

THE OBSERVATORY

For the Protection of Human Rights Defenders

L'Observatoire

pour la Protection
des Défenseurs des Droits de l'Homme

El Observatorio

para la Protección
de los Defensores de los Derechos Humanos

INTERNATIONAL AND LEGAL OBSERVATION MISSION REPORT

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Turkey

Judicial Harassment Against Human Rights Defenders

(Diyarbakir-Ankara from March 18 to March 25, 2002)

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FIDH

International Federation
for Human Rights



World Organisation
Against Torture

Introduction

In Turkey, human rights defenders are subjected to government repression, which targets all those who address "sensitive" subjects such as the Kurdish issue and human rights violations committed by the State and the Army.

Together with journalists, intellectuals or writers who take a stand on these issues, human rights defenders have been subjected to severe repression as the political environment in Turkey became more radical in particular after the 1999 parliamentary elections. The tough political stance, mainly due to the still central role of the military, was translated into a disturbing increase in nationalistic tendencies in the two years following the elections, relayed through the official media.

In August 2002, important legislative reforms were adopted during the negotiations to prepare for Turkey's accession into the European Union. These reforms have begun to broaden the political environment. Changes include the abolition of capital punishment, an amendment that authorizes radio and television broadcasts in languages and dialects other than Turkish, an amendment that allows the teaching in one's mother tongue in private schools and the insertion of human trafficking as a punishable crime in the Turkish Penal Code.

These reforms also introduce changes with respect to freedom of association, which is explained later in the report. The current advances are limited, however, and their impact can only be evaluated once they are implemented.

Human rights defenders have been subjected to many forms of repression including legal prosecution, difficulties for the associations to register, closures of associations, illegal searches and seizures of documents, slander and libel campaigns by the official media, etc.

The following arsenal of repressive laws supporting these measures is particularly restrictive in terms of freedom of speech, association and assembly:

- Law N° 2908 of 1983 on associations (explained in further detail later in the report);
- Article 159 of the Penal Code prohibiting any "insult to the Republic, the Parliament, the Government, State Ministers, the Army, the security forces and the Judiciary".
- The Anti-Terror Law N° 3713 article 8, in particular, prohibiting "all propaganda, meetings, and marches with the aim of

damaging the unity of the Turkish State".

- Article 256 of the Penal Code prohibiting illegal possession of documents.

- Law N° 2911 of 1983 on demonstrations requiring prior authorization from authorities to organize peaceful meetings or demonstrations¹.

Using the law to sanction defenders of human rights has become common practice in Turkey.

Human rights defenders are frequently subjected to legal persecution in Turkey and find themselves unable to exercise their rights as they are defined in the Declaration on Human Rights Defenders² and guaranteed by the International Covenant on Civil and Political Rights, the European Convention on Human Rights and the Charter of Paris and the documents adopted in regard to the human dimension of the Organisation for Security and Co-operation in Europe (OSCE)- all three of which have been adhered to by Turkey.

Some examples³ :

- Mr. Alp Ayan, psychiatrist and member of the Human Rights Foundation of Turkey (HRFT) and Mehmet Barindik, a representative of the Limter-Is Trade Union were sentenced to one year in prison by the Penal Court N° 4 on June 6, 2002, for denouncing the living conditions in F-type⁴ prisons. The decision was based on article 159 of the Turkish Penal Code. Their case was sent to the Supreme Court for appeal. Another suit has been filed against Mr. Ayan on the same legal grounds for attending a meeting in February 2002, to protest against the F-type prisons and for his statements on this issue during a press conference.

- In August 2002, 46 members of the Board of Directors of the Human Rights Association of Turkey (IHD) were charged with violating article 526/1 of the Penal Code (non-respect of official orders) in connection to a police raid that took place at IHD headquarters in January 2001, during which "banned" documents were found.

- At the beginning of 2001, a panel organized by the Konya branch of the human rights organization Mazlum-Der entitled "Education and Human Rights" was banned by the governor. The decision was based on Law No. 2911 on meetings and demonstrations.

