

DECISION No. 28/1996 (TURKEY)

Communication addressed to the Government of Turkey on  
20 February 1996.

Concerning: Ibrahim Aksoy, 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 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. 35/1995.)
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 received 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 submitted by the source, a summary of which was forwarded to the Government, Ibrahim Aksoy was arrested on 14 October 1995 at Ankara airport, and is under detention in Ankara Central Prison. Aksoy is a former deputy and chairman of the Party for Democracy and Renewal. He was charged with having disseminated propaganda against the indivisibility of the State in a speech made in May 1991 at the party congress of the Popular Workers' Party (HEP) in Konya, a charge which was denied by the accused during his trial. For this he was given a cumulative prison sentence of four years and eight months, following his conviction by the District Court in Konya on 9 March 1994 and subsequently by the State Security Court in Istanbul. A later communication reports that that sentence was confirmed in May 1995 by the High Court of Appeals.
6. The Government's reply confirms that Aksoy was convicted of disseminating separatist propaganda in a speech delivered on 18 May 1991 in his capacity as HEP deputy at the Party conference in Konya. It adds that he was sentenced by the Konya State Security Court on 15 November 1994 to a prison term of one year and eight months and to a fine, a sentence confirmed on 21 March 1995. That sentence was commuted to one of 10 months' imprisonment and a fine on 17 November 1995, following an amendment to the Anti-Terrorist Act.
7. The Government further states that Aksoy was referred to the Istanbul State Security Court in 1994, charged with disseminating propaganda designed to destroy the indivisibility of the State, an offence for which he was

sentenced by the Fourth State Security Court on 12 June 1995. On 1 December 1995, by virtue of an amendment to the Anti-Terrorist Act, Aksoy received a sentence of one year and four months' imprisonment and a fine.

8. According to the source, the two sentences handed down by two different courts would appear to be based on the same grounds: the speech given on 18 May 1991 at the congress of a political party of which the accused is leader. The Government's reply implicitly accepts these grounds, although it mentions very specifically the grounds for the first conviction - the speech referred to - and does not indicate any particular grounds for the second one.

9. Under these circumstances, it has to be recognized that the detention is arbitrary because it is in violation of the general principle of criminal and procedural law *non bis in idem* under category III of the principles approved by the Group for the consideration of cases; it involves such a serious breach of the norms governing due process of law as to make the detention arbitrary.

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

The detention of Ibrahim Aksoy is declared to be arbitrary being in contravention of articles 9 and 11 of the Universal Declaration of Human Rights and falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group.

11. Consequent upon the decision of the Working Group declaring the detention of Ibrahim Aksoy 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 17 September 1996.