

OPINION No. 20/1998 (TURKEY)

Communication addressed to the Government on 12 January 1998

Concerning: Nurdan Baysahan, Elif Kahyaoglu, Deniz Kartal, Mahmut Yilmaz, Bulent Karakas, Ahmet Askin Dogan, Metin Murat Kalyoncugil and Ozgur Tufekçi

The State is not a party to the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established pursuant to resolution 1991/42 of the Commission on Human Rights. The mandate of the Working Group was clarified and extended pursuant to resolution 1997/50. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Government.
2. The Working Group conveys its appreciation to the Government for having provided the requisite information in good time.
3. (Same text as paragraph 3 of Opinion 1/1998.)
4. In view of the allegations made, the Working Group welcomes the Government's cooperation. The Working Group has transmitted the Government's reply to the source, which has to date not provided it with its comments.
5. According to the communication, Nurdan Baysahan, Elif Kahyaoglu, Deniz Kartal, Mahmut Yilmaz, Bulent Karakas, Ahmet Askin Dogan, Metin Murat Kalyoncugil and Ozgur Tufekçi, all students, were arrested on 1 May 1996 for having protested to the Turkish Grand National Assembly against the tuition fees for higher education establishments and against the policy of privatizing the universities. The source indicates that the students were expelled from their universities for having refused to pay their tuition fees. After their arrest, they were placed together in Ankara central prison. Their trial in the State Security Court began on 10 June 1996. According to the source, they told the court that they were students and not members of an illegal group and that their aim had been to obtain better conditions for studying. They also said, according to the source, that they had been subjected to pressure and torture, by means of which police officers had forced them to sign statements prepared by the police. The verdicts were made public on 6 December 1996: Bulent Karakas, Ahmet Askin Dogan, Metin Murat Kalyoncugil and Ozgur Tufekçi were each sentenced to 18 years and 20 days; Mahmut Yilmaz was sentenced to 12 years and 6 months; and Nurdan Baysahan, Elif Kahyaoglu and Deniz Kartal were each sentenced to 3 years and 9 months.
6. According to the source, the detention of the above-mentioned persons is arbitrary because the legal proceedings are contrary to articles 5, 9, 19 and 26 of the Universal Declaration of Human Rights and to principles 6, 11 and 21 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
7. In its reply of 9 April 1998 (supplemented on 19 May 1998), the Government says that Ahmet Askin Dogan, Metin Murat Kalyoncugil and

Ozgur Tufekçi used explosives during an illegal demonstration, and that they were members, along with Mahmut Yilmaz and Bulent Karakas, of Dev-Genç, an illegal organization, and took part in the illegal meetings and demonstrations of this organization. The three girls, Deniz Kartal, Elif Kahyaoglu and Nurdan Baysahan, are said by the Government to have assisted and sheltered armed groups. The Government confirms the above-mentioned sentences, pronounced by the State Security Court on 6 December 1996. In another letter, it informs the Working Group that, on 11 March 1998, the Court of Appeal annulled the judgement of the court of first instance, since the latter had taken its decisions "on the basis of inadequate evidence".

8. The source supplemented its original allegations with detailed descriptions both of the alleged torture of the detainees and of the trial in the State Security Court. According to the source, Deniz Kartal, Elif Kahyaoglu and Nurdan Baysahan were released in 1996. According to other information received by the Working Group, the trial in the State Security Court, to which the matter was referred back by the Court of Appeal, is taking place at the present time.

9. The Working Group considers that it does not currently have sufficiently precise and concordant information to render an opinion on the cases of the above-mentioned persons. While awaiting the outcome of the trial in the State Security Court, written comments by the source on the Government's reply and other information from the source, it transmits the additional allegations by the source as summarized in paragraph 8, to the Government and requests it to convey its response, if any, to the Working Group.

10. In the light of the above the Working Group decides, in accordance with paragraph 17 (c) of its methods of work, to keep the cases of the above-mentioned persons pending.

Adopted on 17 September 1998.