

JAPAN

Open Letter to the Minister of Justice, Komura Masahiko: Kurdish asylum seekers face deportation to Turkey where they are at risk of being detained and tortured

Dear Minister

Amnesty International has raised the issue of asylum seekers in Japan on several occasions urging you to ensure that the Government of Japan, being a state party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, should introduce fair and transparent procedures whereby individuals can apply for asylum in Japan, in line with its international obligations. On 8 December 2000, I submitted to you a Memorandum of Concerns in which Amnesty International expressed its concern that in practice, applying for asylum and obtaining refugee status in Japan continue to be extremely difficult. I expressed concern that an unknown number of asylum-seekers were being detained in Immigration Facilities at ports and airports in Japan. Amnesty International continues to be concerned about the repatriation of most people who are detained in such facilities violating the internationally recognised principle of *non-refoulement*, whereby no one should be forcibly returned to a country or to its borders where they may be at risk of human rights violations including torture and arbitrary detention.

Today we wish to call your attention to the case of two Kurdish men, Hasan Cikan and another Kurdish asylum seeker (name withheld) who face detention and torture in Turkey if they are deported from Japan. They were not allowed to enter Japan and their “applications to enter Japan” and “landing permissions for temporary refuge status” were both rejected. If their application for refugee status is denied or the

deportation order is enforced by Japanese immigration authorities, Hasan Cikan and his fellow Kurdish asylum-seeker face deportation to Turkey where there is a serious risk that they may be detained and possibly tortured.

Both Kurdish asylum seekers landed in Narita Airport on 20 February 2001 and on denial of their application to enter Japan, were detained in the Immigration Detention Facilities at Narita Airport. They were initially detained at the Landing Prevention Facility at Narita Airport (LPF-NA) between 20 February and 27 February 2001. Amnesty International has already voiced concerns about the LPF-NA, after receiving reports of ill-treatment of its detainees by security staff and of inhumane detention conditions in the LPF-NA.¹ An Amnesty International delegation was allowed to visit the LPF-NA on 22 December 2000 and expressed dissatisfaction at the inadequate action taken against the concerned security staff of the LPF-NA who had allegedly committed human rights violations against detainees.

Hasan Cikan and his Kurdish companion applied for “landing permission for temporary refuge status” on 23 February 2001, but were rejected on 26 February 2001. The two men were apparently asked to sign a document, on 23 February 2001, waiving their right to appeal against the decision of immigration officials, but both men refused. They applied for refugee status on 27 February 2001 and, after representations by their lawyers, the immigration authorities have accepted to process their applications. However, the fact that their claims for asylum are being examined has not exempted them from the risk of being deported from Japan to Turkey. They were transferred to the Immigration Detention Facility at Ushiku on 6 March 2001 where they remain in detention.

¹ See *Japan: Landing Prevention Facility* (AI Index No. ASA 22/04/00 published in August 2000).

Amnesty International urges your Government and the Immigration Authorities who are under your Ministry to immediately stop the deportation procedure against Hasan Cikan and his fellow Kurdish asylum seeker while their applications for refugee status are being considered.

Amnesty International urges your Government to refrain from detaining asylum-seekers unless on grounds that are recognized in international standards. The decision to detain any asylum-seekers should be subject to automatic and periodical review before a judicial authority.

Hasan Cikan had earlier sought asylum in Japan but had been rejected for failing to meet the 60 day rule². After returning to Turkey, Hasan Cikan was detained by Turkish gendarmarie in October 1999 on charges of raising funds in Japan and sending money to the armed opposition group Kurdistan Workers= Party (PKK). While in detention in Turkey, he claims that he was beaten, that he was hit on the head with a gun, and that as a result of the beatings, his teeth were broken. Reportedly, he was provisionally released but was questioned by the State Security Court in Adana in December 1999 and in February 2000. He has also apparently been required to report to the law enforcement authorities in Gaziantep once every month. Hasan

² *In Japan, an asylum-seeker is expected to submit the forms and all relevant documents/evidence supporting his case within sixty days of arriving in Japan. While there have been some exceptions to the rule, it appears that many asylum applications have been rejected on these grounds.*

Cikan had been reportedly warned by the Turkish authorities that if he did not observe the rules of his provisional release, he risked imprisonment of not less than three years. Amnesty International has documented numerous cases of torture and ill-treatment of people suspected of support for the PKK in Turkey.³ Following his attempt to seek asylum in Japan, Hasan Cikan has not observed the rules of his provisional release and given his alleged links to the PKK, Amnesty International fears that if he is forcibly returned to Turkey, Hasan Cikan may face torture and ill-treatment. He could also be prosecuted and could face long-term imprisonment.

Amnesty International urges your Government to uphold the internationally accepted principle of *non-refoulement*. The principle of *non-refoulement* is enshrined in Article 33 of the Convention relating to the Status of Refugees 1951 and Article 3 of the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment 1984, both conventions to which Japan is a state party. Amnesty International urges your Government to apply the principle of *non-refoulement* consistently not only in the refugee recognition process, but also in the decision-making process of the immigration officials to grant asylum seekers permission to enter Japan and in granting them permission to apply for temporary asylum seeker's status.

³ See *Turkey: Torture - a major concern in 1999* (AI Index: EUR 44/18/00, issued in March 2000).

Amnesty International has serious concerns about fairness of the procedure under which the two Kurdish men were questioned by the Japanese immigration authorities at Narita airport. The two men were reportedly questioned by the immigration authorities with the help of a Turkish national. The two men felt unable to answer the questions given the political sensitivity of their situation in Turkey.

Amnesty International urges the immigration authorities who are under your Ministry's authority to ensure adequate interpretation facilities during the questioning of asylum seekers by the immigration authorities, taking full consideration of the political sensitivities of the situation of all applicants.

Neither Hasan Cikan nor his fellow applicant are conversant or fluent in Japanese or English. They were initially handed questionnaires in Japanese and English and were unable to complete the forms.

Amnesty International urges your Ministry to ensure that all asylum seekers are given adequate information and the appropriate application forms to apply for asylum in a language they understand, and to introduce an effective monitoring system to ensure all people who seek asylum have access to a fair and satisfactory refugee determination procedure.

We urge your Government to implement the recommendations in this open letter in order to introduce fair and transparent procedures whereby individuals can apply for asylum in Japan, in line with its international obligations. By upholding the principle of *non-refoulement* as a fundamental right, your Government will be

fulfilling its international obligations under the the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and the 1984 Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, to which Japan is a state party. By establishing a fair refugee recognition process where asylum-seekers are not held in detention when their applications are under consideration, your Government will be upholding the fundamental rights of refugees and asylum seekers and will also show leadership in the Asia-Pacific region in the area of refugee protection.

I would appreciate receiving your comments on the matters raised in this letter.

Yours sincerely,

*Pierre Sané
Secretary General*