

TURKEY

Information on Continuing Human Rights Abuses

During the last session of the UN Commission on Human Rights, Amnesty International expressed its strongly held view that the Commission had a duty to act in respect of Turkey's long history of human rights violations, well documented by UN's own expert bodies. The situation has been rapidly worsening since 1990. To the existing problems of torture and prisoners of conscience must now be added the recently developed patterns of extrajudicial execution and "disappearance". "Disappearance" in police custody was virtually unknown in Turkey until 1991. But by 1994, the UN Working Group on Enforced or Involuntary Disappearances made the startling observation that it had received more allegations of "disappearance" from Turkey than from any other country in that year (see below).

The Turkish Government relies on cosmetic legislative changes and public relations initiatives to cover up its failure to carry out those urgently needed reforms which have been recommended by expert bodies and mechanisms of intergovernmental organizations, such as the Committee against Torture. The Turkish Government also takes pains to conceal its security forces' human rights violations by colluding in the protection of security forces from prosecution, by failing to provide proper access to international governmental organizations¹ and international human rights organizations. Two Amnesty International has in this way been indefinitely barred from the country. In September 1994 the researcher at the International Secretariat was denied entry to Turkey. The Turkish authorities did not supply detailed information about the grounds for the ban. In June 1995 an Amnesty delegate was detained in Adana, Turkey, while carrying out research on behalf of the organization.

The 1995 figures present a grim picture. There were more than 35 "disappearances", 15 reported deaths in custody as a result of torture, and more than 80 political killings (some in circumstances suggesting security force involvement). During the course of violent disturbances in Istanbul in March, no less than 23 demonstrators were shot dead by police. Video recordings show police officers apparently firing deliberately into the crowd with semi-automatic weapons (20 officers were indicted for the killings, but the court has suspended proceedings and referred the case for approval by the Istanbul governor who is himself responsible for policing the city under the terms of the Law on the Prosecution of Civil Servants. The Law on the Prosecution of Civil Servants empowers the Board to block certain prosecutions)². In September, three prisoners were apparently beaten to death while

¹ The Turkish Government has refused to invite an OSCE expert mission under the so-called Moscow mechanism; it has also failed to respond to the requests for invitation to visit expressed by the UN Special Rapporteur on extrajudicial, arbitrary or summary executions.

² see Recommendation 6, page 13. In the ten southeastern provinces under emergency legislation, Provincial Administrative Boards can block prosecution of any member of the security forces on any charge other than intentional murder, including manslaughter, torture and rape.

putting down a demonstration in Buca Prison, near Izmir. The indications for 1996 are not promising. In the first ten days of the year four prisoners were beaten to death in an Istanbul prison, a journalist was beaten to death after being detained by police after the funeral of two of those prisoners, and a 14-year-old boy was shot dead in police custody in Mersin.

Turkey should not once again escape close scrutiny by the UN Commission on Human Rights. Though grave, the situation could be remedied, given the political will to act. The Turkish Government has the power, resources and infrastructure to halt the widespread violations by police and gendarmerie forces under its control. The freedom of expression reforms and the safeguards against torture and "disappearance" recommended by Amnesty International and intergovernmental expert bodies, are modest and would do no more than bring Turkey's law and practice into line with its treaty obligations and other internationally accepted human rights standards.

The Turkish Government frequently seeks to draw attention away from the excesses committed by its own police and gendarmes by pointing to the abuses of armed opposition groups. Several armed opposition groups in Turkey not only present tough security problems but are also serious human rights abusers. During 1995, more than 70 civilians and prisoners were killed by armed opposition groups, including the PKK (Kurdish Workers' Party), DHKP-C (Revolutionary People's Communist Party - Front), TIKKO (Turkish Liberation Army of Peasants and Workers) and IBDA-C (Islamic Raiders of the Big East - Front). In the case of the PKK, the abuses have been taking place on a large scale. Since 1984 when it started attacks, the PKK has killed hundreds of civilians and prisoners - and committed at least 60 such killings in 1995 alone. Most of the PKK's victims are Kurdish villagers who participated in the system of government-armed village guards. In some cases their extended families, including women and children, have been killed. Municipal workers and teachers have also been targeted. In the autumn of 1994 armed PKK members abducted and killed 19 teachers, most of whom were working in small villages in the mainly Kurdish southeast. After strong public and international reaction, the killings halted, but then on 28 October 1995 two more teachers Ökke_ Kaya and Gürkan Arıturk and Selim Korkmaz, a contractor, were captured and killed by the PKK. Amnesty International condemns such abuses without qualification.

