the primary problems experienced in the delivery of public services used to be the disorder in the healthcare sector and the slow pace of access to services. The following practices and developments are some of the important work that reflect the trust in citizens and facilitate daily life to a great extent: removal of the referral chain; merging of the Retirement Fund, the Social Security Organization for Artisans and Self-Employed, Social Insurance Institution for employees under the roof of Social Security Institution; patients can go to any hospital they want; the way for the citizens to be treated in private hospitals is paved, thus the quality of service in the public sector increased.

Another issue that caused complaints from citizens in their relations with the state was administrators who looked down on the public, were difficult to communicate with and who reflected the authoritarian and strict mindset of the state. To solve this issue, there were serious changes in the approaches adopted. Priority is put on assigning administrators who reflect the compassion, sympathy and changing face of the state which is more at peace with social values, more embracing, more solution oriented and human-focused.



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**STEPS TAKEN IN THE  
AREA OF CIVILIAN SUPERVISION  
AND SURVEILLANCE**

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## STEPS TAKEN IN THE AREA OF CIVILIAN SUPERVISION AND SURVEILLANCE

As has been mentioned in previous sections, one of the major problems faced by Turkey is the fact that civilian and democratic oversight was replaced occasionally by military, bureaucratic and/or judicial oversight. These anti-democratic practices, deriving their strength from the 1961 and 1982 Constitutions, have been a main subject of debate in our recent history. Although a democratic political life was embraced in 1950s; statist reflexes exercised over the position of President, who was not elected by the people and who was equipped with broad authority; NSC meetings, which were considered to be more influential than the Council of Ministers; discussions over ‘the elected’ and ‘the appointed’; controversial judicial interventions including discretionary oversight as well as judgments of the Constitutional Court which could not find any equivalents or social support constituted some of the major discussion points.

While in recent years Turkey has come to the forefront in its region as a constitutional state respecting the rule of law, it has also sustained efforts to keep on its current position regarding a state-centered oversight approach. Despite a deep rooted pro-tutelage mindset that sees/tries to present certain specific conditions of Turkey as barriers to achieving the rule of law to universal standards, major progress has been achieved in overcoming the shortcomings in democracy through a series of important reforms carried out on civilian oversight.

Within this framework, the condition that the Secretary General of NSC should be from the military has been abolished and civilians are now allowed to hold this position. The jurisdiction military justice has been narrowed. The EMASYA Protocol, which allowed intervention in social events taking place in cities without a request from the governor, has been abolished. The practice of including military members in certain public institutions and organizations such as the Board of Higher Education, the Supreme Board of Radio and Television and Telecom Supreme Council has been discontinued. The way has been opened for direct election of the President of the Republic by the people in order to undermine the tutelage system and to strengthen the national will in the country. Judicial remedies have been made available against the decisions of the Supreme Military Council. Trial proceedings have been started regarding the actors of the September 12 coup d'état.

Some of the main steps, which are elaborated upon chronologically in the inventory part, are explained below:

### **Election of the President by the People**

One of the most important reforms on democratization and raising the level of the standards of the rule of law in 2002-2012 period is “the election of the President of the Republic by the people”, which was accepted by referendum in 2007.

As a result of the bureaucratic pro-tutelage democracy model reflecting the dominant approach in the 1961 Constitution and the 1982 Constitution, where parliamentary regime was adopted, the office of the President of the Republic was given a special status. An office of Presidency equipped with broad powers was established, which was in contradiction with a representative office of Presidency with symbolic powers in a parliamentary system. The President became a strong and important actor in the political system, due to his strong

authority, especially in implementation, his influential position in bureaucratic appointments and his decisive role in the judiciary. The powers of the office of the President were increased in line with the pro-tutelage mechanisms of the 1961 and 1982 Constitutions and these powers were expanded to a wide spectrum including such powers as appointment based on “tripartite decree” or direct appointment of almost all high level bureaucrats, members of higher judicial bodies and university rectors, as well as the veto power against parliamentary decisions.

On the other hand, the fact that the people did not have a direct say in the election of the President, who was equipped with huge powers, prevented the accountability of this office to the people. Moreover, the powers of the political parties that came to power by popular election were narrowed in favor of the Presidency and this created a siege of tutelage over the nation. That the President, who was granted such strong powers, did not have any responsibility contrary to the principle of “parallelism between authority and responsibility” is another issue that was not in line with the nature of a parliamentary system.

**With the 2007 amendment, it is stipulated that election of this strong actor, who has an important and decisive place within the political system, is to be by popular vote. The importance of the election of the President by popular vote is apparent in terms of the elimination of the strongest room for manoeuvre for the “oligarchic tutelage” that was formed.**

Experience shows that the Presidency was seen as a protector and guardian of the tutelage system and as a guarantee that the pro-tutelage understanding would remain dominant in the system. Likewise, the experiences during the Presidential election in 2007 and the judgment

of the Constitutional Court, which was in line the pro-tutelage approach, revealed the role and influence of the Presidency within the system. With the 2007 amendment, it is stipulated that election of this strong actor, who has an important and decisive place within the political system, is to be by popular vote. The importance of the election of the President by popular vote is apparent in terms of the elimination of the strongest room for manoeuvre for the “oligarchic tutelage” that was formed. In this way, the siege of tutelage over the people has been broken by abolishing the dominative state mentality which was established in total disregard of the nation, the real owner of sovereignty, and a great contribution has been made to the unfinished democratization process in Turkey that started back in the 1950s.

### **Paving the way for a Civilian General Secretary in National Security Council**

Civilianization of NSC, which is perceived by the public as an organization representing tutelage over the civilian administration, was of critical importance to civilianization and democratization efforts in our country.

Under this scope, in the Seventh EU Harmonization Package that was passed in 2003, certain amendments, including those concerning the Secretariat General of NSC, were made. Within the framework of this amendment, the revisions made in NSC with the 2001 Constitutional amendment were harmonized to the Constitution. In addition to this, even although there is no explicit provision on this issue in the Constitutional amendment, with these amendments the way was opened to abolish the stipulation that the Secretary General of NSC should be a soldier and to allow civilians to hold this position.

Allowing civilians to be appointed as the NSC Secretary Generals is an important step in civilianization. Thus, the NSC turned into

an advisory body of the government for national security policies, as it is the case in contemporary democracies. Likewise, in the new situation, the NSC Secretary General is to be appointed upon the proposal of the Prime Minister and the approval of the President. Moreover, the harmonization package also stipulates that the Council shall convene bimonthly, instead of every month.

As a repercussion of such changes, the seating arrangement of the NSC has changed. The previous seating plan required the military and civilian members to sit on opposite sides of the table which caused a perception of contrast among the general public such as “the military side” and “the civilian side”. However this seating order was replaced with a new one that enabled military and civilian members of the Council to sit next to one another or according to a mixed seating plan.

### **Narrowing the Jurisdiction of Military Justice**

The military justice system in Turkey a product of Constitutions prepared after military coup d'états. For this reason, in military justice systems, on the one hand provision was made to try civilians and on the other hand, trials of soldiers for crimes that were not directly related to military service were also placed within the jurisdiction of military courts.

Two positive steps have been taken to change the dual judiciary system that is incompatible with the principles of a democratic rule of law. Firstly, with Law No: :4963, the scope of application of the Military Penal Code to civilian people was narrowed. Secondly, it was set forth that the crimes committed by military persons, especially those regarding military coups or coup attempts, were to be tried directly in civilian courts. However, upon the annulment of this legal regulation in question by the Constitutional Court, based on the Law numbered 145 of the Constitution, this issue was handled at a

constitutional level with the 2010 Constitutional amendment. With these latest amendments to the military justice, crimes of military persons charged with attempting to change the constitutional order or attempting of military coup are to be tried in civilian courts.

### **Annulment of the EMASYA Protocol**

Law enforcement forces reporting to Ministry of Interior are in charge of providing security services within the country. In this respect, law enforcement forces perform their duties in a hierarchical order in provinces under the supervision of governors and district governors. However, the military is responsible for defending the country and ensuring external security in all the other countries in the world. Our legislation restricts the power that the military has to intervene in social events for the purposes of ensuring internal security and stipulates that the military can only intervene on the condition that the governor requests them to intervene. However; since the effect of the military tutelage increased following the February 28 Process, it became possible for the military to intervene in social events taking place in cities without a request from the governor as stipulated by a protocol (EMASYA) which is in violation of the Constitution and Law No: 5442 on Provincial Administration.

EMASYA, composed of the words “Security – Public Order – Cooperation” in Turkish, is the name of the protocol signed by the Ministry of Internal Affairs and the General Staff on July 7, 1997. Within the framework of the EMASYA Protocol, even if the Governorate did not use the authority set out in the Law for Provincial Administration to ask for intervention, military authorities were entitled to use their power of intervening in the events of social unrest when they deemed necessary. The intervention of military authorities in social affairs gave rise to major criticisms during its thirteen-year implementation. As a result, the EMASYA Protocol was annulled with a joint protocol signed by the Ministry of Internal Affairs and the General Staff on 4/2/2012.

## **Discontinuation of the Practice of Military Members in Some Public Institutions and Agencies**

As a result of the September 12 coup d'état, a representative from the military was placed in various institutions, regardless of their relevance to military issues. This practice made it difficult to provide public services and created the impression that social and political life as a whole was under the supervision and control of military tutelage. In this respect, the presence of military representatives in many of these institutions has been discontinued with amendments carried out in the last ten years. In this context; provisions regarding the selection of members to the Higher Education Council by the General Staff and regarding the nomination of candidates to the Supreme Board of Radio and Television by NSC Secretariat have been abolished. Moreover, the Secretary General of NSC's membership of the Telecom Supreme Council has ceased.

## **Introduction of Judicial Remedies against Supreme Military Council Decisions**

Holding every act and transaction of public bodies within the scope of judicial review is considered an important tool in the rule of law to protect fundamental rights and freedoms. However, the Constitution adopted in 1982 invested all the power regarding personnel rights and promotion of the military into the Supreme Military Council and decisions taken by this Council were held outwith the scope of judicial review. Many officers and NCOs were discharged from the army under decisions taken by Supreme Military Council based on entries made on their files without allowing them a chance to defend themselves especially during periods where tutelage was influential. This practice caused injustice to a lot of people. This practice was the subject matter of subjects of major criticisms at the national and international level.

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Although the Supreme Military Council (SMC) decisions were in the past held entirely outside the scope of judicial reviews, the 2010 Constitutional amendment introduced judicial remedies for all discharge decisions apart from those re-

lated to promotion procedures or decisions to retire personnel due to lack of positions in the cadre. Thus, the right to an effective remedy has been guaranteed for those discharged from the army based on SMC decisions, which means that an important obstacle to the rule of law was lifted.

### **Opening Judicial Avenues for Trial of Leaders of September 12 Coup D'état**

The Constitutional amendments in 2010 abolished Provisional Article 15 of the 1982 Constitution. This provision had presented an obstacle to the trial of National Security Council members who carried out the 12 September 1980 coup d'état. A similar provision was also present in Provisional Article 4 of the 1961 Constitution regarding the members of the National Unity Committee who carried out the coup d'état on 27 May 1960. As a result of this step, investigation and trial processes were made possible regarding the members of the National Security Council who were still alive. The abolishment of the Provisional Article 15 thirty years after the 1980 coup d'état is also an important symbolic step. This step gives a strong message that interventions eliminating or attempting to eliminate the democratic legal order will not go unaccounted for and that such initiatives will sooner or later be tried.



## **Establishment of Inquiry Commissions under TGNA**

The coups d'état that forced out the legitimate representatives of the people led to the violation of many rights as they also impaired the legal order to a large extent. In this scope, one of the main problems in Turkey stemmed from the fact that Turkey could not have the opportunity to face up to the coups d'état staged in the past and violations of human rights were not questioned. Therefore, advancement of the democracy culture has been prevented and the distance between state and citizens has been increased. Throughout the world, countries undergoing a democratization process following military governments faced practices that took place under the influence of coups d'état and made efforts to fix the mistakes made in this period. However, dark pages in Turkey's past were ignored for a long period of time.

In 2012, the "Parliamentary Inquiry Commission Established for the Inquiry of all Coup d'états and Memorandums That Intervened in Democracy and of All Attempts and Processes Disabling Democracy in the Country and for Identification of Measures to Be Taken" was established within TGNA. All political parties are ensured to be represented in this commission and many people well known to public have been heard.

Again in 2012, "Dersim Sub-commission" was established within the Petition Commission of TGNA. This sub-commission has carried out significant work in the State archive and compiled information and documents regarding Dersim events taking place in 1930s. Within the scope of the activities of this commission, which is closely followed by the public, the victims of the events that took place in Dersim have also been heard.

Furthermore, a "Sub Commission on Inquiry of Violation of Right to Life in the scope of Terrorist and Violent Incidents" was estab-

lished on 13<sup>th</sup> October 2011 within the Grand National Assembly of Turkey in order to investigate the problems faced during the periods of martial law and state of emergency. The work of this commission is considered an important development achieved to handle the issue in all its dimensions under the auspices of the TGNA and give chance to all parties to express their opinion.

These commissions that have been established can be regarded as a reflection of the will of the State for uncovering mistakes and facing itself.

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**STEPS TAKEN  
IN THE AREA OF PROTECTION  
AND PROMOTION OF HUMAN RIGHTS**

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## STEPS TAKEN IN THE AREA OF PROTECTION AND PROMOTION OF HUMAN RIGHTS

Human rights gained increasing importance at the international level after the Second World War. Today, the issue of human rights is considered to be more than just an internal state issue. In this context, States have become parties to international human rights conventions; have taken necessary steps in order to harmonize their domestic legal systems with these conventions and they have recognized the right to individual application to international review mechanisms.

While these developments were taking place around the world, it cannot be said that the situation on human rights in Turkey was promising before 2000s. In these years, some of the main issues on the country's agenda were allegations of

**While these developments were taking place around the world, it cannot be said that the situation on human rights in Turkey was promising before 2000s. In these years, some of the main issues on the country's agenda were allegations of systematic torture, Turkey's constantly being one of the countries with the highest number of applications to the ECtHR regarding human rights violations, abundance of violations of right to life, ill-treatment practices in prisons and police stations and poor physical conditions in these premises**

systematic torture, Turkey's constantly being one of the countries with the highest number of applications to the ECtHR regarding human rights violations, abundance of violations of right to life, ill-treatment practices in prisons and police stations and poor physical conditions in these premises

In the last decade, significant amendments have been made to legislation in Turkey, especially with a view to carrying out the judgments of the ECtHR, the judicial review body of the ECHR; and significant progress has been made with regards to the protection and promotion of human rights. In addition to this progress, as individual applications to the Constitutional Court becomes effective, the number of applications to ECtHR from Turkey will be seen to decrease further.

In this context, the policy of zero tolerance to torture has been successfully implemented. Murders by unknown perpetrators and violations of right to life have been taken off the country's agenda. Detention conditions have been improved and police stations modernized. The way has been paved for new trial procedures based on ECtHR judgments. International treaties regarding fundamental rights have been given precedence over domestic law. The Reform Monitoring Group was set up to support implementation of the reforms undertaken in the EU harmonization process. The right to information has been introduced to ensure transparent rule. The UN "International Covenant on Civil and Political Rights" and "International Covenant on Economic, Social and Cultural Rights", known as twin Covenants, have been ratified. The death penalty has been abolished. With regulations on facilitating the establishment of associations and their real estate acquisition and on enlarging the scope of the right to assembly and demonstration, the scope of the freedom of association and legal remedies in the political and social spheres has been extended in line with ECHR. A contemporary Press Law has been passed which ended the practice of closing down and confiscating publishing houses and publishing tools. Protection of news sources is guaranteed for

journalists. With pieces of legislation recently adopted, the infrastructure of a contemporary criminal justice system has been laid.

The right to individual application to the Constitutional Court has been introduced. The rights of civil servants to take legal action have been broadened and restrictions on judicial review are abolished. Union rights of civil servants have been reinforced and public servants have been given the opportunity for collective bargaining. Child rights are reinforced. All children being tried below the age of are assured of being tried at Juvenile Courts. Freedom of political parties is given more guarantees. The Institution of Ombudsman and the Human Rights Institute of Turkey have been established. Freedoms regarding places of worship for citizens belonging to various religious groups have been broadened, and places of worship have been repaired. It has become easier for minorities' community foundations to acquire new real estate and upon many properties, which were confiscated previously, have registered in the foundations' names. Publication of official advertisements in newspapers belonging to minorities has been made possible. Freedom of travel has been broadened by narrowing the scope of the ban on leaving the country. Personal data protection is taken under constitutional guarantee. Article 301 of the Turkish Penal Code was amended as part of the legal measures to strengthen freedom of expression, making it obligatory to seek Ministry of Justice permission to launch investigations, and decreasing the upper limit of penalties in this scope.

The "Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" and "Council of Europe Convention on the Prevention of Terrorism" have been ratified. Prisons that did not meet UN and Council of Europe standards have started to be closed down. Detainees and convicts are allowed to attend the funerals of their relatives and to visit them in cases of serious illness. Guest students of foreign nationalities are now allowed to study at private educational institu-

tions. Women's rights have been advanced. The "Law to Protect Family and to Prevent Violence Against Women" has entered into force. Turkey has become a party to the "Council of Europe Convention on preventing and combating violence against women and domestic violence" and the "Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse". *Child Rights Monitoring and Evaluation Boards* and *Child Surveillance Centers* have been founded in order to prevent child abuse and to intervene consciously and effectively in cases of child abuse.

Some of the main steps, which are elaborated upon chronologically in the inventory part, are explained below:

### **Policy of Zero Tolerance to Torture**

One of the most important human rights violations that Turkey was accused of in the past was the failure to investigate torture and claims of ill treatment. Moreover, most of the time, penalties for such crimes failed to be sufficient or were suspended. One of the most significant reasons for citizens losing their trust in the state was the failure to combat torture effectively using proper methods. Consequently, Turkey was seen as a country that was associated with torture and claims of ill treatment and was condemned by ECHR due to incidents of torture, which were not investigated or punished in the 1990s. Furthermore, our citizens refrained from going to law enforcement centers to register a complaint in those years. Similarly, there were serious problems regarding honesty and good order existing at these centers.

The present situation that has been achieved as of today on the fight against torture, which used to be a major problem in Turkey's scorecard on human rights, is extremely positive. Governments have displayed special sensitivity on this issue in the last decade and have taken important steps with a "zero tolerance to torture" approach.



In this respect, first of all, special importance has been attached to the training of law enforcement officers and human rights education is highlighted in their training. The Gendarmerie Human Rights Violations Examination and Evaluation Center was set up as an organization reporting to the Ministry of Interior. Moreover, regulations within the scope of the Second EU Harmonization Package that was passed in 2002 stipulated that compensation paid by the State as a result of the ECtHR judgments on crimes of torture and ill treatment would be the liability of the personnel responsible.

As important steps towards deterrence the new Penal Code that entered into force in 2005 increased penalties for torture and prevented the suspension or postponement of punishment for torture and ill treatment. Accordingly, effective cooperation has been conducted with the *European Committee for the Prevention of Torture* in the last decade. Consequently, conditions in detention centers and prisons have been brought in line with the recommendations of the Committee. Moreover, the Optional Protocol to the UN Convention Against Torture has also been ratified in this context. Thus, another important step was taken to strengthen the oversight and prevention aspects of the fight against torture and ill treatment.

Furthermore; physical and technological improvements have been made in detention houses and similar premises where law enforcement officers work; police stations and headquarters which are the first contact point between citizens and security forces have been brought into line with human rights norms.

### **Ending the Period of Murders by Unknown Perpetrators (Unsolved Murders Likely to be Politically Motivated)**

In previous periods, particularly in 1990s, murders by unknown perpetrators increased greatly. These were one of the most important weapons

used to reach anti democratic objectives by viciously ambitious groups seeking to create an environment of chaos and distrust in the society.

As a consequence of efforts to enhance democratization and human rights in the country, violations of right to life such as extrajudicial execution and murders by unknown perpetrators are no longer on the country's agenda. Judicial authorities have initiated legal processes required to launch a detailed investigation against public officials involved in such illegal acts. Thus, significant progress has been achieved in terms of unveiling the mystery, revealing dark incidents and catching the criminals.

### **Removing The Mafia and Gangs from the Country's Agenda**

Before 2002 Turkey used to be a country where organized crime organizations known to the general public as the mafia and gangs were prevalent. The influence on the high level of organized crime group activities in that period of uncontrolled political and management areas, which appear as a result of legal, socio-economic, technological and other changes as well as economic instability in the country, cannot be denied. In the period before the year 2002, organized crime organizations committing crimes such as murder, homicide, injury, abduction, illegal trafficking of narcotics, arms and ammunition smuggling, migrant smuggling, cashing of cheques and bonds, kidnap/ransom and extortion, coerced signature of bonds, woman trafficking, forgery of negotiable instruments and plundering public land have weakened central and local public administrations, rendered the criminal justice system ineffective, allowed corruption to become rampant in the country and most importantly led to loss of trust in political authority, security bureaucracy and judiciary.

Between 2002 and 2012 a great deal of success was achieved in the fight against organized crime organizations thanks to security poli-

cies implemented with great determination. In this period, all of the organized crime organizations in the country as a whole were brought down as a result of operations carried out against such organized crime organizations. The mafia and other similar criminal organizations that deeply affect the peace in the society were crippled through operations known to the public by various different names by the general public. The mafia and gangs were taken off the agenda of the country thanks to the latest socio-economic developments, stability and such operations against organized crime in Turkey.

### **Abolishment of the Death Penalty**

Penal sanctions aim to rehabilitate criminals and reintegrate them into the society. However; the death penalty is not in accordance with this definition and had not been applied since 1984 although it is stipulated in our criminal law. Therefore, the third EU Harmonization Package which was adopted in 2002 abolished the death penalty “except for acts committed in time of war or of imminent threat of war and terrorist crimes” in accordance with Additional Protocol No. 6 to ECHR. Following this, Additional Protocol No. 6 concerning abolishment of the death penalty to ECHR was ratified in the scope of the seventh EU Harmonization Package. The Eighth EU Harmonization Package introduced in 2004 amended all articles referring to this sanction in order to remove all references to death penalty from the Constitution.

In the process that followed these developments, important conventions were signed to ensure harmonization with European standards. In this respect, the First Additional Optional Protocol to the UN International Covenant on Civil and Political Rights on Abolishment of Death Penalty and the Second Optional Protocol aiming to abolish the death penalty were ratified. The process to ratify Protocol No. 13 which prohibits the death penalty in all circumstances was completed in February 2006 and this protocol became effective in Turkey.

The removal of the death penalty from our legislation has strengthened the perspective, which supports restoration and rehabilitation of the convicted felons. Moreover, it is an important development not to give the state the authority to end a person's life even if the person has committed a crime. Thus, one of Turkey's commitments for EU harmonization has been fulfilled.

### **Provision of the New Trial Procedure on the basis of Judgments of the European Court of Human Rights**

Until 2002, judgments of ECtHR that found Turkey to be in violation did not constitute grounds for a retrial in domestic law. The fact that competent courts were unable to reach a new decision on relevant persons following a judgment ordering Turkey to pay compensation due to a human rights violation hindered the full relief of the unjust suffering.

Within the scope of the Third EU Harmonization Package, first passed in 2002, ECtHR judgments against Turkey are recognized as grounds for a new trial procedure in civil and criminal cases. Later on, in 2003, this regulation was broadened so as to include administrative cases, as well. Thus, violation judgments of the ECtHR against Turkey are now recognized as grounds for a new trial, according to the provisions of Administrative Jurisdiction Procedure Code, Civil Procedure Code and Criminal Procedure Code.

### **Adoption of the Principle that International Agreements in the area of Fundamental Rights Prevail over Domestic Law**

An important problem facing us was that human rights conventions ratified by Turkey were not taken into consideration by judicial bodies, and provisions of the domestic law were interpreted in a manner that restricted freedoms.

Another important innovation in the protection and promotion of human rights was introduced by the amendment to Article 90 of the 1982 Constitution in 2004. Within this framework, it was accepted that in conflicts regarding fundamental rights and freedoms between provisions in international agreements and in domestic law, the provisions of international agreements would prevail. With this amendment, the ambiguity regarding the normative value of agreements on fundamental rights and freedoms was removed. As long as judicial bodies put implement this regulation, regulations and practices incompatible with human rights will be removed in an easier and faster manner, without the need for legislative intervention.

### **Adoption of the Right to Information**

Up until recently, Turkey was a country where conventional confidentiality and the understanding of state secrets dominated. Official practices by the state used to be covered with a veil of mystery using such pretexts as “reason of state” or “secret of state”. Furthermore, people were not able to receive information from public organizations on issues directly or indirectly related to themselves or public benefit.

The right to information, which is of great importance in terms of strengthening the democratic rule, was introduced by the legislation in 2003. This regulation aims at enabling people to use their right to information in line with the principles of equality, impartiality and openness, which are essentials of a democratic and transparent administration in all public institutions, organizations and public vocational institutions; and related issues are regulated. Within this framework, the administration is obliged to provide information to people asking for information, and an “*Information and Assessment Council*” has been established in order to finalize objections regarding applications for information. The right to information is also given constitutional guarantee by the 2010 Constitutional amendment.

This regulation aims at preventing indifference of the administration to the demands of individuals.

## **Ensuring Freedom of Association in line with the European Convention on Human Rights**

The previous Law of Associations, which was a repercussion of the coup on 12th of September, viewed organized society as a potential “danger” that needed to be controlled.

The new Law of Associations was put into effect in 2004 in order to strengthen democratic governance, to expand the area of civil society and to reinforce the freedom of association; and the limitations to the right to association were abolished, thus a right to association in line with ECHR was ensured as per this Law and the subsequent legal amendments. Within this scope, bans and restrictions on being a founder of an association and regarding the languages allowed to be used in the scope of activities of associations were lifted. The previous permission system used for establishment of associations was replaced by a notification system. Furthermore, obstacles to public officials and students becoming members of associations were eliminated and the prison sentence stipulated by the previous law in the event of breach was reduced to a penalty fine.

A new “Law on Trade Unions and Collective Bargaining Agreement” was adopted in 2012, which provided a new perspective towards labour relations. This new law included principles and procedures on establishment of employers’ and employees’ unions, their management, functioning, and audit as well as their organization and operation. The law also includes provisions that allow employers and employees to sign collective bargaining agreements to define their economic and social situation as well as their working conditions, to settle their disputes through peaceful means and to strike or use an employer’s lockout.

## **Extending the Opportunities to Advance the Right to Assembly and Demonstration**

In the past, it was possible to easily and arbitrarily prohibit rallies and demonstrations under the Law on Assembly and Protest Marches. The amendments to this law have introduced improvements in relation to strengthening the right to peaceful assembly and providing a more democratic basis for the extension of this right. The maximum time period that assemblies or demonstrations may be postponed was reduced and penalties for prohibited acts were redefined. In addition, it was made easier for foreigners to participate in assemblies, protest marches and other activities held in Turkey. In this respect, the criterion of “having the capacity to act and being over 18 years of age” was defined as adequate to enjoy the right to assembly and demonstration.

## **Making it Easier for Community Foundations owned by Minorities to Acquire Possessions and extending their Freedom**

Like other segments of society, community foundations were adversely affected by anti democratic and introverted policies implemented in the past. Such practices restricted religious freedoms and the property rights of minority communities.

