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TURKEY: NEW RESTRICTIVE ANTI-TERROR LAW

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New Anti-Terror Law Violates Basic Human Rights

On April 12, 1991, the Turkish Parliament enacted a highly restrictive Anti-Terror Law. The law defines terrorism so broadly that almost anyone can be convicted of terrorism. On the positive side, the law commuted all existing death sentences (about 250) and permitted the conditional release of thousands of convicts, some hundreds of whom were political prisoners. And Parliament at the same time annulled Articles 141, 142 and 162 of the Turkish Penal Code, which were directed against communism, separatism and attempts to establish a religious state. Unfortunately, the Anti-Terror Law is as restrictive as the Penal Code Articles that it replaced.

In addition to its broad definition of terrorism, the Anti-Terror Act contains other provisions that raise human rights concerns. These include:

- Limitations on the right to counsel for those charged with terrorism.
- Provisions that make it more difficult to convict police or other government officials who have tortured detainees or prisoners.
- Exemptions from testifying in court for police officers who have taken confessions from detainees.
- Restrictions on prison conditions and privileges for convicted terrorists.
- Restrictions on meetings and demonstrations.
- Restrictions on press freedom.

Helsinki Watch calls on the government of Turkey to repeal the Anti-Terror Law, to refrain from introducing new laws that curtail human rights in Turkey, and to release the remaining political prisoners who have not been convicted of acts of violence.

The Law's Provisions

Definition of Terrorism

The Anti-Terror Law (Law 3713) defines terrorism as:

any kind of action conducted by one or several persons belonging to an organization with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening or destroying or seizing the authority of the State, eliminating fundamental rights and freedoms, or damaging the internal and external security of the State, public order or general health by any one method of pressure, force and violence, terrification, intimidation, oppression or threat.

An organization as described in this Law is constituted by two or more people gathering under a common aim.

Law 3713 is so broad in its definition of terrorism that, for example, any two people who press for changes in the economic or social system of the country could be prosecuted. And there is no requirement that violent acts be committed in order to trigger the act.

Offenders under the Law

A member of an organization considered to be a "terrorist" organization can be found guilty under the Anti-Terror Law, even if he or she has not taken part in the organization's acts. And non-members can be convicted if they take part in a "terrorist" act.

Penalties

Those who establish or administer illegal organizations may receive prison sentences of five to ten years; members of such organizations may receive sentences of three to five years. All can be heavily fined in addition. Anyone who assists members of terrorist organizations can be sentenced to one to five years and heavily fined. If the assistance is provided by legally-established associations, foundations or political parties, professional or workers' associations, or educational institutions or students' groups, the penalties will be doubled, and the associations, etc., will be closed by court order and their assets seized.

Sentences imposed under the Anti-Terror Law cannot be commuted to fines or suspended.

Meetings and Demonstrations

Meetings and demonstrations are sharply curtailed by the law; meetings, demonstrations and "propaganda" aimed at "damaging the indivisible unity of the State" are forbidden. Violators may receive prison sentences of two to five years and heavy fines. If these offenses are carried out by periodicals, heavy fines and sentences of six months to two years may be added.

Access to Lawyers

Access to lawyers has been sharply limited by the Anti-Terror Law. Defendants charged with violating this law may be represented by a maximum of three lawyers. (It is customary in Turkey in significant political cases for defendants to be represented nominally by many lawyers.) In addition, detainees or convicts may communicate with their lawyers only under the supervision of a detention center or prison official.

Length of Detention

The Anti-Terror Law retains existing regulations regarding length of detention: individual detainees must appear before a judge within 48 hours; those accused of collective crimes must appear within 15 days. (The 15 days may be doubled in the provinces in the Southeast in which an official State of Emergency exists.)

Punishment of Torturers

Under the new law, the Ministry of the Interior must give permission for charges to be brought against police officers or other officials charged with torture of people accused of political violence. The trials of such officials are to take place in State Security Courts. These officials are not to be detained during their trials, and the law contains no provision that requires suspending them from their work during the trials. In addition, police officers who interrogated suspects and witnesses covered by the law may testify in court, but only in a closed hearing.

Prison Conditions

Prison conditions are markedly different for people convicted under the Anti-Terror Law. The law provides that special prisons with cells for one to three people will be built to accommodate violators. (Most Turkish prisons contain large wards for prisoners; individual or small cells are considered more punitive.) In addition, "contact between convicts and communication with other convicts" will not be allowed, nor will there be open visits with

families.

Restrictions on Press Freedom

The Anti-Terror Law sharply restricts freedom of the press. The law provides heavy fines for writers or publishers who assist or publish propaganda for terrorist organizations, or who disclose the identity of civil servants charged with fighting terrorism or the identity of informants. Editors may also receive prison terms ranging from six months to two years.

Effects of the New Law

Conditional Release of Thousands of Prisoners

When the Anti-Terror Law was passed, Prime Minister Yildirim Akbulut announced that 43,000 of the 46,000 prisoners in Turkey would be eligible for release. As of May 6, 1991, 19,774 of these had been conditionally released: 19,066 had been imprisoned for ordinary crimes, and 708 were political prisoners. No exact figures on the number of prisoners released since then have been made public by the Turkish government or by human rights organizations or others.

