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Turkey: Briefing to the Committee against Torture

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INTRODUCTION

This briefing is submitted to the Committee against Torture (the Committee) in view of its consideration of Turkey's third periodic report on its implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention) in November 2010. This briefing responds partly to the list of issues (CAT/C/TUR/Q/3) adopted by the Committee in February 2008 and also summarizes some of Amnesty International's additional concerns about Turkey's failure to implement some of its obligations under the Convention.

In particular Amnesty International is concerned regarding the continued practice of torture and other ill-treatment which is occurring in official places of detention including pre-charge detention and in prisons as well as outside official places of detention. Turkey's failure to ratify OPCAT, to establish domestic independent human rights institutions and weaknesses in areas of domestic law result in insufficient protection and violation of the rights of detainees. The lack of implementation of existing provisions of domestic law leaves detainees at greater risk of ill-treatment.

Unfair prosecutions of children under the age of 18 under anti-terrorism legislation both in adult and children's courts following their alleged participation in demonstrations highlight weaknesses in the protection of the rights of children, including against torture and other ill-treatment.

The continued failure to conduct prompt, impartial and effective investigations into alleged human rights violations by law enforcement officials and the conduct of the courts in cases involving alleged human rights violations by such officials, seldom bringing those accused to justice, means that strengthened laws against torture and other treatment still do not represent an effective deterrent against torture and other ill-treatment and a culture of impunity for such violations of human rights remains.

ARTICLE 2

In reference to question 1, regarding the ability of detainees to access safeguards against ill-treatment and torture:

Unofficial detention: lack of access to lawyers and to inform families or have them informed and ill-treatment

Amnesty International continues to receive reports of persons being deprived of their liberty and held in unrecorded pre-charge detention in police custody before they are officially recorded as having been taken into custody. This practice has the effect of removing people from the protection of law; during such period the person is not able to inform or have informed their families of their detention or to have access to legal assistance.

Children are among those who the authorities have and continue to detain in unrecorded adult pre-charge detention facilities following their arrest during demonstrations. Amnesty International's research has shown that children have been routinely held in the adult Anti-

Terrorism Branch of Security Directorates following their arrest at demonstrations rather than in the Children's Branch (Çocuk Şubesi) as required by law.[1] The authorities have routinely kept children unofficially detained in connection with demonstrations in Diyarbakir and Adana for periods of several hours during which time children were deprived of their right to notify or have notified their family as well as their right to access to legal assistance.

Amnesty International has received numerous allegations that during such periods of unofficial detention children have been subjected to verbal threats and abuse by police officers. In addition it is alleged that during the period of unofficial detention children have been interrogated by police officers without an appropriate adult being present and without legal assistance and that during such interrogation they have been pressured into signing statements in police records in advance of providing statements to public prosecutors as is required by law.[2]

Notwithstanding amendments to the law which have ended prosecutions of child demonstrators under anti-terrorism legislation, Amnesty International continues to receive reports indicating that children detained in the context of demonstrations continue to be held in unofficial detention and continue to be subjected to ill-treatment.

Impediments to effective access to medical assistance:

Precharge

The protection from ill-treatment and/or from impunity for ill-treatment afforded by a detainee's access to medical assistance continues to be hindered because police officers are routinely present with the detainee during medical examination of individuals deprived of their liberty prior to being charged (pre-charge detainees). Detainees including children reported to Amnesty International that they were afraid to express the extent of their injuries to medical personnel with police officers present.

Amnesty International has also received reports indicating that medical officials failed to record detainees' injuries on official medical reports. In some cases former detainees additionally sought independent medical examination reports which were able to document injuries not recorded in official medical reports.

During detention on Remand and following Conviction

Amnesty International has received a number of reports in which that it is alleged that access to appropriate medical treatment for persons held in prison after being convicted of a criminal offence and for persons remanded in pre-trial detention has been denied. Among the reports were those of children, who had previously been held at the Diyarbakir E-type prison, who told Amnesty International that they were only able to access medical assistance one day per week and that medical conditions were not treated following their examination by doctors.

