



PERMANENT MISSION OF TURKEY
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Response*

OHCHR REGISTRY

13 FEB 2012

Recipients: *M. Cohen (SPD)*

*Ben Emmerson
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9 February 2012

Dear Mr. Sow, Ms. Izsak, Ms. Knaul, Mr. Emmerson, Mr. La Rue and Ms. Sekaggya,

With reference to your joint letter dated 17 November 2011, I have the pleasure to enclose herewith a non-paper which contains information received from the relevant Turkish authorities regarding the arrests of Mr. Ragıp Zarakolu, Ms. Büşra Ersanlı, Ms. Filiz Kalaycı, Ms. Zeynep Ceren Boztoprak, Mr. Hasan Anlar, Mr. Halil İbrahim Vargün and Mr. Murat Vargün.

Please accept the assurances of my high consideration.

Oğuz DEMİRALP
Ambassador
Permanent Representative

Encl: As stated

Mr. El Hadji Malick Sow
Chair-Rapporteur of the Working Group On Arbitrary Detention

Ms. Rita Izsak
Independent Expert on minority issues

Ms. Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Mr. Ben Emmerson
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Mr. Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Ms. Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

6 February 2012

With reference to your letter of 17 November 2011, the Republic of Turkey wishes to submit the following information regarding Rağıp Zarakolu, Büşra Ersanlı, Filiz Kalaycı, Hasan Anlar, Halil İbrahim Vargün and Murat Vargün

The said persons have been arrested for their illegal activities falling within the scope of the investigation on a terrorist organization known as PKK/KCK.

In 2007, the Diyarbakır Chief Public Prosecutor Office initiated an investigation (No.2007/997) to transcribe the activities of the so-called "Koma Civaken Kurdistan Parliament of Turkey (KCK/TM)" that operates as the urban wing of the illegal PKK/KONGRA-GEL terrorist organization. The information that was provided by the relevant authorities is presented here below:

Concerning the terrorist organization PKK/KCK

It is well known that PKK is a terrorist organization which is included in the list of terrorist organizations of the European Union and NATO as well as those of many countries. PKK and its chieftain are responsible for countless crimes against humanity, including not only murders, but also kidnappings, tortures, extortion, illegal drug trafficking, etc. Many of its leading figures are internationally known criminals searched through Interpol channels.

Since 1984, PKK's terrorist activities resulted in the death of more than 30.000 Turkish citizens, among whom were innocent civilians, teachers and other public servants, many deliberately murdered.

Following the arrest of its head terrorist Abdullah Öcalan, in 1999, the supporters of the organization started claiming that it had switched its strategy to peaceful methods and would pursue political struggle from then on. In accordance with this policy of appearing as a born-again legitimate organization, PKK changed its name to KADEK on April 2002 and to KONGRAGEL on November 2003. In this line, KCK ("Koma Civaken Kurdistan") was created on May 2007 as the urban wing of PKK.

However, the organization has been continuing to carry out hit and run attacks mainly on southeastern Anatolia. PKK has hideouts in northern Iraq, and illegal network in Europe, where it finds financial support through extortion, illegal drug trafficking and money laundering.

The organic link between PKK and KCK is explicitly presented in the KCK document called "KCK Convention". PKK leader Abdullah Öcalan is also designated as the head of its urban wing. The new structure, strategic activities and name of the PKK/KCK terror organization were all presented as having been determined following the instructions and approval of Öcalan. The PKK terrorist named Murat Karayılan is heading the executive structure of KCK and Sabri OK is the head of the KCK structure in Turkey.

KCK/PKK activities are not limited to Turkey. They pursue separatist violent aims also in Iran, Iraq and Syria.

The so-called “KCK Convention” openly states that “Kurdistan’s Democratic Confederalism” is based on the experience of PKK.

In paragraph 36 of the same document, it reads that PKK constitutes the ideological power of KCK and all PKK members serving within the KCK system are bound by the PKK structure’s ideological, moral, organizational and vital principles. It also stated that every KCK member should act in accordance with PKK’s ideological and moral standards.

In paragraph 43 of the same document KCK forces are instructed to act in line with PKK/KONGRA GEL’s political will.

The ongoing confidential investigation revealed that the leadership of this terrorist organization operates in the hideouts located in northern Iraq; instructions given by Öcalan, from the prison are transmitted to KCK militants by his lawyers and visitors; the terrorist organization aims to establish first an autonomous, then a confederative and finally an independent state.

There are evidences proving that KCK structure is responsible for organizing and coordinating illegal activities, creating illegal structures with an aim to replace state institutions, conducting illegal activities and demonstrations throughout Turkey, holding illegal meetings to promote hatred and hostility, collecting funds by using intimidation methods, providing logistic support to terrorists operating in extra-urban areas, organizing corruption and irregularities within the local exerting pressure through unlawful means on the political party BDP for the nomination of candidates to the legislative and local elections, interrogating and punishing elected politicians, intervening in the recruitment of employees by the local administrations, trafficking drug, preparing false documents and passport for illegal entries in Turkey, etc...

KCK tries to recruits highly educated members with speaking and influencing skills and familiar with urban life. These new recruits attend courses on politics, culture, art, journalism and literature, in a camp called DOLE KOGE. Besides, they also receive training on the use of weapons. Thereafter, they are placed in some legally acting NGO’s and institutions in order to influence their activities in line with KCK’s instruction.