"Disappearances" and harassment of families of the "disappeared"

The highest number of alleged cases of disappearance reported to have occurred in 1994 was in Turkey. The Working Group expresses particular concern at this considerable

increase in 1994. Report of the UN Working Group on Enforced or Involuntary Disappearances, December 1994 (E/CN.4/1995/36, para 402)

Five years ago, people did not "disappear" in custody in Turkey. In 1991 there were a handful of reports, and several more in 1992. In 1993 there were at least 26. In 1994 there were more than 50 reported "disappearances" and at least 35 in 1995.

The victims of "disappearance" are civilians and include local politicians and journalists. Most of the "disappeared" are Kurdish villagers with no history of political activity, detained during the course of security raids because they were suspected, rightly or wrongly, of giving food or shelter to armed PKK members. In many cases, families suspect that their relatives died under torture, or that they were killed as a reprisal by soldiers when their comrades were killed in clashes with armed PKK members.

On 30 October 1995 seven people were detained during a security operation in the Dargeçit district of Mardin province. The authorities in Dargeçit deny holding the seven. Their families believe that they may have been killed as a reprisal for the killing of the two teachers and a contractor in a PKK attack two days previously (see introduction above).

"Disappearances" also take place in the big cities of western Turkey such as Istanbul and Ankara. Hasan Ocak, wanted by police, was allegedly detained by them in Istanbul on 21 March 1995 and seen by a fellow detainee at Istanbul Police Headquarters. His body later found on a vacant ground in the Beykoz district and buried as that of an unidentified person. Shortly afterwards, the body of R_dvan Karakoç, missing since February and wanted by the police, was found on the same patch of ground as that of Hasan Ocak and also buried without informing his next of kin in Istanbul.

There have since been further "disappearances" in Istanbul. On 19 October 1995 Fehmi Tosun who had spent more than three years in prison on remand for alleged membership of the PKK was abducted by three men carrying walkie-talkie radios in front of his house, according to his wife and daughter who witnessed the abduction. He was never seen again.

The practice of "disappearance" is a human rights violation inflicted not only upon the victims but also upon their families. The families of more than a hundred people who have "disappeared" in the years since 1991 have met a callous lack of concern from the authorities. Relatives who have attempted to draw public attention to their plight have been subjected to ridicule and insults, beatings and detention by local security forces. Some have even been imprisoned.³

³ see Amnesty International: *Families of "disappeared" subjected to brutal treatment*. AI Index: EUR 44/80/95

In its 1995 report the UN Working Group on Enforced or Involuntary Disappearances went on to remind the Turkish Government that it should “take effective legislative, administrative, judicial or other measures to prevent and terminate disappearances” (E/CN.4/1995/36, para 403). No such measures have been taken.

No action to combat torture and other cruel, inhuman or degrading treatment or punishment

...the existence of systematic torture in Turkey cannot be denied. UN Committee against Torture, Report under Article 20, Convention against Torture, 9 November 1993.⁴

In light of all the information at its disposal, the [European Committee for the Prevention of Torture] can only conclude that the practice of torture and other forms of severe ill-treatment of persons in police custody remains widespread in Turkey and that such methods are applied to both ordinary criminal suspects and persons held under anti-terrorism provisions. European Committee for the Prevention of Torture, Public Statement on Turkey, 15 December 1992⁵

In the three years since the first of the above statements was made, the Turkish Government and parliament have done nothing to implement the simple safeguards recommended by both international expert bodies. The chain of bad practice, unreformed legislation and ineffective safeguards remain unaltered. During the same three years, 68 people have died in police custody, apparently as a result of torture.

The findings of two international expert bodies have brought to an end the long debate on the extent of torture in Turkey. Discussion must now move to how and when Turkish citizens are to be given the protection against torture that they deserve.

The most important recommendation of the UN Committee against Torture is that all detainees should be given access to legal counsel and that the maximum police detention period should be shortened to meet international standards. These recommendations have not, however, been effectively implemented.

⁴ A/48/44/Add.1, Activities of the Committee against Torture pursuant to Article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

⁵ A wide-ranging report on torture by the High Consultative Committee on Human Rights (attached to the office of the Prime Minister) issued in May 1995 echoed the analysis and recommendations of both international expert bodies. The report was denied official publicity and effectively suppressed.

According to amendments to the 1992 Criminal Procedure Code, common criminals are supposed to have access to legal counsel and be brought before a judge after 24 hours in police custody (in exceptional cases, involving more than one defendant and with the permission of the prosecutor, this may be extended to eight days). Meanwhile, those detained for offences under the very broadly drawn Anti-Terror Law, which includes non-violent offences, are explicitly denied access to a lawyer and may be held for up to 30 days.

In practice, however, common criminal detainees are processed in much the same way as those detained under the Anti-Terror Law.⁶ Amnesty International strongly endorses the recommendations of the UN Committee against Torture and others, believing that the patterns of torture and ill-treatment in police stations and gendarmeries can only be broken if safeguards provided by international human rights standards are extended to all detainees. Safeguards against torture would also help to curb "disappearances" which in most cases happens as torturers attempt to conceal a death of one of their victims.