With a view to resolving all these issues, the amendments enacted in the Law on Foundations and relevant regulations made significant improvements and made it easier for

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community foundations owned by minorities to acquire and dispose of real estate as they wish. In this scope, the requirement to get per-

mission from Council of Ministers to register real estate under the name of a community was lifted and again the application period granted to community foundations for registering real estates identified as those that the foundation can dispose of was extended from six months to 18 months. A significant number of properties were registered to community foundations upon their application under the Law on Foundations adopted in 2008.<sup>3</sup>

The Office of Prime Minister issued a circular in 2010 encouraging the protection of and respect for citizens of different religious groups. This circular emphasized that various religious groups are an integral part of Turkey and reminded all public organizations not to raise difficulties for these citizens and not to prejudice their rights in their dealings with public organizations.

In addition to returning real estate to community foundations, efforts to restore the places of worship used by our citizens from different religious

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<sup>3</sup> With regard to property rights, Provisional Article 7 of the Law on Foundations which became effective in 2008 ensured that 181 real estates were registered with community foundations upon their application. In accordance with the relevant judgment of ECtHR, Prinkipo Greek Orphanage was transferred to the Fener Greek Patriarchate on 29 November 2010. Furthermore, under Provisional Article no. 11 added to Law on Foundations on 27 August 2011, it became possible to return properties confiscated previously for various reasons to community foundations to which citizens from different religious groups are affiliated. A regulation was issued on 1st October 2011 defining how to implement Provision Article no. 11 and applications from community foundations for the return of their real estate were received by 27 August 2012. In this respect, a total number 116 community foundations applied for 1560 properties to be returned. As a result of an assessment by Council of Foundations upon the applications received, 111 properties were registered to the relevant foundations and a compensation payment was awarded made for 15 properties. The Council of Foundations assessed 1220 properties. After the Law on Foundations became effective, 17 properties which had been qualified as school buildings were allowed to be converted into an income generating property. Apart from the Provisional Article no. 11., the Directorate General of Foundations redefined the status of the following and granted them the “foundation” status: İzmir Jewish Community was granted the status of “İzmir Jewish Community Foundation”, Surp Haç Tibrevank High School was granted the status of “Surp Haç Tibrevank High School Foundation” and “Beyoğlu Central Greek High School for Girls” was granted the status of “Foundation of Beyoğlu Central Greek High School for Girls”.



groups sped up as part of freedom of worship. In this respect, Surp Giragos Church in Diyarbakır was opened to worship in October 2011 after the restoration work was completed, and Vortvoks Vorodman Church, belonging to Kumkapı Virgin Mary Church and School Foundation, was opened to worship in December 2011 after restoration.

To further extend right to education for our citizens of different religious groups, the Ministry of National Education had textbooks prepared in Armenian and provided Armenian schools with these books free of charge to be used as of the 2010-2011 school year.

Furthermore, a Decision by the General Council of Press Advertising Institution taken in 2012 made it possible for newspapers owned by minorities to publish official advertisements. This improvement is considered as a significant step towards strengthening the economic status of minority newspapers. To illustrate, a Greek printing house started to operate on 4 June 2012 after an interruption of fifty years.

### **Introduction of Procedure of Individual Application to the Constitutional Court**

The Right to individual application to the Constitutional Court, adopted by the 2010 Constitutional amendment, introduced a new way to seek legal remedies within domestic law and it is also considered as a preventive measure to decrease the number of applications to ECtHR from Turkey. This can be easily confirmed by reviewing the catalogue of rights covered within

**The adoption of the right to individual application is a reflection of the sensitivity regarding human rights. With this remedy, those who think that they have been wronged will be able to apply to the Constitutional Court after the exhaustion of domestic remedies, in order to acquire their rights and relieve their suffering.**

the scope of right to individual application.. According to the provision in 2010 Constitutional amendment, “Everyone can apply to the Constitutional Court with the allegation that any of his/her fundamental rights and freedoms within the scope of the European Convention on Human Rights has been violated by the public force” (a 148/3). With later legal and other sub-regulations, this remedy is effectively functional as of September 23, 2012.

The adoption of the right to individual application is a reflection of the sensitivity regarding human rights. With this remedy, those who think that they have been wronged will be able to apply to the Constitutional Court after the exhaustion of domestic remedies, in order to acquire their rights and relieve their suffering.

### **Elimination of Restrictions on Judicial Oversight**

One of the major constitutional problems in Turkey regarding the establishment of the rule of law is that some restrictions are placed on judicial oversight, which may prevent individuals from enjoying fundamental rights and hinder protection of personal interests before the legal authorities. This may result in serious wrongful treatment in practice. The fact that this problem is rooted in the constitution is a major problem. The injustice in this scope stems from the fact that particularly those working for judicial and military organizations are not allowed to take legal action against any regulation on their professional conditions and personnel rights.

With the 2010 Constitutional amendment, certain positive steps were taken on this issue. Judicial avenues have been opened for all discharge decisions in SMC other than promotion procedures and retirements due to lack of positions in the cadre, and for the decisions of dismissal in the High Council of Judges and Prosecutors. Furthermore, the way has been paved for civil servants to seek legal recourse against punishments of warnings and reprimands

## Increasing Guarantees to Political Parties and Members of Parliament

By the 1990s, Turkey had become a country where almost 20 political parties had been dissolved without any justifiable reason based on judgments of Constitutional Court, and it had almost become a graveyard of dissolved political parties. Dissolving political parties, which are indispensable elements of democracy, in such an easy manner was the most significant obstacle to institutionalizing our democracy.

Within the Second EU Harmonization Package, passed in 2002, the Law on Political Parties was amended; as an alternative to the closure of political parties, the option of “partial or total deprivation of State aid” was offered. Moreover, in order to make the dissolution of political parties difficult, the criterion of “being the focal point” (of unconstitutional activities) was introduced.

With the 2010 Constitutional amendment, two important new steps have been taken regarding the freedom of political parties. Firstly, upon the decision of closure, the parliamentarian who gave reason for the closure of the political party will no longer have his position as a parliamentarian revoked. Secondly, in order for the Constitutional Court to give a ruling for the

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**Firstly, upon the decision of closure, the parliamentarian who gave reason for the closure of the political party will no longer have his position as a parliamentarian revoked. Secondly, in order for the Constitutional Court to give a ruling for the closure of political parties or deprivation from state aid, a two-thirds majority of the votes will be required among the members present in the meeting.**

closure of political parties or deprivation from state aid, a two-thirds majority of the votes will be required among the members present in the meeting. As the required majority was three fifths in the previous situation, increasing it to two thirds has made it more secure from the point of the freedom of political parties. The importance of this step can be understood more clearly when it is considered that the Constitutional Court frequently gives rulings for the imposition of sanctions on political parties.

### **Establishment of the Institution of Ombudsman**

In today's democracies, one of the important practices in the rule of law is the "Ombudsmanship" that aims to protect the citizen before the State and guarantee the rights and freedom of the individual. To this end, with a law passed in 2006 for the first time, an "Institution of Ombudsman", affiliated to TGNA, was established. However, the Constitutional Court annulled this law on the grounds that it was incompatible with Article 87 of the Constitution, which lists the functions and powers of TGNA. Then, this issue was regulated in 2010 Constitutional amendment, by incorporating the "Right to

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Appeal to the Ombudsman" in Article 74 of the Constitution. Within this framework, the "Institution of Ombudsman" has been established as an important step in the reinforcement of the principles of supremacy of law and good governance and in the protection

of the rights of the individual. This institution started to accept applications as of 29 March 2013.

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### **Establishment of the Human Rights Institute of Turkey**

An independent human rights mechanism, which is entrusted with the requisite power, was needed to institutionalize and reinforce our country's achievements in the field of human rights on its journey for advanced democracy.

To meet this need, the Human Rights Institute of Turkey was established in 2012, so as to work on the protection and improvement of human rights. This institution is authorized to carry out research and examination with a view to working on the protection and improvement of human rights and prevention of violations thereof, to fighting against torture and ill-treatment, to examining complaints and applications, to following up the results, to taking initiatives regarding the solutions of problems, to carrying out training events to this end and to investigate and evaluate the developments on human rights.

Prior to the Human Rights Institute of Turkey, there was a Human Rights Presidency, affiliated to the Prime Ministry, and human rights boards in the provinces and districts. These boards used to be effective to a certain extent in terms of establishing sensitivity for human rights and examining complaints of human rights violations; howev-

er their efforts remained insufficient. The Human Rights Institute of Turkey is expected to make a significant contribution to the solution of human rights issues in Turkey in the following period.

### **Strengthening Children's Rights**

According to the legislation previously in force, the age limit to be considered as a child used to be defined as 15 years not 18 years of age. Children used to be tried not in Juvenile Courts but in State Security Courts for the relevant criminal acts.

In line with the UN Convention on the Rights of the Child, we have defined "anyone who is below 18 years of age" as a child. In addition, we have lifted the restrictions as regards the jurisdiction of Juvenile Courts; thus putting children on trial in courts other than juvenile courts has been prevented.

An amendment to the Law on Juvenile Courts introduced a provision stipulating that juvenile courts shall be established in all provinces that have a population of more than 100.000. Through legal amendments, it was made possible to try children, known to the public as 'stone-throwing children' and involved in violent act, mostly under 18 years old and pushed into crimes, in juvenile courts rather than in Assize Courts with special authority under the Counterterrorism Act.

### **Strengthening Women's Rights**

It was quite often mentioned recently that our legislation turned out to be insufficient as far as issues such as women's right, equality of men and women and violence against women are concerned.

The legislation on women's rights was reviewed in the last decade. In this respect, several legal arrangements were put in place and significant improvement was achieved in terms of ensuring equality of

men and women. First of all, the Turkish Penal Code was amended in 2003 as part of the 6<sup>th</sup> EU Harmonization Package, in the scope of which aggravated penalties started to be imposed on perpetrators of the crime of “murdering a child for honour” and the article which allowed a sentence reduction for “honour killings” was abolished. Again in 2003, the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children”, one of the Additional Protocols to United Nations Convention against Transnational Organized Crime, was approved.

As part of the constitutional amendments that became effective in 2004, article 10 of the Constitution which addresses the issue of “equality before the law” was amended. In addition, a provision was introduced stipulating that “men and women shall have equal rights and it shall be the responsibility of the State to ensure that equality becomes a reality”. Following this amendment, the provision added to the same article in 2010 stipulating “the precautions taken for this end may not be interpreted as violating the principle of equality” clearly underlines the positive discrimination towards women.

In 2005, an investigation commission was set up within TGNA in order to “identify precautions required to be taken after investigating reasons for honour killings and violence against children and women”. A Circular from the Prime Minister’s Office was issued to handle the issue of “precautions required to be taken to prevent violent acts against children and women and honour killings”, aiming to follow up the reports produced by the Commission.

The “Law on Commission on Equal Opportunities for Women and Men” was adopted in 2009. Under this law, a “Commission on Equal Opportunities for Women and Men” was set up within TGNA which is in charge of providing information and submitting its opinion to TGNA regarding protection and promotion of women’s rights and of following the latest developments on ensuring equality between men and women in our country and other countries.

The “Law on Protection of Families and Prevention of Violence against Women” was adopted in 2012. The aim of this Law is to define principles and procedures regarding precautions required to be taken to protect women, children, family members and victims of stalking who have been subjected to, or are at the risk of being subjected to, violence and to prevent such violence. Furthermore, municipalities were made responsible for providing service to women who are victims of violence by an amendment to the Municipalities Law. This

**Turkey led the efforts to draft the “Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence” and became the first country to approve this convention as of 8 March 2012.**

law obligates metropolitan municipalities as well as municipalities with a population of more than 50.000 to open up shelter houses for women and children.

Turkey led the efforts to draft the “Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence” and became the first country to approve this convention as of 8 March 2012. This Convention defines forced marriage and other kinds of violent acts along with physical, sexual and psychological violence and sanctions for such violent acts.

### **Increasing Penalties for Use of Disproportionate Force**

One of the problems facing us was violations of rights that may occur when law enforcement forces used disproportionate force in their interventions as well as a lack of deterrent sanctions to avoid such situations.

Turkish Penal Code No: 5237 stipulated that provisions for wilful and malicious injury would apply in the event that public officials with the right to use force used this right against people in a disproport-



tionate manner during their assignments. Therefore the minimum penalty, which had a lower limit of three months, was increased.

### **Improving Conditions for Persons in Custody (Suspect's Rights)**

In the past, unfavorable physical conditions in detention houses and interrogation rooms as well as allegations of our citizens regarding violation of rights in those places provided valid reasons to lodge a complaint and this situation resulted in consequences to the detriment of our country on the international arena. Furthermore, such complaints caused our country to be penalised in the European Court of Human Rights.

A new “Regulation on Apprehension, Detention and Statement Taking” was issued in 2005 and detailed provisions were made on the mode of implementation and conditions for guarantees envisaged under fundamental rights and freedoms such as the authority of apprehension, informing relatives and detention room procedures. Thus the level of protection on this issue directly related to individual rights and freedoms was enhanced and guarantees provided for individual rights became more functional. Moreover, physical conditions in detention rooms were improved and interrogation rooms were made compatible with human rights norms.

### **Closure of Prisons that do not meet UN and Council of Europe Standards**

In the past, many prisons, large and small scattered throughout the country, were far from meeting standards in terms of physical conditions and personnel levels. This situation caused convicts and detainees to lodge complaints and waste the resources and personnel. In the last decade, 208 penitentiary institutions that did not meet UN and Council of Europe standards were closed down. During the same

period, 68 penal institutions with a total capacity of 14,509 people, all in compliance with standards, were opened. In 2012, a total of 13 new penal institutions were opened and 7 additional buildings were constructed.

### **Providing Detainees and Convicts the opportunity to Attend their Relatives' Funerals and Visit them in case of a Serious Illness**

Since convicts and detainees could not attend the funeral in the case of the death of a family member or visit their relatives in case of a serious illness, they experienced serious unjust suffering from a humanistic perspective.

With the amendments made in 2012, it was made possible to provide detainees and convicts with 2 days leave excluding for travel time to attend the funerals of a blood relatives including second degree relatives or spouses thereof and to provide them with a 1 day leave excluding travel time to visit first degree relatives in the case of severe illness.

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## **JUDICIAL REFORM**

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## JUDICIAL REFORM

It can be said that there was a dominant elitist approach in the 1961 and 1982 Constitutions, that the preferences of the nation, the real owner of sovereignty, were pushed back and that there was an obvious notion that the nation might make mistakes in its preferences and in such cases, these “wrongdoings” were to be corrected. The most concrete reflection of this approach was seen in the higher judiciary. The members of the higher judicial bodies such as the Constitutional Court, Council of State, Court of Cassation and the High Council of Judges and Prosecutors (HCJP) used to be elected among themselves, virtually in a closed circuit system in a vicious circle, or they were appointed by the President of the Republic. And the President of the Republic was elected by TGNA. As for TGNA, the recent history of Turkey is a witness to cases where anti-democratic centers tried to/succeeded in dominating the TGNA at different times. The practices and problems of the recent period caused by this vicious circle, which is far from pluralism and only open to bureaucracy based on appointments, are known. Problems encountered include the closure of political parties, “Ruling 367”<sup>4</sup> of the Constitutional Court, various and judgments of higher judicial bodies perceived as political and ideological by public opinion. This oligarchic structure that functioned in a closed circuit system left the judiciary behind

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4 The Constitutional Court accepted the number of 367 Members of Parliament, that constitutes the « two thirds majority » condition for victory in the first two rounds stipulated in the Article 102 of the 1982 Constitution regarding the election of the President, as the quorum for meetings, as well.

social developments and transformations and kept it away from universal standards.

The regulations adopted in the 2010 Referendum are significant in this respect. Thanks to these amendments, a more democratic and pluralistic structure has been ensured in the realm of the higher judiciary and the pro-tutelage domination of the higher judiciary has been broken, especially in HCJP.

In this framework, the democratization of the structure of HCJP has been ensured and its decisions have been opened to judicial review. The Constitutional Court has been provided with a more democratic and more pluralistic structure. The Law on Establishment of Courts of Appeal was adopted to reduce the workload of the judiciary and enhance the standards for a fair trial. The scope of probation practice was extended. Family Courts were established. Improvements were introduced to reach the objective of fair and speedy trial. Freedom of expression and freedom of press was strengthened. The “Freedoms Judge” was formulated as a new practice to strengthen the right to liberty and security of the person.

Some of the main steps, which are elaborated upon chronologically in the inventory part, are explained below:

### **A Democratic Structure for the High Council of Judges and Prosecutors**

The High Council of Judges and Prosecutors (HCJP) is the sole authorized body regarding all personnel rights of all judges and prosecutors in judicial and administrative courts of first instance, starting from their hiring until retirement. Moreover, the Council is virtually the only body that has any say in the formation of the higher judiciary, by electing three thirds of all members of the Court of Cassation and the Council of State. With all these substantial powers, the HCJP

turned into an institution that has occasionally been the subject of much during prosecution processes. Especially in recent years, the HCJP has been subject to heavy criticisms about some critical cases and its attempts to intervene in these cases, especially in recent years. As a result of this, the structure of HCJP was changed significantly with the 2010 Constitutional Amendment.

Before the constitutional amendment in 2010, HCJP was composed of seven members, including the Minister of Justice, Undersecretary of the Ministry, three members from the Court of Cassation and two members from the Council of State and took decisions by majority of votes. This Council had the power to take decisions regarding the personal rights of more than ten thousand first instance judiciary members and it was seen as a major shortcoming that these judiciary officials were not represented in the Council. It was possible for five members from the higher judiciary in addition to the Minister of Justice and the Undersecretary of the Ministry to act as a block and take the decisions they wanted as a Council.

With the amendment in 2010, the Council is projected to be composed of twenty-two permanent members and twelve reserve members. It has been stipulated that in addition to the current seven members of the Council, there will be three members from among the judges and prosecutors working in the administrative justice courts of first instance, seven members from among the judges and prosecutors working in the judicial courts of first

**Despite all these significant improvements, another important shortcoming in the formation of HCJP is that the TGNA is not given any power in the selection of members to the Council. In European examples, on the other hand, there is no country where the Parliament does not elect members to similar higher judiciary boards.**

instance, one member from among the members of the Turkish Justice Academy and four members from among the jurist academicians and lawyers to be appointed by the President. In this new structure of the Council, fair representation of the judges and prosecutors working in the first instance courts has been ensured. Thus, the Council has a more democratic, diverse and pluralistic structure with its new formation and it has a structure closer to the higher judiciary boards in European examples. Moreover, it is also an important innovation that the Council can continue working without the participation of the Undersecretary of the Ministry of Justice.

The fact that the Minister of Justice cannot participate in the work of the department despite staying as the chairperson of the Council and that the Council has a separate legal entity, separate personnel, inspection board and budget has ended debate over the independence of the Council. Despite all these significant improvements, another important shortcoming in the formation of HCJP is that the TGNA is not given any power in the selection of members to the Council. In European examples, on the other hand, there is no country where the Parliament does not elect members to similar higher judiciary boards.

### **Ensuring a More Democratic and Pluralist Structure for the Constitutional Court**

There were major problems regarding the formation of the Constitutional Court in the 1982 Constitution. This formation was improved to a certain extent with the 2010 Constitutional Amendments. The structure of the Constitutional Court, which had been composed of eleven permanent members and four reserve members, was transformed into a structure composed of seventeen permanent members and reserve membership status was discontinued. Discontinuation of reserve membership status was the right decision; because even if these reserve members were senior, they never had the opportunity to join



the delegation in the presence of permanent members. Moreover, the practice of members working until they were 65 years old was discontinued and instead, the term of office has been limited to twelve years.

In the former structure, the President appointed the members directly or on the nomination of various courts: three members were directly appointed by the President from high level executive public officers and lawyers; and the Court of Cassation and the Council of State nominated two members each, Military Court of Cassation, Military High Administrative Court, Court of Accounts, and Higher Education Council nominated one members each. According to the 2010 amendments, TGNA will now be able to select two members from three candidates nominated by the General Assembly of the Court of Accounts from among its chairperson and members; and select one member from three candidates nominated by bar presidents from self-employed lawyers. The President will be able to select four members directly from high level executives, self-employed lawyers, first class judges and prosecutors in addition to the rapporteurs in the Constitutional Court who have served for at least five years; and from three candidates to be nominated by each institution, the President will be able to select three members from the candidates of the Court of Cassation, two from those of the Council of State, one from those of Military Court of Cassation and one from those of the Military High Administrative Court; the President will also select three members from the candidates to be nominated by the Higher Education Council from among the academicians working in the faculties of law, economics and political sciences, and three members from each of the universities that are not members of the Higher Education Board.

The most important aspects of this new structure are: the domination of the higher judiciary in the formation of the court is lifted; and the President will no longer have a say in the appointment of all members of the court. On the other hand, the fact that fourteen of the seventeen members of the Court are selected directly or indirectly by the President indicates that the influence of the President is sustained to a sig-

nificant extent. The increase of the number of academicians from two to three is an important step in terms of the quality of the review that the Constitutional Court carries out. However, the fact that the TGNA does not select any of the members directly can be deemed as the most important shortcoming regarding the formation of the Constitutional Court. As a matter of fact, in European examples, there is no country where the Parliament does not select members. To the contrary, in some countries such as Germany, Poland and Hungary, all members of the Constitutional Court are selected by the Parliament.

### **Strengthening of Freedom of Expression and Freedom of the Press/Media**

With the Law dated July 2012 known to the public as the “Third Judicial Package”, important arrangements were introduced aiming at deepening and reinforcing human rights.

In the past, Article 6 of the Counter-Terrorism Act made it possible to impose a progressive penalty of ceasing broadcasting. This situation led to complaints and criticisms and has been regarded as a violation of the presumption of innocence and was the subject of decisions against Turkey by the ECtHR.

As per the regulation adopted within this framework, in the scope of freedom of expression and freedom of the press/media penalties progressively stopping broadcasting have been abolished. Based on this regulation, decisions taken before December 31, 2011 for withdrawing printed media from the market are nullified and the trials and punishments for crimes committed through press or media before that date have been postponed.

### **Improvements towards Ensuring Fair and Speedy Trial**

The general public had complaints regarding lengthy trial proceed-

ings and voiced their justified demands for measures to be taken to resolve this issue.

Within the scope of the third judicial package, which aims at ending complaints regarding the duration of trial proceedings, the elements regarding the “crime of influencing judicial officials” have been reorganized. Penalties for petty terrorism crimes were enabled to be suspended or converted into judicial fines. Moreover, pre-trial detention limit was increased to two years in order to reduce problems experienced regarding pre-trial detentions, and the scope of judicial controls was expanded. Thus, the rule of “trial without pre-trial detention” was defined for crimes which have an upper sentencing limit of two years and the opportunity to decide in favor of judicial control was expanded, which has led to progress in terms of right to liberty of the person.

### **“Freedoms Judge” to Strengthen the Right to Liberty and Security**

In the previous legislation, judges at special authority courts authorized to try a suit on the merits were able to authorize measures such as pre-trial detention, search and phone tapping.

In the scope of third judicial package, the practice of a “Freedoms Judge”, who can rule to implement measures such as pre-trial detention, search and phone tapping, has been initiated in order to strengthen defendants’ rights and the right of defence. It was stipulated that other judges who are assigned would rule on objections to decisions taken by Freedoms Judges. Furthermore, the obligation to justify arrest warrants with concrete facts has been brought and the custody period shortened.

### **Establishment of Family Courts**

In 2003, Family Courts were established to give effect to the necessary regulations to solve those family problems that are within the scope

of the judiciary. Family courts, where psychologists, pedagogues and social service experts are employed, are also granted the authority to take protective, educative and social precautions for the protection of the family in addition to its judicial authority. In these courts the objective is to solve the legal problems driven by family law and in which children and spouses are also a party with peaceful methods with the help of experts while preserving the principle of protecting mutual respect, love and tolerance.

### **Extending the Scope of the Probation System**

Probation is an alternative punishment and execution system which includes the implementation of alternative punishment or measures by the court for suspects, defendants and convicts instead of a prison sentence as well as the supervision, follow-up and rehabilitation of these people within society. In the scope of the probation system, conditions such as working in a job of benefit to the public without any payment, not leaving a particular house or environment are imposed. In order to widen the scope of the probation system, legal amendments were made in 2012.

The aim of the law is to create an alternative execution system in line with the recommendations of Council of Europe and prepare convicts for life in society. In this regard less of the conviction time will be spent in prisons and the convict will be prepared for the life in the society with certain controls.

In this framework it is foreseen that the last year that is to be spent in open prisons will be enforced with the probation system outside of the prison walls, within the scope of this new execution system. In addition it is now possible to monitor, observe and supervise the suspects, defendants and convicts with the use of electronic equipment. By this means the aim is for these people to be in harmony with the outer world and continue their bond with their family.

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**STEPS TAKEN IN THE AREA OF  
EXPANDING CULTURAL RIGHTS AND  
DEMOCRATIZATION OF EDUCATION**

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## **STEPS TAKEN IN THE AREA OF EXPANDING CULTURAL RIGHTS AND DEMOCRATIZATION OF EDUCATION**

It can be said that ungrounded fears and taboos were one of the most important reflexes that determined the behaviours of state rulers in recent history. Especially with the “fear of separation” and “distrust in people”, even the most innocent and democratic of demands caused concern and repercussions. Articles 141, 142 and 163 of the Turkish Penal Code, which were abolished in 1991 and which had been the grounds for the penalization of many writers from both the right and the left wings, as they restricted the freedom of thought and expression, and such practices of the past such as the ban on speaking/singing and broadcasting in Kurdish show the magnitude of the fear and concern. Similarly, even the most humane of practices such as broadcasting in different languages, learning mother languages, founding university departments for different languages and dialects, and allowing detainees and convicts in prisons to speak to their kinsmen in their native language have been brought in only through huge reactions. Likewise, national security courses in secondary education, closure of secondary parts of vocational high schools during the 28 February Process and mandatory and monolithic educational practices that did not recognise different preferences were some of the problems we faced in the recent history, stemming from fear and distrust.

In the 10-year democratization period, various important steps have been taken so as to broaden cultural rights such as removing barriers before the use of different languages and dialects and improving these languages, and to ensure a more democratic and pluralistic structure in the education system.

**In the 10-year democratization period, various important steps have been taken so as to broaden cultural rights such as removing barriers before the use of different languages and dialects and improving these languages, and to ensure a more democratic and pluralistic structure in the education system.**

Within the above-mentioned framework; the opportunity to learn, promote and publish in different languages and dialects has been provided. Barriers to detainees and convicts in prisons speaking to their

kinsmen in their native languages have been removed. Obstacles facing our citizens in selecting whichever name they want for their children have been lifted. Academic research, the establishment of institutions and introduction of elective courses in different languages and dialects in relevant universities have been made possible. It has been made possible to conduct political propaganda in different languages and dialects. Bans on cinema, video and music works have been lifted. Cultural activities in various languages have been supported. Practices such as employment of Kurdish translators to assist people accessing public services and establishment of call centers have been put into effect. 'Mele' (local clergymen) have started to be employed by the government. The education system has become more democratic. The number of universities and the quotas allocated for higher education have been increased. The use of different coefficients to calculate the final score of university admission examinations has been abolished. Freedom of dress in



universities has been ensured. National security courses have been abolished.

