

EXTERNAL

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TURKEY:
Possible imminent resumption of executions

Amnesty International is seriously concerned that for the first time in over nine years the Judicial Commission of the Turkish parliament has approved a sentence of death. On 17 November nine out of 15 members of the Judicial Commission (*Adalet Komisyonu*) approved the death sentence passed on Sefyettin Uzundiz, who was convicted in 1992 of murder and armed robbery. His file will now be sent to the Turkish Grand National Assembly (TBMM - the parliament) for approval, which requires a simple majority. The execution could be carried out immediately the death sentence has been ratified by parliament and could potentially open the way for the execution of many others.

Under current legislation, a doctor is obliged to be present at executions in Turkey. Death is by hanging and the doctor is required to examine the prisoner prior to execution and to determine when death has occurred. The Turkish Medical Association (TMA) has argued strongly against this in the past and, with the resumption of executions appearing imminent, issued a statement in December 1993 to the effect that doctors would not participate in the execution process. The daily newspaper *Özgür Gündem* reported the TMA as saying:

"It is unacceptable conduct for doctors, who are committed to the preservation of life, to examine a prisoner prior to execution or to aid in determining whether or not death has occurred. We demand changes in the laws which require the presence of a doctor during the execution of death sentences to bring the law into line with the directives of the World Medical Association and TMA assemblies. We believe that an end must be put to the paradoxical situation whereby those whose duty it is to maintain life take part in the act of killing. We, the members of the Central Council of the TMA declare that, should we be required to participate in an execution, we will under no circumstances accept such a request."

The TMA has made this ethical position clear on numerous previous occasions. In 1985 central council members of the TMA sent a letter to government petitioning for the abolition of capital punishment and calling for an end to the situation whereby doctors were required to participate in the process. At the time the TMA had issued a declaration outlining their position in which they stated that "No doctor should participate in the process of a killing, and should not be put in the position of authorizing or passively awaiting the outcome of a death.". This led the Turkish authorities to bring charges against the President of the TMA and five other central committee members who had signed the letter. They were charged under a law banning professional organizations from engaging in activities outside the domain of their profession¹ and were accused of having committed "political interference by writing a letter to the President

¹The Law on Associations is still in existence.

of the Republic, the Prime Minister and to Members of Parliament against capital punishment". The six doctors were acquitted after a long trial and after much concern about the situation had been expressed by doctors internationally and in the international medical press. Although the Public Prosecutor had recommended a two-year sentence, removal of the doctors from office and reappointment of the central committee, the court ruled in September 1986 that the TMA's letter did not constitute a public announcement and that thus their action did not fall within the scope of the law under which they had been charged.

In 1986 the TMA drafted a new national code of medical ethics which included an article declaring doctors' presence at executions unethical. The draft code required legal approval and has still not been approved.

Despite this, the TMA has continued to express their ethical opinion on repeated occasions. In February 1991 the newspaper *Gunes* reported the then-President of the TMA as saying that the TMA had taken a decision that doctors should have no involvement in executions and would abide by this decision, failure to do so becoming a disciplinary matter. He was quoted as saying "In order to protect our self-respect, we will practice the science of medicine according to our ethical values and not as the state would have us do".

Since the last execution in 1984, there has been a *de facto* moratorium on executions, with parliament refusing to approve death sentences. In April 1991 hundreds of pending death sentences were commuted to terms of imprisonment, a move which was warmly welcomed by Amnesty International. However, the death penalty remained on the statute book and both military and civilian courts continued to impose the penalty throughout this period.

Although the sentence recently approved by the Parliamentary Judicial Commission was passed against a man convicted of non-politically motivated acts, it appears that the Turkish authorities are now also set to use the death penalty in an attempt to combat terrorism. Thirteen offences are currently punishable by death and these include political offences such as separatism. Since 1984, guerrillas of the Kurdish Workers' Party (PKK) have fought for an independent Kurdish state and, more recently, for a more limited right of autonomy. In the escalating conflict with the security forces, more than 10,000 people have died. In mid-1993 the Turkish Government declared that it would wage an "all-out war" on Kurdish insurgents in the southeast and in recent weeks announced a number of additional measures it plans to introduce in its struggle against the guerrillas. These included the speedy carrying out of death sentences.

Hundreds of Kurdish people are standing trial in State Security Courts, accused of belonging to, or supporting, the PKK, and a number of death sentences have been handed down in recent months as the first of these trials came to an end. Many more can be expected to be imposed. Furthermore, the State Prosecutor in Ankara is currently seeking to have the immunity² of 17 Kurdish members of parliament lifted so that they can also be tried on charges of separatism under Article 125 of the Turkish Penal Code. This carries a mandatory death sentence on conviction.

With the resumption of executions now a real possibility and the law on doctors' involvement still unchanged, the Turkish Medical Association has publicly expressed its disquiet. Their long-standing efforts to rectify the situation in which they find themselves have been in the spirit of the World Medical Association's resolution on physicians' participation in capital punishment. Adopted in 1981, this resolution prohibits any participation of doctors in capital

²All elected members of parliament in Turkey are immune from prosecution. In December 1993 a mixed Judicial and Constitutional Committee approved the lifting of immunity for four MPs. This has yet to be voted on by the full parliamentary assembly. If they also approve, the prosecutions will begin and it seems quite possible that the four MPs will be remanded in custody.

punishment. The requirement that in some countries doctors certify a prisoner as fit for execution, advise on, supervise or oversee an execution, has led the medical profession to look more closely at the role of their profession in capital punishment and, over the past decade, numerous international and national medical standards prohibiting medical participation in executions have been adopted. In 1981, the same year as the WMA resolution was issued, Amnesty International's International Executive Council adopted a Declaration on the Participation of Doctors in the Death Penalty, later revised to cover all health professionals. This and the WMA resolution are reproduced in annexe, together with further extracts from the Turkish Medical Association's December 1993 statement.

