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Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: July-December 2006

TURKEY

This country entry has been extracted from a forthcoming Amnesty International (AI) report, *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: July – December 2006* (AI Index: EUR 01/001/2007), to be issued later in 2007. Anyone wanting further information on other AI concerns in Europe and Central Asia should consult the full document.

Political developments

On 11 December foreign ministers of European Union (EU) member states voted to suspend eight out of 35 chapters of Turkey's EU accession negotiations in a decision formally endorsed at the EU Council of Ministers Summit on 14-15 December. The decision was motivated by Turkey's continuing refusal to open seaports and airports to the Republic of Cyprus in protest at the continuing economic embargo of the self-proclaimed Turkish Republic of Northern Cyprus. No time limit was put on the suspension, and the recommendations of some EU member states to review Turkey's entire EU accession bid a year later were rejected. The decision to suspend chapters was condemned strongly by the Turkish Prime Minister. While the European Commission had been critical of Turkey's progress in the area of human rights reform in its annual Progress Report on the country, the issue of human rights as such played no part in the decision to suspend negotiation chapters. Commentators in Turkey warned of the adverse effect the partial suspension of negotiations would have on the reform process.

Continuing restrictions on freedom of expression (update to AI Index: EUR 01/017/2006)

Laws containing fundamental restrictions on freedom of expression remained in force, resulting in the prosecution and sometimes conviction of groups such as journalists,

writers, publishers, academics, human rights defenders and students for the peaceful expression of their beliefs.

Many prosecutions under Article 301 (denigrating Turkishness, or state institutions) of the Turkish Penal Code continued to be brought. While there was evidence of a general trend where most such cases ended with acquittal after several hearings, in July the General Penal Board of the Court of Cassation upheld, by 18 votes to six, a six-month suspended sentence imposed on the journalist Hrant Dink under this article. Hrant Dink had been convicted in October 2005 for denigrating Turkishness in an article about Armenians in the late Ottoman period. In violation of European Court of Human Rights judgments, the General Penal Board of the Court of Cassation reasoned that “when criticizing institutions... derisive and belittling statements must not be used”. The president of the General Board, Osman Şirin, had voted with five others for the quashing of the decision and argued that Hrant Dink’s article represented “a typical use of the right to criticize”.

Human rights defenders in Turkey and internationally campaigned for the repeal of Article 301 on the grounds that the law lacked legal certainty of the crime, and rejecting the arguments of the Ministry of Justice to the effect that in due course the development of case law would signal an end to arbitrary prosecutions. The European Commission focused strongly on the need to repeal the article in its 2006 Progress Report on Turkey published on 8 November and in many speeches made by Enlargement Commissioner Olli Rehn.

Trial hearings of those tried under Article 301 were the scene of aggressive and threatening behaviour in and out of the courtroom on the part of those associated with the nationalist lawyers’ association, the Union of Jurists, under the chairmanship of the lawyer Kemal Kerinçsiz. Many prosecutions under Article 301 in the course of the past 18 months were begun by prosecutors on the basis of complaints against published writings initially lodged by Kemal Kerinçsiz.

Torture or other ill-treatment

Although overall there has been a general decrease in the number of reports of cases of torture or other ill-treatment in the past two years, some disturbing patterns continued to blight Turkey’s record. These included the persisting problem of reported abductions, during which individuals are subjected to verbal threats, intimidation, beating and assault in unofficial detention situations. Reports of the torture or ill-treatment in police custody of those suspected of ordinary crimes continued.

Erdal Bozkurt reported that he was detained with others on 25 September in Alibeyköy, Istanbul, in relation to activities with local neighbourhood groups in protest at drug dealers and social problems. Erdal Bozkurt reported that he was later threatened by the police in the street and, on 12 October at around 6pm, was forced into a car by two men introducing themselves as police officers and subsequently blindfolded and handcuffed. Erdal Bozkurt alleged that he was taken to an unknown place where he was beaten and assaulted, while being threatened and interrogated for a whole day about his and other people’s activities in the neighbourhood. Released the following day, he filed a formal complaint and documented evidence of his injuries.

The public prosecutor's initial investigation into the allegations were continued at the end of the year.

