

16 October 1997

Further information on EXTRA 92/97 (EUR 44/51/97, 30 June 1997 - Fear of arrest as prisoner of conscience)**TURKEY Eşber Yağmurdereli, lawyer**

Lawyer Eşber Yağmurdereli is once again facing imminent arrest, and a prison term of almost 23 years as a prisoner of conscience, as a result of a speech he made in 1991. He has said that he will not go into hiding to avoid arrest.

Eşber Yağmurdereli has previously served 12 years' imprisonment as a result of an unfair trial and conviction based on statements allegedly extracted under torture.

He was first arrested in 1978 and charged with "trying to change the constitutional order by force" under Article 146 of the Turkish Penal Code. He was sentenced to death but this was commuted to life imprisonment on account of his physical disability - he has been blind since the age of 10. His trial failed on a number of counts to meet internationally recognized minimum standards governing fair trials. In 1990 the Minister of Justice offered Eşber Yağmurdereli a pardon on grounds of "ill-health", but he rejected the offer saying that to accept would amount to an admission of guilt. Instead he asked for a fair retrial but this request was denied. In 1991 Eşber Yağmurdereli benefited from a conditional amnesty which suspended four fifths of prison sentences for offences such as that contained in Article 146. Under the terms of the 1991 conditional release, when prisoners reoffend within the scope of the Anti-Terror Law, they may be required to serve the whole of the remainder of the original sentence.

On 8 September 1991, Eşber Yağmurdereli made a speech at a meeting organized by Istanbul Human Rights Association. He was charged with "disseminating separatist propaganda, under Article 8 of the Anti-Terror Law. In June 1994 a sentence of 20 months' imprisonment was handed down by Istanbul State Security Court, which was upheld on appeal. On 7 November 1995 Eşber Yağmurdereli was rearrested. However, in October 1995 the Turkish Parliament had amended Article 8 of the Anti-Terror Law. As a result, all those convicted under the previous wording of the Anti-Terror Law had to be retried. Eşber Yağmurdereli was released again pending retrial. The retrial started on 24 November 1995, and on 15 December 1995 his sentence was commuted to 10 months' imprisonment. On 26 June 1997 the Court of Appeal finally confirmed the sentence.

In August 1997 Samsun Criminal Court, the court which tried Eşber Yağmurdereli in the late 1970s, ruled that he had broken the terms of his conditional release. He, therefore, expects to be rearrested at any time. He was recently quoted in the New York Times as saying: "I have told my friends that I will not go into hiding or try to leave the country. I'm ready to go to jail and wait for a political decision, for political change, for constitutional change that will allow me to be freed." Amnesty International considers that Eşber Yağmurdereli would be a prisoner of conscience if imprisoned again.

If rearrested Eşber Yağmurdereli would have to serve the balance of his life sentence, 22 years, in addition to the 10-month sentence, unless urgent steps are taken. These steps could include one or all of the following: reform or repeal of Article 8 of the Anti-Terror Law, as promised by the Turkish Government earlier this year; quashing of the conviction under Article 8 as being in contravention to Article 10 of the European Human Rights Convention, which safeguards freedom of speech; overturning the original conviction under Article 146 as having been obtained on the basis of statements allegedly extracted under torture - allegations which were never properly investigated as required by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Turkey ratified in 1988.

While in prison in the 1980s E_ber Ya_murdereli became known as a gifted short-story writer, winning a national competition in 1986. Mediation by Eşber Yağmurdereli (together with the novelist Yaşar Kemal, *Refah* (Welfare Party) parliamentary deputy Mukadder Başgeçmez, and musician, writer and

politician Zülfü Livaneli) was critical in bringing to a conclusion the prison hunger-strike of 1996 in which 12 prisoners died.

It is important that Eşber Yağmurdereli's case is kept high-profile, which may be why the authorities have not arrested him so far. His case is currently being transferred to another AI Network, but while this is finalized, another round of appeals from the UA Network would be very useful. Therefore those who took part in this action who are able to send another appeal, please send a telegram/telex/fax/express or airmail letter:

- asking for urgent steps to be taken lift the threat of arrest against Eşber Yağmurdereli and to ensure that he is not imprisoned for exercising his right to freedom of expression;
- pointing out that Amnesty International would consider him a prisoner of conscience.

APPEALS TO:

1. Prime Minister Mr Mesut Yılmaz

Office of the Prime Minister

Başbakanlık

06573 Ankara, Turkey

Telegrams: Prime Minister, Ankara, Turkey

Telexes: 44061/44062/44063 bbmt tr; 42099 basb tr

Faxes: +90 312 417 0476

Salutation: Dear Prime Minister

2. Minister of Justice

Mr Oltan Sungurlu

Adalet Bakanlığı

06659 Ankara, Turkey

Faxes: +90 312 418 5667

Telegrams: Justice Minister, Ankara, Turkey

Salutation: Dear Minister

COPIES TO:

State Minister with responsibility for Human Rights:

Mr Hikmet Sami Türk

Office of the Prime Minister

Başbakanlık

06573 Ankara, Turkey

Faxes: +90 312 417 0476

and to diplomatic representatives of Turkey accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 16 November 1997.