Access to appropriate medical treatment for prisoners requiring medical treatment which is not able to be administered in the prison remains particularly problematic. Amnesty International has received reports indicating that in many cases decisions by the Institute of

Forensic Medicine (Adli Tıp Kurumu), the body charged with making decisions on whether to transfer prisoners to other facilities for medical treatment, in such cases were severely delayed or conflicted with independent medical reports. A published summary of the report by the Presidential Inspection Board (Devlet Denetleme Kurulu) about the functioning of the Institute of Forensic Medicine made wide ranging observations about organizational and structural failings, recommending that the body should be made independent from the Ministry of Justice and provided with sufficient resources to carry out its mandate. [3] Amnesty International believes that the full report should be made available to Committee and also be made public.

Foreign Nationals detained in Removal Centres

Amnesty International is concerned that foreign nationals detained in Removal Centres (formerly known as Foreigners' Guesthouses) are being denied domestic law protections applicable to all persons deprived of their liberty. As such there is no procedure to determine the necessity to detain the individual, to examine possible alternatives to detention and no written notification stating the reasons for the detention is provided. There is also no practical procedure to challenge the grounds of the detention and no control over the detention by a judicial authority.[4] The Turkish authorities insist that the individuals are subject to "supervision" rather than detention and thus are not entitled to the same protections under the law as individuals who are detained. [5] Amnesty International is concerned that the lack of legal protections has contributed to the persistence of alleged ill-treatment at removal centres.[6]

Question 4: the creation of an Ombudsman institution:

Amnesty International welcomes the amendment to Article 74 of the Constitution creating the Ombudsman institution. However, it remains unclear how the Ombudsman institution will function alongside other proposed national independent human rights institutions, namely the Human Rights Board, an independent police complaints mechanism and an equality and non-discrimination commission. Amnesty International regrets that little progress has been made in bringing the above institutions into law and regrets that the state authorities did not consult effectively with civil society organizations in Turkey ahead of bringing a draft law on the Human Rights Board to Parliament. Amnesty International is also concerned that in its current form the draft law regarding the Human Rights Board would not satisfy the requirements of domestic implementing legislation for OPCAT in explicitly providing for unrestricted and unannounced visits to all places of detention within the mandate of the institution.

ARTICLE 3

In reference to question 8 regarding the expulsion of irregular aliens:

Since 2009 the instances of UNHCR-registered asylum-seekers and refugees being *refouled* from Turkey to a place where they are at risk of torture have reduced markedly.

However persons who have entered Turkey irregularly or were unable to regularise their status in Turkey and who have not been able to register as asylum-seekers with the UNHCR

continue to be removed to places where they face risk or torture or other ill-treatment without any procedure to establish what risks they would face on return [7]

Amnesty International also regrets that no effective remedy exists in domestic law to prevent expulsions in violation of the principle of *non-refoulement*. Applications to the Administrative Court challenging deportation orders are ineffective due to the fact that there is no legal requirement to suspend a deportation order in light of an application to the court.[8]

ARTICLE 4

In reference to question 9 on statistical information on the prosecution and conviction of perpetrators of acts of torture:

Amnesty International remains concerned that effective investigations and prosecutions of law enforcement officials are not conducted in the vast majority of cases. The result is a continuing pattern of impunity.

This concern is born out in the findings made in the Parliamentary Human Rights Inquiry Commission's report into the investigation and prosecution of torture allegations in Istanbul from 2003 -8. The report, which was published in January 2009, found that of the 35 criminal prosecutions opened against a total of 432 state officials accused of torture or other ill-treatment during the period, none resulted in a conviction.[9]

ARTICLE 12

In reference to question 16 on the keeping of records of all detainees in police custody:

Amnesty International is concerned that detention in police custody has not been recorded accurately leading to delay in detainees' access to legal assistance and family members, thereby increasing the risk of torture or other ill-treatment.