Some of the main steps, which are elaborated upon chronologically in the inventory section, are explained below:

### **Allowing to Learn, Promote and Publish in Different Languages and Dialects**

Various dialects and languages, which are signs of cultural richness in our country, have long been regarded as a source of danger and concern because of various taboos and policies of denial and rejection.

In this area, with the Third EU Harmonization Package passed in 2002, broadcasting in different languages and dialects that are used daily by citizens, alongside the official language of Turkish, was made possible. In the same year, opening up private courses for teaching-different languages and dialects was made possible. For this, relevant infrastructure was laid and the opening of these courses was enabled in 2003.

This development regarding languages was sustained in the later periods, as well. In this respect, legal barriers to broadcasting in languages and dialects other than Turkish by both private TV channels and TRT (Turkish Radio and Television Channel) were removed in 2003. With the regulation prepared in this context, radio and television broadcasts in different languages and dialects have been made possible.

Finally in 2008, this issue was given legal guarantee and all barriers on the issue in private radios, televisions and TRT were removed. Within this framework, a channel of TRT (TRT 6) started full time Kurdish broadcasting. In 2009, it was made possible for private radios and televisions to broadcast in this language continuously. With these amendments, broadcasting in different languages and dialects

has been provided with legal guarantees; and TRT started broadcasts in Kurdish and Arabic.

### **Enabling Convicts and Detainees in Prisons to Speak to their Kinsmen in Their Native Language**

In the past, certain restrictive legislative provisions meant it was not allowed for detainees and convicts in prison to communicate in a language other than Turkish with their families and relatives. This situation led to serious victimization of our citizens who cannot speak Turkish or can better express themselves in another language. This ban used to restrict individuals' right and freedom to communicate.

With amendments made in the bylaw in 2009, convicts were allowed to speak in languages other than Turkish on the phone, in the event that the convict declared that s/he or the person s/he would talk to does not speak Turkish. With a later regulation, barriers to detainees and convicts in prisons seeing and talking to their visitors in languages other than Turkish were lifted. Thus, inhumane bans on these issues have been abolished.

### **Allowing Citizens to Name Their Children as They Wish**

In conflict with today's democracy and human rights, it was prohibited for citizens to name their children with non-Turkish names. This inhumane prohibition was the subject of rightful criticisms from many parts of the community. This ban also caused the loss of ties with the past and damaged cultural diversity. Moreover, the fact that citizens were not able to name their children as they wished was against human rights.

In 2003, the related paragraph in the Law on Population Registration was changed; allowing the citizens to name their children as they wish and ending their suffering due to this issue.

## **Academic Research, Establishment of Institutions and Introduction of Elective Courses in Different Languages in Dialects in Universities**

The speaking of various languages and dialects is one of the most significant riches that Turkey has to offer. However, a repressive attitude has been taken for many years towards languages and dialects other than Turkish language spoken in the country, which prevented different languages being taught and learned. Although the ban on utilizing such languages in daily life was lifted over time, there was no education service provided to teach these languages from an academic and scientific point of view.

Efforts made to teach and learn “living” languages which are currently in use in Turkey have made it possible for our universities to conduct academic research on various languages and dialects, set up an institute and offer elective courses.

The “Institute of Living Languages in Turkey” affiliated to Mardin Artuklu University was founded in 2009 within this framework, and is composed of the Department of Kurdish Language and Culture, the Department of Arabic Language and Culture, the Department of Assyrian Language and Culture, and Master’s Degree courses on Kurdish Language and Culture and Assyrian Language and Culture. The Kurdish Language and Literature Department was established as part of the Faculty of Letters of the same university.

In this process, another “Institute of Living Languages” was established in Bingöl University which has the following undergraduate and graduate programs: the Department of Kurdish Language and Literature and Thesis/Non-thesis Master’s Degree on Kurdish Language and Literature. The Kurdish Language and Literature Department was established within the Faculty of Science and Letters of the same university. The Social Sciences Institute of Muş Alparslan

University has created a Kurdish Language and Literature Graduate Degree Program and Science and Education Faculty of the same university has created the Kurdish Language and Literature Department.

The Faculty of Letters of Tunceli University created the Eastern Language and Literature Department, the Zazaki Language and Literature Department, the Kurmanji Language and Literature Department as well as the Arabic Language and Literature Department. The Social Sciences Institute of Dicle University in Diyarbakır created a Kurdish Language and Culture Master's Program.

### **Possibility to Conduct Political Propaganda in Different Languages and Dialects**

It was forbidden to conduct propaganda during election campaigns in a language or dialect other than Turkish. Those who violated this ban were subject to investigation and punishable by various penalties. This situation constituted an obstacle to our citizens' freely exercising their political rights and carrying out successful political activities by addressing the constituency in a language that they understand.

The scope of the Law on Political Parties is broadened with an amendment in 2010 and legal obstacles to the right to conduct political propaganda, which is an element related to freedom of expression and organization, have been removed. Hence, it was made possible for political parties to address people in various languages and dialects during their election efforts.

### **Lifting the Ban on Cinema, Video and Music Works**

One of the major obstacles preventing the advance of culture and arts in our country was the easy and arbitrary bans on various works of art. Banning or censoring ideas and works of arts in such an easy manner, under the pretext of national security or for arbitrary and

ideological reasons was an issue harming Turkey's reputation in the international community.

With the changes made, the extent of these bans was reduced and now ban decisions given to the administrative departments must be sent to a judge for approval within 24 hours. Moreover, the NSC (National Security Council) representative was removed from the Supervisory Council for Works of Movie, Video and Music.

### **Supporting Cultural Activities in Various Languages**

In the past, supporting cultural activities in different languages or dialects was something inconceivable. In fact, after the military coup of September 12th, it was even forbidden for citizens to speak different languages or dialects that they use every day. In response to this, as in all other fields, a change of paradigm was made in this area too and an emancipatory point of view was adopted.

In this extent, the Ministry of Culture has started publication of some important Kurdish language and literature works such as 'Mem-u Zin'. Some performance arts have also begun to be put on stage in Kurdish by the General Directorate of National Theaters. For the first time, the Ministry of Culture and Tourism's Council for Movie Support provided financial support to a movie containing frequent Kurdish dialogue (İki Dil Bir Bavul).

The national television TRT started airing a new channel called "TRT XEBER"; a Kurdish news channel. With the joint efforts of TRT and Diyarbakır Governorship, an album is produced consisting of Kurdish folk songs.

Moreover, in the guide to the 24th era members of TBMM (Turkish Parliament) the parliamentarians' knowledge of the Kurdish language is included for the first time.

## **Employment of Kurdish Translators to Facilitate Access to Public Services and Establishment of Call Centers**

Our citizens who cannot speak and understand Turkish had serious problems in dealings with public organizations.

With a change in the mindset, facilities such as the employment of Kurdish translators by administrative units, when needed by citizens who don't speak Turkish in order for them to be able to benefit fully from public services, have been provided for the purposes of solving this problem. Moreover, in call centers founded by certain governorates for the purpose of increasing the quality of public services, Kurdish speaking personnel have been employed in order to facilitate communication with citizens who don't speak Turkish.

## **Employment of “Mele” (Local Clergymen) by the Government**

The religious leaders respected by people in Eastern and Southeastern Anatolia were ignored by the government for many years. This issue was one of the major barriers preventing government - people cohesion.

In 2012, the local religious leaders in Eastern and Southeastern Turkey (called “Mele”) started to be employed by the government as “religious officials”. This practice involving “Mele”, respected and considered important by the local people, was welcomed since it helped strengthen the bond between the people and the government.

## **Democratization of Education System**

The improvement and expansion of education is one of the most important conditions required in order for democracy to be widely embraced. Major steps have been taken in this area in the last ten years

of the democratization process. Developments such as the expansion of education and inclusion of all citizens in education, almost doubling of the number of classrooms, distribution of free textbooks to students, equipping classrooms with smart systems and information technologies and removing regional disparities in all education in general are practices which are of great value for the democratization and development of our country.

188.459 classrooms, 36.109 of which were built by our benevolent citizens, were constructed and put into service between 2003 and January 2013. 1058 sports halls were construct-

**The number of libraries in primary and secondary schools (excluding classroom libraries) was 11.945 in the school year of 2002-2003; this increased to 21.318 in the 2012-2013 school year.**

ed and put into service between 2003 and 2013 (January 2013). Whereas in the 2002-2003 school year there were 18.853 laboratories and foreign language laboratories used by primary schools and secondary education schools jointly in biology, science, physics, chemistry and professional practice courses, this number increased to 34.723 in the 2012-2013 school year. The number of libraries in primary and secondary schools (excluding classroom libraries) was 11.945 in the school year of 2002-2003; this increased to 21.318 in the 2012-2013 school year. 880 boarding houses were opened up to accommodate students at primary and secondary education schools between 2002-2003 and 2012, adding 110.162 beds to the existing capacity. Schools all around Turkey have had access to fast internet connections. All textbooks have been distributed free of charge at primary and secondary schools since 2003. In the scope of the "Fatih Project", training activities are planned to be completed by the end of 2015 in the following fields: placing smart boards to all classrooms, providing teachers and students in secondary

schools and high schools with tablets, establishing broadband connection to all schools, preparing e-contents and making efficient use of technology. Activities are carried out in accordance with the schedule of the project.

One of the most important developments in the education system is, without doubt, the legislation amended in 2012. The law, which was adopted on 30 March 2012 in the TGNA and is known as the Law on 4+4+4 system, introduced a 12 year obligatory multi-stage education system replacing the previous 8 year uninterrupted obliga-

**The 12-year obligatory education system, which is a multi-stage system, constitutes a major step towards ensuring equality of opportunity in national education among citizens. The most important aspect of this regulation is that the citizens are offered choices. Thus, unidimensionality in education, which was introduced by the 28 February process, is removed to a great extent.**

tory education system. The 12-year period was divided into three levels. The new system lowered the primary school starting age to 60 months (primary school starting age can be delayed at most to 66 months when necessary). Primary school education was divided into four years of elementary school

education and four years of secondary school education. High school education was made obligatory. School academic achievement scores are no longer taken into consideration when calculating university admission scores. The use of different coefficients in university entrance exams was discontinued. Elective courses, such as the Holy Quran, the Life of the Prophet Muhammad and various other courses, started to be offered at secondary schools. Various elective courses were designed to support secondary school education and high school education provided by “imam-hatip” schools (schools



training the Islamic clergy) in accordance with the students' skills, development and options.

The 12-year obligatory education system, which is a multi-stage system, constitutes a major step towards ensuring equality of opportunity in national education among citizens. The most important aspect of this regulation is that the citizens are offered choices. Thus, unidimensionality in education, which was introduced by the 28 February process, is removed to a great extent.

With elective courses to be offered at different levels, the aim is to meet the expectations, social and cultural demands of students from all walks of life. Within this framework, the way is paved to take elective language and dialect courses upon request. The fact that elective courses in different languages and dialects, especially in Kurdish, have started to be offered for the first time in the national education curricula indicates a major paradigm shift on the issue.

### **Increasing the Number of Universities and Quota Allocated for Higher Education**

In 2002, Turkey had 40 cities with at least one university, with a total of 76 universities countrywide. Only 23 of these were foundation universities. However, excluding exam free entry, while 1,540,442 candidates took the Student Selection Exam (ÖSS), the quota for graduate and 2-year degrees was 396,646 (including special talent programs). This meant that only one out of four students taking the exam was able to be placed into a university, limiting the educational rights of the students and posing a big obstacle against students' entry into a university. Being unable to enter a university was a serious socio-psychological pressure on the students and their families. Moreover, as a result of many students preferring to study abroad, serious economical losses were another consequence.

**This meant that only one out of four students taking the exam was able to be placed into a university, limiting the educational rights of the students and posing a big obstacle against students' entry into a university. Being unable to enter a university was a serious socio-psychological pressure on the students and their families.**

During the last 10 years, state universities have been established in all 81 cities in Turkey, increasing the total number of universities to 170; 66 of which are foundation universities. This rise in the number of universities was also

reflected in the quotas; these rose almost 2.5 fold compared to 2002, up to 937,676 (including special talent programs) in 2012. Considering 1,860,515 candidates (including exam free entry), applied for the Student Selection and Placement System (ÖSYS); it is seen that one out of every two student applying for the exam have had the opportunity to enter a university as of 2012.

In parallel to Turkey's change and transformation, universities also became much more accessible and within reach, enabling many more alternatives to be offered to students moving on to higher education.

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Many more universities are being established each passing day, providing important socio-economical benefits

to the cities they are located in. With the point the Turkish higher education system has reached, it has moved far from being an establishment offered to just one third of the university age population (like an elite higher education) to being reachable by almost half of that population (a universal higher education).

Over the last 10 years, the support given to universities by TÜBİTAK-ARDEB (The Scientific and Technological Research Council of Turkey - Head of Research Supply Programs) has increased. The total supply budget of TÜBİTAK-ARDEB was raised from 19.5 million TL to 311.9 million TL, increasing 16 times higher in this 10-year period. While 548 projects were being supplied by TÜBİTAK-ARDEB in 2002, this rose to 1,131 in 2012. The total money spent on projects increased from 13 million TL to 168 million TL, the average yearly payment for each project increased from 10,515 TL to 61,439 TL. Similarly, the total number of scientific people supported by TÜBİTAK was 1,696 in 2002, rising to 18,424 in 2012.

### **Ending the Application of Different Coefficients used to Calculate the Final Score of the University Admission Examination**

During the 28 February period, freedom in education, as in many other areas, was constricted in education. In this regard, under a decision taken by YÖK (Council of Higher Education) in 1998, a major change was made in the university entrance system; changing the coefficients for “same field” or “different field” of studies for university choices, therefore substantially reducing the chance for vocational school graduates to enter a university.<sup>5</sup> This segregationist change, which contravened the principle of equality between the students, was seen as a strategic step to preserve the current regime, against the background of debates about secularism during the 28 February period. Despite all the criticisms and reactions, this regulation was used as an effective measure to reduce the community’s interest espe-

5 With the regulation, the placement points of students who had chosen a field of study in university different from the one they studied in secondary school, were reduced. For example, when a student studying in the field of science chose the same field of study in university, the AOBP (Weighted secondary school success points) were multiplied by 0.5, while if he chose an out of field study like law, The AOBP got multiplied by 0.2 before being added to his/her raw points. However, in the previous regulations all candidates got the same treatment regardless of their secondary schools.

**With this regulation, vocational schools were no longer an attractive choice for students wishing to proceed to higher education; thus causing a serious shortage of qualified personnel in industrial sectors needing a work force with vocational and technical education.**

cially in İmam Hatip schools (schools training the Islamic clergy). In fact, with this different coefficient regulation, the freedom of education was limited for all students studying in high schools, not just the students in

İmam Hatips or vocational schools. With this regulation, vocational schools were no longer an attractive choice for students wishing to proceed to higher education; thus causing a serious shortage of qualified personnel in industrial sectors needing a work force with vocational and technical education. The application of different coefficients, leaving indelible marks on the public consciousness and individual's lives was removed by YÖK, equalizing the coefficients on 1st December 2011.

## **Freedom of Dress in Universities**

The fact that a “headscarf ban at universities” was imposed although there was no legal basis can be seen as an indicator of the abnormal conditions in Turkey. This ban on headscarves, a violation of one of the most fundamental freedoms such as “freedom of religion and conscience” and “right to have the control of the disposition of one’s own body”, has frequently been the subject of criticism in international reports regarding the freedom of religion and conscience.

With the normalization process in Turkey, this prohibitive practice has disappeared, parallel to the change of mindset at universities within the framework of the universal rule of “freedoms are essential, restrictions are exceptional”. Although there is no provision in

our legislation stipulating that individuals cannot attend universities while wearing a headscarf, the Disciplinary Regulation of Higher Education Council and judgments by Constitutional Court were regarded as the legal basis for this ban. It is not possible to restrict or eliminate fundamental rights freedoms on the basis of regulations without any legal basis. In addition, the “hierarchy of norms” principle suggests that any regulation that introduces a ban without legal reference cannot be adopted. Considering that the Constitutional Court which was established to adjudicate legal disputes or specific cases cannot replace the legislature or administration and function in a way to regulate public management and public services, it is evident that the ban on wearing headscarf at universities, which was in place for a long time, did not have a legal basis and legitimate reason. Thus, this ban can be considered as a de facto and completely arbitrary practice.

### **Abolishment of National Security Courses Offered at Schools**

There have been major changes in the realm of national education both in terms of discourse and curriculum. In this framework, “national security course” taught by military officials for thirty-three years as part of secondary school curricula was abolished and the content of this course has been reorganized within other courses. This is an important step towards the civilianization of the education system and curriculum.



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**STEPS TAKEN IN  
THE SOCIO-ECONOMIC FIELD**

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## STEPS TAKEN IN THE SOCIO-ECONOMIC FIELD

Throughout the history of the Republic, one of Turkey's most important challenges has been the fact that a balanced socio-economic development level between the regions and provinces has not been ensured. Despite the efforts to reduce economic and social development disparities among regions and provinces by means of development plans, implemented from the 1960s onwards, there hasn't been any substantial progress in this area. Until the 2000s, efforts to improve infrastructure for transportation, which is the most basic condition for ensuring a balanced development in all regions, and to provide citizens living in rural areas with basic needs, such as roads and drinking water, were neglected. In addition to these shortcomings in infrastructure for transportation, in terms of economic development, industrial operations and production facilities were only located in certain regions of the country due to security concerns in the

**The lack of infrastructure services such as roads and drinking water in rural areas limited the access of people living in these regions to basic services such as education and health, which, together with the terrorism problem in the Eastern and Southeastern Anatolian Region, resulted in migration from rural areas towards the cities in the region. This brought along a number of social problems that required urgent intervention.**

Eastern and Southeastern Regions of the country. When it comes to economically underdeveloped regions -Eastern and Southeastern Anatolia primarily- a sufficient level of infrastructure for industrial operations and production was never achieved, despite the limited investment and incentive mechanisms put in place by the State. The economically underdeveloped regions of the country were faced with the problem of being socially underdeveloped, as well. The lack of infrastructure services such as roads and drinking water in rural areas limited the access of people living in these regions to basic services such as education and health, which, together with the terrorism problem in the Eastern and Southeastern Anatolian Region, resulted in migration from rural areas towards the cities in the region. This brought along a number of social problems that required urgent intervention.

In this respect, economic investment has accelerated, primarily in the Eastern and Southeastern Anatolian Regions; parallel to the democratization process that has taken place during the last decade. In addition, intensive investment initiatives in many areas ranging from economy to social life, education to health, infrastructure to energy have taken place with the aim of reducing regional development disparities. During this last decade, the total amount of public investment in the Eastern and Southeastern Anatolian Region has exceeded 37 billion Turkish Liras.

In this framework economic development has been achieved. Fundamental reforms were carried out in the fields of health care and social security. The number of airports and airline passengers as well as the volume of airway traffic increased. The number of dual carriageways increased, which eased the traffic congestion on highways. Mass housing projects became widespread. In order to stimulate socio-economic development in less developed regions through providing citizens living in rural areas with basic services, such as roads and drinking water, the ‘Village Infrastructure Support Proj-

ect' (KÖYDES) and 'Municipalities Infrastructure Support Project' (BELDES) were initiated. The Social Support Program was introduced with the aim of ensuring social development of provinces in the Eastern and Southeastern Anatolian Region. Development agencies started to function in order to enhance cooperation among public sector, private sector and non-governmental organizations and to mobilize local potential. Comprehensive and innovative social aid and social support programs were designed to meet the specific needs of every household. Social aid funds were increased to a great extent to be spent especially for the poor, needy and dependent. Social policies started to be implemented which aimed to facilitate the lives of the disabled, relatives of the martyrs and veterans and the scope of positive discrimination toward disadvantaged groups was further broadened. The Action Plan on Southeastern Anatolia Project (GAP) contributed to enhancing welfare in the region. The 'Return to the Village and Rehabilitation Project' (KDRP) was initiated for the settlement of the families who had left their villages for various reasons and who were willing to go back. Victims of terrorist activities have started to be compensated.

Some of the main steps, which are elaborated upon chronologically in the inventory part, are explained below:

## **Macroeconomic Indicators and Economic Development**

The reforms that Turkey has implemented in the last ten years in the field of democratization and human rights have been carried out alongside highly positive macroeconomic indicators and social development. In spite of the world crisis and the negative developments in our region, the economic and social development indicators that our country has demonstrated has facilitated reforms in the field of democratization and human rights in Turkey, in so far as it would be much more difficult to realize fundamental changes and transformational reforms in an

environment where the economic indicators were not positive. In this framework, the major macro-economic developments that have facilitated the change and transformation are set out below.

In the period before 2002, Turkey was a country where domestic and foreign investment had nearly come to a halt, where capital was lost to other countries, where unemployment had reached its peak, where the biggest economic contraction in recent history was witnessed and each day a different company was shut down.

As for the period after 2002, the Turkish economy underwent a big transformation and structural reforms have been realized in many different fields. In this framework, discipline has been brought to public finance, starting from financial markets in agriculture, social security, energy and communication sectors many important reforms have been brought. Thanks to these reforms, the infrastructure of economic institutions has been strengthened and with the establishment of independent institutions the economy has become much more resilient against any fluctuations that may occur in the international markets. The capital markets have been rearranged according to the understanding of the modern age and many bureaucratic obstacles have been eliminated. In 2005, six zeros were erased from the Turkish Lira thereby facilitating accounting in banking transactions and the daily expenditures of the citizens; the national currency has become more prestigious with these efforts.

The structural reforms that have been decisively carried out in the economic field have led to the creation of a strong and sustainable economy and particularly in gathering very positive results in macroeconomic indicators. The economy of the county that was shrinking at a rate of 5.7% as a result of the economic crisis in 2001 had started to grow gradually by 2002. In the Turkish economy in the period between 2002-2012 an average annual growth rate of 5.2 has been realized.

In a period where there has been shrinkage in many of the world's economies due to the global financial crisis, the Turkish economy, after economic stagnation in 2008 and the shrinkage in 2009, has enjoyed a growth rate of 9.2 and 8.8 percent in the years of 2010 and 2011 respectively and has therefore become the country with the second-fastest growing economy in the world, after China, and the fastest growing economy in Europe.

This growth performance demonstrated in the country's economy has also been reflected in the national income. The national income, which was 230 billion dollars at the end of 2002, more than tripled over the ten year period and reached 786 billion dollars. The national income per capita, which was \$3.500 in 2002, had reached \$10.504 at the end of 2012.

The annual inflation rate, which was at 30 percent in 2002, has decreased to 6.16 for the consumer price index and 2.45 for producer price index. Therefore according to the CPI data the lowest inflation rate of the last 29 years and according to the PPI the lowest inflation rate of the last 45 years is witnessed.

The Central Bank overnight borrowing rate of interest had reached 44 percent in 2002 and in 2012 it decreased to nearly 5 percent. Therefore 10 years ago 86 liras of every 100 liras that the government collected used to be used to pay interest on debts, but now only 16.6 liras are used to service government debt. In addition, the foreign exchange reserves of the central bank, that were 26.7 in 2002, have increased four fold to reach 100.3 billion dollars by the end of 2012. Thus with the gold reserves the total reserve of the Central Bank has reached 120.3 billion dollars.

During its history with the International Money Fund (IMF), which started in 1961, Turkey's largest debt has been in the years of 2000, 2001 and 2002: that is to say before and after the economic crisis of

2001. This situation led Turkey to become the country with highest debt among the countries who have a relationship with the IMF. In

**As of May 2013 the credit debt to IMF has been reduced to zero.**

2002 the IMF credit debt had reached 23.5 billion dollars, and this had decreased to 900 million dollars

by December 2012 as a result of economic stability and the discipline in public finances during the last ten years. As of May 2013 the credit debt to IMF has been reduced to zero.

Turkey is continuing to open up to the world with the visa agreements that have been reached in the last period. Turkey is widening its economic geography each day with visa-free entry to 63 countries and with the possibility of obtaining a visa at the border gates of 11 countries. As a consequence of this, exports which were 36 billion dollars in 2002 have increased four fold to reach 152 billion dollars in 2012.

Our construction and contracting sector is playing a leading role in foreign investments. By the end of 2012 the sector had reached 5 continents including Central Asia, from Russia to Middle East and Africa as well as undertaking approximately 7000 projects costing 242 billion dollars in a total of 100 countries. As of 2012 Turkey is listed second after China with 33 companies among the biggest 225 construction and contracting countries in the world.

As one of the G-20 countries which represent the strongest economies in the world, Turkey which is the 17<sup>th</sup> largest economy in the world and 6<sup>th</sup> largest in Europe, has become one of the foremost investment centers in the world since bureaucratic obstacles have been largely removed, the tax system has been improved, profit transfers have been supported and successful privatization programs are being implemented. What makes Turkey unique as far as commercial

activities and direct foreign investments are concerned is Turkey's role as a gateway to Europe, the Middle East, North Africa and Central Asia. To illustrate, it is possible to reach more than 50 countries and to have access to a large market that constitutes one fourth of the economy in the world with a flight of four hours or less from Istanbul.

**Table: 1. Turkish Economy (2002 / 2012)**

Economic Indicators	2002	2012
Total National Income	230 Billion Dollars	786 Billion Dollars
National Income Per Capita	3. 500 Dollars	10. 504 Dollars
Inflation	30%	6. 16%
Central Bank Debt Interest Rates Overnight	44%	5%
IMF Debts	23. 5 Billion Dollars	900 Million Dollars (December 2012)*
Central Bank Foreign Currency Reserves	26. 7 Billion Dollars	100. 3 Billion Dollars
Export Figures	36 Billion Dollars	152 Billion Dollars

\*(As of 14.05.2013, the credit debt to the IMF has been reduced to zero)

### **Initiatives Taken in Health Care Sector**

The state and SSK (Social Security Institution) hospitals in Turkey have been brought together under the roof of the Ministry of Health. By this means, the problems stemming from the fact that citizens who were formally under the Retirement Fund, the Social Insurance Institution and the Social Security Organization for Artisans and the Self-employed benefited from different institutions and had different standards have been eliminated.

With the realization of the family practitioner system, all citizens have started to enjoy the constant guidance of doctors free of charge. At state hospitals “Patient Rights Departments” have been established. To protect public health, smoking in closed environments has been prohibited.

Bureaucracy in the health system has been minimized and therefore paperwork has been eliminated; all citizens can now access all health institutions with their Turkish Republic identity number. In addition to this, a new system of making an appointment online or by telephone has been initiated. Regardless of whether citizens come under the Retirement Fund, the Social Insurance Institution and the Social Security Organization for Artisans and the Self-employed, it is now possible for everyone to receive their medicine from any pharmacy they wish and there has been a discount of 80 percent in the prices of all medicines. For the hospitalized patients a new system where medicines are covered from the hospital has been realized.

During the period of 2002-2012, 2134 new health establishments have been constructed, 611 of which are hospitals and 1523 are primary level health institutions. In Turkey during 2002 there were 256.000 health personnel in the Ministry Of Health, this figure has nearly doubled in 2012 reaching 507.000. In 2002, the difference between the provinces with the highest amount of patients per specialized doctors and lowest was 1/13, this rate had decreased to 1/3 by the end of 2012. Over the last 10 years the quota for medical faculty students has doubled and the quota for nursing schools has tripled.