Amnesty International continues to receive many credible allegations of torture - often corroborated by medical evidence. The victims of torture include male and female detainees interrogated in connection with common criminal offences as well as offences under the Anti-Terror Law. The favoured methods of torture are those which leave little or no medical evidence: hosing with cold water, hanging by the arms or by the wrists bound behind the victim's back, death threats, electric shocks, and sexual assault. Amnesty International has noted an increase in allegations of torture of children.

Fourteen-year-old Halil Can Do_an alleged that he had been beaten, stripped naked, soaked with water under pressure and that his testicles had been squeezed during two and a half days in detention at Ankara Police Headquarters in March 1995. He was again detained on 10 April and spent one night at Ankara Police Headquarters in a cell and was subjected to beating. On this occasion his allegation was supported by a medical report detailing "hyperaemic lesions 1-1.5 cm wide and 6-7 cm long around his neck and a 2 x 2 cm bruise on his left chest."

Twelve-year-old Döne Talun complained that she was beaten, hung by the arms and subjected to electric shocks during interrogation at Ankara Police Headquarters after being detained on 12 December 1994 in the Çubuk district of the capital. Although individuals suspected of offences not covered by the Anti-Terror Law have the right to legal counsel and are supposed to be brought before a judge within 24 hours, Döne Talun

⁶ A report prepared by members of the Istanbul Bar Association in October 1995 on the basis of their experience as duty lawyers stated that those detained for ordinary criminal offences were held long beyond the maximum periods laid down in the Criminal Procedure Code; detainees were not informed of their rights; police routinely failed properly to notify prosecutors or detainees' families.

was held without access to family or legal counsel for five days. A report issued by a doctor examining her on behalf of the Turkish Human Rights Foundation stated "the head and neck region were bruised and there was a scar between 0.5 and 1 cm on the cheek bone. She had signs of wounds on her skin, possibly made by blows...red marks on the forearms. There was evidence of minor bleeding and bruising on her stomach."

In 1995 at least 15 detainees died in custody, apparently as a result of torture. The most recent case of death in custody, in early January 1996, are not only particularly shocking, but also clearly illustrative of patterns to which Amnesty International has drawn attention over several years.

Metin Göktepe, reporter for the daily newspaper *Evrensel* (Universal), was detained on 8 January in the Alibeyköy district of Istanbul while covering the funeral of two of the four political prisoners beaten to death on 4 January at Ümraniye prison. That day, according to official accounts, 705 people detained while attending the funeral were held at Eyüp Sports Centre which is surrounded by a 3.5m high wall. Witnesses reported to Amnesty International that detainees in the Eyüp Sport Centre were severely beaten.

Metin Göktepe's body was found on 8 January at 8.30 pm within the grounds of Eyüp Sports Centre. An autopsy report issued on 9 January by the Forensic Medicine Department at Istanbul University clearly suggests that Metin Göktepe was beaten to death: "death ... resulted from subdural and subarachnoidal brain haemorrhage associated with trauma to the head from a blunt object and internal bleeding".

There followed several days of official evasion until public outrage prompted the Interior Ministry to initiate an investigation. Two weeks after the journalist's death, 15 police officers, including the Eyüp Police Chief, were suspended from duty. Developments were stalled while the Provincial Administrative Board of the Istanbul governor's office considered whether or not to permit the prosecution to go ahead. In February the Board finally approved prosecution of eleven police officers for murder under Article 463 of the Turkish Penal Code (TPC). Thirty-four other officers are to be prosecuted under Article 245 of the TPC for ill-treatment of other detainees during the same operation. The Provincial Administrative Board ruled against prosecution of Eyüp Police Chief for neglecting his duty and attempting to conceal the death of Metin Göktepe.

Extrajudicial executions

The Special Rapporteur ... remains concerned at the persistent and grave allegations of violations of the right to life in Turkey, particularly in the south-east of the country. For more than two years, the Special Rapporteur has found himself in the position where numerous allegations from a variety of credible sources and the replies provided by the Government, which invariably state that the killings are not of an extrajudicial, summary

or arbitrary character, contradict each other. Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions (UN document E/CN.4/1995/61, para 315).

Amnesty International continues to receive reports of extrajudicial executions from all parts of Turkey. In the rural areas of the southeast provinces under state of emergency, victims are mainly members of villages which have refused to join the civil defence corps of village guards armed and paid by the government. Villagers face an impossible dilemma: if they agree to become village guards they expose themselves to attack by armed members of the PKK. On the other hand, if they refuse, they risk reprisals from neighbouring village guards or from gendarmerie or special team units⁷ who have burned and otherwise destroyed hundreds of villages since 1990.