Amnesty International has appealed to all members of the Turkish parliament not to vote on any death sentence that may be brought before them, and to the Turkish Government finally to abolish the death penalty in law.

Extracts from the Turkish Medical Association's December 1993 statement

"In recent days the government has enacted a number of measures for the purpose of 'combatting terror'. Among these, the most important was to bring the death penalty back onto the agenda..... That the death penalty should be once more upon the agenda has a special importance for us as doctors. We doctors, whose duty it is to uphold the principle that 'the human being is the essence of life', must oppose the death penalty which means the destruction of life. In the past the leaders of this organization were tried and acquitted for having stood out against the death penalty, which is the most direct assault on the right to life. Now back on the agenda once again, the death penalty, which is a clear breach of international conventions which guarantee the right to life; which destroys, not the crime or the reason for crime, but humanity itself; which has been proved to have no role in the prevention of crime; which cannot be reconciled with human honour; which is a simple act of revenge; which cannot be undone or rectified; will, instead of fulfilling its aim of protecting justice, merely harden those feelings which have developed in society against the existing order of justice."

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To: Medical professionals
From: Medical Office / Research Department - Europe
Date: 10 January 1994

MEDICAL LETTER WRITING ACTION

**Possible imminent resumption of executions
TURKEY**

Keywords

Theme: Death penalty/medical ethics

Profession/association: Doctors/Turkish Medical Association

Summary

On 17 November 1993, for the first time in over nine years, a Turkish Parliamentary Judicial Commission approved a sentence of death which will now be voted on by the full parliament. Although, during this nine-year period, no capital sentences have been approved, the death penalty has still been handed down by the courts and it appears that executions may now resume in Turkey. The Turkish Medical Association, faced with laws which require a doctor's presence at executions, have issued a statement calling urgently for an amendment to the law. Please see the details attached.

Recommended Actions

- 1) Letters are requested from medical professionals to the addresses given below:
 - expressing deep disquiet about the approval by the Parliamentary Judicial Commission of the death sentence on Seyfettin Uzundiz; urging that he not be executed and that no further sentences are approved
 - urging an end to the death penalty in law
 - noting with concern that existing Turkish legislation requires that a doctor examine a condemned prisoner prior to execution, attend the execution and determine that death by hanging has occurred
 - noting that the Turkish Medical Association has on several occasions expressed its disquiet about this law and noting that such requirements run counter to the World Medical Association's resolution on physician participation in capital punishment
 - urging that this law be amended so that no doctor is required to perform such acts

Addresses

Mr Kazım Dinç
Minister of Health and Social Welfare
Sağlık ve Sosyal Yardım Bakanlığı
06434 Ankara, Turkey
Fax: +90 312 431 4879

Mr Murat Karayalçın
Deputy Prime Minister
Office of the Prime Minister
Başbakanlık
06573 Ankara, Turkey
Telegrams: Deputy Prime Minister, Ankara, Turkey
Telex: 44061/44062/44063 bbmt tr
42099 basb tr
Faxes: +90 312 117 0476 Deputy Prime Minister

*Letters could also be sent to the other members of the Parliamentary Judicial Commission at the same address. The members are:

Mr Ali Yalçın Öütcan
Mr Cemal Özbilen
Mr Ali Rıza Gönül
Mr Cemalettin Gürbüz
Mr Baki Tuğ
Mr Bahattin Elçi
Mr Mehmet Özkaya
Mr Bestami Teke
Mr Fuat Çay

Copies to

Mr Seyfi Oktay
Minister of Justice
Adalet Bakanlığı
06659 Ankara
Telegrams: Adalet Bakanlığı, Ankara, Turkey
Faxes: +90 312 425 40 66

(The Minister of Justice and Mr Necmettin Erbakan, leader of the Welfare Party (Refah Partisi) have both publicly expressed their opposition to the death penalty. A covering note with the copied letter could welcome this.)

Turkish Medical Association
Türk Tabipleri Birliği
Mithatpaşa Cad. 62/18
06420 Yenişehir
Ankara, Turkey

and to diplomatic representatives of Turkey accredited to your country

2) Please pass this information to your national Medical Association urging that they take action in support of the TMA's position which follows guidelines given by the World Medical Association

President of the Turkish parliament:
Mr Hüsametdin Cindoruk
TBMM Başkanlığı
TBMM
Ankara, Turkey
Fax: +90 312 420 5165
+90 312 420 6941

President of the Parliamentary Judicial Commission:*

Mr Cemal Şahin
Adalet Komisyonu Başkanlığı
TBMM
Ankara, Turkey
Fax: +90 312 420 5165

Mr Cavit Kavak
Mr H. Organ Ergüder
Mr Suha Tanık
Mr Murat Başgözüoğlu
Mr Hasan Afar
Mr H. Cavit Erdemir
Mr Ükrü Yürür
Mr C. Sadik Keseroğlu
Mr Fettullah Erbaş

Mr Necmettin Erbakan
Refah Partisi Başkanlığı
TBMM
Ankara, Turkey

3) The attached information could be used to form the basis of an article for publication in your national medical press. If any articles are published, please forward a copy to the IS Medical Office