In 2002 in Turkey health expenditures per capita was 330 dollars, or 3.8 % as a share of GDP; as for 2012, the expenditure per capita has reached 789 dollars and its share of GDP has increased to 4.4 %.

Emergency and intensive care services are now provided free of charge in private hospitals as well as in state hospitals. The examina-



tion time per patient has more than doubled, reaching 9.5 minutes up from 4.5 minutes. A quality room system has been implemented instead of the ward system in hospitals. At 2002 the quality bed rate was only 6,6 %, at the end of 2012 this rate had reached 34%.

In rural areas, mobile hospital and mobile pharmacy services have been initiated. Each day 126 thousand citizens have benefited from mobile health services and 20 thousand citizens enjoy the services provided by the mobile pharmacies.

As a result of all these developments, while in 2002 one clinic room could be provided for every 5000 people in the first,

second, &third level institutions under the Ministry of Health, as of 2012 one clinic room for every 1.500 people can be provided.

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Without any discrimination among citizens who are insured under the Retirement Fund, the Social Insurance Institution and the Social Security Organization for Artisans and the Self-employed, it is now possible for each one of them to access private health institutions. In 2002 there were 271 private hospitals, at the end of 2012 this figure had increased to 541. During this ten-year period, the bed capacity of private hospitals has increased threefold and had reached 35.000.

The number of ambulances reached 3346 in 2012, up from 618 in 2002; the number of emergency treatment stations, which was 481, increased to 1863. As of 2012 in order to respond quickly to emergency situations, service continues to be provided by 17 helicopters, 4 airplane ambulances, 4 sea ambulances and 291 snow ambulances.

**In the last ten years the maternal mortality rate has decreased to 15.6 in a hundred thousand births, down from 64/100.000; the infant mortality rate has decreased to 7.5 in a thousand down from 31.5/1000 births. While the life expectancy of countries with the same income level as Turkey has increased by 2 years, in Turkey it has increased by 5 years.**

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tries with the same income level as Turkey has increased by 2 years, in Turkey it has increased by 5 years.

## **Steps Taken in the Field of Social Security**

In the last 10 years many important steps have been taken in the field of social security. In this regard the most important reform that has been realized is the establishment of the “Social Security Institution” which brought all the social security institutions (the Retirement Fund, the Social Insurance Institution and the Social Security Organization for Artisans and the Self-employed) under the same roof.

There has been a transfer to a “universal health insurance system” which covers 18% of the world population, and which only states that are developed in the health care sector apply. After the universal health insurance income test, the government paid the premium of more than 9 million citizens, whose income per capita within a household is below 1/3 of the gross minimum wage. In this field with a percentage over that of most of the countries, 98% of citizens have been included within the scope of the universal health insurance. Again in a way that finds no other example in any country around

the world, every individual under the age of 18 has been provided with health care free of charge regardless of whether their parent is insured or not. In addition the health rights of the poor have been raised to the same level with the insured.

The premium rate of farmers and artisans has been decreased to 33.5 % from 40%; Just like workers, farmers and artisans who have had a work accident are entitled to a monthly payment as well as compensation for being temporarily unable to work, a dowry equal to the pay of twenty four months

**In a way that finds no other example in any country around the world, every individual under the age of 18 has been provided with health care free of charge regardless of whether their parent is insured or not.**

is provided to the orphan daughter of a deceased farmer or artisan and instead of denying an artisan who already has a credit debt the right to obtain new credit, a new system whereby the premium debt is taken from the credit that is given to the artisan has been implemented. In addition, as a precaution against natural disasters to protect the farmers for the first time “agriculture insurance” has been introduced; it has also been made possible for parents of those with agriculture insurance and agricultural retirees to enjoy from the health services provided.

Instead of collective bargaining, a right of collective agreement right has been introduced. Therefore for the first time a right to “collective agreement” has been given to public servants. “The Public Trade Unions Law” has been passed and has brought the public trade unionism up to modern norms.

In 2012 the Adaptation Law has been implemented to eliminate the injustice among the retirement salaries in regards to the monthly salary system. In total 1.783.708 people have benefited from this law.

## Increase in the Number of Airports, Airline Traffic and Passengers

While in 2003 the number of active airports was 26, this number increased to 49 in 2012. Existing airports have been renewed and have become more modern.

At the beginning of 2000, Turkish Airlines made domestic scheduled flights from two centers to 26 different destinations, with the start of private sector scheduled domestic flights, by the end of 2012, 6 different airlines were flying to 49 different destinations from 7 centers.

**While in 2002, 8.5 million people used domestic airlines, this figure reached 64.7 million in 2012. As for international flights the amount of passengers, which was around 24 million, has increased to 65.6 million. Therefore in total the amount of citizens who have travelled with plane passed 130 million people in 2012 while it was 32.5 million in 2002.**

The number of countries with which Turkey has an Air Transport Agreement has increased to 143 from 81 in the last ten years; the number of flight destinations abroad from Turkey has reached 192, up from 60.

According to data provided by the Ministry of Transportation, Maritime and Information; the airplane traffic has increased by 160% over the last 10 years and at the end of 2012 the number of flights reached 1 million 376 thousand 486.

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with plane passed 130 million people in 2012 while it was 32.5 million in 2002. Plus in the last ten years more than 10 million citizens have travelled by plane for the first time.

The increase in Eastern and South Eastern Anatolia is particularly interesting. In these regions, while the domestic and international flights in total were previously 16.724 this number reached 73.987 in 2012. In parallel to the increase in the number of domestic flights, the incoming and outgoing number of passengers has increased to 7.864.785 in the provinces in the region up from 883.675 and the number of international incoming and outgoing passengers has reached 273.476 in 2012 up from 66.392 in 2002.

### **Increase in the Number of Dual Carriageways and Easing Traffic Congestion on Highways**

In order to minimize traffic accidents and particularly to increase the service quality that had fallen due to insufficient capacity, in the last ten years 16,152 km of dual carriageways have been built at an investment of 85 billion TL.

Therefore the length of dual carriageways that was 6.101 km in 2002 had increased to 22.253 in 2012.

**In the last ten there has been a decrease of 41 % in traffic accidents deaths per hundred million vehicle kilometers.**

The number of cities connected to one another with dual carriageways have increased to 74 from 6. Again in the same period, Turkey, that serves as a bridge in international transportation, has completed 8,823 km of the 11,749 km at the north – south axis that connects the border gates.

This increase in the dual carriageways has made auto traffic much safer, faster, healthier and more environmentally friendly. In the last ten there has been a decrease of 41 % in traffic accidents deaths per

hundred million vehicle kilometers. In parallel to the decrease in fuel consumption and the time lost on the road, there has been a saving of around 10, 6 million TL. In addition there has been a decrease in the emission of carbon dioxide by 2.33 million tons.

### **Increasing the Route Length of the Railway Network and High Speed Train Projects**

Many important steps have been taken in the last decade. In relation to these, on March 13, 2009 with the Ankara-Eskisehir leg, Turkey has introduced for the first time in history the high speed train, first been used in 1957 in Japan and 1965 in Europe. By 2011 the Ankara-Konya high-speed railway line had been completed and started to provide service. Between 2003 and today, 888 km of high-speed railway line has been constructed. Therefore Turkey has become the 8th biggest high-speed train (YHT) manager in the world and 6th in Europe.

The railroad network that was 8845km in 2003 has reached to 9,931 km. In addition to this, 7,261 km of railway lines including Adana-Mersin, Eskisehir-Kütahya, Gaziantep-Karkamış-Nusaybin lines have been renewed.

The high-speed train sets and modern metro tools have started to be produced in our country. At plants established in Sakarya, Konya, Afyon, Erzincan, Karabük, Sivas and Çankırı high-speed train engines and carriages are produced in our country.

### **Increasing the Reach of Mass Housing Projects**

During the nineteen-year period between 1984 and 2002, the Housing Development Administration (TOKİ), which has given credit support to more than 1 million houses and constructed 43.145 houses, has reached a total housing figure of 582,895 with an increase of fourteen fold over the last ten-year period. 85% of these housing

establishments, constructed in eighty-one provinces and eight hundred districts, are considered social housing. More than 800 thousand people have found direct or indirect employment with these projects that are in the scope of TOKİ.

Within the scope of urban transformation; in 174 different regions there have been tendering processes for 86.441 houses, for 151 projects the tendering process has been completed. The construction of 71.681 houses has started and in 89 regions the construction of 51.246 houses has been completed with delivery to their owners. In addition, the practice of reconstructing and returning to their owners the houses of citizens that were damaged due to natural disasters within ten to twelve months was started.

In the scope of social infrastructure; 907 schools with 20,329 classrooms, 934 gyms, 135 dorms and pensions with a capacity of 46,828, 94 community health centers, 200 hospitals, 41 libraries, 481 commercial centers, 462 mosques, 27 affection homes, 20 centers to for the disabled, 84 public service buildings and 9 stadiums have been constructed. In the framework of environmental planning, 42 million squares metres of parks have been made, 15 million trees have been planted and bush landscaping has been made. Out of 341 police stations to be constructed within the scope of TOKİ, 275 have started construction and 66 of them are still in the tender phase.

In addition, in the last ten years there has been an investment of 650 million TL for sewer system projects and 440 million TL for drinking water facility construction for the Eastern and South Eastern Anatolian regions by The Bank of Provinces (İLBANK).

### **Village Infrastructure Support Project (KÖYDES)**

The KÖYDES project, which is one of the largest rural development projects in the history of the Republic, realized significant

and result oriented investments to facilitate life for our citizens living in rural areas, primarily in the Eastern and Southeastern Anatolian Regions. The KÖYDES project started in 2005 with the aim of providing villages and communities without drinking water and road access with sufficient amount of healthy water and raising the standards of road connections to villages. The objective of the KÖYDES project is to end the unjust suffering of our villages that have long been neglected and deprived of the services that they deserve, increase the quality of life and ensure economic and social development in villages. Thanks to the activities undertaken with an allowance of 8 billion 428 million 49 thousand Turkish Liras allocated between 2005 and 2013, there is no village or community left without healthy drinking water or roads.

Within the scope of the KÖYDES Project, the following works were undertaken on village roads: 98.975,2 km of asphalt road (43.894 km of ground level asphalt and 55.081,2 km of second layer asphalt), 2.478,7 km of concrete road, 74.546,6 km of stabilized road, 1721,5 km of raw road, 5284,9 km of grading, 32.953,5 km of repair and 10.831.629 m<sup>2</sup> of paving stone were set into roads. As for engineering works, 34.242 culverts and 1248 bridges were constructed. When it comes to drinking water, drinking water facilities were constructed with connection to the water supply network for 4175 villages and communities which were not previously provided with drinking water whereas drinking water facilities were renovated for 43.952 villages and communities which lacked sufficient drinking water. A total number of 13.301.682 citizens live in 48.127 villages and communities for whom either new drinking water facilities were constructed or current facilities renovated. As far as the small scale irrigation sector is concerned, 13 ponds, 34 pond irrigation facilities, 370 ground irrigation facilities, 59 underground irrigation facilities and 6 ponds providing drinking water to animals were constructed. In other words, a total area of 54592 hectares was



provided with service and 58042 farmer families started to benefit from this service.

### **Project on Infrastructure Support for Municipalities (BELDES)**

The BELDES Project, which was implemented in 2007 and 2008 in order to support municipalities with fewer than 10.000 inhabitants with drinking water and road infrastructure investments, ensured that a total amount of 633.5 million TL was allocated to 2507 municipalities.

With these allocated funds, the following works were undertaken in the road construction sector: 24.120.181 m<sup>2</sup> of key stones, 2.880 km of asphalt roads, 2.652 km of stabilized road, 312 km of concrete road, 61.252 m<sup>3</sup> of stone walls, 133 bridges and 478 culverts. When it comes to the drinking water sector, the following works were completed: 775 new facilities, 399 facility improvement, 165 repair and maintenance works were completed, which resulted in 1339 municipalities to be provided with drinking water. In other words, a total number of 3.267.932 was provided with service.

### **Social Support Programme (SODES)**

The SODES Program (Social Support Programme) was introduced in 2008 in order to enhance human capital in provinces of the Eastern and Southeastern Anatolian Regions, to meet needs associated with the problems such as migration, poverty, and unemployment in these regions, and to support the social integration process.

The SODES programme, implemented in 30 provinces between 2008 and 2012, ensured that various projects in fields such as employment, social inclusion, culture, arts and sports were implemented with a total budget of 674 million TL. The number of provinces covered by the programme increased to 34 in 2013.

## **Development Agencies**

Development Agencies, which have been functional since 2006 and completed their establishment process to reach twenty six in number as of 2009, were established in order to improve cooperation among public sector, private sector and civil society organizations, and to mobilize local potential. Thanks to these agencies, substantial progress has been made to reduce interregional and intraregional development disparities.

Development agencies currently employ a total number of 955 staff members, 795 of whom are qualified experts. These agencies received 26.000 project applications between 2008 and 2013 from public organizations, local governments, universities, civil society organizations and enterprises. As a result of independent and objective evaluations of the project applications received, 4670 projects were granted financial support and a total amount of 900 million TL was allocated to these projects. The total amount of funds allocated for development projects reaches approximately 1.8 billion TL including the co-financing allocated by the beneficiaries. Development agencies have been able to yield very positive outcomes in terms of attracting local and foreign investors to the regions where they are located.

A total amount of 338.677.000 TL was allocated to a total number of seven development agencies located in Eastern and Southeastern Anatolia between 2009 and 2012.

## **Inclusive Social Assistance/Support Practices to Fight against Poverty**

The social aid and support projects that were carried out in the past periods were far from reaching the targeted results due to the narrowness of their target group as well as the fact that their effect to decrease poverty was not sufficient. Moreover the social aid and support projects targeted at social groups that need special attention

(children, elderly, handicapped etc.). As required by a social state, were not at a sufficient level.

In the last ten year period, significant improvements in the fight against poverty including social aid/support projects as well as social justice, enhancing the distribution of income, ameliorating the socio-economic situation

of our citizens who are poor/in need and who are mostly left outside of the employment market, and also preventing

**While in 2002, 30.3% of the total population had to manage with a daily income below 4.3 dollars, in 2011 this figure has decreased to 2.79%.**

them being left below the poverty threshold have been made. Also many important steps have been taken in terms of realizing programs as required by a social state for children, the elderly, disabled, widows and orphans of war and duty martyrs as well as disabled persons and veterans in order to sustain social justice and public balance.

As a result of stabilized economic policies, investments and social aid programs; while in 2002, 30.3% of the total population had to manage with a daily income below 4.3 dollars, in 2011 this figure has decreased to 2.79%. In addition, while the resources used in the area of social aid and services was 1.3 billion TL, at the end of 2012 this has increased by approximately 15 fold to 20 billion TL. Therefore while the percentage of GNP spent for social aid and service was 0.5% in 2002 by the end of 2012 this figure had reached 1.4%. As a result of all these developments there has been a considerable decrease in the figures related to poverty and Turkey's struggle against poverty has been directed towards the "human development index" which most OECD countries use, from "absolute struggle against poverty".

In line with the necessity of the service and need, new and inclusive social aid and social support programs have been initiated and nearly all our citizens who are in need of these programs have been included. Within these concrete programs the following can be included;

- Free course books have been given to all primary school and middle school students.
- For nearly 3 million children regular cash support has been given to their mothers with the “conditional education and conditional health aid programs”.
- In mobile education, lunch expenses of approximately 600 thousand students have been covered annually.
- On average 43 thousand disabled students annually have been transported to their schools free of charge.
- State housing has been provided for poor families, in cooperation with TOKİ.
- Fuel aid has been regularly made each year for more than 2 million families.
- Regular cash aid has been made for nearly 240 thousand women who have lost their husbands.
- On average social and economic support has been provided for 40 thousand children’s families annually.
- Through the Higher Education Credit and Hostels Institution scholarships have been given to children of poor families who continue their higher education.

- Citizens who have applied for social aid and who are able to work have been registered to the database of the Turkish Employment Agency (İŞKUR). *(In this scope in 2012, 23 thousand people have been employed, 69 thousand people have been given training and 39 people have benefited from the unemployment insurance)*
- On average monthly cash aids, ranging from 125 to 375 TL have been provided to 1.2 million disabled and elderly citizens annually.
- In order to cover the house care expenses of nearly 410 thousand heavily disabled citizens, a program to deliver a monthly pay equal to the minimum pay has been started.
- Special education expenses for disabled citizens have been covered.
- Service is delivered to 14 thousand children, 11 thousand elderly, 5 thousand disabled and two thousand women at institutional care centers.
- A program to deliver cash to military families who are in need has been initiated.
- With income generating social purpose projects, our citizens have received sustainable income.
- With the transfer to the “universal health insurance” which many European countries and USA could not adapt, the health insurance scope has been enlarged and more than 9 million citizens’ universal health insurance premiums are paid by the government.

Similar social aid and social support programs in the last ten year period has been realized or its scope has been enlarged. 90% of the aid programs are based on entitlement.

In addition to these programs, in order for our citizens to reach sustainable income, project support is given through the “Social Aid and Solidarity Foundations” founded in every province and district to cover any need of citizens who are poor and in need. By the end of 2012 in 2.101.611 families, 6.370.100 people in total have benefited from the social aid programs of 973 Social Aid and Solidarity Foundations.

To facilitate citizens’ access to these services and to render the social aid system more effective, the following projects have been realized;

- Social Aid Information System (SOYBİS),
- Social Aid Hot Line (144),
- A points system to identify those who will benefit from the social aid has been developed,
- The number of qualified personnel working in the Social Aid and Solidarity Foundations around the country has increased to approximately 9000,
- With the Integrated Social Aid Service Information System in the field of social aid, a central database (poverty inventory) has been created.

With these projects, the chronic problems that have been often underlined of not having an integrated database in the social aid system, not using objective criteria in identifying poverty and the fact that access to services is a long and exhausting process have been eliminated. With these works and projects, now public spending with a social purpose is more effective, accountable and has access to the target group in the fastest manner.

## Steps taken to Address the Needs of Relatives of Martyrs, Veterans and Terror Victims

For the relatives of martyrs and our veterans to carry on an honorable life, all kinds of spiritual and material support has been given. In this scope; the employment right given to the relatives of martyrs has been doubled; mothers and fathers have been included in those who may benefit from this right in addition to the wives, children and siblings. The condition of disability and being in need of assistance has been lifted for mothers and fathers of non-commissioned officers and private soldiers. A lower limit (the net amount of the minimum pay) has been put on the paid to the parents of our martyrs, and there has been an increase in the allowances.

As far as the allowances paid to the relatives of martyrs and to veterans using the similar salary system are concerned, all inequities and defects have been eliminated. An increase to the allowance of non-commissioned officers and private soldiers and their relatives who have died as a martyr or become a veteran due to terrorism has been made regardless

**Civilian citizens who have lost their lives or have become incapacitated due to their active role in revealing terror activities, minimizing or excluding their effects have also been brought under the same law case that grants rights to martyrs and veterans.**

of their education level. By this means in calculating the monthly allowance of non-commissioned officers and private soldiers who have died as martyr or become a veteran due to terrorism positive discrimination has been made and an increase has been brought.

Exemptions have been applied to donations real estate donation made to those who have died as a martyr and veterans as well as

their relatives due to terrorism and also regulations have been made to solve defects regarding free public transportation for martyrs and veterans as well as their relatives due to terrorism.

Civilian citizens who have lost their lives or have become incapacitated due to their active role in revealing terror activities, minimizing or excluding their effects have also been brought under the same law case that grants rights to martyrs and veterans. With the aim to compensate their loses, for civilians who have become incapacitated due to terror activities or due to the struggle against terrorism and for relatives of those who have lost their lives a monthly payment is given. Similarly the care support provided to our veterans who have become incapacitated to an extent that renders them incapable to survive without aid and support has also been granted to village guards and civilians and this support has been increased to double the minimum wage.

For public servants and civilians who have been injured on duty in the struggle against terrorism it has been targeted for them to receive all kinds of health and treatment services without paying any share until their incapacity is certain. For our veterans other than our terror veterans any kind of orthosis / prosthesis as well as curative and rehabilitative equipment that they might need during their treatment are provided without any co-pay or surcharge by the Social Security Institution.

The scope of the aid for the relatives of martyrs and veterans has been widened; regardless of their social security and income, it has been made possible to deliver social aid to victims of natural disaster, relatives of martyrs and veterans.

### **Steps taken to Facilitate the Lives of the Disabled**

In the last 10 year period many important regulations have been introduced to improve the rights of the disabled and the resources that the



government has provided for the services of the disabled has increased drastically. In 2005, the “law on the amendment that is to be made to the disabled and other laws and the decrees of provisions of laws” has been passed. Therefore on the basis of the inviolability of human honor and dignity, social policies for the disabled and against the exploitation of the disabled have been developed, the struggle against discrimination has been enhanced and participation of the disabled in decision-making mechanisms have been developed and the rights of the disabled have been rendered more visible. In 2008, Turkey signed the “UN Convention on the Rights of Persons with Disabilities” that foresees equal and full enjoyment of rights and freedom of disabled people and requires to the signatory countries to eliminate any discrimination against the disabled and increase their life standards has been signed.

Incentives and measures have been put into place to increase disabled employment. Instead of having separate examinations for public foundations and institutions with the legal changes in 2011, a separate and central examination

for the disabled has been stipulated. According to the examination results of 2012 2174 middle school graduates, 1093 two-

**At the end of 2002 the number of employed disabled civil servants within quotas increased to 27.443 by March 2013 while it was 5.777 at the end of 2002.**

year degree graduates and 614 university graduates have received the right to become public servants. In addition in 2012, 988 disabled, in 2013, 519 disabled have been placed to civil servant posts with drawing lots. By this means at the end of 2002 the number of employed disabled civil servants within quotas increased to 27.443 by March 2013 while it was 5.777 at the end of 2002. This figure constitutes 40% of the civil servant placement only in the last two years.

The monthly payment for those disabled persons who are incapable of working or for those who cannot find employment has been in-

creased 300% and the scope of people who have the right to receive monthly pay has been increased. Disabled civil servants have become exempt from night duty and shifts, and given the possibility to set different shift and period times. A right to early retirement has been given to working disabled people and mothers with disabled children.

In addition to this, a possibility to pay monthly allowances to the elderly over 65 years old, to the disabled older than 18 years old, to those who have the responsibility of taking care of a disabled person younger than 18 years old (with the condition of actively taking care their disabled relative) according to the social security legislation. In this framework at the end of 2012 a monthly allowance has been assigned to 1.228.355 people and in the same year the total amount of payment reached 2.911.191.180 TL.

For the first time, all disabled people who need care are taken under the scope of a care service, and care provided at home or at private care centers is covered by the government. All disabled individuals who require it have the possibility to benefit from all special education and rehabilitation centers free of charge. In 2006, 83.000 disabled students have benefited from this service and this figure reached 256.000 by the end of 2012. The resources allocated for this service reached 1.263 billion TL in 2012 up from 263 million in 2006.

The number of disabled people who benefit from homecare services reached 398.335 people by the end of 2012 and this figure had increased to 408.165 by February 2013. By the end of 2012, 2,944 billion TL had been spent on this service. In 2012 97 official in-patient care and rehabilitation service centers delivered service to 5112 people and 7 day centers delivered service to 460 disabled people. By the end of 2012, the care expenses of 9.328 disabled people who have received care in 148 private care and rehabilitation centers for the disabled have been covered by the government

and 137 million TL have been spent for this service. While in 2002 there was one care worker per 30 disabled; now there is one care worker per six disabled.

In 2002 there were 308 schools for our disabled students and this figure had risen to 814 by the end of 2012. The number of teachers in these schools rose to 7.607 from 2.834. The number of students who receive education in special education institutions, in special education classrooms and inclusive education (These schools are public schools under MoNE) has increased to 220 thousand from 53 thousand. Free of charge school services have been provided for the transportation of disabled children. The number of people benefiting from education projects involving the transportation of the disabled reached 46.095 in 2012-2013 school year.

**While in 2002 there was one care worker per 30 disabled; now there is one care worker per six disabled.**

In order to eliminate obstacles to the participation of the disabled in the public life it has been made obligatory to adapt all public roads, pavements, pedestrian crossroads, open and green areas, sports areas and similar social and cultural infrastructure, areas and buildings as well as in city public transportation that the municipality provides or inspects according to the needs of the disabled. Regulation of physical condition of buildings according to the needs of the disabled has been facilitated. Criminal sanctions have been brought for discriminative actions against the disabled.

In relation to all social aid and support projects targeting our disabled citizens as of 2012, the amount of resources used has reached 7.27 billion TL and the GDP rate of the public source spent in this scope has been increased to 0.51%.

## **Expansion of the Scope of Positive Discrimination for Disadvantaged Groups**

Positive discrimination, which allows different treatment towards disadvantaged groups to ensure that the principle of equality serves its purpose and provides more support to these groups, was for the first time stipulated at the constitutional level in 2004 as follows: “Women and men have equal rights. The State shall be liable for putting this equality into practice.”

Positive discrimination towards women was further clarified with the following sentence added to the paragraph in question in 2010: “The measures to be taken in that respect may not be interpreted as being against the principle of equality”. The constitutional amendment in 2010 has stipulated similar regulations for different groups as well: “Measures to be taken in favor of children, the elderly, the disabled, widows and orphans of martyrs of war and work, and the wounded and veterans shall not be interpreted as against the principle of equality.”

This way, it has been constitutionally stipulated that children, the elderly, the disabled, widows and orphans of martyrs of war and work, and the wounded and veterans, in addition to women, could benefit from positive discrimination. In this respect, the creation of a constitutional basis for regulations aiming to eliminate the unjust suffering of disadvantaged groups for the sake of the principle of equality can be seen as a positive step. However, what is more important is that the State implements effective policies and measures for these groups based on the principle of social state.

## **Increasing Public Investment in Eastern and Southeastern Anatolia**

In the Eastern and Southeastern Anatolia regions there has been a considerable increase in public investments between 2002-2012. In

this ten-year period, investments made to the mentioned regions exceeded 37 billion TL.

According to the data provided by the Ministry of Development, while in 2002 the total share provided to the Eastern and Southeastern Anatolian regions from the development programs was 7%, this figure has reached 12% in 2012. While the total program grant to Eastern and Southeastern Anatolian regions was 2.198.065,00 TL in 2002, in 2012 this figure reached 6.5 billion TL including the investments made within the scope of the Village Infrastructure Support Project (KÖYDES). In 2012 for the provinces within the East Anatolia Project the share was 8.9% and for the provinces within the Southeastern Anatolian Project (GAP) the share was 14.6%.

### **Increase in Regional Prosperity with the Southeastern Anatolia Project (GAP) Action Plan**

The Southeastern Anatolia Project, that aims to increase the income level and living standards in this region and eliminate the gap among the level of development as well as increasing the fertility in the rural areas and the employment possibilities in the Southeast Anatolia Region, is a multi-sectoral, integrated and sustainable regional development project that acts with the aim of development. Within the scope of GAP there are nine provinces (Adıyaman, Batman, Diyarbakır, Gaziantep, Kilis, Mardin, Siirt, Şanlıurfa and Şırnak) that correspond to 10% of Turkey in terms of the size of its landscape and population.

In the scope of the GAP project that has been in implementation since 1989. 48 billion TL had been spent by the end of 2012. In this process, very successful results were observed in terms of hydroelectric power plants, one of the most important subheadings of the project, and ten hydroelectric power plants were completed and put into operation. According to the 2012 data, power plants within the scope of GAP provide half of the hydroelectric energy produced in the country.