As a result, hundreds of thousands of villagers have sought refuge in the cities. In urban areas of the southeast and south it is political activists who become the targets of extrajudicial executions. There were nearly 400 apparently politically motivated street killings in 1994, and at least 80 in 1995. Some of those killed were involved in organizations that are legally recognized, but viewed with suspicion by the authorities and considered to be "separatist" - trade unions, political parties or newspapers. The clearest identifiable group of victims are members of the Peoples' Democracy Party (HADEP), a legal political party with largely Kurdish membership. Its predecessors HEP and DEP were closed down by the Constitutional Court for "separatism". More than 100 members and officials of these parties, including the parliamentary deputy Mehmet Sincar (see below), have been killed in street shootings since 1992.

The government initially ignored the unprecedented wave of political killings in 1992, and then began to attribute them to internecine fighting between PKK and Hizbullah, an Islamic organization unrelated to the Lebanese group of the same name. Some of the killings can be explained as settling of scores between rival illegal organizations but many others appear to have been extrajudicial executions carried out directly by security forces, or by security forces using members of the so-called Ilim wing of Hizbullah. There is also considerable evidence that security forces have used so-called "confessors" (people who have turned state's evidence in exchange for a lighter sentence under the Repentance Law) and village guards as proxies (for example, in the case of _erif Av_ar, abducted and killed, apparently by a group of village guards, a "confessor" and a gendarmerie officer.⁸

There has been a series of government operations against Ilim and its rival, the Menzil wing, in past months which may explain in some measure the reduction in street

⁷ Ozel Tim - trained for close combat with armed members of the PKK, under the authority of the Interior Ministry.

⁸ Amnesty International: *Policy of Denial* AI Index: EUR 44/01/95, pp 15-17)

killings in 1995. There are grounds, however, to be cautious in accepting at face value publicly announced measures against mysterious organizations implicated in the killing of political opponents of the government. After receiving reports that captured Hizbullah gunmen were being released without prosecution, Amnesty International wrote on several occasions to the Justice Ministry for information about the progress of prosecutions of alleged members of Hizbullah. The Ministry did not respond.

Details later emerged about one important case, however, which appears to justify suspicions that some operations against Hizbullah may be carried out for the sake of appearance rather than as a serious measure against an illegal armed group. In response to an urgent appeal about the killing of the Kurdish parliamentary deputy Mehmet Sincar in broad daylight in the heavily policed city of Batman on 4 September 1993, the Turkish Embassy in Madrid replied to Amnesty International on 2 December 1993 saying that "investigations by the security forces have resulted in the detention of 15 suspects. Three of the detainees have confessed to having participated in [the killing of Mehmet Sincar] together with two other persons, all presumed to be members of the radical illegal organization which calls itself Hizbullah". It was not until 1995 that a report issued by the Inter-Parliamentary Union (IPU) [DH/69/95/MISTUR/R.1, p20] revealed some of the details Amnesty International had hoped to receive in its requests for information about the Hizbullah trials. The delegation was told by the Ministry of Justice that although the killing was established to have been committed by Hizbullah, *all those originally detained for the killing were acquitted for lack of evidence in November 1994.*

In Istanbul and Ankara, since 1991, more than 50 young people have been killed in police raids on cafés and houses. Credible allegations of extrajudicial execution have arisen from the repeated reports that in the course of such raids warnings to surrender were not given and that attempts to surrender were ignored. In many cases, those killed were unarmed.

A typical case is that of Mustafa Selçuk, Seyhan Ayyıldız (f) and İrin Erol (f), who were shot dead on 12 April 1995 by police raiding a house in the Bakırköy district of Ankara. The police claimed that the three were armed members of the illegal organization DHKP-C and that they were unavoidably killed in the course of an armed clash. Legal counsel of Mustafa Selçuk's family were denied entry to the scene of the crime and also to his autopsy. A delegation comprising representatives of the Turkish Human Rights Association and the Progressive Jurists' Association examined the house. They reported that the distribution of bullet holes and bloodstains suggested that the three were shot dead from close range after being made to lie on the floor. A formal complaint accusing the police of unlawful killing was rejected by the Ankara Chief Prosecutor in July 1995. An appeal against that rejection is due to be heard at Ankara Criminal Court. The former Minister for Human Rights Algan Hacaloğlu was reported by the Turkish Daily News on 27 April 1995 as having described the incident as "an execution without trial". The

Minister prepared a report on the incident which is currently being examined by the Parliamentary Judicial Committee.

The Parliamentary Commission on Unsolved Political Killings was set up in February 1993. Composed of politicians and not independent experts it could hardly be impartial. It did not have powers to protect witnesses, despite reporting that its witnesses were intimidated. The members of the Parliamentary Commission were provided with completely insufficient resources and reported great difficulty in getting documents and information in spite of their official parliamentary status.

