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HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) Terrorism (2005-4)
TUR 5/2012

4 July 2012

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism pursuant to Human Rights Council resolutions 15/18, 16/4, 15/21, 16/5, and 15/15.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the **arrest and detention of several human rights activists and trade unionists**.

According to the information received:

On 25 June 2012, the anti-terrorist unit of the police raided the homes and offices of several human rights activists and trade unionists. A warrant was issued for the arrest of 58 persons and the police reportedly raided 72 homes and offices of trade unions affiliated to KESK (The Confederation of Public Workers' Unions), Egitim Sen (Education and Science Worker's Union), SES (The Trade Union of Public Employees in Health and Social Services), BTS (United Trade Union of Transport Employees), Tüm Bel Sen (Union of All Municipality Civil Servants), Tarim Orkam-Sen (Agriculture, Forest, livestock Service Workers Union) and Yapi Yol Sen (Road, Construction, Infrastructure, Public Works, Title Deed Land Survey Public Sector Employees Trade Union) in various cities and provinces including Ankara, Diyarbakir, Istanbul, Agri, Bitlis, Siirt, Adana and Eskisehir. According to the information received, 56 persons were arrested during the raid and several documents and computers were confiscated. This operation reportedly aims at dismantling an alleged terrorist network.

On 28 June 2012, the prosecutor decided to release 12 persons out of the 56 who were arrested on 25 June. On the same day, the Ankara Heavy Penal Court No. 12 extended the detention of 22 others who will remain in detention pending trials. On 29 June 2012, six other persons were also placed on pre-trial detention under the charge of “being a member of an illegal organization” under Article 314 of Turkish Penal Code (TPC). The other persons were released.

Amongst those placed on pre-trial detention is Mr. Osman Isci, who is a prominent human rights defender, a member of the Human Rights Association (IHD) and of Egitim Sen, who was arrested at his home on 25 June 2012 morning. He is reportedly currently detained at the Security Directorate of Anti-terrorism police department in Ankara.

The 27 other detainees include Mr. Yunus Akil, Former President of BTS / Council Member of KESK, Mr. Belgizar Sazak, Council Member of BTS, Mr. Mehmet Arda - Member of Egitim Sen, Mr. Mehmet Siddik Akin - Secretary General of SES, Mr. Izzettin Alpergin - Secretary General of Tüm Bel Sen, Mr. Yilmaz Yildirimci - Executive of Tüm Bel Sen Ankara Second Branch, Mr. Sakine Esen Yilmaz - Executive of Egitim Sen, Mr. Nihat Kiliñalp - Executive of Egitim Sen Ankara First Branch, Mr. Metin Vuranok - General President of Tarim Orkam-Sen, Mr. Erdal Turan - Executive of SES Ankara Branch, Mr. Ferruh Çelik - Executive of Tüm Bel Sen Ankara Second Branch, Mr. Hanim Koçyigit - Member of Egitim Sen, Mr. Seyran Sik - Haber-Sen Genel Kadın Sekreteri, Mr. Mehmet Sezgin Ibin - Executive of Tarim Orkam Sen Ankara Branch, Mr. Mustafa Bozan - Ankara Branch Chairperson of Yapi Yol Sen, Mr. Aykut Erhan Turgut - Executive of Egitim Sen Ankara Second Branch, Mr. Deniz Bozbey Member of Egitim Sen, Mr. Sibel Anil - Member of Haber-Sen, Mr. Erdal Yilmaz - Member of SES, Mr. Bekir Gürbüz - Member of Egitim Sen, Mr. Tarik Kaya - Member of Egitim Sen, Mr. Çerkez Aydın - Executive of Egitim Sen Ankara Second Branch, Mr. Veysel Özhekdi - President of Egitim Sen Tunceli Branch, Mr. Hasan Örgün - Egitim Sen Tunceli Şube Başkanı, Mr. Şerif İldoğan - Member of Egitim Sen Sanliurfa Branch, Mr. Mehmet Bozgeyik - Secretary General of Egitim-Sen and Mr. Fikret Çalağan - Former Executive Committee Member of SES.

It is alleged that these arrests and detentions form part of a continuing campaign of harassment against human rights activists, trade unionists and those calling for a peaceful resolution of the Kurd question. Reference is notably made to several members of the Human Rights Association (IHD) who are still in pre-trial detention.

Serious concerns are expressed that the arrest and detention of Mr. Osman Isci and of the aforementioned human rights defenders and trade unionists may be related to their dissenting views and their legitimate exercise of fundamental freedoms. Concerns are further expressed that such arrests and detention may be part of a broader campaign aimed at intimidating and silencing Turkish NGOs working on issues relating to the Kurdish question. Concern is also expressed that these arrests and detentions may deter

other civil society activists, particularly human rights defenders, from exercising their right to freedom of association.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

We also wish to draw your Excellency's attention to General Assembly Resolution 66/171 and Human Rights Council Resolution 19/19, whose paragraphs 1 respectively reaffirm "that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law.

Furthermore, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

We would also like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the ICCPR, which provides that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that "Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

Furthermore, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime

responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations;
- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the cases accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Osman Isci and the 27 other detainees and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

4. Please indicate what measures have been taken to ensure that the legitimate right to associate freely is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

We undertake to ensure that the response of your Excellency's Government to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

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

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of
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Ben Emmerson
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