GAP, which is a highly important and comprehensive project that has led to our country become a brand in the international arena, initiated the “GAP Action Plan” in 2008 to cover fundamental infrastructure needs starting with irrigation, and to accelerate economic and social development. Within the GAP action plan, there are seventy-three main actions gathered under four main headings of “Realizing Economic Development”, “Realizing Social Development”, “Developing the Infrastructure” and “Developing Institutional Capacity”. Increasing the employment rate, decreasing unemployment, increasing the quality of the work force and creating social integration and particularly providing employment for women and youth are listed at the head of these actions. In this scope, investment in transportation, housing, education, health, culture, tourism, and organized industrial zones have been initiated.

Between 2008 and 2012, more than 18 billion TL were transferred to related institutions for more than 300 projects and activities within the GAP Action Plan, of which 15 billion has been spent. Thus, the percentage of the GAP Region investments in the central budget doubled from 7 percent to 14 percent. In parallel with these rises, the unemployment rate, which was 17.4 percent in 2009, dropped to 11.7 percent in 2011.

In the year 2002, total exports worth 600 million US Dollars was made from the GAP Region, this number has raised approximately 14 fold, reaching 8.1 billion US Dollars in 2012. While Turkey’s total export increased by 42.2% between 2007 and 2012, the GAP Region’s total export increased approximately 1.5 times more during the same period.

During the last 10 years, the schooling rates in the GAP region increased; from 3 % to 55 % for pre-school education, from 94 % to 99 % for primary education and from 27 % to 50 % for secondary education. Moreover, the number of universities in the region increased from 3 to 9 with the establishment of 6 new universities.

## Return to the Village and Rehabilitation Project

The “Return to the Village and Rehabilitation Project” (KDRP) was initiated with the objective of facilitating resettlement of families who had to migrate from their villages for reasons related to security and terrorism, but who were willing to return to their villages, establishing social and economic infrastructure in villages which might be needed when they returned and restoring sustainable life conditions in those villages. When it comes to those who are not willing to return to villages, the project aims to increase their adaptation to life in the provinces where they are settled and improve their economic and social status. This project is implemented in fourteen provinces (namely Adıyaman, Ağrı, Batman, Bingöl, Bitlis, Diyarbakır, Elazığ, Hakkâri, Mardin, Muş, Siirt, Şırnak, Tunceli, Van). This project includes various activities. To illustrate, the following activities and projects were carried out: activities aiming at providing the infrastructure in villages to restart life there and make it permanent, activities aiming to develop agriculture, animal husbandry and handicrafts in villages, vocational courses to make sure that those who prefer to live in cities are employed, projects to improve employment rates and social projects and activities targeting particularly the women, young people and children.

A total of 386.360 people from 62.448 households migrated for security reasons during the 1990s. Thanks to this project, out of those people, a total number of 187.861 people from 28.384 households returned to their villages. This project used up a total amount of 146.015.000,00 TL till the end of 2012. Using these funds, social and rehabilitation projects were implemented to establish social centres, sports centres and training centres for the youth, women and children. In addition, vocational courses were provided and employment projects were carried out. Projects to construct student dormitories, infrastructure projects to support road, water, electricity and sewage systems, projects to repair school, hospital buildings as

well as other facilities which were damaged, projects to allow citizens returning to their villages to construct their own houses as well as agriculture and animal husbandry projects were also realized.

### **Compensation of the Losses of Victims of Terrorism**

In 2004, “The Law on Compensating Losses Due to Terrorism and Counter-Terrorism” became effective in order to amicably remedy the losses of our citizens who suffer as a result of terrorism and counter terrorism activities in a speedy, efficient and fair manner. Within the framework of this law, losses from death, injury and disability, damaged real estate and assets, adversely affected the agricultural and animal breeding activities, as well as losses suffered by our citizens who had to migrate because of terror and therefore cannot access their assets shall be compensated.

The ECtHR, which previously accepted applications regarding claims of village evacuation regardless of requirement for exhaustion of domestic remedies, has ruled in a decision which was taken after this law became effective that the applications in this regard are inadmissible emphasizing that this new law is an effective domestic remedy. This ruling also referred the applicants to the commissions set up to determine the losses.

This law stipulated that “Loss Determination Commissions” should be set up in provinces to compensate for the losses. Sixty-six of these commissions completed their work whereas 21 of them in various provinces are still working on the received applications.

By the end of April 2013, a total number of 361.322 applications had been received by the Loss Determination Commissions set up under this law. For 320.196 of these applications, a final decision has been made. It was concluded that compensation should be paid in 172.129 of the applications for which a final decision was made. As



of April 2013, the total amount of compensation requested to be paid to our citizens whose claims were found to be valid and with whom a negotiated settlement was signed as a result of evaluation was 2.967.760.380 TL. The whole amount has already been paid to these persons.



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**STEPS TAKEN IN THE AREA  
OF STRENGTHENING LOCAL  
GOVERNMENTS**

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## **STEPS TAKEN IN THE AREA OF STRENGTHENING OF LOCAL GOVERNMENTS**

For many years, Turkey's public administration had a strictly centralist outlook in terms of public service provision. This structure resulted in the central government's holding the decision-making processes relating to the performance of many tasks assigned to municipalities and special provincial administrations, which are local government units, and the central government bodies' performing relevant services. On the other hand, when the central government bodies provided public services that were of a local nature, this hampered effective, efficient, high quality and fast service provision. Most of the time, the services provided were far from meeting local demands. Furthermore, a comprehensive local government reform became a requirement due to the fact that the central government kept the municipalities and special provincial administrations, which already had limited powers, under strict tutelage and because of problems such as lack of financing faced by these administrations in the performance of their duties.

The local government reform, which had been on the national agenda for many years, was initiated within the framework of the above mentioned circumstances in order to strengthen local democracy, to reorganize the share of duties between the central and local governments, to redefine local governments as autonomous in administrative and financial terms and to provide local services for

citizens in the closest vicinity (principle of locality in provision of services). Throughout the decade-long process of democratic change and transformation and as a result of the steps taken with respect to the local government units which are significant in local democracy context, local governments were further strengthened in terms of administrative and financial autonomy; municipalities and special provincial administrations were enabled to perform more efficiently in the framework of the “principle of decentralization”.

In this framework, a contemporary legislation on local governments was formed with new laws issued in regard to local government units. Metropolitan municipal boundaries were reassigned in order to strengthen democracy on a local level and to ensure that public services are provided in a more effective and efficient manner.

Some of the main steps, which are elaborated upon chronologically in the inventory part, are explained below.

## **A New and Contemporary Local Government Legislation**

One of the most significant indicators regarding the level of development for a country is the extent of responsibilities and powers granted to local governments as well as whether or not sufficient resources are allocated to them. The power granted to local governments had been restricted in Turkey for a long time due to an ultra-centralized structure and there was no legal amendment introduced into the legislation to fix this issue. One of the most obvious examples of this situation was the fact that Municipalities Law dating back to 1930s remained in force until the new Municipalities Law became effective in 2005. Thus, such a perspective, which was outdated, defended over-centralized power and restrained the room for manoeuvre provided to local governments without granting them much power remained dominant for a long time.

As is required by democratization and decentralization, municipalities and special provincial administrations were reassessed in the framework of the “principle of decentralization” as embodied in our Constitution and the “European Charter of Local Self-Government” and basic laws in this field underwent a complete renewal over the last decade. These laws brought about important changes and overhauled local government units in line with the requirements of the contemporary age. Reduction of the tutelage of the central government on local governments and transition towards a structure in compliance with the requirements of local democracy are the main features that come to the forefront in the context of local democracy. Important changes brought about by these laws are as follows:

**1. Municipality Law No: 5393:** The duty, power and responsibility, organization structure and organs of municipalities were redefined and municipality administrations were granted administrative and financial autonomy so as to provide services in the framework of “principle of locality”. Moreover, tutelage over the decisions of the municipal assemblies was limited; all common local needs within municipal boundaries were re-assigned as duties of municipalities; “City Councils” were granted legal status in order to ensure participation in the provision of municipal services; municipalities were enabled to implement joint service projects with other public bodies and organizations, professional organizations with public institution status, non-governmental and international organizations; and municipalities were enabled to recruit contracted employees.

**2. Law on Metropolitan Municipalities No. 5216:** This law extends the boundaries of Metropolitan Municipalities on the basis of the size of their population and puts an end to the conflict of duties and powers

between Metropolitan Municipality and metropolitan district municipalities. Furthermore, in the scope of this law, which allows for coordination of the investments within Metropolitan Municipalities from a single center, Metropolitan Municipalities are enabled to perform inspections on the development plans and implementations of the district municipalities in an effort to prevent unplanned and irregular urbanization, illegal housing and squatting.

**3. Law on Special Provincial Administrations No. 5302:** The Law redefines the duties, powers and responsibilities, organization and organs of the Special Provincial Administrations; and grants the Special Provincial Administrations the administrative and financial autonomy so as to enable them to provide services in the framework of the “principle of locality”. The Provincial Council has been established as the decision-making body of the Special Provincial Administration. It has been decided that the head of the provincial council is to be elected from among the council members. Tutelage over the decisions of the provincial council has been limited. The establishment of the special provincial administration has been reorganized as general secretariat. In addition to the tasks regarding the rural infrastructure outside the municipal boundaries, special provincial administrations have been set to perform numerous other tasks of local and joint nature relevant to the environmental plan of the province, public works and settlement, soil conservation, erosion prevention, culture, arts, tourism, social services and aids and education. Recruitment of contracted personnel by the special provincial administrations has been made possible for the performance of such tasks. Therefore, the



principle of service provision for citizens at their closest vicinity and by the most suitable methods has been adopted; and the new provisions aimed to establish a more democratic and citizen-oriented understanding in the Special Provincial Administrations.

**4. Law on Unions of Local Governments No. 5355:** For the first time since their establishment the Law granted legal status to the Unions of Local Governments, which were previously set up for the local governments to jointly perform some local services,; and set out the legal status, establishment, organs, administration, duties, powers and responsibilities of the unions of local governments which are to be established. Unions of Service Delivery for Villages have also been granted legal status; and institutional infrastructure has been laid down for implementation of KÖYDES projects, whose main goal is to provide citizens, who live in rural areas, with access to basic infrastructure services, primarily potable water and transportation. Accordingly, the aim is to increase cooperation between local governments, to make it easier for them to jointly provide services, and to ensure that joint local services are provided in a more productive, efficient manner and with better quality.

**5. Law on the Provision of a Share of General Budget Tax Revenue to Special Provincial Administrations and Municipalities:** This law has both increased the total resources in the central budget allocated to local governments and changed the system by which such resources are distributed to local governments. In 2002, a total amount of 4.7 billion TL was allocated whereas this number increased to 27 billion 713 million TL in 2012 thanks to this amendment.

## **Realignment of Metropolitan Municipality Borders to Strengthen Democracy at the Local Level and Promote Efficiency in Municipality Services**

The regulation that came into effect in 2012 redefined the boundaries of the metropolitan municipalities in order to carry out public services in a more efficient and effective manner. The Law aims to strengthen democracy in Turkey at a local level, to ensure productivity in municipal services and to provide better services. In this framework, the number of Metropolitan Municipalities, which had previously been 16, increased to 29. Responsibilities and duties of the Metropolitan Municipalities have been extended to cover the provincial administrative boundaries. Furthermore, the aforementioned law increased the Metropolitan Municipalities' sources of income. Legal entities of the special provincial administrations have been abolished in Metropolitan Municipalities; towns and villages have been transformed into neighborhoods. The new regulation transfers Special Provincial Administrations' local services-related duties to municipalities. This change aims to ensure the shift towards a more efficient local government structure so as to further strengthen local democracy.

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## **CONCLUSION**

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## CONCLUSION

This study does not cover all the steps taken in the last decade. Instead, it covers the steps taken particularly in the field of democratization and human rights as well as the main factors that made it possible to take such steps.

This process, which started in 2002 with what could be considered the most important step, the lifting of the state of emergency, transformed into a sort of silent revolution which brought multi-faceted ease to Turkey with its citizens and institutions and normalized daily life.

A new approach has been adopted in the last decade to resolve the problems faced from past to present. This approach reflects a perspective which steps beyond

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the conventional security paradigm and places universal democratic values to the forefront in the resolution of the country's problems.

Turkey has switched gears, so to speak, in terms of democratization within the last decade and made grand reforms by abandoning the flawed policies of the past.

The “National Union and Fraternity Project”, which started in 2009, helped make the aforementioned paradigm shift cover all of the pertinent problems Turkey faces. An atmosphere was created in which everything can be discussed and policies of denial were completely left behind. The process of the National Union and Fraternity Project contributed to the normalization of the country by bringing many issues that were suppressed and ignored for decade to the agenda. Hence, there were almost no issues or taboos left unaddressed or untreated.

All of the steps taken made major contributions to resolving Turkey’s chronic problems. Some of the major steps include; making daily lives of citizens living in a large part of Turkey easier by lifting the state of emergency; beginning a comprehensive confrontation with the past; surpassing any kind of tutelage imposed on people’s will; broadening cultural rights; establishing a libertarian understanding in many areas starting in the use of Kurdish.

It is beyond any doubt that this process came into being as a result of a long and arduous journey. The legislation underwent a comprehensive screening within this period and anti-democratic and anti-freedom provisions that were inserted into the legal system at different times were sorted out. Consequently, many arrangements whose effects had been felt in the daily life were removed from the legal system. Bearing in mind that democratization is a never-ending process, it becomes evident that it is important to multiply such work and avoid easing up on the acceleration of this process.

Reforms in the fields of democracy, human rights and rule of law, when considered in the light of contributions made by the developments in the economic field, also increased Turkey’s self-confidence. The atmosphere of despair, caused by instability, anti-democratic

interventions and other similar problems prior to 2002, disappeared thanks to the implementations of the decade that followed; people have had more hope for the future since then. Steps towards democratization received great social support since they were realized in line with the expectations of the society and aimed at meeting genuine needs. This is the main reason for the stability and economic developments Turkey has achieved in the last decade.

In conclusion, between 2002-2012 Turkey negotiated some steep curves and took firm steps on the journey to democratization and freedom. However, what remains to be done in a constantly changing Turkey and the world is undoubtedly not limited to what has been accomplished. Reforms should be pursued with the same determination in order to meet demands of our citizens such as more freedom, security, democracy and peace; and for a public bureaucracy that does not lag behind world developments.

Adopting an approach based on justice and social peace and considering its historical, cultural and geographical depth and differences as richness, Turkey will become a country of more peace and welfare and it will also strengthen its position as a country whose citizens are happier, freer and safer. Turkey, described as such, will contribute more to

**In conclusion, between 2002-2012 Turkey negotiated some steep curves and took firm steps on the journey to democratization and freedom. However, what remains to be done in a constantly changing Turkey and the world is undoubtedly not limited to what has been accomplished. Reforms should be pursued with the same determination in order to meet demands of our citizens such as more freedom, security, democracy and peace; and for a public bureaucracy that does not lag behind world developments.**

the stability in its region and in the world as a major playmaker with its democratic regime, peaceful foreign policy, strong and stable economy.





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**CHAPTER TWO**

**TURKEY'S CHANGE AND  
TRANSFORMATION  
INVENTORY (2002-2012)**

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*Efforts for democratization in recent years gained speed following Turkey's candidacy for EU in Helsinki in 1999. In this field, significant steps were taken, in particular the constitutional amendments enacted in 2001. Therefore, this inventory study, entitled as "Turkey's Change and Transformation Inventory", consists of activities performed in the last ten years covering the period of 2002-2012, which is of specific importance in terms of intensity, scope, characteristics and impact of the reforms. In addition, steps taken towards democratization in the first ten months of the year 2013 were also included due to their significance.*



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**2002**

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## 2002

### THE FIRST EUROPEAN UNION (EU) HARMONIZATION PACKAGE<sup>6</sup>

- **Amendments to the Turkish Penal Code No. 765:** With the amendment to the first paragraph of Article 159 of the Turkish Penal Code, the penalty for defamation and derision of state and bodies thereof was reduced from the range of 1-6 years imprisonment to the range of 1-3 years. With the amendment to Article 312 of Turkish Penal Code, fines were removed from the text of the article (*Articles 1 and 2 of Law No: 4744*).
- **Amendments to the Counterterrorism Act:** With the amendments to Articles 7 and 8 of Law No: 3713, limitations against freedom of thought and expression were extenuated (*Articles 3 and 4 of Law No: 4744*).
- **Reduction in Detention Periods:** The provision indicating that the detention period for collective crimes may be extended up to 7 days, which was specified in the second paragraph of Article 16 of the Law on Establishment and Rules of Procedure of State Security Courts, was removed from the text of the article. With the amendment to the third paragraph, the detention period in State of Emergency Regions was reduced from 7 days to 4 days and the upper limit for this period was reduced from 10 days to

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<sup>6</sup> Law No: 4744 dated 6/2/2002 (Official Gazette:19/2/2002, 24676).

7 days. In the same context, the second sentence in the second paragraph of Article 128 of Criminal Procedure Code was deleted from the text of the article and the maximum detention period for collective crimes was reduced from 7 days to 4 days (*Articles 5 and 6 of Law No: 4744*).

- **Extension of Suspect's Right to Legal Advice:** With the amendment to Article 16/4 of the Law on Establishment and Rules of Procedure of State Security Courts, a suspect's right to legal advice while under detention was extended to cover crimes under the jurisdiction of State Security Courts (*Article 5 of Law No: 4744*).
- **Extension of Facility for Notification of Relatives about the Condition of Arrested or Detained People:** With the amendment to the third paragraph of Article 107 of Code on Criminal Trials Procedure, it was stipulated that a relative or a person specified by the arrested person would be immediately informed about arrest and order for extension of the arrest period upon a decision by Public Prosecutor (*Article 7 of Law No: 4744*).

## THE SECOND EU HARMONIZATION PACKAGE<sup>7</sup>

- **Strengthening Freedom of Press:** With the amendments to the Press Law, the scope of press crimes was narrowed and the period of the ban which could be imposed on the press entity which published the offending article was amended to '1-15 days' instead of '3 days-1 month'. In addition, the sentence of 'imprisonment of 1-6 months' envisaged for those responsible for the related crime was turned into 'imprisonment of 1-3 months'. Fines were removed from the text of the article (*Article 2 of Law No: 4748*).

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<sup>7</sup> Law No: 4748 and dated 26/3/2002 (Official Gazette: 9/4/2002, 24721).



- **Securing Freedom of Association:** With the amendments to Articles 4, 5, 6, 34, 38 and 43 of Law of Associations, bans and limitations on who could found associations and the languages to be used in associations' activities were abolished and the permission system for the establishment of associations was transformed into a notification system (*Article 5 of Law No: 4748*).
- **Extension of the Right to Peaceful Assembly:** With amendments to Articles 9, 17 and 19 of Law No: 2911 on Meetings and Protest Marches, 'having the capacity to act and being 18 years old' was deemed to be sufficient to exercise the right to assembly and restrictive provisions on organization boards were abolished. In addition, reasons for limitation on prohibition or postponement of assemblies were reduced and an arrangement was made to 'postpone' rather than 'prohibit' assemblies in provinces or districts (*Articles 6 and 7 of Law No: 4748*).
- **Extension of Freedom of Organization concerning Political Parties:** With the amendments to Articles 101 and 102 of Law No: 2820 on Political Parties, as an alternative to the option of closing down political parties, a provision on 'Partial or complete divestiture of state aid' was enacted. With the amendment to Article 103 of the Law, 'a criterion for being a focal point' was enacted in order to make it difficult for political parties to be closed down (*Article 4 of Law No: 4748*).
- **Effective Implementation of ECtHR judgments:** With the amendment to Article 13 of the Law on Trial of Civil Servants and Other Public Officials, a rule of recourse was enacted making personnel responsible for the crimes of torture and ill-treatment liable for the compensation paid by the state as a result of ECtHR verdicts on these crimes (*Article 3 of Law No: 4748*).

- **Strengthening the Right of Defence:** In order to ensure that a person who is apprehended or arrested for crimes under the jurisdiction of the State Security Courts is able to talk to defence counsel alone, thereby and strengthening his/her right of defence in this way, the last paragraph of Article 16 of the Law on the Establishment and Rules of Procedure of State Security Courts was abolished (*Article 7 of Law No: 4748*).
- **Taking Steps Towards Civilianization:** Article 9 of the Law on Organization, Duties and Authorities of the Gendarmerie was abolished and it was made impossible for gendarmerie officers to act as proxy for governors and district governors. Further, with the amendment to Article 29 of the Provincial Administration Law, it was adjudicated that only local authorities may act as proxy for district governors (*Article 7 of Law No: 4748*).

### THE THIRD EU HARMONIZATION PACKAGE<sup>8</sup>

- **Abolishment of the Death Penalty:** The death penalty, which had not been carried out in Turkey since 1984, was abolished in accordance with the 6th Additional Protocol to ECHR except for war, immediate danger of war and terror crimes (*Article 1 of Law No: 4771*).
- **Providing a the New Trial Procedure in Light of ECtHR judgments:** Civil Procedure Code No: 1086 and Criminal Procedure Code No: 1412 were amended to allow for a new trial in criminal and civil cases in accordance with judgments made by ECtHR (*Articles 6 and 7 of Law No: 4771*).
- **Extension of Freedom of Press:** Upon abolishment of Article 31 and Additional Article 3 of the Press Law, all imprisonment

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<sup>8</sup> Law No: 4771 and dated 3/8/2002 (Official Gazette: 9.8.2002, 24841)

penalties defined for crimes committed through the press were abolished and freedom of expression and press was extended (*Article 12 of Law No: 4771*).

- **Strengthening Freedom of Association:** With amendments to Articles 11, 12, 45, 47 and 62 of the Law of Associations, provisions that facilitated activities of associations were enacted. With amendments to Articles 39 and 56 of the Law, restrictions on public officials and students becoming members of associations were abolished (*Articles 3 and 12 of Law No: 4771*).
- **Providing Facility for Broadcasting and Opening Private Courses in Different Languages and Dialects:** With the amendments to the Law on Foreign Language Education and Training and the Law on Establishment and Broadcasting of Radios and Televisions, limitations on the right of Turkish citizens to broadcast and provide training in different languages and dialects that they use in their daily lives were abolished (*Articles 8 and 11 of Law No: 4771*).
- **Strengthening the Right to Peaceful Assembly:** With the amendments to the Law on Assembly and Protest Marches, it was made easier for foreigners to participate in assemblies and protest marches and events in Turkey, the notification period for organization of meetings was reduced from seventy two hours to forty eight hours and freedoms about assemblies and protest marches were extended (*Article 5 of Law No: 4771*).
- **Elimination of Property Problems for Community Foundations:** With the amendment to Article 1 of the Law of Foundations, improvements were made for community foundations to acquire and dispose of real estates (*Article 4 of Law No: 4771*).

## **LIFTING OF THE STATE OF EMERGENCY**

On 30 November 2002, twelve days after the formation of the new government on 18 November 2002, a new extension decision was not made and practice of maintaining a State of Emergency was abolished. Thus, the regime of continuous State of Emergency, which had been extended 46 times from 19 July 1987 to its date of abolition, came to an end.

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**2003**

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## 2003

### THE FOURTH EU HARMONIZATION PACKAGE<sup>9</sup>

- **Extension of Fields of Activities for Associations:** With the amendments to the Law of Associations; associations were allowed to use any language in their non-formal correspondence, legal persons as well as real persons were allowed to become members of associations and associations were allowed to open branches in other countries. Limitations on publication of notices and broadcasting were alleviated. The obligation to submit one copy of these documents to the related authorities including the Office of Public Prosecutor prior to its circulation was also abolished (*Art. 20 of Law No: 4778*).
- **Amendment of the Press Law:** With the amendment to Article 15 of the Press Law; provisions were enacted in order to ensure that owners, managing directors of periodicals and writers of the articles are not forced to reveal their news sources and to provide protection for them to this end (*Art. 4 of Law No: 4778*).
- **Amendment as Regards Crimes of Torture and Ill-Treatment:** In order to ensure that verdicts of imprisonment for crimes of ‘torture’ and ‘ill-treatment’ are not suspended or converted into fines, Articles 243 (torture) and 245 (ill-treatment) of the Turkish Penal Code were amended. In this context, the definition of

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<sup>9</sup> Law No: 4778 and dated 2/1/2003 (Official Gazette: 11/1/2003, 24990).

the crime of torture and ill-treatment was extended, penalties for these crimes were increased and it was prohibited to suspend or convert these penalties into fines (*Law No: 4778, Art.1*).

- **Making it More Difficult to Close Down Political Parties:** More democratic rules were enacted for membership in political parties and operation of parties. In this context, it was made more difficult to close down political parties (*Amendments to the Law No: 2820 on Political Parties made with the Law No: 4778*).
- **Amendment of the Law on the Human Rights Review Committee:** Article 7/2 of the Law on Human Rights Review Committee was amended, in the scope of which a provision was enacted in order to ensure that the Committee informs applicants about result of the applications or the related procedures within sixty days (*Amendments to Article 29 of Law No: 4778*).
- **Amendment of the Law on Trials of Civil Servants and Other Public Officials:** Article 2 of the Law on Trials of Civil Servants and Other Public Officials was amended. In accordance with this amendment, a paragraph was added into Article 2 of the above-stated law and it was envisaged that provisions in the Law No: 4483 would not apply for the system of permission for investigations and prosecutions to be initiated in line with Articles 243 and 245 of Turkish Penal Code No: 765 and the fourth paragraph of Article 154 of Code on Criminal Trials Procedure. With an amendment, it was made possible to initiate ex-officio investigations about claims of torture and ill-treatment and investigations about public officials that do not fulfil the legal requirements of the office of public prosecutor (*Amendments to Article 33 of Law No: 4778*).
- **Amendment of the Decree Law No: 430:** Article 3/c of “the Decree Law on Regional State of Emergency Governor’s Office and



Additional Measures to be Taken During a State of Emergency” was amended.<sup>10</sup> With this amendment, it was envisaged that the period of “ten days” specified in (c) sub-paragraph of Article 3 of the Decree Law No: 430 would be reduced to “four days” in accordance with the Constitutional amendments and “the Law on Amendment of Some Laws” no: 4744. The same amendment was aimed at ensuring that a judge should hear a convict or detainee before making a verdict each time, that detainees may only be taken from penal institutions or prison for statement-taking, showing a place, confrontation, identification and medical examination, that a convict or detainee should make use of the rights s/he has in line with his/her legal status and that his/her medical condition should be determined through a medical report when s/he leaves and return to the penal institution or prison. Hence, guarantees for rights of convicts and detainees were strengthened (*Amendments to Article 32 of Law No: 4778*).