Footage from cameras in places of detention has not been available in many criminal investigations into alleged torture and ill-treatment by police officers because cameras were allegedly not functioning at the time of the incident or because the footage had been destroyed after the event.

For example, in the case of **Mustafa Kükçe**, who died in custody in İzmir in December 2007, prosecutors investigating his death found that the police had made no official record of his detention and that camera footage from the police station was not available because the cameras had been out of order.

In the case of the death in custody of Nigerian asylum-seeker **Festus Okey** in August 2007, police initially reported that no camera records existed; however they subsequently provided Ministry of Interior inspectors with partial camera records showing Festus Okey entering and exiting custody. No camera records, however, were available for the time during which Festus Okey was shot while in custody with a police weapon, resulting in his death. As of September

2010 the trial of a police officer charged with intentional killing remains stalled pending confirmation of Festus Okey's identity following the defence lawyer's claim that Festus Okey's identity had not been sufficiently confirmed.

No evidence from cameras was available during the trial of military officials accused of ill-treating conscientious objector **Enver Aydemir** while he was detained in Maltepe Military Prison in Istanbul in December 2009. During the first trial hearing, military officials told the court that camera footage had been examined by the military authorities and then destroyed after no evidence of a crime being committed was discovered on the tapes.

As noted above in comments to question 1, Amnesty International has documented the routine practice of the authorities holding children who they have detained in the context of demonstrations which are regarded by the authorities as being in support of terrorism, in unofficial detention in adult police custody in the Anti-Terrorism Branch of Security Directorates rather than in the Children's Branch as required by domestic law. During such periods of unofficial detention the children have been held outside of the law, deprived of their right to notify or have notified their families and their right to access to legal assistance. During this period of unofficial detention, which may last for a number of hours, children have been reportedly subjected to ill-treatment; they have also reportedly been questioned by police.

In reference to question 18 on the implementation of the recommendations of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism:

Effective investigations into allegations of human rights violations, including torture and other ill-treatment are hindered by non implementation of the system of judicial police, an institution created by the Code of Criminal Procedure which would allow for independent investigations supervised by the prosecutor, and the fact that investigations are frequently carried out by state officials within the same institution alleged to have carried out the violation.

In the case of **Ferhat Gerçek**, a 19-year-old shot by police and left permanently paralysed following a dispute centering on the sale of a legal left wing magazine in Istanbul in October 2007, police officers investigating the incident were from the same police station in Istanbul (Bahçelievler 75. yil Polis Merkezi) as the police officer alleged to have shot Ferhat Gerçek. A lawyer representing Ferhat Gerçek claimed that that those taking statements (tutanak) following the event included officials who had taking part in the policing of the incident.

Additional concerns regarding the thoroughness and independence of the investigation include the fact that a crucial piece of evidence, the t-shirt worn by Ferhat Gerçek at the time of the shooting, was lost by police officers. His lawyer reports that following ballistic tests the bullet found in Ferhat Gerçek's body was matched to a police gun, but it is claimed in the indictment which contains charges against both the police officers and Ferhat Gerçek, that the bullet had ricocheted from a hard surface before hitting Ferhat Gerçek. This claim is disputed by Ferhat Gerçek's lawyer. The indictment assumes the bullet must have ricocheted without providing forensic evidence to confirm this claim. The lack of such evidence and the

failure to conduct a prompt crime scene investigation raises questions concerning the thoroughness of the investigation of the circumstances of the shooting. No police officers have been suspended pending completion of the investigation and proceedings related to the incident. During the investigation of the incident police officers were interviewed as "victims" while Ferhat Gerçek was interviewed as a suspect.