More than two years after it was set up, the Parliamentary Commission on Unsolved Political Killings finally published its report in April 1995. More than a thousand fresh killings had occurred since the Commission began its deliberations. The report is an unusual document that seeks to exonerate the security forces from any involvement in political killings (in some cases, in the face of rather strong evidence), while describing a context of deeply questionable practices on the part of almost all authorities in the region under emergency. The report confirms that village guards and "confessors" are involved in lawless activities including killing and extortion; that "confessors" were illegally released from prison to accompany security forces on operations; that crimes committed by "confessors" were covered up by the intervention of public officials. The report also describes an official cover-up of collusion between gendarmerie and the illegal armed organization Hizbullah.⁹

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has repeatedly asked the Turkish Government, in vain, to be invited to Turkey (see UN Document E/CN.4/1995/61). In 1995, Turkey again failed to extend such an invitation.

⁹ "On 27 July 1993 at Batman Police Headquarters, the Chief of Batman Police and the Deputy Governor of Batman told the Commission that they had received information that there was a camp belonging to Hizbullah in the region of Seku, Gönüllü and Çiçekli villages, in the Gerçü_ district of Batman, and that military units in the area were giving assistance to this camp; that they had spoken to gendarmerie officials and that authorized military persons had told them that the militants of this organization had abused the relations in various ways, and for this reason they became disgusted with the organization and severed their links." Commission Report, p 5. The Commission wrote to the General Headquarters of the Gendarmerie who denied that there was any such camp. The report notes, however, that the Chief of Batman Police "in spite of the fact that he had shown success in the fight with terrorism, and had been successful in his post, was shortly afterwards and without any reason given, appointed to a passive post at the centre. That is to say, a public official who had told the Commission all he knew on certain subjects, in a sincere manner, ended up being removed from his post. After this event, public officials began to be visibly nervous towards the Commission. A number of officials who had previously readily given information to the Commission, refused to give information after this event, and provided data and documents only after long correspondence." Commission Report, p. 6.

Freedom of speech - fudged reform leaves prisoners of conscience behind bars

At the start of 1995 there were over a hundred prisoners in Turkish prisons either convicted or on remand under Article 8 of the Anti-Terror Law, which provides for up to five years' imprisonment for anyone convicted of "separatist propaganda". The law was clearly in violation of Article 10 of the European Convention on the Protection of Human Rights and Fundamental Freedoms. Many leading politicians, including government ministers, had acknowledged that the imprisonment of journalists, artists and academics under Article 8 was a disgrace and a stain on Turkey's international reputation. Nevertheless a group of parliamentary deputies in Prime Minister Çiller's own party opposed abolition or reform on the grounds that Article 8 protected the "indivisible unity" of the Republic.

In October 1995, under intense pressure from the European Parliament, which was closely monitoring human rights prior to its approval of a customs union between the European Union and Turkey in December, a compromise was reached. The Turkish Parliament enacted a modification of Article 8 under which "separatist propaganda" remained an imprisonable offence, but with maximum prison sentences reduced from five to three years. The phrase "irrespective of the methods and aims and ideas" has been removed, and courts are given discretion to fine or give suspended sentences as an alternative to a custodial sentence.

A hundred prisoners, including prisoners of conscience - accounting for nearly all those in custody under Article 8 - were released and the release was publicly welcomed by Amnesty International. A manifestly bad law, however, was left intact, and Turkish citizens can still be imprisoned for expressing non-violent opinions. Indeed there are still prisoners of conscience in prison. The former parliamentary deputy and President of the Party for Democracy and Renewal Ibrahim Aksoy has been in prison since October 1995 and it is expected that he will serve six months' imprisonment under Article 8 for speeches and writings. The prison sentences of most of those who were released have been reduced rather than quashed on review. If the reduced sentences are confirmed by the Appeal Court, they will return to prison. For example, the lawyer and human rights activist Eren Keskin, imprisoned for her writings under Article 8, was released in December, but the prison sentences against her are now being reviewed, while three other trials under Article 8 are proceeding in Istanbul State Security Court. Istanbul State Security Court has already passed a 10 month sentence under the new terms of Article 8 on the blind lawyer E_ber Ya_murdereli for a speech he gave in 1991 at a meeting organized by the Istanbul branch of the Turkish Human Rights Association. He is currently at liberty pending appeal.

Amnesty International had also noted that as pressure to change Article 8 increased, prosecutors had already begun to switch to alternative articles of the Turkish

Penal Code (TPC) in their prosecution of dissident writers, artists, journalists and human rights activists for "separatist" statements. On 23 October 1995 Fevzi Gerçek, president of a health workers' union, began a two-year sentence under Article 312¹⁰ of the TPC for an article in a minor political journal.