Human rights defenders active in Southeastern Turkey or who dare to denounce violations committed against the Kurdish

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people and promote their rights are especially targeted. They are accused of undermining the unity of the Turkish State or of supporting illegal organizations, such as the PKK⁵, which is considered a terrorist organization. These types of accusations are increasing in scale in the current political context; governments are now able to use the fight against terrorism as a pretext to justify undermining fundamental freedoms.

It is worth noting that, in most cases, numerous charges are brought simultaneously against human rights defenders. This is supported by the example of Osman Baydemir, the former vice-president of the IHD⁶, who has had 144 charges brought against him, 36 of which are currently under investigation.

The issue of freedom of association is of utmost importance in view of the debate on the application of Turkey to the European Union. The recent violations listed in the present report affect the most fundamental rights : freedom of speech and opinion, freedom of association, of peaceful meeting and demonstration. The role granted to independent associations in the Turkish

society and the acceptance of checks-and-balances necessary to the building of the Rule of Law are at stake. Turkey must revert the current trend and guarantee associative freedoms in all circumstances. This will enable us to measure the will of Turkey to effectively implement democratic principles and practices which are one of the pillars of the European Union.

This report illustrates the obstacles encountered by human rights defenders in Turkey through the observation of the trial of Mr. Sezgin Tanrikulu, a representative of the HRFT Treatment and Rehabilitation Center for Victims of Torture. The Observatory for the Protection of Human Rights Defenders, a joint program of the FIDH and the OMCT, sent Ms. Laurence Roques, a lawyer of the Val de Marne Bar Association (France) to attend the trial on March 19, 2002 in Diyarbakir. This report also includes an analysis of the Turkish legislation concerning freedom of association, illustrated by a recent example, the case of the IHD Bingöl branch.

(30 November 2002)

1. According to article 3 of this law, every citizen has the right to organize and participate in peaceful meetings and demonstrations without prior authorization. However, article 10 requires that a written notice be submitted to authorities 48 hours prior to meetings and demonstrations. Upon receipt of the notice, the authorities have the right to ban the meetings and demonstrations. Therefore, in practice, this is a prior authorization system.

2. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms adopted by the General Assembly of the United Nations on December 9, 1998.

3. See the section on Turkey in the Appendix of the 2001 Annual Report of the Observatory for the Protection of Human Rights Defenders, as well as the urgent appeals sent out in 2002 (non-exhaustive).

4. The newly-constructed F-type prisons are characterized by one- or three-inmate isolation cells. Many acts of torture and ill-treatment have reportedly taken place in these prisons. The strong mobilization of human rights defenders against F-type prisons and in support of the many prisoners on hunger strikes to protest against prison conditions has led to additional repression.

5. Kurdistan Workers Party.

6. Osman Baydemir has recently left his position as IHD's vice president.

I. The Trial of Mr. Sezgin Tanrikulu

In addition to its monitoring activities of human rights violations, the HRFT provides physical and psychological aid to torture victims in specialized centers located in regions throughout Turkey. Since its creation in 1990, some 6500 people have benefited from the assistance provided by volunteer doctors, psychologists, and social workers. The HRFT also conducts scientific research on methods to prove acts of torture. Numerous doctors and physicians have been victims of intimidating phone calls by the police to discourage them from working at the HRFT. They are also harassed with demands to provide the police with their patients' names and addresses, whereas this information is strictly confidential in accordance with medical ethics. Certain medical professionals are forced to leave their places of work and are appointed in other places.

Mr. Sezgin Tanrikulu, representative of the Diyarbakir HFRT Treatment and Rehabilitation Center for Victims of Torture, was tried on March 19, 2002 before the Penal Court No. 2 in Diyarbakir (a city under the State of emergency in the southeast of Turkey). Mr. Tanrikulu was summoned to appear as representative of the center, in the framework of judicial proceedings for possession of illegal documents and opening of the center without prior authorization.