The investigation of the incident contrasts sharply with the independent investigation launched by the public prosecutor following the death in custody of **Engin Çeber** on 10 October 2008. Engin Çeber was detained after taking part in a protest against the police shooting of Ferhat Gerçek. In a landmark judgment 19 officials were convicted of offences ranging from causing death of Engin Çeber and torture to dereliction of duty. Following the verdict which was released on 1 June 2010, the case remains pending at the Supreme Court of Appeals.[10]

The criminal prosecution related to Ferhat Gerçek's case continues against both Ferhat Gerçek and the police officers who have been charged. Ferhat Gerçek faces up to 15 years in jail if convicted of charges of 'breaching the laws on assembly and demonstrations', 'resistance to public servants carrying out their duties', 'insulting a public servant', and 'criminal damage'. The police officers who have been charged face up to nine-and-a-half years in jail if convicted for 'intentional wounding as a result of excessive use of force'.

Failures seen in the investigation following the shooting of Ferhat Gerçek have been frequently witnessed in other cases involving alleged violations by state officials. In the case of the death in custody of Festus Okey, again, the clothing he was wearing at the time that he was shot in custody was lost by police.

The lack of effective crime scene investigations continues to be reported in cases of alleged human rights violations, including torture and other ill-treatment. One such case, that of a young teenager, **Ceylan Önkol,** in September 2009 is illustrative of failures at the initial stages of investigation that perpetuate impunity. Ceylan Önkol was killed in an explosion near her home in the Lice district of south-eastern Turkey. According to witness statements Ceylan Önkol was grazing cattle approximately 200m from her home at the time of her death. Witnesses also reported hearing the sound of a mortar coming from the direction of the nearby Tapantepe gendarmerie station immediately before the sound of the explosion.

Following the explosion and the discovery of Ceylan Önkol's body at the scene, the local authorities were notified and a public prosecutor was requested to come to the scene in order to investigate the incident. According to witness reports supported by official documents, a public prosecutor did not arrive at the scene until three days after the incident. No prompt and thorough crime scene investigation was carried out at the scene. The judicial authorities cited security reasons as preventing them from attending the scene. An investigation into the cause of the death and another one about the failure of the officials to come to the scene of the incident were continuing as of September 2010.

Investigations into alleged human rights violations are also compromised by public statements made by the authorities in advance of the outcome of independent criminal investigations by public prosecutors.

In October 2009 52-year-old **Resul İlçin** died a as a result of head injuries sustained while in police detention in the south-eastern province of Şırnak. According to information received by Amnesty International from the lawyer representing the family of Resul İlçin, he and another man, Mehmet İlgin, were brought to the İdil District Security Directorate by police officers during the night of 21 October after the car that they were travelling in was stopped by the police. The following is account of the developments, according to the criminal complaint brought against police officers by the family of Resul İlçin:

> The two men were questioned by police for more than one hour on the side of the road before being brought by police to the İdil District Security Directorate. After their arrival at the security directorate, Mehmet İlgin was questioned outside the main building, while Resul İlçin was taken inside the building for questioning. About 10 or 15 minutes after their arrival at the security directorate, police officers told Mehmet İlgin that Resul İlçin had fallen. Mehmet İlgin then entered the main building of the security directorate and saw the body of Resul İlçin lying on the ground at the entrance. Resul İlçin was then taken by police officers to the İdil State Hospital before being transferred to the Cizre State Hospital where his death was confirmed. An official autopsy report stated that he had multiple head injuries and that there was bruising on various areas of Resul İlçin's body. Following the death, the governor of Şırnak province issued a statement preceding the outcome of the authorities' investigation into the incident, stating that Resul İlçin's death was caused by a fall and not as a result of ill-treatment.
>
> In June 2010 the public prosecutor closed the criminal investigation into the incident issuing a decision that there were no charges to answer. The decision was based on the forensic report prepared by the Institute of Forensic Medicine which stated that the death was caused by a heart attack. Lawyers representing the family of Resul İlçin appealed the decision to close the investigation, arguing that autopsy report also showed evidence of ill-treatment and that Resul İlçin had no history of heart problems. Despite this, in July 2010 the local administrative court rejected the appeal against the closure of the investigation.