Concerning the allegations related to the arrest of Ragıp Zarakolu, Büşra Ersanlı, Filiz Kalaycı, Hasan Anlar, Halil İbrahim Vargün and Murat Vargün

The investigation is carried out in accordance with the principle of secrecy stemming from Turkish Criminal Procedure Code Article 157 which states that “unless provided otherwise by the code and under the requirement to not harm the defense rights, procedural interactions during the investigation phase shall be kept as a secret.”

Turkish Constitution’s Article 138 on the Independence of the Courts stipulates that Judges shall be independent in the discharge of their duties; they shall give judgment in accordance with the Constitution, law, and their personal conviction conforming with the law. No organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of judicial power, send them circulars, or make recommendations or suggestions. No questions shall be asked, debates held, or statements made in the Legislative Assembly relating to the exercise of judicial power concerning a case under trial...”. In line

with this article, administrative authorities may not intervene in the ongoing judicial processes concerning the said persons.

Emine Büşra Ersanlı and Ragıp Zarakolu were arrested on 28 October 2011 in Istanbul for providing ideological education to KCK terrorists in the framework of the so-called "Political Academia", acting under direct instructions of the PKK leader Öcalan, in order to train KCK leaders and to generate policies in line with the terrorist organisation's objectives to create discord in the society and upset the legal order.

Concerning the related investigation file 2010/521, Istanbul 17th Assize Criminal Court issued a decision of limitation in accordance with article 10/d of the Anti Terror Law (Should examination of file content and making copy of it by lawyer may cause danger for aim of investigation, lawyer's authority can be limited via judge decision upon demand by Public prosecutor.)

In the framework of the investigation (Nr. 2007/181) carried out by Ankara Chief Prosecutor's Office, **Hasan Anlar, Filiz Kalaycı, Halil İbrahim Vargün and Murat Vargün** were determined to be in relation with KCK/PKK terrorist organisation and arrested on 12 May 2009. The case is still examined by Ankara 11th Assize Court.

The investigation revealed that these persons were involved in a plot aimed at creating illegal parallel structures within the justice system, in line with PKK/KCK's objectives and were preventing criminal lawyers, through intimidation, threat and coercion, from assuming positions against PKK.

In the scope of the decision issued by the relevant court to shed light on the activities of the suspected lawyers, their e-mail and phone communications were wiretapped and their houses and offices were searched by the police with the presence of the Public Prosecutor and lawyers appointed by the Bar. They were arrested pursuant to article 250 of the Code of Criminal Procedure and upon the written instruction of Ankara Chief Prosecutor. All documents and information found during the investigation, concerning the suspects' activities, were submitted to the relevant Court.

Following the submission of the file on Hasan Anlar, Murat Vargün and Halil İbrahim Vargün to the relevant Court on 14.05.2009 and the file on Filiz Kalaycı on 15.05.2009, the said court ordered the release of the suspects, with a ban from leaving the country. However, the prosecutor's office appealed against the order to release Filiz Kalaycı. As a result of this request, lawyer Filiz Kalaycı was apprehended on 27.05.2009 upon the arrest warrant Nr. 2009/491 delivered by Ankara 11th Assize Court on 25.05.2009. Thereafter she was arrested and imprisoned upon Court decision.

During the custody period, a decision of limitation was taken by Ankara 11th Assize Court as to the examination of the file content, in accordance with article 10/d of the Anti Terror Law. However, suspects had the opportunity to be assisted by their lawyers at every stage of the investigation.

Zeynep Ceren Boztoprak was apprehended and taken into custody in Ankara on 18 May 2010, upon the written instruction of Aksaray Public Prosecutor, for belonging to and aiding the terrorist organization. The same day, her father Alaattin Boztoprak was informed of

the issue and her mother Gülden Boztoprak could meet her at Gülağaç District Gendarmerie Command. Upon the request of the suspect, a lawyer had been appointed by the Ankara Bar.

The reason that aforementioned suspects have been legally prosecuted is **not** for exercising a professional activity or their work towards the promotion or protection of human rights and fundamental freedoms. The said prosecutions are totally based on the legal evidence showing that they acted on behalf of the terrorist organization KCK/PKK.

Turkey has been implementing a multidimensional and comprehensive strategy in the fight against terrorism. In this strategy, security measures are complemented by social, economic and cultural dimensions. This approach is also an important part of the professional training of our security forces. The Democratic Opening process is an indispensable element of this comprehensive strategy.

While various countries, including those having highest democratic standards, resorted to restrictive measures after September 11 2001, Turkey, contrary to this global trend, made a paradigm shift in the fight against terrorism and brought the human dimension to the forefront. We are conducting this fight with full respect for the rule of law and human rights. For the last ten years, Turkey has been engaged in a serious reform process which will continue to meet the aspirations of the Turkish society. The success of Turkey in the field of democracy and human rights has been acknowledged worldwide and shown as an example.

In the period ahead, we will continue addressing the terror problem in a comprehensive manner. These efforts will reach an all new level soon, in the form of a debate around a new constitution. This will inevitably have a significant and positive bearing on some critical aspects of the matter.

Turkey is a democratic country where all political ideas and sensitivities can be promoted and represented through democratic institutions. It has a freely elected parliament where all segments of the population are represented. Terrorism is a major threat to democracy. All governments are duty bound to fight terrorism in order to consolidate the basis of freedom and democracy.