A. Reminder of the Facts

Following an illegal search by local authorities on September 7, 2001, charges were brought against the Center. It was only after the police arrived at the Center that the Diyarbakir Security Directorate requested a search warrant from the State Security Court to identify the "illegal activities" of the HRFT, namely its alleged ties to a terrorist organization. The request was finally granted in the late afternoon, a considerable amount of time after the arrival of the police. Several hundred patient files (365) including photographs mostly of torture victims were seized in violation of the principle of medical confidentiality. They were only returned to the Center a month later. Therefore, the local authorities had ample time to obtain confidential information concerning both the patients and the doctors working at the Center.

On October 17, 2001, the governor of Diyarbakir ordered Dr. Recai Aldemir, one of the Center's physicians, to leave the Center. He was sent to Silvan, a district in greater Diyarbakir. On November 6, the Administrative Council of the Diyarbakir province started a preliminary investigation against Dr. Aldemir

and Dr. Emin Yuksel, another of the Center's doctors. Mr. Yuksel had been forced to leave his post and sent to Hazro, another district in greater Diyarbakir in June 2001. Their cases are still pending.

On October 25, 2001, the prosecutor sent a letter to inform the center of the following grounds for the preliminary investigation:

- Knowingly helping and supporting members of the terrorist party PKK
- Possessing banned publications
- Opening a center without prior authorization

The General Director of Foundations inspected the Ankara HRFT headquarters from October 25 to October 30, 2001, with respect to the preliminary investigations against the Diyarbakir center.

On November 26, 2001, the Diyarbakir Public Prosecutor's Office sent a letter of notification stating that Mr. Tanrikulu was fined 37,341,400 Turkish lira (22 US dollars) as the center's representative. According to Turkish law, if the accused pays the fine, investigations are concluded. Upon refusal, the accused is subject to legal prosecution.

Mr. Tanrikulu refused to pay the fine, considering that the charges brought against the Center were unfounded.

The first charge was dropped, but the remaining two were the basis for the March 19, 2002 trial.

B. The Trial

The trial was held on March 19, 2002, in the Diyarbakir Penal Court No. 2, a single-judge court. Mr. Sezkin Tanrikulu was present and was represented by Ms. Ziyet Ozgelik, a member of the Ankara Bar and by the President of the Diyarbakir Bar. The majority of lawyers belonging to the Diyarbakir Bar attended the trial. In addition to the representative of the Observatory, representatives of various international organizations were present, including the World Medical Association (WMA), the International Rehabilitation Council for Torture Victims (IRCT), the Swedish Medical Association and the Primo Levi Committee. The courtroom was full, but the prosecutor choose not to attend. The trial lasted over two hours and proceeded in an orderly fashion. After checking the identity of Mr. Tanrikulu, the judge read the two charges against him: possession of banned

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documents- article 256 of the Penal Code, and of opening the center without prior authorization - articles 8 and 45 of Law No. 2219 on private hospitals.

Concerning the accusation of possession of prohibited propaganda, Ms. Ogzelik argued that the search had been illegal since the prosecutor's authorization had been delivered several hours after the search had taken place. Consequently, she concluded her client could not be convicted of the offense charged.

The lawyer also requested that the court order local authorities to destroy the information they had obtained from the seized files while they were illegally in their possession.

Therefore, the debate only pertained to the charge concerning the center's failure to obtain prior authorization to open.

The defense lawyers argued that according to Turkish Law No. 2219, only centers providing medical care are subject to this requirement.

They stressed that the HRFT Treatment and Rehabilitation Centers for Torture Victims do not provide medical care, but simply receive torture victims, verify their allegations and, if necessary, referred them to appropriate treatment centers.

The defense lawyer recalled that certain HRFT centers located in other cities, had already been prosecuted on similar charges, but had always been acquitted. The HRFT centers in Istanbul and Adana were prosecuted on the same legal grounds in 1996. Both centers were acquitted on November 1 and December 20, 1996, respectively.

The defense lawyers denounced the authorities' intention to force a center that records cases of torture in Turkey to close, thereby favoring torturers' impunity.

Ms. Ogzelik emphasized that the Center had recently recorded over 400 cases of torture, and that despite the prosecutor's seizure of patient files, the prosecutor had not seen fit to investigate these cases in order to identify the torturers, but had chosen instead to prosecute the Center.

