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To: Medical professionals
From: Medical Office / Western Europe Sub-regional Team
Date: 8 December 1999

MEDICAL LETTER WRITING ACTION

Dr Alp Ayan and Günseli Kaya

TURKEY

Keywords: detention of health professional / POC / harassment of human rights defenders

Summary

Amnesty International continues to be deeply concerned about the arrest and detention of Dr Alp Ayan, psychiatrist at the Human Rights Foundation of Turkey (HRFT) in Izmir, as well as Günseli Kaya and 12 others. Dr Ayan has been working for torture victims' rehabilitation for 10 years. Günseli Kaya is the secretary of this office. Both are also active in the Izmir branch of the Human Rights Association (HRA), and were board members of HRA Izmir between 1993 and 1998. They were detained with 74 others in a village near Izmir while trying to attend the funeral of one of 10 prisoners killed on 26 September in Ankara Closed Prison.

On 3 October 1999, Dr Alp Ayan and Günseli Kaya appeared in court and were remanded to Bergama and U_ak prison respectively, after the court declared the case outside its competence referring it to the Izmir State Security Court. This court also declared the case outside its competence, meaning that the prisoners might have to wait for a decision by the Appeal Court which can take several months.

Amnesty International believes that Alp Ayan and Günseli Kaya may have been detained because of their human rights activism and considers them possible prisoners of conscience. Amnesty International is therefore asking the authorities to provide further information on the circumstances of the detention, to clarify the charges against them, and to release them from prison until a competent, independent and impartial court has established the necessity of their imprisonment in compliance with international human rights standards. Amnesty International expresses dismay at the fact that human rights defenders are subject of constant harassment in Turkey.

Recommended Actions

Please send appeals in your professional capacity without any mention of Amnesty International:

- expressing concern that Alp Ayan and Günseli Kaya may have been detained for their human rights activism and because they peacefully made use of their right to freedom of assembly; and therefore maybe prisoners of conscience;
- asking for further information on the circumstances of the detention and for speedy clarification of the charges against them;

- asking the authorities to release them from prison until a competent, independent and impartial court has established the necessity of their imprisonment in compliance with international human rights standards;
- expressing dismay at the constant harassment of human rights defenders in Turkey.

If you receive no reply from the government or other recipients within two months of dispatch of your letter, please send a follow-up letter seeking a response. Please send copies of any replies you do receive to the International Secretariat [attn: medical team] and check with your national coordinator or the medical team if you send appeals after 31 January 2000.

ADDRESSES

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Salutation: Dear Minister

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Please send copies of your letters to diplomatic representatives of Turkey in your country or to the nearest Turkish embassy.

PUBLIC

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MEDICAL CONCERN

Dr Alp Ayan and Günseli Kaya

TURKEY

Amnesty International continues to be deeply concerned about the arrest and detention of Dr Alp Ayan, psychiatrist at the Human Rights Foundation of Turkey (HRFT) in Izmir, as well as Günseli Kaya and 12 others. Dr Ayan has been working for torture victims' rehabilitation for 10 years. Günseli Kaya is the secretary of this office. Both are also active in the Izmir branch of the Human Rights Association (HRA), and were board members of HRA Izmir between 1993 and 1998. They were detained with 74 others in a village near Izmir while trying to attend the funeral of one of 10 prisoners killed on 26 September in Ankara Closed Prison.

On 3 October 1999, Dr Alp Ayan and Günseli Kaya appeared in court and were remanded to Bergama and U_ak prison respectively, after the court declared the case outside its competence referring it to the Izmir State Security Court. This court also declared the case outside its competence, meaning that the prisoners might have to wait for a decision by the Appeal Court which can take several months.

Amnesty International believes that Alp Ayan and Günseli Kaya may have been detained because of their human rights activism and considers them possible prisoners of conscience. Amnesty International is therefore asking the authorities to provide further information on the circumstances of the detention, to clarify the charges against them, and to release them pending their trial by a competent and impartial court. Amnesty International expresses dismay at the fact that human rights defenders are subject of constant harassment in Turkey.

Case details

Alp Ayan and Günseli Kaya were detained with 74 others in a village near Izmir, when they tried to attend the funeral of one of 10 prisoners killed on 26 September in Ankara Central Closed Prison. Amnesty International issued an Urgent Action on 28 September 1999 [EUR 44/64/99] on the incident occurred in the above mentioned prison. A second Urgent Action was issued 2 November 1999 [EUR 44/67/99] specifically on the arrest of Alp Ayan and Günseli Kaya.