According to the Turkish Human Rights Association (HRA), at the time of the enactment of the Anti-Terror Law, there were 3,316 political prisoners in prison in Turkey—2,857 left-wing prisoners, and 459 right-wing prisoners. Of the 459 right-wing prisoners, 409 were released; but of the 2,857 left-wing prisoners, only 299 were released. This discrepancy cannot be explained by the type of crime charged, as many of the right-wing prisoners had committed violent acts. In addition, according to the HRA, the remaining right-wing prisoners will be released within a year, while left-wing prisoners will have to serve another five to ten years.

A number of critics of the new law have commented on the difference in treatment accorded to left- and right-wing politicals. Member of Parliament Eyup Asik, who chairs the recently-formed Parliamentary Human Rights Committee, acknowledged the difference in treatment, but said that corrections "can be made" in the future (*The Anatolian*, May 26-June 1, 1991).

Helsinki Watch welcomes the release of political prisoners, but urges the Turkish government to release all the remaining political prisoners and to administer releases impartially and equitably.

Included among those released were at least 20 journalists and editors who had been imprisoned for what they had written or published. See "Free Expression in Turkey: Abuses Continue," *News from Helsinki Watch*, June 1991, for details.

Trials Ended

Helsinki Watch has received reports that a number of trials have been ended and charges dropped against political defendants because of the passage of the Anti-Terror Law and the parallel annulment of Articles 141, 142 and 163 of the Penal Code:

- A trial of 55 suspects, mostly students, charged with "working among youths on behalf of an illegal revolutionary youth organization" (Dev-Genc) was dropped on April 26, 1991, at the Ankara Security Court because of the lifting of Articles 141 and 142.
- On May 1, 1991, a Military Appeal Court ended the trial of the Turkish Peace Association and dropped sentences that had been imposed against its leaders. The convictions had been on appeal. The court suggested that the Association be reopened.
- On May 8, 1991, *Milliyet* reported that Urfa Mayor Ibrahim Celik, on trial for "anti-secularist propaganda," had been acquitted at Malatya State Security Court because of the lifting of Article 163.
- According to *Cumhuriyet*, May 17, 1991, a trial against Akin Birdal, Secretary General of the Turkish Human Rights Association, and other HRA officials for "defaming Turkey abroad" during a press conference in Paris in February 1989 had been dropped.
- Former religious clerk Cemalettin Kaplan, charged with anti-secular propaganda and organizing, was acquitted at Ankara Security Court following the abolition of Article 163. (*Cumhuriyet*, May 29, 1991)
- Some trials against Dogu Perincek and Adnan Akfirat of the journal *2000'e Dogru* (Towards 2000) were dropped because of the lifting of Article 142. (*Cumhuriyet*, May 30, 1991)

New Restrictions on Freedom under the Anti-Terror Law

In other actions, however, new charges have been brought and trials begun under the Anti-Terror Law that mirror cases brought under the abandoned articles of the Penal Code:

- *Cumhuriyet* reported on May 4, 1991, that a youth named Bayram Gunes, who had been arrested on July 16, 1990, for hanging posters in Izmir, had been given a one year-and-eight month sentence by the Izmir State Security Court for "making separatist propaganda by public means," in accordance with the Anti-Terror Law. (This case is particularly egregious, not only because of its violation of free expression rights, but because Gunes was sentenced for an act that violated the Anti-Terror Law at a time when that law did not even exist.)
- According to the May 10, 1991, *Cumhuriyet*, the journal *Yeni Ulke* (New Land) was under investigation by the Istanbul State Security Court for articles appearing in its 28th issue that were said to violate the Anti-Terror Law.
- The right to hold open meetings with relatives, enjoyed by over 2,000 political prisoners on special occasions, was abolished by the Ministry of Justice pursuant to Article 16 of the Anti-Terror Law. Political inmates were therefore unable to visit with families on Mothers' Day. (*Sabah*, May 12, 1991)
- According to the Turkish Human Rights Foundation, trials were launched against journals *Emegin Bayragi* (Flag of Labor) and *2000'e Dogru* (Towards 2000) by the Istanbul State Security Court pursuant to the Anti-Terror Law for articles on May Day and an interview with Kurdish separatist leader, Abdullah Ocalan.

(Reported on May 13, 1991)

In a particularly disturbing case concerning the punishment of torturers, Cumburiyet reported on May 31, 1991, that a trial against four officers and a soldier for the death under torture in 1985 of teacher Siddik Bilgin in Bingol had been halted in conformity with the Anti-Terror Law. An Ankara court decided that the new law provides that security officers cannot be prosecuted without the permission of provincial administrative councils if the security officer did not purposefully commit murder, and sent the case to the Bingol Provincial Administration Council to determine whether a new trial could be launched against the suspects. In the Bilgin trial, many witnesses, including defendant Lieutenant Umit Eris, had testified that Bilgin had been tortured to death.

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This report was written by Lois Whitman. News From Helsinki Watch is a publication of Helsinki Watch, an independent organization created in 1978 to monitor domestic and international compliance with the human rights provisions of the 1975 Helsinki Accords. The Chair is Robert L. Bernstein; Vice Chairs, Jonathan Fanton and Alice Henkin; Executive Director, Jeri Laber; Deputy Director, Lois Whitman; Washington Representative, Catherine Cosman; Staff Counsel, Holly Cartner and Theodore Zang, Jr.; Staff Consultant, Ivana Nizich; Orville Schell Fellow, Robert Kushen; Associates, Sarai Brachman, Mia Nitchun and Elisabeth Socolow; Intern, Jemima Stratford

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