Visibly annoyed, the judge intervened informing the lawyer that he was simply there to hear evidence concerning the opening of the center.

The trial otherwise went forward in an orderly fashion. The clerk took note of what was said and the judge verified the accuracy of his transcription with Mr. Tanrikulu and his lawyers. The Turkish

lawyers indicated that the presence of foreign observers, and the personality of the judge, played a significant role in the respect of the rights of the defense.

Since the prosecutor was absent, the judge ordered that information concerning the defense's argument be sent to him so that he reply and explain the accusations in further detail. The judge then ordered an expert study of the Center, to be performed by an expert and the judge himself, in the presence of the two parties. The trial was then adjourned to April 19 to allow time for the necessary investigation to be carried out.

C. Conclusion

At a press conference held a few moments after the trial, the members of the HRFT indicated that they were partially satisfied with the outcome: The judge implicitly recognized the illegal nature of the search by ordering the prosecutor to provide further information about it and ordered an expert's report on the Center.

However, they deplored the authorities', including the prosecutor's, choice to prosecute the center rather than to track down and prosecute the torturers, despite the fact that the Center's files, which the authorities had in their possession, demonstrated the existence of hundreds of cases of torture.

The legal impunity benefiting torturers in Turkey was once again illustrated by this case.

The Center was then inspected for a second time on March 22 in conformity with the Court's ruling.

On April 19, 2002, the Diyarbakir Penal Court No. 2 in fact cleared Mr. Tanrikulu of the charges of opening the Center without authorization. However, the Court held that it lacked subject matter to judge the charges of possession of banned publications and transferred the case to the Penal Court of First Instance, a higher court. The case is still pending.

Even if the Court's ruling held that the prosecution was illegal and that the charges had no legal grounds (thus allowing the Center to continue to operate legally), judicial pressure on the HRFT has not completely abated.

Despite the fact that, in theory, the center is able to operate freely, staff doctors continue to experience intimidation and harassment to discourage them from exercising their profession.

The Observatory mission's contacts in Ankara explained that freedoms of speech and of association are severely restricted under Turkish law.

II. The Situation of Human Rights Organizations under the Turkish Law on Freedom of Association

A. The Law on Associations

On March 20, 2002, the Chargée de mission met with human rights lawyers and representatives of human rights organizations in Ankara, all of whom pointed to the lack of real freedom of speech and association in Turkey.

Mr. Hösnü Ondül, president of the Human Rights Association of Turkey (IHD), with whom the FIDH mission met on March 20, 2002, at IHD headquarters, stressed that freedom of association is not currently respected in Turkey, particularly in the areas under a state of emergency.

Indeed, the law on associations (Law No. 2908 of October 6, 1983, published in the Official Gazette on October 7, 1983) contains numerous restrictions on freedom of association.

Restrictions on the purpose of an association

Article 5 of the law considerably limits the purpose of associations, prohibiting them from *"putting forward the proposition that there are minorities within the Turkish Republic based on differences of class, race, languages or culture separate from the Turkish language and culture, or making people from any region or race or class or any religion or sect dominant over or privileged above others..."*⁷

In February 2002, the Ankara Criminal Court No.2 ordered the closure of the Union of Alevi and Bektashi Formations (ABKB) on the grounds of article 5, claiming that its statutes provide for the teaching of Alevite and Bektashi culture and might threaten the unity of the Turkish State.

Therefore, no organization may be created with the aim to protect any non-Turkish culture or language. Article 6 prohibits the use of any other language than Turkish, not only in an association's written statutes but even orally in private meetings of association's members. This is illustrated by the example of Osman Baydemir, former vice president of the IHD in Turkey and Eren Keskin, president of the Istanbul IHD branch. They are currently being prosecuted for violating article 6 with respect to using the word Newroz (Kurdish) instead of Nevruz (Turkish)⁸ in their statements. Under Turkish law, this constitutes a crime, since the Turkish alphabet does not contain the letter "w". Using the letter "w" therefore violates the law on associations.

Some restrictions have been repealed by the amendment of article 6 in 2002 requiring associations to use only the Turkish

language in official documents. The application of this amendment will be evaluated in the future.