In many cases criminal investigations are not opened where there is *prima facie* evidence of torture or other ill-treatment documented through official medical reports. Individuals reported to Amnesty International that they did not file criminal complaints regarding torture or other ill-treatment due to the fear that counter charges would be issued against them.

In the context of children alleging ill-treatment during demonstrations or in detention following arrest at demonstrations, in the vast majority of cases no criminal complaints were made for this reason. In several cases counter charges were issued where criminal complaints were issued against law enforcement officials for torture or other ill-treatment. [11]

The case of **Muammer Öz**, is also illustrative of the pattern of police officers being present during medical examination, official medical reports not documenting injuries reported by independent medical reports and the issuance of counter charges against persons alleging ill-treatment against state officials.

Lawyer Muammer Öz was ill-treated by police officers in the Moda district of Istanbul in July 2007. He told Amnesty International that police officers had beaten him with batons and

their fists and told him that they would never be punished. A medical examination conducted in the presence of police did not record the fact that Muammer Öz's nose was broken although this was documented by a subsequent independent medical report.

Muammer Öz issued a criminal complaint with the assistance of the Istanbul Bar Association. Initially the Istanbul Governor's office refused permission for the initiation of either an administrative or criminal investigation into the conduct of the police officers. In addition a statement released by the Istanbul Security Directorate claimed that Muammer Öz had sustained his injuries when he fell during an attempt to escape from the police. Despite this a case was eventually opened against the police officers involved. Counter-charges were brought against Muammer Öz for resisting and insulting the police. Two police officers were convicted of ill-treating Muammer Öz by the local court, and of September 2010 the case remained pending at the Supreme Court of Appeals. The case against him for "resisting arrest" also continued as of September 2010.

Amnesty International has documented serious deficiencies in the investigation and prosecution following the shooting dead of Ahmet Kaymaz and his son Uğur Kaymaz, outside their home in Kızıltepe, Mardin in south-east Turkey, in November 2004. Immediate statements by the office of the Mardin Governor Temel Koçaklar claimed that two members of the Kurdistan Workers' Party (PKK) had been killed in a clash with the security forces, despite the fact that Uğur Kaymaz was 12 years old. Forensic reports indicate that the father and son were repeatedly shot at close range.[12] In June 2009 the Supreme Court of Appeals confirmed the 2007 decision of the local court in acquitting the four police officers who had been charged with the shooting.

Proceedings continue as of September 2010 in the case of the 2005 bombing of a bookshop in the town of Şemdinli in south-east Turkey in which the three suspects apprehended at the scene were members of military intelligence. Amnesty International considers that the case raises fundamental questions about human rights violations, including torture allegedly perpetrated by the Turkish security forces in the course of counter-terror operations; and that the incident casts serious doubts on the will of the Turkish authorities to ensure that allegations of grave human rights violations allegedly committed by members of the security forces are effectively investigated. Statements by senior government, state and military officials amounted to interference in the investigation, while a decision by the Higher Council of Judges and Prosecutors to dismiss from office the prosecutor who prepared the indictment constitutes a flagrant assault on the independence of the prosecution in Turkey.[13] While the full circumstances behind the bombing were never investigated, the conviction of those persons apprehended at the scene was overturned and the case transferred to a military court which promptly released the defendants allowing them to return to their duties.[14]

As noted below in the next Section (related to Article 15 of the Convention) evidence adduced allegedly as a result of torture or other ill-treatment continues to be introduced into proceedings of persons accused of involvement in terrorism-related crimes and persons previously convicted on the basis of evidence alleged to have been obtained under torture have not been subject to retrial.

ARTICLE 15

In reference to question 20 on implementation of the principle that evidence obtained through torture cannot be used in evidence:

In practice evidence allegedly obtained under torture continues to be accepted as evidence in court proceedings.

