



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



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Mr Sadullah ERGIN

Minister of Justice of the Republic of Turkey

Strasbourg, 8 June 2010

Dear Minister,

Further to my visit to Turkey from 23 to 26 May 2010, I would like to seize this opportunity to follow up on our constructive dialogue in particular regarding juvenile justice, implementation of anti-terrorist laws and access of local human rights boards to places of detention.

As regards juvenile justice, the law reforms undertaken since the introduction of the Child Protection Law in 2005 are welcome. I appreciate the different projects and in particular the Ardıc Programme aiming at raising awareness and ensuring respect for child rights among staff dealing with detained youth.

I am, nonetheless, concerned about a different trend with regard to children detained, prosecuted and sentenced particularly under anti-terrorist legislation especially in east and southeast Turkey. During my visit to Diyarbakir last May I met with sixteen Kurdish boys and two girls aged from fifteen to eighteen. While some of them had been detained already between six to nine months still awaiting their trial, others had been sentenced in the first instance to fifteen years of imprisonment for having caused disturbances during their participation in demonstrations considered to be supporting terrorism. None of them had been able to attend school while being detained and no satisfactory alternatives are being provided to ensure the children's right to education.

I was also informed that some of the children had been beaten by members of the police force during the first hours of their arrest. Members of civil society also reported incidents of ill-treatment of children being arrested for allegedly having shouted slogans, distributed pamphlets or having thrown stones in the context of demonstrations. I further learned that at the end of 2009, more than 2 500 children have been detained in Turkey with less than 10% of them eventually sentenced. I would appreciate information about the number of children currently detained under anti-terrorist legislation, the length of their pre-trial detention and the sentences received.

The above is at variance with international standards, in particular Article 40 of the UN Convention on the Rights of the Child (CRC), to which Turkey is a party. Detention of children is an exceptional measure and a means of last resort. The Committee on the Rights of the Child has expressed particular concern about pre-trial detention of children for long periods of time which constitutes a grave violation of the CRC. Furthermore the very heavy sentences issued under the anti-terrorist laws against children for acts deemed minor offences in other jurisdictions raise serious questions of proportionality between the sentences imposed and their aim.

I am aware of the reform proposal with regard to the anti-terrorist laws and their application to children and believe that this reform provides for an opportunity to move further and ensure a child-friendly justice aiming at education and integration. I would appreciate further information on the details of the reform and the envisaged timeline.

Regarding the anti-terrorist laws, I was also informed during my visit, that the current anti-terrorist legislation is implemented in such a manner that it has led to a great number of arrests of elected local representatives mainly in southeast Turkey, most of the detained still awaiting an indictment. Among them are two members of the Council of Europe Congress of Local and Regional Authorities, Mr Seyhmus Bayhan, Chair of the Provincial Board of Diyarbakir, in detention since September 2009 and Ms Leyla Güven, Mayor of Viranşehir, detained since December 2009 in the E-type prison of Diyarbakir, where I met with her. I am deeply concerned about such developments.

Lastly, as regards access of local human rights boards to places of detention, I was delighted to learn that following a recent change of law, local human rights boards do not have to seek prior authorization from the public prosecutor any longer to access places of detention. Instead, informing the public prosecutor prior to their visit is sufficient. I welcome this development underlining the importance of local human rights boards for the protection of human rights. During my meeting with the members of the Human Rights Board of Diyarbakir I got the impression that they had not been made aware of the change. I would encourage your authorities to ensure full information to all provinces. I note that further reforms are currently under way to strengthen human rights boards in Turkey and would appreciate more information on the draft legislation and the time line.

I look forward to a continuing constructive dialogue with you and your Government.

Yours sincerely,

Thomas Hammarberg