Article 37, by fixing a list of prohibited activities, considerably limits field of action of associations, and prohibits organizers as representatives of their associations from participating in activities or making statements contrary to the purposes of an association as defined in its statutes.

Article 38 strictly limits the field of activity of student associations to student-related areas (i.e. education, teaching, work, diet and physical and mental health). In August 2002, an amendment repealed the interdiction required by article 39, which prevented civil servants from founding associations not related to their employment. However, judges must obtain prior authorization from the Minister of Justice, while other government employees must obtain authorization from the Prime Minister.

Restrictions of the rights of associations to participate in international activities

According to articles 7, 11 and 12 of the law, associations may not be members of established international organizations or participate in international activities without having obtained prior authorization from the Council of Ministers, acting on a proposition of the Minister of the Interior after hearing the Minister of Foreign Affairs. If authorization is not granted, the Council of Ministers acting on a proposition of the Minister of the Interior after hearing the Minister of Foreign Affairs may dissolve the association immediately.

An association who wants to open an office in Turkey with headquarters abroad is required to follow the same procedure. Amnesty International was not able to obtain authorization to create a branch in Turkey until March 2002 after having been repeatedly refused authorization.

An amendment to articles 11 and 12 in March 2002 stipulates that it is no longer required to act on the proposition of the Minister of Interior and to hear the Minister of Foreign Affairs. However, this restriction was reinstated in a more recent amendment of August 2002.

Under article 43 of the law, associations may not participate in exchanges with associations established outside Turkey unless they receive prior authorization from the Minister of the Interior, after hearing the Minister of Foreign Affairs and other Ministers

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who would have relevant cause to hear the request.

Following the amendments adopted in August 2002, the law stipulates that "if authorized by authorities and decided by the government, it is possible to establish ties with other countries." This law is less restrictive in principle, but must still be tested in practice.

Under article 60, associations may not receive foreign funds (from individuals or institutions) without prior authorization from the Minister of the Interior.

These restrictions are particularly important for organizations defending human rights, which frequently depend on moral and financial international solidarity. These restrictions blatantly violate articles 5b and 5c, article 9.4 and article 13 of the Declaration on Human Rights Defenders⁹.

Restrictions to the right to found associations

Under article 10 of the law, the statutes of associations asking for their registration must be examined by local governors within 30 days for associations covering only one region, or in the case of associations that are present in several provinces by the Ministry of the Interior, within 90 days. Taking advantage of the fact that legal repercussions do not exist for ignoring the time limit, authorities withhold their response for several months during which they undertake investigations designed to put pressure on its members.

Mr. Boran Cicekli, a member of the Ankara Bar and of the Association of Contemporary Jurists indicated to the mission that he had requested authorization from the local governor to open an office to organize meetings for the members of the association, but that he had still received no response by the time of the mission.

Government control over the associations

The restrictions go hand in hand with State authorities excessive power over association activities. For example, under article 44, local authorities possess a real power of censorship, since associations are required to submit the texts of speeches, leaflets and any kind of publications to the public prosecutor and to a representative of the governor before distributing them. Any diffusion in the press must be delayed for at least 24 hours.

Article 45 stipulates that "All administrative premises, buildings and annexes, all books, accounts and proceedings of associations are subject to inspection at any time by the Interior Ministry or the most senior local representative of government. [...] During inspections carried out by Governors and Local Governors, or inspectors, members of the Special Associations

Supervision Group of the Interior Ministry and officials of the relevant institute of higher education may temporarily remove from office any chairperson or member of the management council or relevant personnel who: declines to permit a safe or cash box to be checked, show money, paper representing money or accounts and records thereof, respond to questions, permit access to the headquarters, buildings or annexes; commits any important offence of fraud, theft, deception, forgery, abuse of religious belief or smuggling; commits any offence requiring the imposition of a heavy prison sentence; forges a document [...]". (See the example of the Bingöl branch below.)

Moreover, all Ministries are responsible for inspecting activities related to their particular fields.

Under article 48, the police have the right to intervene in and search, at any time, an association suspected of possessing written or visual propaganda documents prohibited by law.

Under article 68, the local governor has the right to attend the general assembly of any association and record what is said.

Under article 54 the governor has broad powers to suspend activity of the association which in his view represents a threat to public order, an extremely vague concept.

The supervision exercised by the Ministry of the Interior over associations, their right to exist, their resources and their relations with third parties is not insignificant. It reflects the environment of suspicion present in Turkey with respect to associations. Therefore, it is clear that freedom of association remains suspect and closely monitored.

As a consequence, the leadership of certain human rights organizations has concluded that it is often preferable to organize as a foundation rather than as an association. Foundations are not overseen by the Minister of the Interior, but by a delegate for foundations appointed by the government who, in general, seems to be more open to human rights activities. Members are allowed to belong to foreign international organizations and, more importantly, to receive funds from abroad.

B. Repression of the IHD branch at Bingöl: a blatant example

An illustration of the restrictive legislation with respect to association rights is provided by recent events involving the IHD branch located in Bingöl. This city is no longer officially under a

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state of emergency, but tension in this region remains high.

Mr. Öndül indicated that the association has been systematically harassed since opening its doors on April 12, 2001. He also explained that its headquarters have already been searched four times and large numbers of documents have been seized.

On October 17 2001, the association's seal was confiscated and as a result, the association is no longer able to collect funds and donations.

On November 30 2001, the police raided the association's offices and confiscated forms completed by victims of human rights violations, reports, monthly bulletins from the IHD central offices and press releases. The police attempted to arrest Mr. Ridvan Kyzgyn, the president of the branch and two other people present, while insulting and threatening many other members. The raid was instigated after the organization of meeting entitled "Women and Violence" organized by the members of the women's committee of the branch in the association's offices. The Association had refused entry to the police on the grounds that it was intended for members and not open to the public.

During the raid, Mr. Kyzgyn was also issued a document signed by the local governor of Bingöl dating from November 30, informing him that an official decision had been taken to suspend him from his duties as president of the branch under article 45 of the law on associations (see above). He was reinstated to his position as president in January 2002.

On January 25, 2002, Mr. Kyzgyn and Mr. Fevzi Akbulut, president and secretary of the branch, were arrested in the

association's offices after participating as observers at a press conference. The Kurdish People's Democracy Party, HADEP, organized the press conference in honor of the anniversary of the disappearance of two HADEP members held in a police station. The police broke it up and arrested six other people.

After being detained for questioning for two days (during which they were denied the right to legal counsel), they were held in custody nearly two months. They were finally released on March 18 after raising a very high bail of 500 million Turkish lira (three times the average monthly salary in Turkey).

They were charged with violating Law N. 2911 on demonstrations, since they had not requested prior authorization for the press conference. However, prior authorization is virtually never required for press conferences. In a conversation in Ankara on March 21, 2002, their lawyer noted that Turkish laws on associations or demonstrations are frequently used to practice legal harassment on organizations defending human rights associations in Turkey, but it is rare for organizers to be jailed, or for such high bail to be set. In his opinion, what happened was due to the high level of political tension in the region. Their case is pending.

The Bingöl public prosecutor has brought other charges against Mr. Kyzgyn for his statements in the press concerning acts of torture committed against an individual. Mr. Öndül and Mr. Selahattin Esmer, secretary general of the IHD, are currently being prosecuted with regard to a letter Mr. Esmer wrote to the Minister of the Interior addressing these allegations of torture on January 11, 2002. The public prosecutor brought charges against Mr. Öndül and Mr. Esmer on August 13, 2002.

7. Turkish authorities have often used article 5 to dissolve certain political parties, including the People's Democracy Party, (HADEP). The European Court of Human Rights has condemned Turkey on several occasions for violating article 11 of the European Convention on Human Rights, which guarantees freedom of association and peaceful assembly.

8. Nevruz is a holiday originating in the Middle East and Central Asia. The Kurds consider Nevruz a national holiday. Until recently, the Turkish authorities traditionally opposed the celebration of this holiday. Turkish leaders and the government now recognize Nevruz as a Turkish holiday.

