

DECISION No. 12/1996 (TURKEY)

Communication addressed to the Government of Turkey on
3 October 1995.

Concerning: Atilay Aycin, Eren Keskin and Ekber Kaya, on the one
hand and the Republic of Turkey, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the revised 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 concern that till date no information has been forwarded by the Government concerned in respect of the case(s) in question. With the expiration of more than ninety (90) days of the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect of each of the cases of alleged arbitrary detention brought to its knowledge.

3. (Same text as para. 3 of Decision No. 35/1995.)

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Turkey. In the absence of any information from the Government, the Working Group believes that it is in a position to take a decision on the facts and circumstances of the cases, especially since the facts and allegations contained in the communication have not been challenged by the Government although it was given the opportunity to do so.

5. The communication submitted by the source, a summary of which was forwarded to the Government, concerned the following persons:

(a) Atilay Aycin, general president of Hava-Is trade union, was reported to have been arrested on 15 May 1995, upon his return to Turkey, at the Ataturk International Airport in Istanbul, and taken to Sagmalcilar Prison near Istanbul. He was reportedly convicted under Article 8 of the Anti-Terror Law (Law 3713) and was currently being held in Saray Prison, near Tekirdag. The source reported that Aycin was previously prosecuted in 1994 under Article 8, for spreading "separatist propaganda", in a speech he made on 8 September 1991 at a meeting organized by the Turkish Human Rights Association at the Abide-i Hurriet (Freedom Memorial) Square in Istanbul. In the course of his trial, the prosecution reportedly alleged that Aycin in his speech uttered the phrase, "we must oppose those who obstruct the struggle of the Kurdish people for independence". The judgment was said to be based on the reasoning that, since the group which was "struggling for the independence of the Kurdish people" was the Kurdish Workers' Party (PKK), consequently, Aycin's statement demonstrated support for the PKK. He was convicted and sentenced to a prison term of one year and eight months. The decision was quashed on 2 February 1995 by the Ninth Chamber of the Appeal Court, but the General Council of the Appeal Court on 3 April 1995 confirmed the sentence.

(b) Eren Keskin, a female lawyer and executive board member of TOHAV (Foundation for Legal and Social Research), and secretary of the Istanbul Human Rights Association (HRA) branch (regarding whom an urgent appeal was addressed to the Turkish authorities on 31 July 1995), was reportedly arrested without a warrant, and charged on 10 March 1995 under Article 8 of the Anti-Terror Law of spreading "separatist propaganda" following the writing of a press article in September 1994. It was alleged that Keskin was targeted solely on account of her human rights activities and had previously been the object of arrests, beatings and general ill-treatment at the hands of the police. The source reported that this time, Cowskin was sentenced to two and a half years imprisonment and was taken on 2 June 1995 to Bayrampasa prison in Istanbul to serve that sentence.

(c) Ekber Kaya, an employee of the local council and a board member of the Tunceli Human Rights Association (HRA) was reported to have been detained in Tunceli, on 23 March 1995, following an order to report to the police headquarters in Tunceli to give a statement. The source affirmed that no charges were brought against Kaya and that he remained under arbitrary detention.

6. It appears from the above allegations that the detention of the three aforementioned persons and the conviction and imprisonment of two of them, is based solely on the fact that, as non-violent members of human rights associations, they peacefully exercised their right to freedom of expression, guaranteed by article 19 of the Universal Declaration of Human Rights.

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

(a) The detention of Atilay Aycin, Eren Kaskin and Egber Kaya, is declared to be arbitrary being in contravention of articles 19 and 20 of the Universal Declaration of Human Rights, and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

(b) To transmit the present decision to the Secretary General, in conformity with Commission on Human Rights resolution 1996/70 entitled "Cooperation with representatives of United Nations human rights bodies".

8. Consequent upon the decision of the Working Group declaring the detention of Atilay Aycin, Eren Kaskin and Egber Kaya 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.

Adopted on 23 May 1996.