On 3 October 1999, Dr Alp Ayan and 12 other detainees were remanded to Bergama prison and Günseli Kaya to U_ak prison by the penal court in Alia_a. The court which took the decision to remand them declared the case outside its competence and referred it to Izmir State Security Court. However, the State Security Court also declared the case outside its competence. Although the detainees have the right to challenge the lawfulness of their detention every 30 days, because none of the courts sees itself as competent to judge the case, the prisoners may have to wait for a decision by the Appeal Court which can take several months.

The two courts so far involved in the case have taken different views on the charges to be brought against the detainees. On 3 October, the penal court in Alia_a recommended prosecution under Article 32/3 of the Law on Meetings and Demonstrations which requires imprisonment terms of

between one and five years for those who react with “*coercion, violence, threat, attack or resistance*” to the security forces’ decision to dispel a demonstration, and under Article 7/2 of the Anti-Terror Law which requires imprisonment terms of between three and five years for disseminating propaganda of “*terrorist organizations*”. The court then declared itself non-competent in the case. However, the State Security Court in Izmir also declared itself non-competent on 13 October, and stated that Article 7 did not apply. It concluded that there was no propaganda for a terrorist organization, and that the demonstration had not been illegal. It had previously concluded that the detainees should be charged under Article 526 of the Turkish Penal Code which requires imprisonment terms of between three and six months for those who disobey an order issued for the “*protection of public order*”.

Background

The HRFT and the HRA are independent organizations founded to monitor and document abuses and to protect human rights. In addition to the work of its documentation centre, the HRFT operates a network of torture treatment and rehabilitation centres throughout Turkey.

Both organizations have been outspoken in their condemnation of human rights violations by government agencies and armed opposition groups.

From the start the HRA’s defense of human rights has led to considerable pressure from the authorities who have imprisoned, tortured and sometimes killed its members. In 1998 the former President of the HRA, [Ak_n Birdal](#), narrowly escaped an assassination attempt, only to be imprisoned by the authorities in May 1999 for the peaceful expression of his non-violent opinions. Amnesty International adopted him as a prisoner of conscience and is campaigning for his unconditional release. He was eventually released on 25 September on medical grounds. His sentence was only suspended for six months.

Attacks on health workers in Turkey

Other physicians have been the subject of repressive measures by the Turkish state. In recent years Amnesty International issued a number of actions in support of health workers under attack:

- EUR 44/07/99: 28 January 1999 Dr Cumhuri Akpinar employed at the Ankara branch of the State Forensic Medicine Institute and detained on 15 January 1999. His detention was believed to be an attempt to intimidate doctors from exercising their profession impartially and independently. Dr Akpinar was conditionally released pending trial on 5 March 1999. The prosecutor asked his acquittal in the trial session on 5 October 1999.
- EUR 44/76/96: 6 June 1996 / EUR 44/94/96 28 June 1996. Dr Seyfettin Kizilkan, President of the Diyarbakir Medical Association was sentenced to 3 years and released pending appeal to the Supreme Court. He was suspended from duty for a period of 3 years and had his sentence quashed in 1998 by the Appeal Court. On 30 September 1999, Dr Kizilkan was sentenced to 3 years and 9 months’ imprisonment, after the Appeal Court ruling was overturned by the Supreme Court of Appeals.
- EUR 44/30/96: 3 May 1996. State Pressure on Human Rights Foundation, nine board members and an author were prosecuted for publishing a book which criticized Turkish law. They were acquitted but another trial was initiated in Adana against a TIHV lawyer and doctor (Mustafa Cinkilic and Tufan Köse respectively) who were being prosecuted for “disobedience to the orders of official authorities” and “negligence in denouncing a crime”. Amnesty International observed the Adana trial which verdict acquitted Mustafa Cinkilic and fined Tufan Köse. The TIHV appealed against the verdict of the Supreme Court.

Nurses too have been subject to human rights violations and Amnesty International has issued appeals on such cases (see Amnesty International Report ‘Turkey: Human Rights and the Health Professions’ [EUR 44/159/96] dated December 1996 <http://www.amnesty.org/ailib/aipub/1996/EUR/44415996.htm>)

Other organizations have also documented abuses against health workers. A major report by the US organization, Physicians for Human Rights, provided numerous examples of abuses directed against

health personnel as well as pressure on doctors to provide false certification in human rights cases. (See *Torture in Turkey and its Unwilling Accomplices*, Boston, 1996.)

Amnesty International is calling upon the Turkish government to stop the misuse of legal measures to impede the work of human rights defenders and in particular to release those referred to in this action. (See also Amnesty International Report: Turkey "Creating a Silent Society": Turkish Government Prepares to Imprison Leading Human Rights Defenders [EUR 44/05/99] dated February 1999_ <http://www.amnesty.org/ailib/aipub/1999/EUR/44400599.htm>).