

DECISION No. 9/1993 (TURKEY)

Communication addressed to the Government of Turkey on 6 November 1992.

Concerning: Sekvan Aytu, on the one hand, and the Republic of Turkey, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it, and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.

2. The Working Group notes with appreciation the preliminary information forwarded by the Government concerned in respect of the case in question within 90 days of the transmittal of the letter by the Working Group but regrets that the final information which was promised has not been received and that the deadline which was mentioned has elapsed.

3. (Same text as paragraph 3 of Decision No. 43/1992).

4. In the light of the allegations made the Working Group welcomes the cooperation of the Government of Turkey although it does not have the information which was promised in the first and only communication so far. The Working Group is in a position to take a decision on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto.

5. The Working Group considers that:

(a) Sekvan Aytu, President of the Sirnak branch of the Turkish Human Rights Association, was detained on 14 May 1992 and held incommunicado, without charge, until 29 May;

(b) It is alleged that the reason for the arrest was that he took part in the funeral of Halit Gungen, the murdered journalist, which was regarded as an attempt to hold an unauthorized protest demonstration;

(c) It is further submitted that he was subjected to torture;

(d) The source states that there are no details as to the law applicable to this case but it is probable that he is being held under the Turkish anti-terrorist law;

(e) According to the note from the Government, the arrest was prompted by depositions, subsequently confirmed, of members of the armed wing of the PKK terrorist organization arrested and indicted earlier. According to the depositions, Sekvan Aytu had been active in the committee for the support of illegal activities through the legal organization ERNK;

(f) The Government adds that he is currently the subject of proceedings before the proper court and has been since 29 May 1992;

(g) Although it is 11 months since his arrest, Sekvan Aytu has still not been sentenced, the ground for his detention being a charge of political activities, which fact has been confirmed by the Government of Turkey;

(h) Carrying out political activities is a legitimate exercise of the freedoms and rights set out in articles 19, 20 and 21 of the Universal Declaration of Human Rights and articles 19, 21 and 22 of the International Covenant on Civil and Political Rights;

(i) With regard to the allegations of torture, the Working Group wishes to place on record that the matter lies with the Special Rapporteur on the question of torture, who examined the case in his latest report to the Commission on Human Rights (E/CN.4/1993/26, para. 496).

6. In the light of the above, the Working Group decides:

The detention of Sekvan Aytu is declared to be arbitrary, being in contravention of articles 9, 10, 11, 19, 20 and 21 of the Universal Declaration of Human Rights, and articles 8, 9, 19, 21, and 22 of the International Covenant on Civil and Political Rights and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

7. Consequent upon the decision of the Working Group declaring the detention of the person in question to be arbitrary, the Working Group requests the Government of Turkey to take the necessary steps to remedy the situation in order to bring it into conformity with the norms and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 29 April 1993