Four young men among 18 others detained on 20 November in Ankara in connection with protests against F-type prisons (see below) organized by the prisoners' solidarity group TAYAD were remanded to the Ankara Closed Prison for Children and Youths where they alleged they were tortured. İlker Şahin, Özgür Karakaya, Nadir Çınar and Cenan Altunç reported to their lawyer that on 20 December they were tortured in the prison. A representative of the Ankara Bar Association met with the four in prison and organized for the Forensic Institute to prepare a medical report documenting injuries allegedly sustained as a result of being tortured. The medical reports documented severe bruising to arms, backs and soles of feet, consistent with the four men's account of having been beaten and subjected to *falaka* (beating on the soles of the feet) with iron pipes and cudgels. The public prosecutor began an investigation at the year end.

Conditions in F-type prisons

The F-type prison system in Turkey continued to be a much-debated subject in Turkey (for background see 'Turkey: "F-Type" Prisons: Isolation and allegations of torture and ill-treatment', AI Index: EUR 44/025/2001). Six years on from the opening of the F-type prisons, serious complaints about the regime in these prisons continued. Four areas were of particular concern:

- 1) Prisoners, their lawyers and human rights groups continued to raise concerns about harsh and arbitrary disciplinary punishments meted out to prisoners in F-type prisons and reported treatment of prisoners which, in some cases, AI would consider as amounting to term cruel, inhuman and degrading. These complaints related mainly to prisoners remanded or convicted under anti-terrorism legislation but also in some cases to those convicted of organized-crime-related offences.

It was reported once again during the period under review that many of the disciplinary punishments meted out to prisoners were harsh and arbitrary and were typically for offences such as writing petitions deemed suspect for their oppositional political content, and similarly for writing letters and faxes containing content judged to be inappropriate; for participating in hunger strikes for restricted or unrestricted periods; for shouting slogans; for speaking Kurdish on the phone to family members, or for deliberately choosing to remain silent in front of prison guardians. A number of these offences are spelled out in the Law on the Execution of Sentences and Security Measures, as are punishments for such offences. Punishments consist of one- to three-month bans on meeting with visitors, on receiving or sending mail, on the possibility to participate in activities or workshops in the prison, and also periods in solitary confinement. It was reported to AI by lawyers who regularly visited their clients in prison and kept records of disciplinary punishments in Tekirdağ F-type Prison that although prisoners had the right to appeal against a punishment, the number of such punishments overturned on appeal was minimal.

Prisoners at Van F-type prison reported to the Van branches of the non-governmental organizations (NGOs) Association of Human Rights and Solidarity

for the Oppressed (Mazlum Der) and the Human Rights Association (İnsan Hakları Derneği) that a large number of prisoners were given disciplinary punishments for expressing solidarity with other prisoners who had made a complaint about the practice of forcing those convicted of membership of the Kurdistan Workers' Party (PKK) to share cells with former PKK members who had become informers.

There were complaints by prisoners of excessive and arbitrary body searches on the way to meetings with visitors (family members or lawyers) for both open and closed meetings. Prisoners reported that they were searched twice on being escorted to the meeting and twice on being escorted back to the cell, and complained of the body searches being humiliating and intrusive. There were particular complaints in July from women prisoners at Sincan Women's Prison - Nilüfer Şahin, Figen Çağrı and Necla Çomak - of being beaten during their 29 June transfer from Ankara Central Prison (Ulucanlar) to Sincan L-type Women's Closed Prison, and on arrival of being forcibly subjected to strip searches and attempted anal and vaginal examinations. Complaints by prisoners of being ill-treated were mostly reported as occurring during prisoner transfer, and some prisoners complained of being taken to court hearings handcuffed so tightly as to cause pain and of the humiliation of not being uncuffed to go to the toilet. There were also reports of prisoners being beaten during routine head counts.

There were alarming allegations documented by the Izmir Independent Prison Monitoring Group, made up of Izmir branches of different human rights NGOs, the Contemporary Lawyers Association and the Medical Chamber, relating to Izmir Kırklar F-type prisons Nos. 1 and 2. Representatives of the Group interviewed 10 prisoners remanded or convicted of ordinary crimes (in the context of organized crime) who alleged that one form of disciplinary punishment in the prison consisted of being placed in a small cell with padded walls and of being subjected to a form of restraint known as the "hogtie" (*domuz bağı*). The prisoners reported that they had been left for prolonged periods with their wrists bound behind their backs, their ankles bound, and wrists then bound to ankles, so that they were left lying on the floor. AI has documented numerous deaths in US police custody as a result of restraint procedures such as the "hogtie" which are known to be dangerous; such practices can severely restrict breathing and can lead to death from "positional asphyxia", especially when the subject is agitated or under the influence of drugs. AI has campaigned for such forms of restraint to be banned (for example, the USA and Canada; see AI Index: AMR 51/35/98 and website <http://www.rightsforall.amnesty.org/info/report/r03.htm#>). AI considers that restraint of this kind in a prison cell may amount to torture. In the Izmir case, handcuffs, rags, sheets and binding tape had reportedly been used and some prisoners reported the humiliation of being fed while hogtied by prison guards and of not being untied to go to the toilet. It was reported to AI that the allegations of the use of this form of punishment were under investigation by the public prosecutor in Izmir, though lawyers expressed concern that the prosecutor conducting the investigation was the same individual responsible for the day-to-day monitoring of the prison and that this could constitute an obstacle to an independent and effective inquiry.

