

EXTERNAL (for general distribution)

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Fear of imminent refoulement

30 January 1995

GERMANY Fariz \_im\_ek, rejected Kurdish asylum-seeker from Turkey, aged 29

Fariz \_im\_ek faces imminent and forcible return to Turkey where he would be at risk of torture, "disappearance" or extrajudicial execution. The Free State of Bavaria (*Freistaat Bayern*) is persisting with its plans to return him in spite of a moratorium on the deportation of Kurds, which applies to all states within the Federal Republic of Germany, including Bavaria.

Fariz \_im\_ek's health is poor as a consequence of the severe torture he suffered while in detention in Turkey in January 1991, and has been seriously aggravated by the uncertainty of his status since being detained in Augsburg, Germany, in April 1994. He is said to have suffered two heart attacks in prison since then and has undergone two surgical operations. He is described as depressed and highly suicidal. Fariz \_im\_ek's application for political asylum in Germany was rejected in August 1994.

Fariz \_im\_ek, father of two, comes from Batman in eastern Turkey, where he was repeatedly detained and threatened by the security forces. As a result he and his wife moved to Istanbul in 1989. In December 1990 he set out for Batman in a relative's car, but was detained at a roadblock near Siverek when Kurdish cassettes and publications were found in the car. He was held for about 17 days and alleged that for 10 days he was severely tortured by the stubbing of burning cigarettes on his head and the back of his left hand; by being suspended upsidedown by his feet and also by his wrists with hands tied behind his back; by electric shocks to his hands, feet, body and penis; by the pushing of what he believes was a chair-leg into his rectum; and by being seated in, and hosed with, ice-cold water. A medical examination in Germany documented scars consistent with these allegations, which are also consistent with the pattern of widespread and systematic torture in police custody in Turkey.

After his release, Fariz \_im\_ek went into hiding while police repeatedly raided his home in Istanbul, during which his pregnant wife was threatened and severely beaten. A trial was opened against him and six other defendants by the State Security Court in Diyarbak\_r in which he was accused of supporting the Kurdish Workers' Party (PKK). In November 1991 Fariz \_im\_ek was acquitted due to lack of evidence.

The harassment and pressure against the couple in Istanbul continued and they decided to leave Turkey. They reached Germany in May 1991 where their second child was born the day after their arrival.

In April 1994, Fariz \_im\_ek was detained in Augsburg during a demonstration against human rights violations in southeast Turkey. He had previously been filmed by the police during a reportedly peaceful protest by Kurds against the prohibition of a *Newroz* celebration in Augsburg following public violent disturbances by Kurds and a ban of the PKK in Germany (*Newroz* is the Kurdish New Year, celebrated on 21 March). He was recognized on the police video and later charged with breach of the peace, but the charge was dropped when his asylum application was rejected and he became liable for deportation. His remand imprisonment was then converted to deportation detention which is to end on 3 February 1995. In December an intervention by his lawyers prevented an attempt by the Bavarian authorities to deport Fariz \_im\_ek on 27 December and he was

returned from the airport to prison. On 25 January the Bavarian Interior Minister named Fariz \_im\_ek in a speech before the Bavarian Parliament and reaffirmed his intention to have him deported.

#### **BACKGROUND INFORMATION**

The conflict in southeast Turkey between government forces and guerrillas of the PKK has claimed more than 14,000 lives since it began in August 1984. Police operations against suspected PKK supporters and other Kurdish activists are being carried out all over Turkey. A state of emergency remains in force in 10 provinces in the east and southeast.

Any person suspected of belonging to, or supporting, the PKK is at serious risk of torture, "disappearance" or extrajudicial execution. In 1994 there were more than 50 reported "disappearances", and more than 400 people were killed in unclarified circumstances. In most cases the victims were shot by unidentified assailants in the streets of cities in the southeast such as Batman where a member of parliament was shot in 1993. Relatives believe that they have been killed for political reasons by agents of the state.

Turkey ratified the European Convention for the Prevention of Torture on 25 February 1988 and the UN Convention Against Torture on 2 August 1988. However, all information available to Amnesty International indicates that torture is still widespread and systematic in Turkey. Both the European Committee for the Prevention of Torture (ECPT) of the Council of Europe, of which Turkey is a member, and the UN Committee against Torture (UN CAT) have published reports to the effect that torture is widespread and systematic in Turkey.

#### **RECOMMENDED ACTION: Please send telegrams/telexes/faxes in German, English or your own language:**

- urging the Bavarian authorities not to forcibly return Fariz \_im\_ek to Turkey where he would be at risk of torture, "disappearance" or extrajudicial execution on account of his political views and activities;
- reminding the Bavarian authorities of Germany's obligation under the 1951 Convention relating to the Status of Refugees, in particular Article 33, not to forcibly return anyone to a country where he or she would be at risk of serious human rights violations;
- further reminding the authorities of their duty under Article 3 of the UN Convention against Torture as well as Article 3 of the European Convention on Human Rights and Fundamental Freedoms, not to send people to countries where they may be at risk of torture.

#### **APPEALS TO**

##### 1) Interior Minister of Bavaria:

Bayrischer Staatsminister des Innern  
Herrn Dr Günther Beckstein  
Odeonsplatz 3  
80539 München, Germany

**Faxes: +49 89 28 20 90**

**Telegrams: Interior Minister, Munich, Germany**

**Salutation: Dear Minister**

##### 2) Prime Minister of Bavaria:

An den  
Ministerpräsidenten des Freistaates Bayern

Herrn Dr Edmund Stoiber  
Franz-Josef-Strauss-Ring 1  
80539 München, Germany  
**Faxes: +49 89 29 4044**  
**Telexes: 523809**  
**Telegram: Prime Minister, Munich, Germany**  
**Salutation: Dear Prime Minister**

**COPIES OF YOUR APPEALS TO:**

Chairman of the Petitions Committee of the Bavarian Parliament:  
Vorsitzender des Petitionsausschusses des Bayrischen  
Landtags  
Herrn Dr Helmut Ritzer  
Nürnberg, Germany  
**Faxes: +49 91 28 12 406**

and to diplomatic representatives of Germany accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**