## THE FIFTH EU HARMONIZATION PACKAGE<sup>11</sup>

- **Initiating New Criminal and Civil Remedies Based on ECtHR judgments:** In Turkey, facility of new trial based on ECtHR judgments was initiated with the Law dated 3/8/2002 with no: 4771. However, provisions of the Law on new trial were amended with

10 Article 32. – The first paragraph of (c) sub-paragraph of Article 3 of the Decree Law dated 15/12/1990 with no : 430 on “Regional State of Emergency Governor’s Office and Additional Measures to be Taken During State of Emergency” was amended as follows:

“Upon proposal of the Regional State of Emergency Governor, request of the authorized Public Prosecutor and verdict of the judge, convicts or detainees may be taken from the penal institution or prison for a maximum period of ‘four days’ for interrogation, showing a place, confrontation, identification and medical examination in interrogation of crimes that result in violations of a state of emergency. This period shall be deemed to be completed under conviction or imprisonment. A Judge shall hear a convict or detainee before s/he makes a verdict each time. The Convict or detainee shall make use of rights in line with his/her legal status after s/he leaves the penal institution or prison. The medical condition of the convict or detainee shall be determined through a medical report when s/he leaves and returns to the penal institution or prison.”

11 Law No: 4793 and dated 23/1/2003 (Official Gazette: 4/2/2003, 25014).

the Law with no. 4793 and remedy of new trial based on the judgments of violation made by ECtHR were re-arranged with Articles 1, 2, 3 and 5 of this Law. With this arrangement, judgments of violation made by ECtHR were deemed to be a reason for “a new trial” in civil and criminal trials. Similarly, with Provisional Article 5 added into the Law No: 4928 as well as the Law on Administrative Trials Procedure, final judgments of violation made by ECtHR were deemed to be a reason for new trial under the Law on Administrative Trial Procedure. In the new Criminal Procedure Code and new Civil Procedure Code, which entered into force on 1/6/2005, previous arrangements were basically adopted. In this way, ECtHR violations arising from judicial decisions were eliminated and the legal basis was created to implement ECtHR judgments about this issue (*Criminal Procedure Code No: 5271, Art. 311/1-f; Civil Procedure Code No: 6100, Art. 375/1-i*).

- **Amendment of the Law of Associations:** The penalty of imprisonment, stipulated for cases of failure to comply with the provisions of acquisition of property, necessary permission procedure and supervision as specified in the Law of Associations, was reduced to a fine. Thus, it was ensured that people would not face any punishment restricting freedom because of violation of these provisions in the Law (*Amendment of Art. 82 of Law No: 2908 made with Art. 4 of Law No: 4793*).

## THE SIXTH EU HARMONIZATION PACKAGE<sup>12</sup>

- **Allowing for Broadcasting in Different Languages and Dialects:** Legal limitations against broadcasting in different languages and dialects were eliminated for TRT as well as private television channels (*Amendment to Art. 4/1-4 of Law No: 3984 made with Article 14 of Law No: 4928*).

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12 Law No: 4928 dated 15/7/2003 (Official Gazette: 19/7/2003, 25173).

- **Amendment of the Counterterrorism Act:** Article 8 of Counterterrorism Act regarding “Propaganda against indivisibility of state”, which constituted an impediment for freedom of expression and resulted in Turkey’s conviction before the ECtHR, was abolished (*Law No: 4928, Art. 19/b*). In addition, an amendment was made to Article 1 of Counterterrorism Act and a condition of violence and force was stipulated for committing a terror crime (*Law No: 4928, Art. 20*).
- **Amendment of the Law on Cinema, Video and Music Works:** The scope of bans on these works was reduced and limited to contradiction to main characteristics of Republic and indivisibility of State with its country and nation. It was made obligatory to submit prohibition decisions made by administrative authorities in this field to a judge for approval within 24 hours. Moreover, the representative of the National Security Council was removed from the Board of Inspection for Cinema, Video and Music Works (*Articles 10, 11 and 12 of Law No: 4928*).
- **Abolishment of Legal Regulations that Envisage a Reduction in Penalty for Honour Killings:** With an amendment, Article 462 of Turkish Penal Code No: 765, which envisaged a sentencing reduction for honour killings, was abolished. As for justification of the article, it was specified that this correction be made in order to prevent the article on sentence reductions being used for cases of honour killings. In addition, with an amendment made to Article 453 of the Turkish Penal Code No: 765, penalties for murders committed in the name of moral laws were aggravated (*Articles 1 and 19/a of Law No: 4928*).
- **Extension of Period for Application of Community Foundations for Registration of Real Estates:** With the amendment made to the Law of Associations; the period of 6 months envisaged for applications to be made on behalf of community foun-

dations to register on their behalf real estate, at the Foundation's disposal, increased to 18 months (*Provisional article added into the Law of associations No: 2762 with Article 2 of Law No: 4928*).

- **Elimination of Barriers Against Our Citizens' Naming Their Children with Names of Their Choice:** Through the Law No: 4928 on "Amendment of Various Laws", Article 16 of the Law on Population Registration was amended and our citizens were allowed to name their children with names of their choice (*Amendment of Art. 2 of Law No: 1587 made with Art. 5 of Law No: 4928*).
- **Extension of Freedoms on Prayer Areas of Our Citizens with Different Religions and Beliefs:** In order to extend freedoms on prayer areas of our citizens with different religions and beliefs, amendments were made to the Zoning Law. This amendment replaced the word "mosque" mentioned in the Zoning Law with the word "Prayer Area". Thus, prayer areas other than mosques were included in this law. In addition, this amendment provided that "when drawing up development plans, enough space will be set aside for prayer areas considering the needs of the district and region covered by the plan". In this regard, it was stipulated "places of worship may be constructed on the condition that permission is granted from the local authority and the regulations on development is observed". This stipulation had the aim of eliminating complaints regarding construction of places of worship to be used by believers of other religions (*Amendment made in Additional Article 2 of the Zoning Law No: 3194 with Article 9 of Law No: 4928*).

## THE SEVENTH EU HARMONIZATION PACKAGE<sup>13</sup>

- **Civilianization of the National Security Council:** In terms of democratization, in order to harmonize the duties and operation

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13 Law No: 4963 dated 30/7/2003, (Official Gazette: 7/8/2003, 25192).

of the Secretariat General for the National Security Council with Article 118 of the Constitution, a procedure was initiated for appointment of the Secretary General of the National Security Council upon the proposal of the Prime Minister and approval of the President. The duties and authorities of Secretary General of National Security Council were rearranged and it was made possible for the Secretary General to be a civilian. Moreover, it was decided that National Security Council would assemble every two months (*Amendments made in the Law No: 2945 with Articles 25 and 27 of Law No: 4963*).

- **Amendment of the Law on Establishment and Trial Procedure of Military Courts:** With the related amendment, the scope of the implementation of Military Penal Code to civilians was narrowed (*Amendment made in Art. 11 of Law No: 353 with Art. 6 of Law No: 4963*).
- **Legal Amendment on Cases of Torture:** With the related amendment; it was foreseen that trials would be made in an “urgent” manner and on “priority” basis, that trials would not be postponed for a period longer than 30 days and that trials would continue during judiciary recess. These amendments were aimed at preventing delays in cases as regards claims of torture (*Additional Article 7 of Criminal Procedure Code No: 1412 added with Article 5 of Law No: 4963*).
- **Enabling the Organization of Private Courses for Learning Different Languages and Dialects:** An amendment was made to the Law on “Foreign Language Education and Training and Learning of Different Languages and Dialects by Turkish Citizens” to make it possible to organize private courses for learning different languages and dialects, which were traditionally used in daily life (*Amendment made in Article 2 of Law No: 2923 with Article 23 of Law No: 4963*).

- **Amendments to the Turkish Penal Code:** The lower limit of the imprisonment for “defamation of state and bodies thereof and threat to the indivisibility of the Turkish Republic” specified in Article 159 of Turkish Penal Code was reduced from one year to six months. Besides, the provision for punishment of the act of “facilitating activities of terrorism organizations for any reason” was abolished and Article 169 of the Turkish Penal Code regulating the crime “supporting and acting as accessory to a terror organizations” was restrained (*Amendment made with Art. 1 and 2 of Law No: 4963*).
- **Amendment of Conditions for Establishment of Associations and Membership in Associations:** Limitations on convicts of any crime being founders of associations and limitations on members of associations or parties which had been closed down by a court judgment, were diminished. Higher education students were allowed to establish associations in the fields of art, culture and science as well as education, training, morale and recreation (*Amendment made with Art. 11-17 of Law No: 4963*).
- **Extension of Facilities for Exercising Right to Assembly and Demonstrations:** With the amendments to the Law on Assembly and Protest Marches, periods of postponement for assemblies and protest marches were shortened, penalties in relation to illegal practices were rearranged and use of the right for organization of assemblies and protest marches was put on a more democratic foundation (*Amendments made with Art. 18-22 of Law No: 4963*).
- **Strengthening Children’s Rights:** In line with the UN Convention on the Rights of the Child, “everyone under 18 years old” was considered to be a child and exceptions to the jurisdiction of Juvenile Courts were abolished. Thus trial of children in courts other than juvenile courts was prevented (*Amendments made in Law No: 4963 and Article 6 of Law No: 2253*).

- **Setting up Family Courts:** The Law on Establishment, Roles and Trial Procedures of Family Courts paved the way for the establishment of family courts, which employ one psychologist, pedagogue and social services expert. In addition, these courts were authorized with trial and taking protective, educational and social precautions as well (*Law No: 4787 and dated 9/1/2003, Official Gazette: 18/1/2003, 24997*).
- **Making it Easier for Community Foundations to Acquire Real Estates:** With the amendment to the regulation, it was made easier for community foundations to acquire and dispose of real estate. The obligation to receiving permission from the Council of Ministers for registration of real estate on behalf of a foundation was abolished and it was provided that this permission would be given by the General Directorate of Foundations (*Regulation on Acquisition of Real Estates by Community Foundations – Official Gazette: 24/1/2003, 25003*).
- **Enhancing International Cooperation to Ensure Efficient Fight Against Transnational Organized Crime:** “United Nations Convention against Transnational Organized Crime” and “Additional Protocols to UN Convention against Transnational Organized Crime” (“Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime” and “Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime”), which aim to fight against transnational crimes such as smuggling of drugs, migrants and arms and human trafficking, were ratified (*Laws No: 4800, 4803 and 4804 dated 30/1/2003, Official Gazette: 4/2/2003, 25014*).
- **Setting up European Union Harmonization Commission within TGNA:** The “European Union Harmonization Com-

mission” was set up with a view to monitoring and negotiating Turkey’s EU harmonization process, monitor the latest developments in the EU, inform the TGNA of the latest developments and present an opinion, when necessary, to the specialization commissions on the regulatory compliance of draft laws, legislative proposals and decrees with EU legislation (*Law No: 4847 dated 15/4/2003, Official Gazette: 18/04/2003, 25084*).

- **Ratification of the Civil Law Convention on Corruption:** “Civil Law Convention on Corruption”, drafted by the Council of Europe, which aims to eliminate problems caused by corruption facing individuals, government bodies, international organizations and corporations, was ratified. This convention has the purpose of preventing acts of corruption which may appear in civil law relations, through rules and sanctions defined in the framework of civil law rather than criminal sanctions (*Law No: 4852 dated 17/4/2003, Official Gazette: 24/4/2003, 25088*).
- **Ratification of the Universal Conventions on Human Rights:** “UN International Covenant on Civil and Political Rights” and “UN International Covenant on Economic, Social and Cultural Rights” (1966), which are known as the “twin covenants” and which constitute two of the most important universal documents in the field of human rights, were ratified in 2003. Upon ratification of these covenants, one of the political criteria for Turkey to be an EU member was fulfilled (*Law No: 4868 dated 4/6/2003 on Due Ratification of International Covenant on Civil and Political Rights; Law No: 4867 dated 4/6/2003 on Due Ratification of International Covenant on Economic, Civil and Cultural Rights, Official Gazette: 18/6/2003, 25142*).
- **Establishment of Reform Monitoring Group:** The “Reform Monitoring Group” was set up on 10th September 2003 to monitor implementation of EU harmonization laws. In addi-



tion, the “EU Communication Group” was set up to promote Turkey in Europe.

- **Ratification of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict:** The “Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict”, which aims to implement the provisions in the UN Convention on the Rights of the Child prohibiting inclusion of children under the age of 15 years in hostilities and to apply rules of humanitarian law to children in armed conflicts, was ratified (*Law No: 4991 dated 16/10/2003, Official Gazette:21/10/2003, 25266*).
- **Right to Information:** The Right to information, which had existed in the democratic rule of law for a long time as a prerequisite for open, transparent and accountable government mentality, was reflected in our legislation through “Right to Information Law” (*Law No: 4982 dated 9/10/2003, Official Gazette: 24/10/2003, 25269*).
- **Abolishment of the Death Penalty:** Turkey ratified the Protocol on abolishment of the death penalty on 12/11/2003 (*Additional Protocol 6 to European Convention on Human Rights*).
- **Excluding Law Enforcement Forces from Human Rights Boards in Provinces and Districts:** The relevant regulation was amended in order to enhance civil participation in human rights boards in provinces and districts and strengthen human rights. Consequently, law enforcement forces were excluded from membership in the boards (*Official Gazette: 23/11/2003, 25298*).

- **Organizing Courses for Teaching Different Languages and Dialects:** It was made possible to organize courses in order to teach different languages and dialects. Legal arrangements were made on this issue and regulation and curriculum were prepared (*Official Gazette: 5/12/2003, 25307*).

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**2004**

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## 2004

### THE EIGHTH EU HARMONIZATION PACKAGE<sup>14</sup>

- **Amendment of the Higher Education Law:** Provision for the election of a member to the Council of Higher Education by the Turkish General Staff was abolished (*Provision stipulated in Art. 6/b-3 of Law No: 2547 was abolished with the provision stipulated in Art. 2/B of Law No: 5218*).
- **Amendment of the Law on Establishment and Broadcasting of Radio and Television Channels:** With the amendment, provision for nomination of Radio and Television Supreme Council membership by the Secretariat General of National Security Council was abolished (*Art. 6/1-d of Law No: 3984 was abolished with Art. 2/D of Law No: 5218*).
- **Amendment of the Wireless Law:** With the amendment, the Secretary General of the National Security Council was excluded from membership of the Supreme Council of Communication (*Amendment made in Art. 6/1 of the Law with Art. 2/C of Law No: 5218*).
- **Complete Exclusion of the Death Penalty from Legislation:** All articles which referred to death penalty, were amended to bring them into harmony with the complete exclusion of death

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<sup>14</sup> Law No: 5218 dated 14/7/2004, (Official Gazette: 21/7/2004, 25529).

penalty from the constitution with the Law No: 5170 (*Law No: 5218, Art.1*).

- **Becoming a Member of Group of States against Corruption (GRECO):** On 1<sup>st</sup> January 2004 Turkey became a member of “Group of States against Corruption” (GRECO), which is part of Council of Europe. GRECO is a flexible and effective mechanism used in the fight against corruption. The condition to be met to become a full member of GRECO is to unconditionally agree with an evaluation to be carried out by GRECO and participate in mutual evaluation stages without limitation. The aim of GRECO is to observe the systems used in member states to fight against corruption and help them enhance their capacity for this end.
- **Ratification of the Convention concerning Occupational Safety and Health and the Working Environment and the Convention concerning Occupational Health Services:** Aiming to meet international standards concerning labour and social security and improve its current situation by implementing these standards, Turkey ratified “Convention no. 155 concerning Occupational Safety and Health and the Working Environment” and “Convention no. 161 concerning Occupational Health Services”, which shows its determination to become a party to international regulations and implement them (*Laws No: 5038 and 5039 dated 7/1/2004, Official Gazette: 13/1/2004, 25345*).
- **Convention on Protection of Children and Cooperation in respect of Inter-country Adoption:** The “Convention on Protection of Children and Cooperation in respect of Inter-country Adoption” was ratified aiming to find a family for orphaned and abandoned children and ensure that inter-country adoption takes place in accordance with the best interest of the child and child’s rights recognized in international law. This convention has the purpose of preventing undesired events such as child ab-

duction and traffic in children (Law No: 5049 dated 14/1/2004, Official Gazette: 20/1/2004, 25352).

- **Ratification of the Criminal Law Convention on Corruption:** As a proof of its determination in its fight against corruption, our country ratified “Criminal Law Convention on Corruption” drafted by Council of Europe which criminalizes acts of corruption and foresees establishing a strong and effective cooperation and follow up mechanism to be employed when such criminal acts are prosecuted (*Law No: 5065 dated 14/1/2004, Official Gazette: 20/1/2004, 25352*).
- **Acting in accordance with the Principle of Equality in Recruiting Personnel:** A circular issued by Prime Minister’s Office requested all public organizations to determine application criteria in accordance with service requirements and act in a manner that would allow an impression of favoritism among citizens to be created when they recruit new personnel (*Circular no. 2004/7, Official Gazette: 22/1/2004, 25354*).
- **Facilities for Radio and Television Broadcasting in Different Languages and Dialects:** The “Regulation on Radio and Television Broadcasting in Different Languages and Dialects, which are Traditionally Spoken by Turkish Citizens in Their Daily Lives” was prepared and entered into force. Thus, any and all obstacles were eliminated to radio and television broadcasting in different languages and dialects (*Official Gazette: 25/1/2004, 25357*).
- **Transferring International Agreements on Fundamental Rights to a Superior Position in Our National Legal System:** International agreements on fundamental rights were provided with superiority when compared to national legislation. It was stipulated that provisions of international agreements

on fundamental rights and freedoms, which had been duly put into effect, would prevail in the case of conflicts between international agreements and national laws arising out of different provisions on the same matter, and the following provision was added into Article 90 of the Constitution: “In the case of a conflict between international agreements in the area of fundamental rights and freedoms duly put into effect and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.” This amendment was aimed at harmonizing the national law with international law on human rights (*Amendments introduced into Law No: 5170 dated 7/5/2004*).

- **Ratification of the European Agreement Relating to Persons Participating in Proceedings of The European Court of Human Rights:** This agreement which was drafted with the idea that it would be proper to provide certain immunities and facilities to persons participating in proceedings of the European Court of Human Rights was signed by Turkey on 3rd July 2002. The provisions of this agreement are applicable to all persons, their representatives and consultants participating in judicial proceedings of ECtHR, witnesses and experts invited by ECtHR to participate in the judicial proceedings as well as other persons invited by the head of ECtHR (*Law No: 5166 dated 5/5/2004, Official Gazette: 10/5/2004, 25460*).
- **Setting up the Ethics Board for Public Servants:** “Law on Establishment of an Ethics Board for Public Servants and Amending Certain Legislative Acts” was adopted to define principles of ethical conduct such as transparency, impartiality, honesty, accountability and public benefit which need to be followed by public servants and to supervise their implementation (*Law No: 5176 dated 25/5/2004, Official Gazette: 8/6/2004, 25486*).



- **Ratification of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime:** The Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, which aims to prevent the laundering of illegal proceeds from drug smuggling, arms smuggling, human trafficking and terror, was ratified (*Law No: 5191 dated 16/6/2004, Official Gazette: 22/6/2004, 25500*).
- **Enactment of a Modern Press Law:** In 2004, a new Press Law No: 5187 was enacted in order to ensure that the freedom of press would be a freedom for users of press as well as a fundamental right for individuals and target groups. This law ended the practice of closing down and confiscating publishing houses and press tools (*Official Gazette: 26/6/2004, 25504*).
- **Abolishment of State Security Courts:** The State Security Courts, which were reminiscent of periods of state of emergency and caused discussion and criticism in terms of right to a fair trial, were abolished in 2004. Ending the State of Emergency and abolishing the State Security Courts became one of the most concrete indicators showing that an era had been brought to an end and a new era started for democratization in Turkey (*the Law dated 16/6/2004 with no: 5190 on Amendment of the Criminal Procedure Code and Abolishment of State Security Courts, Official Gazette: 30/6/2004, 25508*).
- **Abolishment of Authority of the Minister of Justice to Instruct Public Prosecutors to File a Lawsuit:** “Authority of the Minister of Justice to instruct Public Prosecutors to file a criminal case” stipulated in Article 148 of the former Criminal Procedure Code was abolished with the Law No: 5219. Moreover, such authority was not envisaged for the Minister of Justice in the new Criminal Procedure Code that replaced the Code on Criminal Trials Procedure, which was abolished in line with the

reform of basic criminal codes (*Law No: 5219 dated 14/7/2004, Official Gazette: 21/7/2004, 25529*).

- **Strengthening Local Governments:** In order to regulate the legal status of metropolitan municipalities, to ensure that services are provided in a more planned, programmed, effective, efficient and harmonized way and to strengthen local governments at metropolitan municipality level, the Law on Metropolitan Municipalities entered into force (*Law No: 5216 dated 10/7/2004, Official Gazette: 23/7/2004, 25531*).
- **Compensation for Damages of Terror Victims:** In order to compensate our citizens who sustain any damage out of terrorism counterterrorism activities, in a fast, effective and fair manner, the Law on “Compensation of Damages arising out of Terror and Counterterrorism Activities” entered into effect. This law, which has been effectively implemented, enabled our citizens to be compensated against death, injury and disability, damages to their movable and immovable property and damages arising out of failure to gain access to their property (*the Law dated 17/7/2004 no: 5233, Official Gazette: 27/7/2004, 25535*).
- **Establishment of Courts of First Instance:** “Law on Establishment, Duties and Authorities of Court of Original Jurisdiction and Regional Courts of Justice” was adopted to reduce the workload of the judiciary and enhance fair trial standards (*Law No: 5235 dated 26/9/2004, Official Gazette: 7/10/2004, 25606*).
- **Ensuring Freedom of Association in Accordance with ECHR Standards:** In order to have a democratic management in place to strengthen civil society and to ensure freedom of association; the Law of Associations entered into force, limitations on the right to establish associations were abolished and freedom of association was constituted in line with ECHR (*Law No: 5253 dated 4/11/2004, Official Gazette: 23/11/2004, 25649*).

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**2005**

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## 2005

- **Ratification of the Protocol amending the European Convention on the Suppression of Terrorism:** Turkey ratified the “Protocol amending the European Convention on the Suppression of Terrorism” as an indication of the importance placed on fight against terrorism. This protocol increases the categories of terror crimes listed in “European Convention on the Suppression of Terrorism” adopted in 1977 and new conventions were added to the list of crimes that cannot be regarded as “political crimes” (*Law No: 5288 dated 13/1/2005, Official Gazette: 18/1/2005, 25704*).
- **Establishment of Parliamentary Investigation Commissions to Investigate Motives for Honour Killings and Violence against Women and Children and to Determine Precautions to be taken:** It was decided to set up a parliamentary investigation commission and launch a parliamentary investigation to investigate the motives for honour killings and violence against women and children and identify necessary preventative measures. (*Decision No: 849 dated 18/5/2005, Official Gazette: 26/5/2005, 25826*).
- **Creating the Basis for a Modern Criminal Justice System through New Basic Laws:** In order to establish a criminal justice system with a liberal character based on respect for human dignity, the Turkish Penal Code No: 5237, the Criminal Procedure Code No: 5271, the Law of Offences No: 5326, Law No: 5275 on Execution of Criminal

and Security Measures and Law No: 5402 on Establishment of the Probation and Help Centres and Protection Boards were enacted.

- **Extension of Definition of Torture and Aggravating its Penalty:** The definition of torture was extended and its penalty was increased in Turkish Penal Code No: 5237, which entered into force on 1 June 2005.
- **Aggravation of Penalty for Use of Disproportionate Force:** In Article 256 of Turkish Penal Code; it was adjudicated that provisions for wilful and malicious injury would apply in the event that public officials with the right to use force exercised this right against people in a disproportionate manner during their assignments. Thus, the lower limit for this penalty which three months was increased (*Amendment introduced into Turkish Penal Code No: 5237 which became effective on 1/6/2005*).
- **Improvement of Detention Conditions:** A new “Regulation on Apprehension, Detention and Statement Taking” was published and the mode of implementation and conditions for guarantees envisaged under basic rights and freedoms such as the power of arrest, informing detainee relatives and detention room procedures were rearranged in a detailed way. Moreover, detention rooms and rooms for taking statement were made compatible with human rights norms (*The former regulation was published in 1998 and the new regulation was published in the Official Gazette dated 1/6/2005 with No: 25832*).
- **Adoption of Law on People with Disabilities:** “Law on People with Disabilities Amending Certain Legislative Acts and Decrees” was adopted to protect and improve the rights of the disabled and guarantee the “right to not to be discriminated against” to be enjoyed by the disabled. (*Law No: 5378 dated 1/7/2005, Official Gazette: 7/7/2005, 25868*).

- **Strengthening Local Governments**
  - **Special Provincial Administration Law:** Through the Special Provincial Administration Law the duties, authorities, responsibilities, organization and bodies of Special Provincial Administrations were rearranged and administrative and financial autonomy was provided to Special Provincial Administrations to provide services in line with the principle of “locality of service” (*Law No: 5302 dated 22/2/2005, Official Gazette: 4/3/2005,25745*).
  - **Law on Unions of Local Governments:** Through the Law No: 5355 on Unions of Local Governments; Unions of Local Governments, which were previously formed in order for local governments to perform some local services together, were given a legal status for the first time and legal status, establishment, administration, duties, authorities and responsibilities of potential regional administration unions were adjudicated (*Law No: 5355 dated 26/5/2005, Official Gazette: 11/6/2005, 25842*).
  - **Municipality Law:** Through the Municipality Law the duties, authorities, responsibilities, organization and bodies of municipalities were rearranged and administrative and financial autonomy was provided to municipal administrations to provide services in line with the principle of “locality of service” (*Law No: 5393 dated 3/7/2005, Official Gazette: 13/7/2005, 25874*).
- **Adoption of Child Protection Law:** The “Child Protection Law” was adopted with a view to protecting children in need of special protection or children pushed into crime and guaranteeing their rights. This Law, which is prepared with specific emphasis on protective and supportive measures, authorized Juvenile Courts

not only to deal with the crime committed by the child but to consider any neglect or abuse that the child might have faced as well (*Law No: 5395 dated 3/7/2005, Official Gazette: 15/7/2005, 25876*).

- **Adoption of the Law on Probation and Help Centre and Protection Boards:** The “Law on Probation and Help Centres and Protection Boards” was ratified in order to eliminate problems caused by releasing long-term convicts who after the end of their sentences which may affect the whole society including the convicts and their families (*Law No: 5402 dated 3/7/2005, Official Gazette: 20/7/2005, 25881*).
- **Ratification of Universal Conventions on Human Rights:** The “Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolishment of the death penalty” and “the First Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolishment of the death penalty” were ratified (*Law No: 5415 dated 28/10/2005, Official Gazette: 2/11/2005, 25984; Law No: 5468 dated 1/3/2006, Official Gazette: 17/3/2006, 26111*).



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**2006**

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## 2006

- **Ratification of the Convention for the Safeguarding of the Intangible Cultural Heritage:** The “Convention for the Safeguarding of the Intangible Cultural Heritage” was ratified. The Convention has the following purposes: to safeguard the intangible cultural heritage, to ensure respect for the tangible cultural heritage of communities, groups and individuals concerned, to raise awareness at the local, national and international levels of the importance of the intangible cultural heritage and to ensure mutual appreciation thereof (*Law No: 5448 dated 19/1/2006, Official Gazette: 21/01/2006, 26056*).
- **Establishment and Operation of Development Agencies:** Through the “Law on Establishment, Coordination and Duties of Development Agencies”, it was envisaged that Development Agencies would be established in order to reduce development disparities between regions and within regions so as to develop cooperation among the public sector, private sector and non-governmental organizations and to stimulate local potential. Following the adoption of this law, two development agencies began to function as per the Council of Ministers’ decision No: 2006/10550, eight with the decision No: 2008/14306 and sixteen with the decision no. 2009/15236, which makes a total number of twenty six development agencies functioning as a result of these Cabinet decisions (*Law No: 5449 dated 25/1/2006, Official Gazette: 8/2/2006, 26074*).