As of September 2010 **Erdoğan Akhanlı** remains in pre-trial detention awaiting trial under anti-terrorism legislation. The indictment accepted by the court contains a witness statement allegedly obtained under torture.[15] Amnesty International is particularly concerned that the statement-- which was subsequently retracted by the witness who obtained documentation of the torture -- forms a central part of the indictment; there appears to be an absence of other substantive evidence. Defence lawyers' applications for Erdoğan Akhanlı's release from detention were denied by the court on the basis of the weight of the evidence against him.

As stated in reference to question 1, Amnesty International has documented police records allegedly obtained by police using threats and intimidation being used as evidence in trials of children under anti-terrorism legislation following their participation in demonstrations.

In addition, persons previously convicted on the basis of evidence alleged to have been obtained under torture have not been subject to retrial. Amnesty International documented the case of **Mehmet Desde** and nine others who were convicted under anti-terrorism legislation despite allegations that statements had been obtained under torture.[16]

ARTICLE 16

In reference to question 22 on measures taken to implement the recommendations of the report on the visit to Turkey of the Working on Arbitrary Detention with regard to detention in the juvenile justice system:

Amnesty International is concerned at the practice of routinely detaining children in the context of prosecutions under anti-terrorism legislation. Children reported to Amnesty International that during the extended periods of detention, they were held in poor conditions without access to adequate medical assistance, education and leisure activities. Children also reported that they had been ill-treated while in detention.[17]

While Amnesty International welcomes the fact that the majority of the children detained in the context of demonstrations have been released following legislative amendments (see question 1), Amnesty International remains concerned that detention of children within the juvenile justice system continues to be used without other measures being considered first. Amnesty International is also concerned that due to the protracted nature of the trials with infrequent hearings and differing interpretations of the amendments that came into force in July 2010 by judges and prosecutors, as of September 2010 children who should have been released under the amended laws remained in pre-trial detention. Amnesty International is

further concerned that the Turkish authorities have not taken steps to ensure that children who were held in detention for long periods are granted access to rehabilitation programmes and other forms of redress for children whose rights were violated during the course of the prosecutions.

Amnesty International also remains concerned that while the law requires all children charged with criminal offences to be tried in Children's Courts, the fact that the courts do not exist in all provinces means that, in practice, some children will continue to be tried in adult courts. [18]

Amnesty International is concerned that the regulations regarding the detention of foreign nationals found to be unlawful by the European Court of Human Rights remain in force. In September 2009 in the case of *Abdolkhani and Karimnia vs. Turkey*, the European Court of Human Rights concluded that the deprivation of liberty of people held in immigration detention was not prescribed by law. The European Court of Human Rights also found that the applicants were not informed of the reasons for their detention, that they were not able to access legal assistance and that they were not able to challenge the legality of their detention)[19]

In reference to question 24 on the measures adopted to ensure that human rights defenders and non-governmental organizations are respected, together with their premises and archives:

Amnesty International is concerned about a continuing pattern of judicial harassment of human rights defenders; certain prominent individuals continue to be subject to multiple prosecutions.

In 2009 **Ethem Açikalin**, then head of the Adana branch of the Human Rights Association (İHD), faced seven ongoing prosecutions as a result of his work as a human rights defender. In October 2009 he was convicted of "inciting enmity or hatred among the population" and sentenced to three years' imprisonment for criticizing the state government's imprisonment in 2008 of children involved in protests, including against withdrawal of family health care benefits.

Amnesty International has also documented a pattern of harassment of organizations defending the rights of lesbian, gay, bisexual and transgender (LGBT) individuals with closure cases being opened against almost every LGBT association registered in Turkey.[20]

Amnesty is also concerned that human rights defenders continue to be subjected to threats of violence by unknown individuals. While some have been provided with police protection, Amnesty International regrets that few cases in which investigations into the source of the threats have been conducted have resulted in prosecutions.

