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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; and Special Rapporteur on the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/16 and 16/5.

In this connection, I would like to draw the attention of your Excellency's Government to information we have received regarding the alleged arrests of **Mr. Kemal Aydin**, **Mr. Selahattin Tekin**, and **Mr. Cemal Bektas** from **Yakay-der**, and **Ms. Nahide Ormani** from **Mothers for Peace** in October 2011. Both **Yakay-der** and **Mothers for Peace** are member associations of the **Euro-Mediterranean Federation Against Enforced Disappearances (FEMED)**.

According to the information received, it is alleged that:

On 4 October 2011, Mr. Kemal Aydin, Yakay-der's spokesperson, and Mr. Selahattin Tekin, a member of Yakay-der's Board Council, were reportedly arrested in Istanbul along with 96 other individuals. In the evening of 11 October 2011, Mr. Cemal Bektas, President of Yakay-der and brother of a disappeared person, was reportedly arrested when leaving Yakay-der's offices after returning to Istanbul from Diyarbakir, where he had been when his two colleagues were allegedly arrested. Until 13 October 2011, his whereabouts were unknown, although he is reportedly now held in provisional detention in Metris Prison, Istanbul. Messrs. Aydin and Tekin are also reportedly detained in Metris Prison. On 15 October 2011, Ms. Nahide Ormani, a member of the Mothers for Peace, was reportedly arrested in the District of Slopi.

Yakay-der and Mothers for Peace have worked for years on alleged enforced disappearances in Turkey. They seek to clarify the circumstances surrounding disappearances and extrajudicial executions by conducting research with the families of victims, organising conferences and other outreach activities. It is reported that the members of Yakay-der and Mothers for Peace have been subjected to harassment from the authorities in the past.

Concern is expressed that the reported arrests of Mr. Aydin, Mr. Tekin, Mr. Bektas and Ms. Ormani may be directly related to their peaceful and legitimate work in relation to victims of enforced disappearance. Further concern is expressed for their physical and psychological security and integrity while in detention.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the right to physical and mental integrity of the above-mentioned persons. This right is set forth in, *inter alia*, [relevant mandate allegation codes/treaties].

In this connection, 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 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.

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 (and articles 9 and 14 of the International Covenant on Civil and Political Rights).

In relation to the allegations that the fate and whereabouts of the above mentioned persons are unknown, we would like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which sets out necessary protection by the State, including in:

- article 2 (no State shall practice, permit or tolerate enforced disappearances);
- article 3 (each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction);
- article 6 (no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance);
- article 7 (no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances);
- article 9 (right to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty);
- article 10 (right to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest); and
- article 12 (right to the maintenance in every place of detention of official up-to-date registers of all detained persons).

We wish to request that appropriate investigations be carried out to clarify the fate and whereabouts of the persons mentioned above and to protect their rights. We would appreciate receiving, with the utmost urgency, any information your Excellency's Government may provide on these cases and the results of the investigations.

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.

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.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. 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 case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate whether compensation has been provided to the victim or the family of the victim.
6. Please provide information on the measures taken to ensure the safety of the above mentioned persons.
7. Please provide information on the fate and whereabouts of the above mentioned persons. If their fate and whereabouts are unknown, please provide the details on any investigation or other inquiries which may have been carried out. If no inquiries have taken place, or if they have been inconclusive, please explain why.]
8. Please provide information concerning the legal grounds for the arrest and detention of the above mentioned persons. 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.

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

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

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

Jeremy Sarkin
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders