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Turkey: Prisoners of conscience jailed on the basis of torture evidence in an unfair trial

Amnesty International is deeply concerned that after an unfair trial, in which the primary evidence was based on statements allegedly extracted under torture, eight individuals face imprisonment solely for their non-violent political beliefs and completely unproven connection with a political party which has not used or advocated violence. The organization will consider Mehmet Desde, Mehmet Bakir, Hüseyin Habip Taskin, Maksut Karadag, Serafettin Parmak, Metin Özgünay, Ömer Güner and Ergün Yildirim as prisoners of conscience if they are imprisoned and will campaign for their immediate and unconditional release. The eight are currently at liberty and face arrest and imprisonment in the coming days.

On 25 December 2006, in spite of the Chief Prosecutor of the Court of Cassation recommending the quashing of the verdicts, the Court upheld the March 2006 convictions of Mehmet Desde, Mehmet Bakir, Hüseyin Habip Taskin, Maksut Karadag and Serafettin Parmak for "membership of an illegal organization", and Metin Özgünay, Ömer Güner and Ergün Yildirim for "supporting an illegal organization". The former five men now face 30-month prison sentences (of which they will serve around 17 months, having already served six months) and the latter three men 10-month sentences (of which they will serve seven and a half months) for their alleged connection with the Bolshevik Party (North Kurdistan/Turkey), a charge which they denied during their trial. Evidence used to convict the eight has consisted mainly of statements allegedly extracted under torture, the discovery of legal journals, leaflets and stickers in the name of the Bolshevik Party (North Kurdistan/Turkey) urging public support for 1 May demonstrations and not advocating violence, and the fact of some of the defendants having met in the Aegean town of Kusadasi on 8 July 2002. They were detained on 9-10 July 2002.

The decision by the 9th Chamber of the Court of Cassation to uphold the convictions comes after a prolonged judicial process which has seen two retrials and two previous decisions by the Court of Cassation to quash verdicts of the lower court. The course of the trial demonstrates clear uncertainty by the courts in how to deal with the case and earlier judgments contradict later ones. The implication of the Court of Cassation's first decision to quash the verdict of the Izmir State Security Court in April 2004 had been to question whether the Bolshevik Party (North Kurdistan/Turkey) could be legally counted as a terrorist organization in the absence of evidence of acts of violence or intimidation, threats, or advocacy of terrorism. Upon retrial the lower court sought to sidestep the lack of evidence pointing to terrorist activities and justify the decision to categorize the political party as a terrorist organization by describing its ideology as based on "moral force" (as opposed to actual physical force). The Izmir public prosecutor in both retrials had recommended the acquittal of the defendants.

The latest and final decision by the Court of Cassation after two retrials to uphold the convictions is all the more disturbing in view of the fact that a separate case against four police officers accused of torturing Mehmet Desde is continuing and awaits a decision of the 8th Chamber of the Court of Cassation. The appeal in this case has been pending since December 2004. Amnesty International notes there are instances of the Court of Cassation quashing the verdicts of lower courts on the grounds that the lower court should have waited for the outcome of trials of alleged torturers.

Amnesty International regards the final verdict against the eight as evidence of a continuing pattern of unfair trial proceedings which blights Turkey's criminal justice system. The background to the unfair trial of Mehmet Desde and others is documented at length, alongside other cases, in a report focusing on trials for those charged under anti-terrorism legislation published by Amnesty International in September 2006 (*Turkey: Justice Delayed and Denied: The persistence of protracted and unfair trials for those charged under anti-terrorism legislation*, AI Index: EUR 44/013/2006). The right to a fair trial is enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights. As a State Party to both these conventions, Turkey has a legal obligation to uphold the right to a fair trial for all those under Turkish jurisdiction.