- 2) Some groups of prisoners associated with left-wing political groups focused their complaints on the isolation-type regime in F-type prisons: they continued to oppose a prison regime in which individual prisoners were prevented from associating with those from the same or related political traditions to their own, and were offered very limited possibilities of associating with prisoners selected by the prison authorities. These prisoners continued to demonstrate their principled opposition to the F-type regime per se by boycotting the available opportunities for participating in out-of-cell activity such as workshops. The lawyer Behiç Aşçı from the law firm, the People's Law Office (Halkın Hukuk Burosu) continued a "death fast" begun in April 2006 in protest at the F-type isolation regime. On 28 December, the Union of Turkish Medical Chambers (Türk Tabipleri Birliği) undertook an inspection visit to Tekirdağ F-type Prisons Nos. 1 and 2 and concluded that the regime there amounted to isolation or small-group isolation and that this had serious repercussions for the psychological and physical health of prisoners.

Comparing the current implementation of regulations in F-types with the guidelines developed by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) about out-of-cell activity and association time, AI considered that the stark disparity between the two demonstrated that an isolation or small-group isolation regime continued to be perpetuated.

On 6 September, the report of the CPT's visit to Turkey on 7-14 December 2005 visit was published. The report made a number of criticisms of two F-type prisons, Adana F-type and Tekirdağ F-type Nos. 1 and 2. Some of the CPT's criticisms can be summarized as follows.

The situation of communal activities for prisoners outside their living units remained "highly unsatisfactory" with workshops not used by prisoners and "very limited possibilities for association (conversation) periods and sport". While there was a legal provision of five hours per week conversation time for groups of up to 10 persons, such an arrangement was not on offer in the establishments they visited and in Adana F-type, for example, where prisoners desired to participate one-hour sessions were being offered five or six times per month. The CPT thus concluded that taking into account participation in conversation groups, sport and visits – and noting that very few prisoners attended workshops – "a typical prisoner in Adana F-type would spend at best scarcely five hours a week outside his living unit". The CPT went on to conclude that at Tekirdağ F-type No 2, this would be six hours per month, including visits and phone calls, with only a few prisoners participating in workshops for up to 27 hours per week. The CPT therefore recommended that in order to overcome "the accusation of perpetuating a system of small-group isolation", the authorities take steps to develop communal activity programmes and that "immediate action should be taken to ensure ... a significant increase in the amount of association time offered per week, the goal being to reach the maximum permitted by the regulations". It should be noted, as stated previously, that the regulations permitted only five hours association time through conversation groups made up of 10 people.

It is worth noting here that in its own guidelines (2nd General Report [CPT/Inf (92) 3]), the CPT has recommended that:

“...prisoners cannot simply be left to languish for weeks, possibly months, locked up in their cells, and this regardless of how good material conditions might be within the cells. The CPT considers that one should aim at ensuring that prisoners in remand establishments are able to spend *a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. Of course, regimes in establishments for sentenced prisoners should be even more favourable.*” [emphasis added]

It can be assumed here that “purposeful activity of a varied nature” out of cell should also include social contact and association time with other prisoners. AI was of the view that, according to CPT guidelines, a prison regime which did not have adverse effects on the psychological and physical well-being of prisoners required very significantly more than the five hour per week association time through conversation periods specified in the Turkish regulations (Ministry of Justice Prisons Directorate Regulation No. 45, 01/01/2006). Indeed in its 11th General Report [CPT/Inf (2001) 16], the CPT specified that in high-security units (in the case of Turkey, this would be F-types), prisoners “should enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities.” On the basis of this reasoning, AI considered that the restriction of association time to five-hour per week conversation groups – reported by the CPT and many lawyers not to be implemented in practice – could constitute cruel, inhuman or degrading treatment.