The case of Selahattin _im_ek

In addition to its general concerns in Turkey, Amnesty International is deeply concerned about the case of an individual who is seeking retrial, and whose imprisonment (for more than 15 years) has been deemed arbitrary by an expert body of the United Nations.

Selahattin _im_ek, formerly a teacher, has been in prison since 1980. He is currently held in Ceyhan Prison near Adana, serving life imprisonment after conviction for alleged involvement in robbery and the killing of a policeman on behalf of the PKK. His current release date is 31 May 2000. At the time of his initial detention, Selahattin _im_ek was tortured. Amnesty International believes that Selahattin _im_ek was sentenced after a grossly unfair trial in a martial law court which may have resulted in a miscarriage of justice and has repeatedly appealed to the Turkish authorities for him to be retried.

Selahattin _im_ek, who has consistently maintained his innocence since his arrest fifteen years ago, has made several submissions to the Military Court of Appeal for retrial, but so far all were rejected. In 1987 the Military Court of Appeal confirmed a sentence of death, overruling a request by the Martial Law Court Prosecutor that he should be acquitted of the robbery and retried for the murder. Selahattin _im_ek was horrifically tortured for four weeks during police interrogation. During his trial eye-witnesses to the crimes imputed to him did not identify him. His conviction was based on evidence of incriminating and contradictory statements by other defendants who had also allegedly been tortured.

Amnesty International submitted the case to the UN Working Group on Arbitrary Detention. The Working Group forwarded the allegations of torture and unfair trial to the Turkish Government on 21 April 1995, and asked the Government to reply within 90 days. It did not receive a reply. On 14 September 1995, the Working Group ruled Selahattin _im_ek's detention to be arbitrary, "in contravention of Article 5 of the Universal Declaration of Human Rights and of Articles 7 and 14 (3)(b), (e) and (g) of the International Covenant on Civil and Political Rights" (Decision No. 34/1995 [Turkey]). The Working Group also requested the Turkish Government to "take the necessary steps to remedy the situation". Amnesty International is not aware that any such steps have yet

¹⁰ Article 312 punishes provocation to religious, racial or class hatred with up to three years' imprisonment, but has been used on several occasions to punish non-violent "separatist" statements.

been taken. For full details of this case, see *Selahattin _im_ek: 12 years in prison after unfair trial* (AI Index: EUR 44/09/93, March 1993).

Practical steps towards ending human rights violations in Turkey

Amnesty International calls on governments to encourage the Turkish Government to take a number of modest and practical steps to address systematic human rights violations in Turkey:

1. Urge the Turkish authorities to implement the recommendations contained in the November 1993 report of the UN Committee against Torture - specifically: that all detainees, including those detained on suspicion of offences under the Anti-Terror Law, should be given access to legal counsel, and that the maximum period of police detention should be reduced from the present maximum of 30 days, so that detainees are brought promptly before a judge. ***Because detainees in Turkey are at gravest risk of torture while in police custody, and in the light of the right of those detained for criminal offences to have full access to their lawyer without delay, Amnesty International urges that the government to amend the law so that all detainees in all parts of the country are brought before a court within 24 hours of arrest and thereafter kept in detention only under the supervision of a court.***
2. Express concern about the increase in well-founded allegations of extrajudicial execution and "disappearance", and the failure of the authorities to conduct thorough, prompt and impartial investigations. Urge the Turkish Government to extend invitations to the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, as well as the Working Group on Enforced or Involuntary Disappearances, to visit the country in 1996.
3. Urge the Turkish authorities to ensure that all reports of extrajudicial executions are fully investigated in accordance with the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.
4. Urge the Turkish authorities to account for the scores of people who have "disappeared" in the custody of security forces since 1991.
5. Call for the immediate and unconditional release of all prisoners of conscience, and urge the Turkish Government to proceed with thoroughgoing reform of Article 8 of the Anti-Terror Law, which provides for terms of imprisonment of up to three years for allegedly "separatist" statements, even where no advocacy of violence has been made, and other relevant articles of the penal code under which prisoners of conscience are being held.

6. Urge the Turkish authorities to ensure that the Law on the Prosecution of Civil Servants (which permits local governors to block or delay prosecutions of security force members) is not applied to allegations of extrajudicial executions, torture or ill-treatment by police or other civil servants.

7. Following the decision of the Working Group on Arbitrary Detention that Selahattin im_ek's detention is arbitrary, urge the Turkish authorities to ensure that Selahattin im_ek's conviction be reviewed, and that he be promptly retried or released.