9. Article 5b and 5c: " For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: (b) to form, join and participate in non-governmental organizations, associations or groups; (c) to communicate with non-governmental or intergovernmental organizations". Article 9.4: " To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms". Article 13: "Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Recommendations

Based on the data collected by the Chargée de mission, the Observatory requests that the highest Turkish authorities:

- Carry out the necessary legislative reforms so that the law on associations adheres to the provisions of the Declaration on Human Rights Defenders and international human rights instruments ratified by Turkey, such as the International Covenant on Civil and Political Rights, the European Convention on Human Rights and the Charter of Paris and the documents adopted in the "Human Dimension" of the OSCE, such as the commitments stipulated in the Document of the Copenhagen Meeting the CSE in 1990. Reforms should include the repeal of the articles which provide for an authorization from authorities for all foreign financing of organizations; the repeal of article 5 that restricts the scope of an association's purpose; the repeal of articles 7, 11, 12 and 43 which limit participation in international activities and the repeal of article 45 which provides for a large government control over associations.
- Repeal article 8 of the Anti-Terror Law
- Take necessary measures so as to guarantee the freedoms of speech, assembly and pacific demonstrations systematically in compliance with regional and international instruments ratified by Turkey ;
- Put an end to the recurring legal persecution of human rights defenders, including all of those mentioned in this report.
- More generally, recognize publicly the role of Human Rights Defenders in the establishment of democracy and the Rule of Law, commit to respecting the provisions of the Declaration of Human Rights Defenders adopted by the General Assembly of the United Nations on December 9, 1998, and commit to circulating this Declaration to the greatest extent possible.
- Invite Ms. Hina Jilani, Special Representative of the UN Secretary General on Human Rights Defenders, to go to Turkey in order to evaluate the situation of Turkish human rights defenders.

Moreover, the Observatory urges the international community to put the necessary pressure on the Turkish authorities, with the aim that they adopt the necessary measures in view of the improvement of the situation of human rights defenders. In particular, the Observatory urges:

- The Special Representative of the UN Secretary General on Human Rights Defenders, Mrs. Hina Jilani, and the Special Rapporteur on freedom of opinion and expression, Mr. Ambeyi Ligabo, to bring a particular attention to the situation in Turkey, in accordance with their mandate;
- The European Union to continue to put the necessary pressure on Turkey, in the perspective of the negotiations for the access of Turkey to the European Union, in view of the insufficiency of the reforms undertaken till now as regards freedom of association;
- The members of the Committee of Ministers and the Parliamentary Assembly of the Council of Europe - in particular the Monitoring Committee of the Parliamentary Assembly, that plans to visit Turkey in January 2003 - and the members of the Council of Ministers of the OSCE to bring a particular attention on the situation of freedom of association described in this report.

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Activities of the Observatory

The Observatory is an action programme, based on the conviction that strengthened co-operation and solidarity among defenders and their organisations, will contribute to break the isolation of the victims of violations. It is also based on the necessity to establish a systematic response from NGOs and the international community to the repression against defenders.

With this aim, the priorities of the Observatory are:

- a) a system of systematic alert on violations of rights and freedoms of human rights defenders, particularly when they require an urgent intervention;
- b) the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- c) personalised and direct assistance, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- d) the preparation, publication and diffusion at a world-wide level of reports on violations of human rights and of individuals, or their organisations, that work for human rights around the world;
- e) sustained lobby with different regional and international intergovernmental institutions, particularly the United Nations, the Organisation of American States, the Organisation of African Unity, the Council of Europe and the European Union.

The activities of the Observatory are based on the consultation and the co-operation with national, regional, and international non governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria for the examination and admissibility of cases that are communicated to it. It also targets action based interpretations of the definition of "Human Rights Defenders" applied by OMCT and FIDH.

The competence of the Observatory embraces the cases which correspond to the following "operational definition" : "Each person victim or risking to be the victim of reprisals, harassment or violations, due to its compromise exercised individually or in association with others, in conformity with international instruments of protection of human rights, in favour of the promotion and realisation of rights recognised by the Universal Declaration of Human Rights and guaranteed by several international instruments".

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