In its September report the CPT also raised serious concerns about the solitary confinement regime applied to those prisoners serving aggravated life sentences barring them from any form of contact with other prisoners and participation in activities. In this context too, AI continued to be concerned about the isolation regime imposed on the imprisoned leader of the PKK, Abdullah Öcalan, still held in solitary confinement on İmralı Island and regularly denied visits from lawyers and relatives on the grounds of weather conditions preventing access to the island.

- 3) The range and content of the available out-of-cell activities (workshops for ceramics and so on, religious education courses) remained limited and reports from prisoners via their lawyers suggested that for those prisoners who chose to participate the conditions of participation were themselves restrictive of reasonable social interaction between prisoners. It was reported that prisoners who participated in workshops in Tekirdağ F-type Prison Nos. 1 and 2 were quite strictly prevented from communication with other prisoners and were liable to be excluded on grounds of “straying from the purpose” of the workshop by talking.
- 4) Health care and psychiatric provision in F-type prisons continued to be areas where resources were extremely inadequate and the decisions about the welfare of prisoners with health conditions seemed to be arbitrary and harsh. This was an area which the CPT addressed once again in its September report.

The prisoner Savaş Kör completed his sentence in November and was discharged from Kandıra F-type prison suffering extreme physical and psychological ill-

health. His extreme ill-health reportedly originated from a prolonged hunger strike resulting in Wernike Korsakoff syndrome for which he had been discharged from prison in July 2001. His condition was reportedly exacerbated when he was returned to prison in January 2004 after receiving a finalized sentence and being denied the appropriate care and treatment for someone in such an extreme condition. He was blind on leaving prison and was admitted to hospital for intensive and long-term treatment.

Bombings

On 12 September a bomb in a public park in the Bağlar neighbourhood of Diyarbakır killed 10 people. The dead included four children and three infants from two families. Although at the year end an investigation into the incident was continuing and no individual had been convicted, responsibility for the bombing was claimed on a website posted soon after the incident by the Turkish Revenge Brigade (Türk İntikam Tugayı), a shadowy ultra-nationalist group which has in the past claimed responsibility for bombings and armed attacks.

Following the PKK ceasefire with effect from 1 October, there was a decline in the number of armed clashes between the military and the PKK and a decline too in bombings of civilian targets by perpetrators whose identity was not always clear.

Fair Trial concerns

Following its 9 to 20 October visit to Turkey, the UN Working Group on Arbitrary Detentions raised a number of concerns about prolonged trial proceedings and unrestricted pre-trial detention for those charged under anti-terrorism legislation, commenting: "Their trials register a perfunctory hearing every month or two. The prosecutors told us that evidence was still being gathered and analysed, but it is not clear to us what evidence could possibly need to be analysed thirteen years after the terrorist crime was committed, no matter how complex the case is." The Working Group also raised concerns about the delayed entry into force of legislation introducing a limit to remand detention pending a final verdict. Limits were introduced in the 2005 Criminal Procedure Code but are not due to enter into force until April 2008. The Working Group also commented on the continued use in court of evidence based on statements made to the police in the absence of a lawyer and allegedly under torture, despite the 1 June change in the Criminal Procedure Code which requires that interviews are made in the presence of a lawyer. Calling on the government to extend the application of the provision also to pending cases in which such statements were made before 1 June 2005, the Group issued the reminder that "Turkey's obligations under the Convention Against Torture and fundamental considerations of justice require it".

These concerns, and others relating to unfair trials, were documented at length in AI's report, *Turkey: Justice Delayed and Denied: The persistence of protracted and unfair trials for those charged under anti-terrorism legislation*, AI Index: EUR 44/013/2006).

Conscientious objectors

In a retrial in October, Sivas Military Court sentenced conscientious objector Mehmet Tarhan to two years and one month's imprisonment on two charges of insubordination following his refusal on two occasions to perform military service (see AI Index: EUR 44/019/2006). At the year end he was at liberty. If imprisoned, AI would once more consider him to be a prisoner of conscience.

Conscientious objector Halil Savda was taken into custody at the first hearing of his retrial at the Çorlu Military Court on 7 December on charges of insubordination for refusal to perform military service. He had been sentenced to a three-year prison sentence in January 2005 for insubordination, a conviction overturned by the Military Appeals Court in August 2006.

Violence against Women

A circular from the Prime Minister in July, outlining measures to combat violence against women and children, and to prevent so-called "honour killings", represented a step towards acknowledging an entrenched and endemic problem. In December, Parliament passed revisions to the Law on the Protection of the Family, widening its scope.