Appendix I : Amnesty International documents on Turkey, 1995

A policy of denial
(EUR 44/01/95, February 1995)

Recommendations for action to combat systematic violations of Human Rights
(EUR 44/06/95, January 1995)

Torture of 13-year-old in Istanbul
(EUR 44/18/95, February 1995)

A policy of denial - update I
(EUR 44/24/95, February 1995)

Mothers of "disappeared" take action
(EUR 44/55/95, May 95)

Mothers of "disappeared" take action - update I
(EUR 44/67/95, June 1995)

Families of "disappeared" subjected to brutal treatment
(EUR 44/80/95, September 1995)

Unfulfilled promise of reform
(EUR 44/87/95, September 1995)

Appendix II : Ratification by Turkey of major international human rights treaties

The following lists reflect information available to Amnesty International as of December 1995

Turkey	Signature X= Date Unknown	Date of : Ratification Accession Succession Declaration	Status
UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	25.01.88	2.8.88	ratified
UN Convention on the Rights of the Child	14.9.90		
UN Convention on the Elimination of All Forms of Discrimination Against Women		20.12.85	acceded
UN International Convention on the Elimination of All Forms of Racial Discrimination	13.10.72		
ILO Convention No. 87: Freedom of Association and Protection of the Right to Organize (1948)		12.7.93	ratified
ILO Convention No. 98: Right to Organize and Collective Bargaining (1949)		23.01.52	ratified
COE: European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)	4.11.50	18.5.54	ratified

Appendix III: Action by UN human rights bodies on Turkey

1995 Decision of Sub-Commission on Prevention of Discrimination and Protection of Minorities 1995/108 Situation of human rights in Turkey (E/CN.4/Sub.2/1995/L.11/Add.4)

At its 26th meeting, on 18 August 1995, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, taking note of the positive initiatives undertaken by the Turkish authorities in the field of freedom of expression, decided by 11 votes to 9, with 2 abstentions, to postpone consideration of the questions until its next session in expectation of the implementation of those measures.

Appendix IV: Relevant extracts from reports of the UN Thematic Mechanisms on Turkey

Observations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions - Mr Bacre Waly N'diaye, submitted pursuant to Commission on Human Rights resolution 1994/82 (E/CN.4/1995/61)

“The Special Rapporteur wishes to thank the Government for the replies provided to some of his communications. However, he remains concerned at the persistent and grave allegations of violations of the right to life in Turkey, particularly in the south-east of the country. For more than two years, the Special Rapporteur has found himself in a position where numerous allegations from a variety of credible sources and the replies provided by the Government, which invariably states that the killings are not of an extrajudicial, summary or arbitrary character, contradict each other. The Special Rapporteur has stated on repeated occasions that on-site visit would be the only way for him to seek independent information with a view to evaluating accurately both the allegations and the replies received. With regard to Turkey, he first sought an invitation to carry out a visit there in August 1992. He has since then manifested his interest in visiting Turkey on various occasions. During a meeting in Geneva with the Permanent Representative of Turkey to the United Nations Office in Geneva, the Special Rapporteur was informed that the Turkish authorities were in agreement with the principle of a visit. This position was reiterated in subsequent contacts, in particular during a meeting on November 19 1993. However, as indicated in the Special Rapporteur’s report to the Commission on Human Rights at its fiftieth session (see below), the consultations concerning his visit to Turkey have not yet yielded any result.” (para 315)

Report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1995/36)

“During 1994, the Working Group transmitted 72 newly reported cases of disappearance to the Government of Turkey, of which 55 are reported to have occurred in 1994. Seventeen of the cases were alleged to have taken place at the end of 1993. All except 14 of the newly reported cases were transmitted under the urgent action procedure. During the same period, the Working Group clarified 33 cases and retransmitted to the Government 12 cases, updated with new information from the source.” (para 394)

“In addition to the individual cases of disappearance, the Working Group also received information of a general nature from several non-governmental organizations, according to which human rights activists monitoring the human rights situation in Turkey are being harassed, detained, tortured, imprisoned and threatened to have disappeared.

It is also reported that a state of emergency is in force in the south-east provinces of Turkey and that in those regions the police and gendarmerie have the right to detain persons suspected of political offences in incommunicado detention for up to one month. Such persons, who are to be tried in State security courts may reportedly be held without charge for a period of 15 days, which can allegedly be extended to 30 days in provinces under emergency legislation, such as Diyarbakır.

In addition, it is alleged that the detainees are denied access to their lawyer, family, friends or doctor. Reportedly, procedures laid down in the Turkish Criminal Procedure Code for the prompt and proper registration and notification is said to facilitate the disappearance of detainees.