- **Ratification of Additional Protocol No. 13 to ECHR:** Procedures for ratification of the “Protocol No. 13 to the ECHR concerning the abolishment of the death penalty in all circumstances” were completed in February 2006 and this Protocol entered into force in our country. Thus, an important step was taken for our country to harmonize with European standards (*Additional Protocol no. 13 to ECHR*)
- **Ratification of the United Nations Convention against Corruption:** As an indication of its determination to fight corruption, Turkey ratified the “UN Convention against Corruption” in 2003 which is the first and the most comprehensive document handling this issue on the international level (*Law No: 5506 dated 18/5/2006, Official Gazette: 24/5/2006, 26177*).
- **Ratification of Additional Protocol No. 14 to ECHR:** Additional Protocol no. 14 which aims to change the control system developed by ECHR was ratified. This protocol amends certain provision of ECHR in order to ensure and improve efficiency of the control system in the long run considering the ever increasing workload of ECHR and Committee of Ministers of Council of Europe (*Law No: 5512 dated 1/6/2006, Official Gazette: 6/6/2006, 26190*).
- **Strengthening the Measures to be taken to Prevent Violent Acts against Children and Women and Honour Killings:** A circular issued by Prime Minister’s Office listed the suggested precautions to be taken to handle this issue and organizations which would be held responsible for coordinating such precautions. The practice on this issue is monitored by quarterly reports produced by the relevant Ministries (*Circular No: 2006/17, Official Gazette: 4/7/2006, 26218*).

- **Adopting a New Settlement Law:** The new settlement law that abolishes the Settlement Law No: 2510 annuls provisions, which caused discrimination against Roma citizens (*Law No: 5543 dated 19/9/2006, Official Gazette: 26/9/2006, 26301*).
- **Ratification of European Social Charter:** It was deemed appropriate to ratify the “Revised European Social Charter”, adopted in 1996 by the Council of Europe, to replace the European Social Charter dated 1961 to which Turkey was a party (*Law No: 5547 dated 27/9/2006, Official Gazette: 3/10/2006, 26308*).



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**2007**

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## 2007

- **Repealing the Laws that can no longer be implemented:** “Law on Repealing Certain Laws which can no longer be implemented” was adopted in order to eliminate provisions which were outdated and could no longer be implemented, correct contradictory provisions, simplify the legislation and enhance its quality (*Law No: 5637 dated 26/4/200, Official Gazette: 2/5/2007, 26510*).
- **Election of President by the People:** Through the constitutional amendment ratified through referendum organized on 21 October 2007<sup>15</sup>, it was stipulated “the Public would elect the president”. It was also specified that one person may only be elected as President for twice at most (5 years + 5 years) and a democratic method was adopted for nomination of President. According to this method; it will be possible to nominate a President among members of Turkish Grand National Assembly or other people through written proposal of 20 deputies. Besides, it was made possible for political parties, whose total valid votes exceeded 10 per cent in the most recent general elections for deputies, to nominate a common President.

15 In line with the Law dated 23/5/1987 with no: 3376 on Submission of Constitutional Amendments to Referendum, the Law dated 31/5/2007 with no: 5678 on “Amendment of Some Articles in the Constitution of Turkish Republic” as amended by the Law dated 16/10/2007 with no: 5697, which was published in the Official Gazette dated 16/6/2007 with no: 26554 for submission to referendum, was ratified as a result of the referendum organized on 21/10/2007 and the Decision of Supreme Committee of Elections on this issue was published in the Official Gazette dated 31/10/2007 with no: 26686.

- **Reducing the Period for General Elections to Four Years:** Through the same constitutional amendment, it was decided that general elections for deputies, which were previously organized every five years, would be held every four years.
- **Rearrangement of Quorum for Meetings and Resolutions of Turkish Grand National Assembly (TGNA):** Through the related constitutional amendment, it was adjudicated that TGNA would assemble with a quorum of at least one third of total number of members in all procedures including elections. This amendment was aimed at preventing uncertainty and legal instability arising out of the “367 Ruling” of Constitutional Court during the Presidential election process for in 2007.
- **Adoption of the Law on the Civil Aspects of International Child Abduction:** The “Law on Civil Aspects of International Child Abduction” was adopted in order to implement the “Convention on Civil Aspects of International Child Abduction” which concerns return of a child retained in a state party or taken from a state party to another signatory country in violation of custody rights to the state of his/her habitual residence as well as child’s right to maintain personal relations (*Law No: 5717 dated 22/11/2007, Official Gazette: 4/12/2007, 26270*).

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**2008**

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## 2008

- **Adoption of Witness Protection Act:** The “Witness Protection Act” was adopted in order to help secure justice by taking precautions to protect witnesses who are asked for information at any stage of trial, and their relatives. This legislative act includes provisions which regulate those for whom witness protection orders need to be issued since their life, physical integrity or financial assets are under serious threat, for which crimes this order should be granted, the duration of the protection order, conditions to amend or withdraw the protection order, execution of witness protection orders and international cooperation in this regard (*Law No: 5726 dated 27/12/2007, Official Gazette: 5/1/2008, 26747*).
- **Enactment of the New Law of Associations:** As an important step for strengthening civil society, a new “Law of Associations” was enacted. Under Provisional Article no. 7 of this law, which introduces important improvements regarding property rights, one hundred eighty one real properties were registered on behalf of community foundations at their application (*Law No: 5737 dated 20/2/2008, Official Gazette: 27/2/2008, 268005*).
- **Amending Article 301 of Turkish Penal Code:** Article 301 of the Turkish Penal Code was amended in order to strengthen freedom of expression. According to this amendment, it became necessary to get approval from Minister of Justice to launch an

investigation and the upper limit for penalties was lowered (*Law No: 5759 dated 30/4/2008, Official Gazette: 8/5/2008, 26870*).

- **Providing Legal Guarantee for Broadcasting in Different Languages and Dialects:** A legal guarantee was provided for broadcasting in different languages and dialects, which are traditionally spoken by Turkish citizens in their daily lives, through both public and private radio and television organizations; thus, legal obstacles against broadcasting in this area were eliminated for private television channels and TRT and right of broadcasting was secured (*the Law dated 11/6/2008 with no: 5767, Official Gazette: 26/6/2008, 26918*).
- **Strengthening Local Governments:** In order to strengthen the financial structure and autonomy of local governments, the “Law on Giving a Share of General Budgetary Tax Revenues to Special Provincial Administration and Municipalities” entered into force (*Law No: 5779 dated 2/7/2008, Official Gazette: 15/7/2008, 26937*).
- **Ratification of the UN Convention on the Rights of Persons with Disabilities:** “UN Convention on the Rights of Persons with Disabilities”, which introduces obligations to state parties to eliminate all forms of discrimination against the disabled and raise their standard of living, was ratified (*Law No: 5825 dated 3/12/2008, Official Gazette: 18/12/2008, 27084*).
- **Establishment of the Child Rights Monitoring Committees:** The “Child Rights Monitoring Committee” was established with the representation of all political party groups in order to create an institutional structure for all child rights interventions.

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**2009**

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## 2009

- **Advertising in Different Languages and Dialects:** An amendment introduced into Regulation on Advertising by Turkish Radio and Television Corporation made it possible for channels broadcasting in different dialects and languages to advertise in the broadcasting dialect and languages (*Official Gazette: 31/1/2009, 27127*).
- **Adoption of the Law on Commission for Equality of Opportunity between Men and Women:** The “Law on Commission for Equality of Opportunity between Men and Women” was adopted in order to protect and improve women’s rights, monitor national and international developments to ensure equality between men and women, inform TGNA on such developments, discuss all the primary and secondary tasks assigned to the commission and submit its opinion to specialization commissions on decrees, draft laws and proposals presented to TGNA (*Law No: 5840 dated 25/2/2009, Official Gazette: 24/3/2009, 27179*).
- **Declaration of May 1 as the Labour and Solidarity Day:** Law on Amending the Law on National Festivals and Public Holidays declared May 1 as “Labour and Solidarity Holiday” and added this day as a holiday to public holidays. (*Law No: 5892 dated 22/4/2009, Official Gazette: 27/4/2009, 27212*).

- **Adopting a new Citizenship Law:** Citizenship Law No: 403 was annulled when the new Turkish Citizenship Law was adopted. This new law stipulates that Council of Ministers could restore the right of citizenship for those who lost their Turkish nationalities on the grounds that they had committed “actions incompatible with loyalty to the motherland”. Thus, the way has been cleared for the re-acquisition of this right for those who had to go abroad and who were deprived of their citizenship rights due to political reasons during or after the September 12 military coup (*Law No: 5901 dated 29/5/2009, Official Gazette: 12/6/2009, 27256*).
- **Simplification of Bureaucratic Procedures:** Procedures and principles to be followed by administrations have been reorganized with a view to establishing an efficient, effective, accountable and transparent public administration which relies on the statements of citizens and provides rapid, high quality, simple and low-cost public services. To this end, the Prime Ministry has made amendments to a total of 170 regulations of Ministries and various affiliated and relevant institutions (*Regulation Regarding the Integration of Transactions in Cutting Red Tape and Procedures and Principles to Apply in Public Services Delivery, Official Gazette: 31/7/2009, 27305*).
- **Enabling Convicts and Detainees in Prisons to Speak to their Kinsmen in Their Native Language:** “Regulation Amending the Regulation on Management of Prisons and Execution of Penal and Security Measures” dated 15/6/2009 stipulates that a convict shall be able to speak in languages other than Turkish on the phone, in the event that the convict himself/herself or the person s/he will talk to does not speak Turkish. With a following regulation that was later issued, obstacles to detainees and convicts in prisons seeing and talking to their visitors in languages other than Turkish were lifted (*Regulation Amending the Regulation*

on Visits to be Paid to Convicts and Detainees, *Official Gazette*: 6/11/2009, 27398).

- **Allowing Private Television and Radio Organizations to Broadcast in Different Languages and Dialects 24 hours a day:** Through provisions stipulated in the ‘Regulation on Radio and Television Broadcasting to be Made in Different Languages and Dialects, which are Traditionally Spoken by Turkish Citizens in Their Daily Lives’ prepared by Radio and Television Supreme Council, private television and radio organizations were allowed to broadcast in different languages and dialects twenty four hours a day (*Official Gazette*: 13/11/2009, 27405).
- **Enabling for Academic Research, the Establishment of Institutes and Organization of Elective Courses in Different Languages and Dialects in Universities:** It was made possible to carry out academic research, establish institutes and offer elective courses related to different languages and dialects spoken in the daily lives of our citizens. As for this issue; in line with the “Decision on establishment of ‘Institute of Living Languages in Turkey’ affiliated under the Rectorship of Mardin Artuklu University” taken by the Council of Ministers dated 12/10/2009; ‘Institute of Living Languages in Turkey’ composed of Departments of Kurdish Language and Culture, Assyrian Language and Culture and Arab Language and Culture was established under Mardin Artuklu University. In this institute; post-graduate training is provided in Kurdish, Arabic and Assyrian languages (*Official Gazette*: 1/12/2009, 27419).
- **Supporting Cultural Activities in Various Languages:** The Movie Support Council of the Ministry of Culture and Tourism provided financial support to a movie with frequent Kurdish dialogue (On the Way to School) for the first time. Besides, General Directorate of State Theatres started to stage Kurdish

theatre plays in various provinces. TRT 6, which broadcasts in Kurdish, began to broadcast a Kurdish mawlid (observance of the birthday of the Prophet Muhammad) on religious nights.

- **Call Centres:** Personnel who can speak Kurdish and Zaza language, were assigned to the call centre established by Diyarbakır Governor's Office in order to ensure communication with citizens who cannot speak Turkish.

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**2010**

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## 2010

- **Reducing Road Checkpoints and Search Points:** in order to facilitate the daily lives of our citizens, the number of road checkpoints and search points was reduced (*Circular of the Ministry of Interior No: 2010/4 on “Road Checkpoints and Search Points”, dated 15/1/2010*).
- **Enabling the Reuse of Rangelands and Pastures:**In order to increase the employment and welfare level of our citizens, bans on rangelands and pastures, in particular in Eastern and South-eastern Anatolia Regions were eliminated (*Directive of the Ministry of Interior No: 2010/5 on “Rangelands and Pastures” dated 15/1/2010 with*).
- **Restoring the Former Names of Settlement Areas:** It was made possible to restore former names of settlement areas, in the scope of which names of certain settlement areas have already been changed.
- **Abolition of EMASYA (the Protocol on Cooperation for Security and Public Order):** As a reflection of a new security mentality and the strengthening roots of a democratic rule of law, ‘the Protocol on Common Measures to be Taken in accordance with Article 11/D of the Special Provincial Administration Law No: 5442 between Turkish General Staff and the Ministry of Interior’, which is also known as EMASYA Protocol, was abolished with a

new Protocol dated 4/2/2010. The protocol, which is in conflict with principles of the rule of law and paved the way for non-democratic interventions, was abolished and civil government and democratic rule of law were strengthened.

- **Issuing a Circular on Human Rights of Women and Girls:** The Ministry of Interior issued a circular to protect human rights of women and girls and rolled out practices which help to promote these rights (*Circular No: 2010/10 dated 19/02/2010*).
- **Enhancing Transparency and Reinforcing the Fight against Corruption:** As an indication of its determination to fight corruption, the Council of Ministers in Turkey adopted the “Strategy to Enhance Transparency and Reinforce Fight Against Corruption (2010-2014)” with a view to developing a management understanding which is fairer and more accountable, transparent and reliable by eliminating the factors preventing transparency and nurturing corruption. The action plan relevant to this strategy was approved on 12th April 2010 by the “Commission for Enhancing Transparency and Reinforcing Fight against Corruption in Turkey” (*Decision taken by Council of Ministers dated 1/2/2010 No: 2010/56, Official Gazette: 22/2/2010, 27501*).
- **Establishment of a Coordination Board for Fight against Illegal Immigration:** The “Coordination Board for Fight against Illegal Immigration” was set up within the Ministry of Interior in order to monitor measures taken to combat illegal immigration, develop new measures and follow up implementation of decisions taken in this regard (*Letter of Approval from Ministry of Interior dated 24/2/2010*).
- **Establishment of the Undersecretariat of Public Order and Security:** Through the Law No: 5952 dated 17/2/2010 the Undersecretariat of Public Order and Security was established to



use scientific methods and data in counterterrorism, to increase the number of analyses, to develop suggestions for solutions, policies and strategies and to ensure coordination among the related institutions and organizations in this area as a requirement of a multi-dimensional approach in counterterrorism (*Official Gazette: 4/3/2010, 27511*).<sup>16</sup>

- **Allowing Political Propaganda in Different Languages and Dialects:** The scope of the law of political parties was extended and legal obstacles against the right to political propaganda, which is a requirement for freedom of expression and association, were eliminated. Thus, it was ensured that political parties could make speeches in different languages and dialects spoken by our citizens during their election campaigns (*The Law dated 8/4/2010 No: 5980, Official Gazette: 10/4/2010, 27548*).
- **Encouragement of Civil Society:** In order to encourage civil society, the ‘Directive on Supporting Associations from the Budget of the Ministry of Interior’ entered into force on 30/4/2010 and in this way, grant support was provided to associations in return for projects through an allocation included in the budget of the Ministry of Interior.
- **Protecting Citizens from Different Religious Backgrounds:** The Prime Minister’s Office issued a circular to encourage protection of and respect towards citizens from different religious backgrounds. This circular emphasized that various religious groups are integral parts of Turkey and reminded all public organizations not to raise difficulties for these citizens and not to

<sup>16</sup> Our Undersecretariat prepared a book called “Human Rights and Counterterrorism” based on “Principles and Reference Texts about Human Rights and Counterterrorism” of the Council of Europe as an important reference text for preserving balance of security and freedom in counterterrorism, and published it in Turkish and English. 5,000 copies were prepared as the first publication of our Undersecretariat and distributed to the related units including security institutions.

prejudice their rights in their dealings with public organizations (*Circular No: 2010/13, Official Gazette: 13/5/2010, 27580*).

- **High Council for Female Employment established to increase women's employment and ensure equality of opportunities:** A circular issued by Prime Minister's Office stipulated that the "High Council for Female Employment" should be established with a view to empowering the social and economic status of women, ensuring equality between men and women in business and social life and increase female employment. This council is in charge of identifying current problems in terms of female employment, monitoring and evaluating all the efforts made by the parties working towards eliminating these problems and ensuring coordination and cooperation (*Circular No: 2010/14, Official Gazette: 25/5/ 2010, 27591*).
- **Ensuring that All Children Under 18 Years of Age Are Tried in Juvenile Courts:** Through the Law on 'Amendment of Counterterrorism Act and Some Laws', it was made possible to hear cases of those children known to the public as 'stone-throwing children', who are mostly under 18 years old and pushed into crimes, in juvenile courts rather than Assize Courts with Special Authorities under the Counterterrorism Act (*Law No: 6008 dated 22/7/2010, Official Gazette: 25/7/2010, 27652*).
- **Enhancing the Right to Education for Different Religious Groups:** Ministry of National Education prepared textbooks in the Armenian language in order to enhance the right to education for our citizens from different religious backgrounds. These textbooks started to be distributed at Armenian schools as of 2010-2011 school year.
- **Translation and Publication of Important Kurdish Works by the Ministry of Culture and Tourism:** Important works of

Kurdish language and literature such as “Mem-u Zin”, which was published by the Ministry of Culture and Tourism on 1 December 2010, were translated, published in the same way and published with new copyrights.

- **Adoption of the New Law on Court of Accounts:** A new “Law on the Court of Accounts” was adopted which replaced the previous Law on Court of Accounts dated 1967 no. 832, for the purpose of rearranging functions and institutional structure of the state in accordance with citizen-oriented management understanding. This law regulates the establishment, functions, auditing and trial procedures, qualifications and promotion of its personnel, duties and powers, rights and obligations as well as other personnel issues of the Court of Accounts. In addition, this law has the objective of making sure that the new Court of Accounts functions in accordance with international audit standards, acts in a manner to improve our democracy and to meet the expectations of the society, performs its duties in a way to put the emphasis on content rather than document audits, makes better use of the technological opportunities and possesses more functional judicial powers (*Law No: 6085 dated 3/12/2010, Official Gazette: 19/12/2010, 27790*).
- **Starting a Kurdish Language and Literature Department:** In accordance with a decision made by High Education Council (YÖK) in its General Assembly Meeting on 23rd December 2010, a “Kurdish Language and Literature Department”, which was the first of its kind in Turkey, was founded as a four year Bachelor’s degree program within the Science and Literature Faculty of Muş Alparslan University.

## CONSTITUTIONAL AMENDMENTS ON 12 SEPTEMBER 2010<sup>17</sup>

- **Positive Discrimination:** Women, children, elderly, disabled people, widows and orphans of war martyrs, service-disabled people and war veterans were considered to be subject to positive discrimination (*Art. 10 of the Constitution*).
- **Extension of Freedom of Travel:** The scope of the ban on going abroad was restrained in line with extension of freedom of travel (*Art. 23 of the Constitution*).
- **Children's Rights:** International fundamental principles about children's rights were given constitutional guarantee (*Art. 41 of the Constitution*).
- **Strengthening Union Rights:** In this context, public servants were allowed to make collective agreements and the Law No: 6289 on 'Amendment of the Law on Unions of Public Servants', which is the implementing law about this issue, entered into force (*Official Gazette: 11/4/2012, 28261, Art. 53 of the Constitution*).
- **Ombudsmanship:** The Institution of Ombudsman was provided with a constitutional basis (*Art. 74 of the Constitution*).
- **Abolishment of Seat Loss by Deputies Due to Closing of Political Parties:** Provision for removing the seats of deputies in the case of closure of a political party was abolished (*Art. 84 of the Constitution*).
- **Amendment of the Quorum for Closing Political Parties and Financial Sanctions:** A criterion for a two-thirds majority within the Constitutional Court was approved for closing down

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17 Law No: 5982 dated 7/5/2010 (Official Gazette: 13/5/2010, 27580).

political parties and other financial sanctions (*Art. 149 of the Constitution*).

- **Decision of Supreme Military Council:** Those expelled from the army due to decision of Supreme Military Council were allowed to take the case to court (*Art. 125 of the Constitution*).
- **Jurisdiction of Military Courts:** Civilians cannot be tried by military courts any more. Soldiers were allowed to be tried by civil courts for crimes other than military crimes (*Art. 145 of the Constitution*).
- **Democratization of the Structure of High Council of Judges and Prosecutors (HCJP):** HCJP was provided with a more democratic structure. In this context, the “Law on High Council of Judges and Prosecutors”, which is the implementing law about this issue, entered into force (*Law No: 6087 dated 11/12/2010, Official Gazette: 18/12/2010, 27789*). Besides, decisions of HCJP for dismissal of judges and prosecutors were subjected to judicial control (*Art. 159 of the Constitution*).
- **Extension of Public Servants’ Rights to Apply to Courts:** Public servants were allowed to apply to courts against warning and reprimand penalties (*Amendment made in Article 129/3 of the Constitution with Article 13 of Law No: 5982*).
- **Democratization of the Structure of the Constitutional Court:** The membership structure of the Constitutional Court was provided with a more democratic and pluralistic structure and the tenure of its members was limited to 12 years (*Art. 146 of the Constitution*).
- **Extension of the Jurisdiction of the Constitutional Court under the title of Supreme Court:** The Constitutional Court was

endowed with the authority to judge President of TGNA, Chief of Turkish General Staff and Force Commanders (*Art. 148 of the Constitution*).

- **Securing independence of military judges** (*Art. 145 of the Constitution*).
- **Enabling the trial of September 12 coup leaders** (*Through abolishment of Provisional Article 15 of the Constitution*).
- **Bestowing the Right to Individual Application to the Constitutional Court:** In order to realize a “rule of law” with respect for human rights, the right to individual application to the Constitutional Court was provided as a new remedy (*Art. 148 of the Constitution*).
- **Providing a Constitutional Guarantee for Protection of Personal Data:** This statement was added into Article 20 of the Constitution: “Everyone has the right to request protection of his/her personal data. This right includes being informed of, having access to and requesting the correction and deletion of his/her personal data and to be informed whether these are used in a manner consistent with envisaged objectives. Personal data can be processed only in cases envisaged by law or by the person’s own consent. The principles and procedures regarding protection of personal data are laid down in law” (*Art. 20 of the Constitution*).
- **Inclusion of Economic and Social Council in the Constitution:** The Economic and Social Council, which was established in 2001, was provided with a constitutional guarantee and became functional (*Art. 166 of the Constitution*).

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**2011**

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## 2011

- **Removing Discriminatory Provisions from the Act regarding Residence and Travel of Foreigners in Turkey:** The expression “gypsy” was removed from the legal text following an amendment introduced into “Act regarding Residence and Travel of Foreigners in Turkey” since it has a discriminatory connotation (*Amendments introduced into Law No: 6097 dated 5/1/2011, Official Gazette: 19/1/2011, 27820*).
- **Council of Europe on the Prevention of Terrorism Becomes Effective:** It was deemed appropriate to ratify the “Council of Europe Convention on the Prevention of Terrorism” which was opened for signature in Warsaw on 16th May 2005 and signed by Turkey on 19/1/2006. This convention came into effect in Turkey on 1/7/2012 (*Law No: 6135 dated 23/2/2011, Official Gazette: 12/3/2011, 27872*).<sup>18</sup>
- **Ratification of The Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment:** In the framework of its policy defined as “zero tolerance to torture”, Turkey ratified the “Optional Protocol to the UN Convention against Torture and other Cruel,

<sup>18</sup> In this framework, this convention which is supposed to contribute to current accumulation of knowledge in terms of fight against terrorism is published by the Undersecretariat under the name of “European Convention on Terrorism with all its aspects” to promote the convention and this document has been distributed to all the relevant units.

Inhuman or Degrading Treatment or Punishment”. The objective of this protocol is to establish a system of regular visits undertaken by independent international and national bodies to detention centres, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. As a party to the Protocol, Turkey entered into the obligation to ensure that the “Sub Committee for Prevention of Torture” pays visits to police stations, custodial prisons and detention centres (*Law No: 6167 dated 23/2/2011, Official Gazette: 12/3/2011, 27872*).

- **Prevention of psychological harassment (mobbing) at work:** The Prime Minister’s Office promulgated a circular guiding how to prevent psychological harassment (mobbing) at work in order to protect employees from psychological harassment. This circular has the objective of preventing psychological harassment which covers a wide range of behaviours such as humiliating, underestimating, isolating, tarnishing the prestige and honour, treating badly, intimidating the other person in addition to various other forms. Furthermore, the circular foresees to improve both occupational health and safety conditions and ensure labor peace (*Circular No: 2011/2, Official Gazette: 19/3/2011, 27879*).
- **Entry Into Force of Remedy for Individual Application:** The “Law on Establishment and Adjudicatory Procedures of the Constitutional Court” was adopted to harmonize with constitutional amendments. As per this law, Constitutional Court started receiving individual applications as of 23 September 2012. In this context, 1,615 individual applications had been lodged with the Constitutional Court as of December 2012 (*Law No: 6216 dated 30/3/2011, Official Gazette: 3/4/2011, 27894*).
- **Regulations Introduced to Make Judicial Services more Efficient:** “Law Amending Certain Acts to Speed up Judicial Services” was adopted for the purposes of reducing the work load of

higher judicial bodies, decreasing the number of disputes taken to the court, converting some crimes into misdemeanors and making sure that higher judicial bodies work more efficiently (*Law No: 6217 dated 31/3/2011, Official Gazette: 14/4/2011, 27905*).

- **Adoption of the Law on Prevention of Violence and Disorder at Sports Events:** The “Law on Prevention of Violence and Disorder at Sports Events” was adopted with a view to preventing violence, racism and discrimination at sports events (*Law No: 6222 dated 31/3/2011, Official Gazette: 14/4/2011, 27905*).
- **Institutes and Departments Established by our Universities to Study Various Languages and Dialects:** The “Institute of Living Languages in Turkey” was set up to carry out academic research on various languages and dialects spoken by our citizens in their daily lives (*Official Gazette: 03/07/2011, 27983*). Furthermore, “Zazaki Language and Literature”, “Kurmanji Language and Literature” and “Arabic Language and Literature” departments were opened up in December 2011 within Tunceli University upon approval from Higher Education Council.
- **Establishing a Human Rights Department within the Ministry of Justice:** “Law Amending the Decree on Organization and Duties of Ministry of Justice and Decree Amending Certain Decrees” stipulated that the Ministry of Justice should establish a “Human Rights Department” in order to efficiently pursue cases heard by European Court of Human Rights (*Decree No: 650, Official Gazette: 26/8/2011, 28037*).
- **Being a Party to Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse:** “Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse” was

signed on 25/10/2007, and entered into force on 1 April 2012 after the ratification procedures were completed (*Official Gazette: 10/9/2011, 28050*).

