

19 February 2002

AI Index EUR 44/011/2002 - News Service Nr. 30

## **Turkey: "Mini-Democracy" law does not guarantee freedom of expression and freedom from torture**

*Recent legal reforms in the run-up to EU accession still fall short of Turkey's international human rights obligations, despite making small progress in some areas, Amnesty International declared today as Law No. 4744 entered into force.*

*Law No. 4744 -- or the so-called "Mini-Democracy Package" -- was adopted by the Turkish parliament on 6 February. The measures were taken to adjust some Turkish laws to constitutional amendments made in October 2001 in the process of preparing for EU accession.*

*While the organization welcomes some elements of this law, it remains concerned that "the Turkish government has not introduced sufficient safeguards for freedom of expression and effective measures against the persistence of torture in custody."*

*The academic Fikret Baskaya has been in prison since June 2001 for writing an article on the Kurdish issue. He was imprisoned under Article 8, one of the articles modified under the new law, that has been notoriously used in the past to bring dissidents before a court or into jail. Instead of finally abolishing Article 8, the Turkish parliament has even broadened its scope to include visual propaganda in addition to "written and oral propaganda with the aim of violating the indivisible integrity of the state with its territory and nation".*

*Human rights defenders, politicians, writers, journalists and many others who expressed dissident views on the Kurds or Islam have*

increasingly faced trials and convictions under Article 312/2 of the Turkish Penal Code, which carries prison terms of between one and three years for incitement to enmity and hatred based on religious, ethnic, social or regional difference. This has arisen particularly since Article 8 has been applied less often after coming under criticism from the international community, including the EU. Although Law No. 4744 has narrowed the use of Article 312/2, Amnesty International considers that the wording is still too broad, allowing courts to continue to interpret the article in a way which contradicts Turkey's human rights obligations.

Another article that has frequently been used to prosecute human rights defenders is Article 159 of the Turkish Penal Code. For example, since 21 March 2001 women and men who had denounced rape in custody at a conference in June 2000, have been tried on a charge of having insulted the security forces. Amnesty International is disappointed that the scope of the article was not altered, and that the maximum sentence was only reduced from six to three years' imprisonment.

"The practice of torture remains widespread and systematic in Turkey," Amnesty International stated. "Law No. 4744 failed to fully combat two of the major factors contributing to this heinous practice: long detention by police or gendarmerie and incommunicado detention of people held under the scope of the State Security Courts."

Amendments made by Law No. 4744 reduced the maximum length of police and gendarmerie detention before detainees are brought before a judge to four days. In the Region under State of Emergency, this four-day period may be extended to seven days upon the request of the prosecutor and the decision of a judge.

The new law has also reduced the length of *incommunicado* detention. Previously, detainees suspected of crimes under the scope of State Security Courts could only see a lawyer after four days, this period has now been reduced to 48 hours.

"These measures are insufficient to combat torture since in the majority of cases reported, torture apparently occurred within the first 24 hours of police or gendarmerie detention," Amnesty International declared.

"The Turkish government has to thoroughly review its laws and Constitution in order to ensure that its citizens can fully enjoy their human rights, including the right not to be tortured and to peacefully express their opinions."

The organization called on the authorities to release all prisoners of conscience immediately and to reinstate their rights.

For more details on the legal background, the implementation and AI's concerns and recommendations see:

Turkey: Briefing on Law No. 4744 ("Mini-Democracy Package"), February 2002, AI Index: EUR 44/012/2002, <http://web.amnesty.org/web/news.nsf/WebAll/38327DD1BA12E99380256B60005C1BD5?OpenDocument>

Turkey: Torture and prolonged detention in the Region under State of Emergency, February 2002, AI Index: EUR 44/010/2002

Turkey: Constitutional amendments - Still a long way to go, January 2002, AI Index: EUR 44/007/2002, <http://web.amnesty.org/ai.nsf/index/eur440072002?OpenDocument&of=COUNTRIES\TURKEY>

Turkey: An end to torture and impunity is overdue!, October 2001, AI Index: EUR 44/072/2001.

*http://web.amnesty.org/ai.nsf/index/eur440722001?OpenDocument  
&of=COUNTRIES\TURKEY*

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