

DECISION No. 37/1994 (TURKEY)

Communication addressed to the Government of Turkey on
22 April 1994.

Concerning Edip Polat, 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 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.
3. (Same text as para. 3 of Decision No. 35/1994.)
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government of Turkey. The Working Group transmitted the reply provided by the Government to the source and the latter has provided the Working Group with its comments. The Working Group believes that it 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. According to the communication, a summary of which was transmitted to the Government, Edip Polat, aged 31, writer of Kurdish origin, was reportedly arrested at Ankara Airport by Turkish security forces on 16 July 1993. He was believed to be held in Ankara Closed Prison. According to the source, Edip Polat was charged under article 8 of the Anti-Terror Law (Law No. 3713) with "disseminating separatist propaganda". He was reportedly sentenced, by a State security court, on 23 December 1992, to two years' imprisonment and a fine of around US\$ 6,000, following the publication of a book about the conditions of Kurdish prisoners in Turkey and about Polat's trial for another book he wrote. Polat's two-year sentence was reportedly ratified by the Court of Appeal on 9 June 1993 and he was detained as he was allegedly about to escape abroad. Polat had reportedly been imprisoned on three previous occasions, most recently in 1990, in connection with another of his books. He was acquitted of another charge of "making separatist propaganda" in April 1993. However, the acquittal decision was overturned in late 1993 and Polat again faced trial. The source affirmed that Polat did not advocate violence in any of his writings.
6. In its reply, the Government merely noted that Edip Polat had been sentenced to two years' imprisonment on 23 December 1992 by the Ankara State Security Court; the sentence was ratified by the Court of Appeal on 27 May 1993. After his arrest at Ankara airport on 16 July 1993, when he was allegedly trying to leave the country, he was taken first of all to Ankara prison and thereafter on 4 March 1994 to Bursa prison to serve his sentence. The Government states that the trial was lawful and in full conformity with

the provisions of judicial procedure. The Government concludes that there is not the slightest evidence to support the allegation that Edip Polat's detention was arbitrary.

7. In its comments to the Working Group, the source quotes the provisions of the Anti-Terrorist Act (Decree No. 3713) on the basis of which Edip Polat was sentenced. The source confirms that Edip Polat was imprisoned and considers his detention as arbitrary, since it is not in conformity with article 19 of the Universal Declaration of Human Rights and article 10 of the European Convention on Human Rights. The source adds that, while still in prison, Edip Polat was sentenced to a further 10 months for having written an article published on 26 July 1993 by the pro-Kurdish newspaper Ozgur Gundem; the trial was held on 4 May 1994. The source points out that the case in which Edip Polat was acquitted of charges in April 1993 in connection with his book The Kurds and Kurdistan in the Language of Science has not been closed.

8. It is clear from the facts described above that Edip Polat was sentenced and detained solely for expressing in a book his opinion on the conditions of Kurdish prisoners in Turkey and on his previous trial, when he was simply peaceably exercising his rights to freedom of opinion and expression, guaranteed under article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights. Furthermore, the Government has not reported that in so doing he resorted or incited to violence.

9. In the light of the above the Working Group decides:

The detention of Edip Polat is declared to be arbitrary, being in contravention of article 19 of the Universal Declaration of Human Rights and article 19 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.

10. Consequent upon the decision of the Working Group declaring the detention of Edip Polat 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 provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 29 November 1994.