- **Establishing Investigation Commissions under TGNA:** “Sub Commission on Examination of Human Rights Violations committed during Terrorist and Violent Incidents” was established on 13th October 2011 to report to the Human Rights Commission in TGNA with a view to identifying problems faced during the fight against terrorism particularly during a state of emergency or state of martial law.
- **Investigation about Incidents in Diyarbakır Prison:** Diyarbakır Chief Public Prosecutor’s Office initiated an investigation about incidents in Diyarbakır Prison, in which many violations of human rights occurred following the September 12 coup.
- **Inclusion of Kurdish in the TGNA Guide for the First Time:** In the guide, which was prepared in order to introduce members of the 24<sup>th</sup> term of the TGNA, ‘Kurdish’ was included for the first time into the part giving information about the languages that the deputy members can speak in addition to other languages.
- **Changing the Name of Mustafa Muğlalı Barracks:** The name of the General Mustafa Muğlalı Barracks in Van was changed.
- **Repair of Prayer Areas Used by Citizens with Different Beliefs:** In line with freedom of worship, real estate properties were returned to community foundations and prayer areas used by citizens with different beliefs were repaired. In this context, Surp Giragos Church, whose restoration activities were completed, was opened to prayer in October 2011 in Diyarbakır. Kumkapı Meryemana Church and Vortvoks Vordman Church and School Foundation were opened to prayer

with a ceremony organized in December 2011 following restoration activities.

- **Facilitation of Use of Freedom of Worship:** The Ministry of Culture and Tourism granted permission to hold religious ceremonies in Trabzon Sümela Monastery and Van Akdamar Church.



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**2012**

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## 2012

- **Exclusion of National Security Knowledge Course from Curriculum:** The “Regulation on Education of National Security Knowledge” was abolished. Thus, the “National Security Knowledge Course”, which had been included in curriculum of secondary education for 33 years and instructed by military personnel, was excluded from the curriculum with effect from the 2012-2013 education year (*Official Gazette: 25/1/2012, 28184*).
- **Adoption of the Law on Presidential Elections:** “Law on Presidential Elections”, which regulates principles and procedures regarding how to elect the president, qualifications required for presidential candidates, operations needed to be carried out before the elections, on the day of elections and after elections, was adopted in order to be harmonized to the constitutional amendments regarding the presidential elections (*Law No: 6271 dated 19/1/2012, Official Gazette: 26/1/2012, 28185*).
- **Allowing the Publication of Official Advertisements by Newspapers of Minorities:** In line with the Decision of the General Assembly of Press Notice Institution dated 17 February 2012 with no: 195, it was made possible for newspapers of minorities, which were identified in accordance with Lausanne Treaty, to publish official advertisements upon written application. This development is considered to be an important step for strengthening economic status of minority newspapers. Indeed, a Greek

publisher became operational on 4 June 2012 after an interruption of fifty years (*Official Gazette: 28/2/2012, 28218*).

- **Ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence:** Turkey became a party to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence on 14 March 2012. This Convention is of great importance because it is the first regulation that creates a legal framework in this area and it is binding at international level. Besides, the Convention defines forced marriage and different types of violence along with physical, sexual, psychological violence and imposes sanctions on these issues. Turkey became a pioneer for preparation of this Convention and Turkey is the first country to have ratified the Convention (*Official Gazette: 8/3/2012, repeated number: 28227*).
- **Continuing Steps for Protection of the Family and Prevention of Violence against Women:** “Protection of the Family and Prevention of Violence against Women” was adopted. In line with this Law, police protection was provided for 4,634 women and preventive measures had been taken for 29,624 women as of December 2012 (*Law No: 6284 dated 8/3/2012, Official Gazette: 20/3/2012, 28239*).
- **Continuing Positive Steps Towards Different Belief Groups in Education and Culture:** Through Article 51/5 of the Regulation on Private Education Institutions published by the Ministry of National Education, it was made possible for foreign guest students to receive education at private educational institutions (*Official Gazette: 20/3/2012, 28239*).
- **Formation of the “Children’s Rights Monitoring and Review Council”:** With a Prime Ministry Circular, the “Children’s Rights

Monitoring and Review Council” was formed. This Council was assigned to carry out activities for administrative and legal regulations on the protection, use and development of children’s rights, to provide suggestions, to evaluate activities aimed at informing the public about the related developments, to provide recommendations about measures to be taken about children’s rights, to commission strategy paper and action plans on this issue and approve these papers and plans and to ensure cooperation and coordination among institutions as regards children’s rights (*Official Gazette: 4/4/2012, 28254*).

- **Extension of the scope of Probation Practice:** The Law which was drafted in order to extend the scope of probation practice envisaged a new execution regime, which would ensure that detainees would be outside during the last year of their imprisonment in open prisons through implementation of the probation measure. Furthermore, article no. 15/A added to Law No: 5402 made it possible to use electronic devices for monitoring, surveillance and supervision of the suspects, defendants and convicts in public (*Law dated 5/4/2012 No: 6291, Official Gazette: 11/4/2012, Number: 28261*).
- **Democratization of the Education System:** Through the “Law Amending Primary Education Law and Some Laws”, a gradual system was initiated in education and our citizens were allowed to have education according to their free choices. In this context, this legal amendment paved the way for choosing Kurdish as an elective course. In 2012-2013 Education year, elective courses started to be offered and course materials were prepared (*Law No: 6287 dated 30/3/2012, Official Gazette: 11/4/2012, 28261*).
- **Allowing Detainees and Convicts to attend their Relatives’ Funerals and to Visits to Them in Case of Severe Illness:** With the amendments introduced into Law on Execution of Penal and

Security Precautions, it was made possible to provide detainees and convicts with a leave for two days excluding travel time to take part in funerals of blood or in-laws including second degree relatives or spouses thereof and to provide them with a leave for one day excluding travel time to pay visit to first degree relatives in case of severe diseases (*Law No: 6301, Official Gazette: 10/5/2012, 28288*).

- **Kurdish Language and Literature Departments:** Higher Education Council opened up “Kurdish Language and Literature Department” within Dicle University in Diyarbakır in June 2012 upon approval.
- **Adoption of the Mediation Law on the Legal Disputes:** “Mediation Law on Legal Disputes” was adopted in order to define principles and procedures to be applied when legal disputes are settled through mediation. Thus, this law paved the way for settling civil law disputes through mediation which the parties can resort to whenever they wish without being referred to state courts (*Law No: 6325 dated 7/6/2012, Official Gazette: 22/6/2012, 28331*).
- **Providing a Legal Basis for the Ombudsmanship:** As an important step towards establishment of principles of rule of law and good governance and towards protection of individual rights, “Institution of Ombudsman” was established to report to Presidency of TGNA (*Law dated 14/6/2012 with no: 6328, Official Gazette: 29/6/2012, 28338*).
- **Adoption of Occupational Health and Safety:** A new “Occupational Health and Safety Law”, which will be applicable to all employees in all workplaces of public and private sector, was adopted in order to define duties, authorities, responsibilities, rights and obligations of employees and employers to achieve

safe and healthy conditions and improve current health and safety conditions at workplaces (*Law No: 6331 dated 20/6/2012, Official Gazette: 30/6/2012, 28339*).

- **Establishment of the Human Rights Institute in Turkey:** The “Human Rights Institute in Turkey” was established with the aim of carrying out studies and research on protection and promotion of human rights (*Law No: 6332 dated 21/6/2012, Official Gazette: 30/6/2012, 28339*).
- **Third Judicial Package:** Through the “Law on Amendment of Some Laws for Making Judicial Services More Effective and Suspension of Trials and Penalties for Crimes Committed Through Press”, which is known to the public as the “Third Judicial Package”, important regulations were put in place to strengthen human rights (*Law No: 6352 dated 2/7/2012, Official Gazette: 5/7/2012, 28344*).
- **Signing the Third Additional Optional Protocol to UN Convention on the Rights of the Child:** The “Third Additional Optional Protocol to UN Convention on the Rights of the Child” which recognizes the authority of UN Committee on the Rights of the Child for individual application was signed on 24 September 2012.
- **Establishment of “Children Monitoring Centres”:** Through the Prime Ministry Circular aimed at prevention of child exploitation and conscious and effective intervention in children that are subject to exploitation, it is envisaged that ‘Children Monitoring Centres’ should be established within hospitals and institutions affiliated under the Ministry of Health and that the Ministry of Health coordinates operation of these centres. The first pilot practice started in Ankara. This centre was created within hospitals in order to ensure that the related institutions

would work in cooperation, that children would not be subject to the same treatment again and that all judicial and medical procedures are performed in a single centre and at a single time. Children Monitoring Centres provide services in nine provinces (*Official Gazette: 4/10/2012, 28431*).

- **Adoption of the New Law on Trade Unions and Collective Labour Agreements:** A new “Law on Trade Unions and Collective Labour Agreements” was adopted which abolished the previous law on trade unions as well as the previous law on collective labour agreements, strikes and lock-outs (*Law No: 635 dated 18/10/2012, Official Gazette: 7/11/2012, 28460*).
- **Curricula Including the “Law and Justice” Course:** A cooperation protocol was signed between the Ministry of Justice and the Ministry of National Education on 3 December 2012 in order to raise awareness of law among students and to develop curricula for a “Law and Justice Course”.
- **Re-arrangement of Metropolitan Municipality Borders:** Through the “Law on Establishment of Metropolitan Municipalities and Twenty Six Districts in Thirteen Provinces and Amendment of Some Laws and Decree Laws”, metropolitan municipality borders were re-arranged in order to provide public services in a more effective and efficient manner. In this context, the number of Metropolitan Municipalities, which was previously 16, was increased to 29 (*Law No: 6360 dated 12/11/2012, Official Gazette: 6/12/2012, Number: 28489*).
- **Providing Facilities for Municipalities to Construct, Maintain and Repair Temples:** In order to extend freedoms of individuals with different religions and faith in terms of prayer areas, the statement ‘temples may be constructed, maintained and repaired by municipalities’ was added to the Municipal Law. Thus; it was

adjudicated that Municipalities would “construct, maintain and repair temples” as well as health care, education, culture facilities and buildings (*Law No: 6360 dated 12/11/2012, Official Gazette: 6/12/2012, 28489*).

- **Establishment of Investigation Commissions under the TGNA:** In 2012, “Assembly Investigation Commission for Investigation of All Coups and Memoranda Intervening in Democracy in Our Country and All Other Attempts and Processes Impairing Democracy with All Dimensions and Determination of Measures to be Taken” was established under TGNA and the “Dersim Sub-Commission” was established under TGNA Petition Commission.
- **Launching TRT XEBER:** TRT started broadcasting a Kurdish news site called ‘TRT XEBER’, which can be accessible through the address ‘[www.trtxeber.com](http://www.trtxeber.com)’.
- **Staging of Kurdish Theatre Plays:** With the support of the Ministry of Culture and Tourism, the play ‘Hamlet’ was staged in Kurdish by Diyarbakır City Theatre in Ankara.
- **Kurdish Music Album:** In 2012, a music album composed of Kurdish folk songs was recorded through a joint activity of TRT and Diyarbakır Governor’s Office.
- **Employment of “Mele” (Local Clergymen) by the State:** People, who are known as “Mele” (local clergymen) and considered to be “religious leaders” in their regions, are employed as “religious personnel” (*Based on the provision added into Provisional Article 16 of the Law No: 633 dated 22/6/1965 with Article 13 of the Decree Law No: 653*).

- **Closure of Prisons which fail to meet UN and Council of Europe Standards:** In the last decade, 208 prisons which did not meet UN and Council of Europe standards were closed down. During the same period, 68 penal institutions with a total capacity of 14,509 people were opened. In 2012, a total of 13 new prisons were opened and 7 additional buildings were constructed.



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**2013**

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## 2013

- **Establishment of the legal foundation for Women's Guesthouses and their Management:** "Legislation on the establishment and management of women's guesthouses" has been published for the establishment and management of Women's Guesthouses under the Ministry of Family and Social Policies, municipalities, provincial special administrations and NGO's as well as to set the procedure and principles for the types and quality of the guesthouses as well as their supervision (*Official Gazette: 5/1/2013, 28519*).
- **Acceptance of the Application of Legislation on the Law on Protection of the Family and Prevention of Violence against Women:** The mentioned legislation prepared by the Ministry of Family and Social Policies includes procedures and principles for the precautions that are to be taken and applied for the protection of women, children, family members who are subjected to violence or under the threat of being subjected to violence and the protection those stalked and prevention of violence towards them as well as taking necessary precautions against people who might resort to violence (*Official Gazette: 18/1/2013, 28532*).
- **Establishment of compensation commissions for ECtHR applications:** In order to solve certain applications to the ECtHR by the payment of compensation and to prevent possible violation decisions, "Law on the Solution of Certain Applications to the

European Court of Human rights by means of compensation” has been passed (*Law numbered 6384 and dated 09/01/2013, Official Gazette: 19/1/2013, 28533*).

- **The Adoption of Social Insurance and Universal health insurance Law and The Law on The Amendment of Certain Laws:** This law stipulates the following : Those who have completed their high school or equivalent education and started their higher education the same year are considered dependent, those who have been incapacitated due to counter-terrorism and similar reasons are not required to pay any additional payment in private hospitals and may receive service from these hospitals without any referral, the retroactive support for outstanding premiums of those insured within the scope of subparagraph (b) of article 4 of law number 5510 is restructured, a personnel cadre is created in the Social Security Institution, the cuts in pension or the elderly monthly payment in relation to their commencement to a job in public sector are restructured, the employment form of the employment as well as the position and profession consultancy are all regulated by the Turkish Employment Agency, the statistics generated in July 2009 foresees that applications which are made by the labor unions exceeding the 10% threshold after the date of entry to force of the law numbered 6356 shall be concluded according to the working place and management majority requirement mentioned in article 41 of this law which is also a requirement to be met in the authority identification applications made by the Ministry of Labor and Social Security for the collective labor agreement (*Law No: 6385 dated 10/01/2013, Official Gazette:19/01/2013, 28533*).
- **Enabling the possibility for the accused to have defence in the language in which they can better express themselves:** In our country in criminal cases there are certain language barriers for citizens to express themselves and this led to objections

and concerns in terms of access to a fair trial. For this reason an amendment has been made to the existing legislation granting a defendant the right to defend him/herself “in a language that s/he has stated to express himself/herself in a better manner” (*Amendment made to the law dated 24/1/2012, numbered 6411 and to the Turkish Penal Code numbered 5271, article 202, Official Gazette: 31/1/2013,28545*).

- **The right for the convicts to have private visiting time with their spouses:** With the amendments made to the Criminal Procedure Code and law on the execution of sentences and security measures married convicts in closed prisons are granted the right to see their wife every three months (*Law dated 24/1/2013 and numbered 6411, Official Gazette 31/1/2013, 28545*).
- **Adoption of the Turkish Armed Forces Discipline Law:** To identify procedures and principles in order to establish, protect and maintain an effective discipline system within the Turkish Armed Forces to Turkish Armed Forces discipline law has been prepared (*Law dated 31/1/2013 and numbered 6413, Official Gazette: 16/2/2013, 28561*).
- **Adoption of the law on preventing the finance of terrorism:** In the scope of the active struggle against terrorism and terrorist financing to identify the procedures and principles in relation to the International Convention for the Suppression of the Financing of Terrorism and the implementation of UN Security Council decisions in regards to the struggle against terror and finance of terrorism within the scope of the mentioned law, as well as the regulation of the crime of financing terrorism and freezing assets in order to prevent the financing of terrorism, “the law on preventing the financing of terrorism” has been adopted (*Law dated 7/2/2013 and numbered 6415, Official Gazette: 16/2/2013, 28561*).

- **Adoption of the law on foreigners and international protection:** The law on foreigners and international protection has been adopted to regulate the establishment, duty, authority and responsibility of the General Directorate of the Immigration Administration under the Ministry of Internal Affairs as well as defining the procedure and principles in regards to the scope and application of the entry, stay and exit of foreigners in Turkey as well as their request for protection. With this mentioned law our legislation on this issue has been aligned with the EU legislation (*Law dated 4/4/2013 and numbered 6458, Official Gazette: 11/4/2013, 28615*).
- **Establishment of a Parliamentary Research Commission in order to Explore Public Peace Process and Evaluation of the Resolution Process:** In order to explore public peace processes and evaluation of the resolution process according to articles 104 and 105 of the 98th bylaw of the Constitution, it has been concluded to initiate Parliamentary Research and establish a Parliamentary Research Commission (*Turkish Grand National Assembly Decision dated 9/4/2013 and numbered 1033, Official Gazette: 18/4/2013, 28622*).
- **Adoption of the law on bringing amendments to certain laws in relation to human rights and freedom of expression:** Our country has come face to face with many violation decisions from the ECHR due to certain regulations in our legislation that are against international standards regarding the freedom of expression and the right to fair trial. This situation was not compatible with the democratization level that country has reached in the international arena and created an unjustly negative image. To cover the deficiencies, to widen the freedom of expression and to strengthen the right to fair trial certain revolutionary reforms have been made within the fourth reform package. The main regulations are the following:

- ECHR violation decisions will also be considered as the basis to for a new trial in military administrative justice.
- To develop the freedom of expression in line with ECHR standards the criteria of “legitimizing or praising methods that involve force, violence or threat as well as promoting the use of these methods” have been brought.
- Prescription (or statue of limitations) for torture crimes has been lifted.
- In cases where ECtHR has decided that the decision of non-prosecution has been given without an effective investigation, the possibility of renewing the investigation upon request has been introduced.
- The limitations against the renewal of trial for criminal cases when it has been concluded by the ECtHR that it is against the European Convention on Human Rights has been lifted.
- In expropriation cases, due to the delay in the judicial process and with the effect of inflation there is a loss in the amount that is to pay for expropriation. With the amendment made on this issue protective measures have been taken to prevent value loss (*Law dated 11/4/2013 and numbered 6459, Official Gazette: 30/4/2013, 28633*).
- **Law on amendments for the Civil Procedure Code and certain other laws:** With the mentioned law; the Civil Procedure Code numbered 1086, in The Legal Practitioners Act No. 1136, Regional Administrative Courts No. 2576, the Law on the Establishment and Duties of the Administrative Court and Tax Court, Law on Judges and Prosecutors No. 2802, the Law on Independent Accountant and Financial Advisor and Sworn Finan-

cial Advisors No. 3568, Law on the Establishment of Court of Original Jurisdictions and Regional Courts of Justice No. 5235, Law on Duty and Authorities have been amended. Similarly in the framework of the same law, in cases where more than one administrative or tax courts is sitting, duty in order for there to be specialization it is decided that the High Council for Judges and Prosecutors shall make a division of labor between courts by taking into consideration the workload and its quality (*Law dated 17/04/2013 and numbered 6460, Official Gazette 30/04/2013, 28633*)

- **Adoption of the law amending certain laws and legal provisions in order to change certain expressions existing for the disabled persons in the law and bylaws of provisions of laws:** With the mentioned law, the expressions such as “crippled”, “useless”, “handicapped” that are used to refer to disabled persons have been replaced by one single word, which is “disabled”. This change in wording aims to ensure terminological harmony and to eliminate such wordings that might offend our disabled citizens (*Law dated 25/4/2013 and numbered 6462, Official Gazette: 3/5/2013, 28636*).
- **Ratification of the Promotional Framework for Occupational Safety and Health Convention No. 187:** In our country where occupational accidents and occupational illnesses are frequently observed, in order to fully meet the international occupational health and security standards and to sustain a legal ground “Promotional Framework Convention for Occupational Safety and Health Convention no. 187” which passed in the 95<sup>th</sup> session of the International Labor Organization General Conference held on 31 may 2006 has been signed (*Law dated 15/5/2013 and numbered 6485, Official Gazette: 29/5/2013, 28661*).



- **Law on the amendment of the social security and universal health insurance law as well as certain other laws:** With the mentioned law; it has been made possible to provide health care to children under 18 unconditionally and any problems in regards to the free benefit of health services for children under 18 have been eliminated. In addition according to the provisions of Law No: 6284 on “The Protection of the Family and Prevention of Violence” for the individuals for whom precautionary measures are taken but who do not have a universal health insurance or who are not covered by the universal health insurance of those who are responsible of them and therefore cannot benefit from the health services are also covered by the Universal health insurance (*Law dated 21/5/2013 numbered 6486, Official Gazette: 29/05/13, 28661*).
- **Establishment of the Living Languages Institute under the Rectorship of Siirt University** (*The decision of the ministers board dated 6/6/2013, Official Gazette: 25/6/2013, 28688*).
- **Amendment to Article 35 of Turkish Armed Forces Internal Service Law:** The Law Amending the Law on Contracted Privates and Non Commissioned Officers and Certain Other Laws introduced an amendment to Article 35 and removed the wording “duty to protect and safeguard” mentioned in the previous version of Article 35 which states that “The duty of Armed Forces is to protect and safeguard the Turkish homeland and the Turkish as stipulated by the Constitution”. The amended article at the moment reads as follows: “The duty of the Armed Forces is to protect the Turkish homeland against threats and dangers which may come from abroad, to ensure the preservation and strengthening of military power in a manner that will provide deterrence, to fulfil the duties abroad delegated with the decision of the Parliament and help maintain international peace”. This amendment abolished the previous provision, which is regarded

as a legal basis for military interventions experienced in the past. The article was rephrased in this respect, which had the purpose of strengthening democracy (*Law No: 6496 dated 13/7/2013, Official Gazette: 31/7/2013, 28724*).

- **Providing an Opportunity for Victims of 28 February to Return to Work:** The new legal arrangement gives civil servants who were dismissed due to disciplinary penalties imposed after 28 February 1997, and those whose candidate civil servant status was ended after 1990 on grounds that they had violated the Regulation on the Attire of Personnel Employed at Public Institutions and Agencies, the right to return to the civil service. It has also been provided that no limitation shall be applied in terms of the number of appointments in the restitution of those dismissed from public service and also that, for those dismissed from the civil service in the 28 February process, the insurance premiums for the intervening period would be paid by the State (*Law No: 6495 dated 12/7/2013 Official Gazette: 2/8/2013, 28726*).
- **Establishment of the Turkish National Youth Council:** With the amendment undertaken, the Turkish National Youth Council has been established within the Ministry of Youth and Sports. Accordingly, the Council shall ensure the active participation in society of young people in the social, economic and political fields and ensure their self-development; contribute to the policies to be developed in the area of youth and carry out national and international studies and projects. Foundations, federations, confederations, youth clubs and similar organizations will be able to become members of the Council (*Law No: 6495 dated 12/7/2013, Official Gazette: 2/8/2013, 28726*).
- **Providing an Opportunity to Reopen Closed Foundations:** The amendment in the relevant law paved the way for new Foundations to be established on application from the charter

members of Foundations that were dissolved or ordered to be dissolved between 1 January 1990 and publication date of this provision, as long as the name and aims of the Foundation remain the same. Moreover, a provision has been introduced whereby the immovable property of dissolved Foundations that have been transferred to the General Directorate of Foundations and that are currently under its discretion shall be transferred to the newly established foundation within three months of the date of court registry (*Law No: 6495 dated 12/7/2013, Official Gazette: 2/8/2013, 28726*).

- **Establishment of the Board for Monitoring and Evaluation of the Rights of the Persons with Disabilities:** Taking into consideration the “UN Convention on the Rights of Persons with Disabilities” and other relevant provisions in our legislation, the “Board for Monitoring and Evaluation of the Rights of the Persons with Disabilities” has been created to carry out studies on the administrative and legal arrangements for the protection, development and utilization of the rights of persons with disabilities; to provide suggestions; to evaluate work to be carried out to inform the public on progress achieved; to commission and approve strategy documents and action plans on this issue and to ensure cooperation and coordination between those institutions involved with the rights of persons with disabilities (*Prime Ministry Circular No. 2103/8 dated 19/7/2013, Official Gazette: 19/7/2013, 28712*).
- **Lifting the Restrictions on Collecting Donations:** Although our citizens in general have the right to collect donations within the context of civil society actions and social responsibility, this freedom has been restricted in certain periods under various justifications. The authority vested in the Turkish Aeronautical Association to collect slaughtered sheep/cattle skin, alms and devotions constitutes one such example. In this regard,

the Turkish Aeronautical Association had exclusive authority to collect donations by collecting slaughtered sheep/cattle skin and guts and distribution of envelopes for alms and devotions. The practice whereby the Turkish Aeronautical Association had exclusive authority was based on the provisions of Article 5 of “Regulation Relating to the Procedure and Principles Applicable to Collection of Aid” issued under the “Social Assistance and Solidarity Law” No. 3294. Considering the level of democratization attained by our country, the aforementioned provision of the Regulation has been abolished whereby the Turkish Aeronautical Association is no longer the sole authorized institution to collect slaughtered sheep/cattle skin and guts as well as alms and devotions (*Article 5 of Regulation on Amendment to Regulation Relating to the Procedure and Principles Applicable to Collection of Aid, Official Gazette: 26/9/2013, 28777*).

- **Lifting the Restriction on Clothing of Female Public Employees:** The overarching arrangements on the clothing and appearances of public employees in Turkey are stipulated in “Regulation on the Clothing and Appearances of Personnel Employed in Public Institutions and Agencies” which entered into force upon the Council of Ministers Decree No. 8/5105 dated 16/7/1982. The aforementioned Regulation, which included restrictive provisions for female public employees, constituted an obstacle to female public employees working while wearing headscarves. The headscarf ban, which is a significant obstacle before women in assuming their deserved position within working life and employment in Turkey, was contradictory to universal human rights and law principles such as the freedom of religion and conscience, the right to work, prohibition of discrimination based on gender and the principle of equality. Within this framework, the amendment to the aforementioned Regulation abolished the headscarf ban on female public employees. In parallel to the afore-

mentioned legal arrangement, the expression “The rule is to uncover one’s head indoors” included in the first sentence of paragraph 2 of the Decree Law No: 2413 on the Clothing of Public Employees of Council of Ministers Decree dated 2/9/1925, which no longer has any scope for implementation, has been abolished (*Regulation No. 2413 Amending the Regulation on Clothing Appearances of Personnel Employed in Public Institutions and Agencies and Decree Amending the Council of Ministers Decree dated 2/9/1925, Official Gazette: 8/10/2013, 28789*).

- **Ending the Practice of Reciting the Student Oath in Primary Schools:** In Turkey, the reciting of the student oath in primary and secondary schools is based on Circular No. 1749/42 dated 18 May 1933 issued by the Ministry of National Education. On this issue, firstly the reciting of the oath in secondary schools was lifted by an amendment to the regulation as published in Official Gazette 28360 dated 21/7/2012. However, the practice of reciting the student oath in primary schools had continued, based on article 12 of “Ministry of National Education Regulation on Primary Education Institutions”. The amendment to the aforementioned Regulation ended the practice of reciting the student oath in primary schools (*Regulation Amending the Ministry of National Education Regulation on Primary Education Institutions, Official Gazette: 8/10/2013, 28789*).
- **Return of the Land of Mor Gabriel Monastery to the Foundation:** The land belonging to Mor Gabriel (Deyrulumur) Monastery located in Midyat district of Mardin province had been transferred to the Treasury following a court case initiated by the Treasury. However, since it has been understood that the Deyrulumur Syriac Monastery Foundation meets the conditions under Provisional Article 11 of the Foundations Law No:

5737 dated 20/2/2008, it was unanimously decided by the Foundations Council of the Prime Ministry General Directorate of Foundations that the 12 plots should be returned to the aforementioned Foundation. This arrangement, which demonstrates that the right to property all our citizens is safeguarded without any discrimination, provided a relief to the injustice suffered by the Syriac community (8/10/2013).