It is also alleged that military operations against villages in this region, which reportedly intensified in 1994, have led to many allegations of disappearance.” (paras 397-400)

“The highest number of alleged cases of disappearance reported to have occurred in 1994 was in Turkey. The Working Group expresses particular concern at this considerable increase in 1994.” (para 402)

“While the Group welcomes the cooperation of the Government \with regard to investigating the cases, it wishes, nevertheless, to remind it of its responsibility under the Declaration to take effective legislative, administrative, judicial or other measures to prevent and terminate disappearances. In particular, all acts of enforced disappearance should be made offences under criminal law, punishable by appropriate penalties, and effective steps should be taken to bring perpetrators to justice. In addition the Government should respect and ensure all guarantees for the protection of the personal liberty and integrity of detainees.” (para 403)

Special Rapporteur’s report to the Commission on Human Rights at its 50th session
(E/CN.4/1994/7)

“The reports and allegations received by the Special Rapporteur indicate that violations of the right to life continued to occur during 1994 in the context of the armed conflict between government security forces and guerillas of the Partiya Karkeren Kurdistan (Kurdish Workers’ Party, PKK) in the south-eastern parts of Turkey.

The Special Rapporteur remains concerned at the persistent and grave allegations of violations of the right to life in Turkey, particularly in the south-east of the country. For more than two years, the Special Rapporteur has found himself in a position where numerous allegations from a variety of credible sources and the replies provided by the government, which invariably states that the killings are not of an extrajudicial, summary or arbitrary character, contradict each other. The Special Rapporteur has stated on several occasions that an on-site visit would be the only way for him to seek independent information with a view to evaluating accurately both the allegations and the replies received. With regard to Turkey, he first sought an invitation to carry out a visit there in August 1992. He has since then manifested his interest in visiting Turkey on various occasions. During a meeting in Geneva with the Permanent Representative of Turkey to the United Nations Office in Geneva, the Special Rapporteur was informed that the Turkish authorities were in agreement with the principle of a visit. This position was reiterated in subsequent contacts , in particular during a meeting on 19 November 1993. However, as indicated by the Special Rapporteur’s report to, the Commission on Human Rights at its fiftieth session, the consultations concerning his visit to Turkey have not yet yielded any result. Indeed, the Special Rapporteur finds the fact that a visit has not yet materialized, despite repeated assurances from the Government of a period of over two years that a visit by the Special Rapporteur would meet with their agreement, gives rise to the question whether the Government is genuinely willing to invite him.” (para 612)

Observations made by Special Rapporteur on torture - Mr Nigel S Rodley, pursuant to Commission on Human Rights resolution 1992/32 (E/CN.4/1995/34)

“The Special Rapporteur remains concerned that the provisions for prolonged incommunicado detention, especially those applicable in emergency zones, remain in force despite repeated recommendations that they be removed. He believes that they provide a fertile context for the infliction of torture of detainees which continues to be systematic, the perpetrators acting with virtual impunity. While grateful for the replies he has received, he finds most of them contain unsubstantiated flat denials evince a willingness to accept the version of events of the authorities or certain medical personnel, which patently lack credibility. Sadly, most such replies risk being taken by those responsible for the torture of the Government’s willingness to protect them and to have them continue the practice.” (para 826)

Report of the Working Group on Arbitrary Detention (E/CN.4/1995/31)

During the period of January to December 1994, the Working Group transmitted 4 newly reported individual cases of alleged arbitrary detention to the Government of Turkey. The Government of Turkey provided the Working Group with information regarding some of the cases transmitted to them.

In respect of communications transmitted prior to the period January - December 1994, the Working Group received replies from the Government of Turkey.

During the period of January to December 1994, the Working Group transmitted two urgent appeals to the Government of Turkey, involving seven persons. “In conformity with paragraph 11 (a) of its methods of work, the Working Group without in any way prejudging the final assessment of whether the detention was arbitrary or not, drew the attention to the Government concerned to a specific case as reported and appeal to it to take the necessary measures to ensure that the detained persons’ right to life and to physical integrity were respected. In some cases, in view of the particularly dangerous health condition in which the detained persons were reported to be, or in view of other particular circumstances, such as the existence of a court order to release the person, the Working Group also appealed to the Government to consider releasing the persons without delay.” (para 13)

Special Rapporteur Report on Religious Intolerance - Mr Abelfattah Amor, in accordance with the Commission on Human Rights resolution 1994/18 (E/CN.4/1995/91)

“In a communication dated 5 September 1994, the Special Rapporteur transmitted the following observations to the Government of Turkey:

According to information received, the Assyro-Chaldean minority are suffering serious violations, in particular in the area of religious tolerance. In religious matters, their freedoms are being curtailed and Muslim religious education is compulsory for this Christian minority. In the monasteries, activities have been cut back and made subject to prior supervision of the authorities. In practice, the right to build new churches cannot be exercised. The Assyro-Chaldeans have no schools, even at

primary level, or social institutions; they are forbidden to open their own establishments. They are also banned from public service.

They are also reported to be the victims of regular attacks by armed individuals and groups who not only rob them of their property and abduct their daughters, but also perpetrate murder, thereby creating an atmosphere of fear, apparently with the aim of forcing them to leave their villages. Thus, since 1975, more than 100,000 Assyro-Chaldeans have left the country and only 10,000 remain.