



AMNESTY INTERNATIONAL TURKEY: APPEAL CASES

20 June 2002; AI Index: EUR 44/032/2002; public

Turgut Koçak, Hasan Yava_ and Necmi Özyurda: Prisoners of conscience after protests against isolation in prisons

Turgut Koçak, Hasan Yava_ and Necmi Özyurda were sentenced to 45 months' imprisonment on 15 May 2001 on charges "of helping and harbouring members of armed groups" by supporting protests against the high-security "F-type" prisons. Amnesty International believes that nobody should be imprisoned for peacefully protesting against the "F-Type" prisons and has adopted the three men as prisoners of conscience.

In late 2000 and early 2001 hundreds of people who demonstrated against the "F-Type prisons" and the prison operation in December 2000 were arrested. The pressure on civil society increased enormously. Representatives of human rights organizations, political parties and trade unions have been charged with "aiding and abetting illegal, armed organizations" under Article 169 of the Turkish Penal Code (TPC) for opposing isolation in "F-Type prisons". In a number of cases AI is convinced that the defendants have not advocated violence and have been solely charged, convicted and imprisoned for peacefully expressing their views. Among them are Turgut Koçak, the chair person of the Socialist Worker's Party of Turkey (TSIP), and Hasan Yava_ and Necmi Özyurda, who are board members of TSIP.

During a demonstration on 12 December 2000 against the "F-Type" prisons, some demonstrators clashed with police officers and supporters of the right-wing National Action Party (MHP) in front of the TSIP office. During these clashes the door and windows of the TSIP office were broken and some protestors sought shelter in the office. The only TSIP executive present that day said that he hid in another office out of fear. In a subsequent search placards and banners related to the hunger strike were found in the TSIP premises. Turgut Koçak, Hasan Yava_ and Necmi Özyurda were arrested on 19 December 2000 - the day of the prison operation - and remanded in Ankara Central Closed Prison in Uluncanlar. At the trial hearing on 15 May 2001 they were released pending appeal in view of the time already spent in detention and the length of the sentence. On the same day they were convicted under Article 169 TPC on charges of aiding and abetting an armed organization and were sentenced to three years and nine months' imprisonment. Throughout the trial the defendants had claimed that other people had put the placards in the party office. One judge opposed the convictions on the grounds that there was no evidence. On 28 November 2001 the 9th Chamber of the Court of Cassation confirmed this verdict. On 1 March 2002 Turgut Koçak and Necmi Özyurda were detained in Ankara. Hasan Yava_ was detained in the Mediterranean town of Ka_ on 21 May 2002.

Amnesty International is concerned that Turgut Koçak, Hasan Yava_ and Necmi Özyurda are prisoners of conscience who have been imprisoned merely for their non-violent political activities.

Article 25 of the Turkish constitution states that "everyone has the right to freedom of thought and opinion" and Article 26 states that "everyone has the right to express and disseminate his thoughts and opinion by speech, in writing or in pictures or through other media, individually or collectively". The same rights are protected in Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms to which Turkey is a state party.

Background information:

The constitutional amendments passed in October 2001, as part of the process of preparing for European Union accession, failed to strengthen the safeguards for freedom of expression and instead introduced new restrictions and retained others. The related Law No. 4709 which entered into force on 17 October 2001 amended Article 26 by introducing further restrictions on the exercise of the right to freedom of expression. Therefore “national security, public order and public safety” can justify exceptions from the right guaranteed by Article 10 of the European Convention of Human Rights, whereas the European Court of Human Rights has interpreted restrictions to Article 10 very narrowly.

On 6 February 2002 the Turkish Parliament adopted Law No. 4744 (“Mini-Democracy-Package”) amending Article 312/2 TCP which carries prison terms of between one and three years for incitement to enmity and hatred based on religious, ethnic, social and regional difference. This law has narrowed the use of this article by introducing the condition “that the incitement was done in a form that could endanger public order”. Nevertheless human rights defenders, politicians and journalists who express dissident views on the Kurdish issue or Islam still face trials and convictions under Article 312 TPC. Among them is Turgut Koçak, who on 9 April 2002 was convicted in a second trial for the expression of non-violent opinions under Article 312 TPC. Ankara State Security Court (SSC) sentenced him for a speech he had made on the 4th Ordinary Congress of the legal pro-Kurdish People’s Democracy Party (HADEP) on 26 November 2000. He faces another 10 months’ imprisonment.

Recommended action:

Please send politely worded letters to the addresses below in English or your own language,

- briefly summarizing the case of Turgut Koçak, Hasan Yava_ and Necmi Özyurda, stressing that they have been imprisoned solely for their non-violent political activities;
- urging that they be immediately and unconditionally released;
- pointing out that Amnesty International has adopted them as prisoners of conscience;
- stressing that their imprisonment is a violation of Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms to which Turkey is a state party;
- urging that all articles of the Turkish Penal Code and the Anti-Terror Law which restrict the right to freedom of peaceful expression be reformed and brought into line with international human rights standards and that courts interpret the law in respect of the right to freedom of expression.

Whom to write:

- **President of Turkey:** President Ahmet Necdet Sezer, Cunnurba_kanl___, 06100 Ankara, Turkey, **Faxes:** +90 312 468 5026, Salutation: Your Excellency
- **Prime Minister:** Mr Bülent Ecevit, Ba_bakanl_k, 06573 Ankara, Turkey, **Faxes:** +90 312 417 0476, Salutation: Dear Prime Minister
- **Minister of Justice:** Prof Hikmet Sami Türk, Adalet Bakanl___, 06659 Ankara, Turkey, **Faxes:** +90 312 418 5667 or +90 312 417 3954, Salutation: Dear Minister

Send copies of your letters to:

- The diplomatic representatives of Turkey accredited to your country
- The Minister of Foreign Affairs: Ismail Cem, Ministry of Foreign Affairs, D__i_leri Bakanl___, 06100 Ankara, Turkey, Faxes: +90 312 287 1581, Salutation: Dear Minister
- The State Minister responsible for Human Rights: Nejat Arseven, address is the same as of Prime Minister, Salutation: Dear State Minister