In the case of *Dink vs. Turkey* the European Court of Human Rights found that Turkey had failed to take reasonable measures to protect the life of journalist and human rights defender **Hrant Dink** by failing to act on information that could have prevented his murder in January 2007. The Court also found an additional violation of the right to life in light of the Turkish authorities' failure to conduct an effective investigation following the murder; in particular

the Court noted the failure of the authorities to examine the role of the security services. The Court also concluded that Turkey had violated Hrant Dink's right to freedom of expression in relation to cases brought against him under Article 301 of the Penal Code for "denigrating Turkishness".[21]

On 24 December 2009 **Muharrem Erbey**, Vice-President of the İHD and President of the Diyarbakır Branch of İHD in south-east Turkey, was taken into custody by anti-terrorism units of the Diyarbakir police. Muharrem Erbey was detained apparently on the basis of links to the PKK through his alleged membership of the Kurdistan Communities Union (KCK). [22] On the same day, his home, his office and the Diyarbakir Branch of İHD were searched by anti-terrorism police units. Amnesty International expressed concern that he may have been targeted due to his work as a human rights defender and considered him to be a possible prisoner of conscience.

Official records showed that during his interrogation by a public prosecutor, Muharrem Erbey was questioned on his activities for İHD. The association told Amnesty International that information seized by police during their raid on the İHD's Diyarbakır Branch included confidential information provided by individuals regarding alleged human rights abuses by members of the security forces. Computer hard disks taken during the raid by police were not returned to the İHD until January 2010, hampering their human rights work. İHD told Amnesty International that as of September 2010 some documents and equipment taken during the raid had still not been returned to them.

In reference to question 25 regarding the length of time that detainees have been held on remand:

Amnesty International has long-held concerns regarding the protracted nature of trial proceedings and the length of periods of pre-trial detention. [23] Amnesty is also concerned that persons, especially those tried in special heavy penal courts, are remanded in pre-trial detention without an effective review of the reasons for their detention being carried out in practice. Some believe that lengthy pre-trial detention is being used as a *de-facto* form of punishment.

Amnesty International is also concerned about the practice of Courts blocking the disclosure of evidence to the accused and defence lawyers including (but not exclusively) in cases brought under anti-terrorism legislation. Such orders (known as "secrecy decisions"), among other things, compromise the ability of lawyers to challenge the legitimacy of a decision to detain the accused (and may compromise the right to a defence). Such "secrecy decisions" are made by judges, following an application from the prosecutor under Article 153 of the Code of Criminal Procedure, on the grounds that release of the documents would "jeopardise the aims of the investigation".

OTHER ISSUES

Excessive use of force and other ill-treatment by law enforcement officials

Amnesty International is concerned by the continuing pattern of ill-treatment, including the

excessive use of force, by law enforcement officials during demonstrations, including the use of live ammunition. In this context, Amnesty International has documented widespread ill-treatment which is routinely justified by the authorities as necessary for the maintenance of order and on grounds that demonstrators did not obey police orders to disperse.[24] Amnesty International regrets that ill-treatment in this context is not met with official criticism from the authorities and the organization is concerned that allegations of ill-treatment arising in this context are particularly unlikely to be effectively investigated.

Amnesty International is also concerned that the law regarding the use of force by police officers does not conform to international standards on the use of firearms by law enforcement officials. In this regard, Amnesty International is concerned that June 2007 amendments to the Law on Powers and Duties of Police gave police increased authority in the use of lethal weapons. The law allows police officers to shoot escaping suspects in the event that a warning to stop is not obeyed. While the law requires that use of weapons be proportional, the required proportionality in the use of lethal weapons in the law is descriptive rather than prescriptive.

Pattern of ill-treatment of conscientious objectors in military custody

Amnesty International has documented numerous allegations of ill-treatment of conscientious objectors to compulsory military service held in military detention. In addition to refusing to grant the right to conscientious objection and to repeatedly prosecuting and imprisoning conscientious objectors for their refusal to perform military service, credible allegations of ill-treatment have been made by almost every conscientious objector. A conscientious objector's refusal to wear military attire whilst in detention or to obey military prison rules have been cited frequently as leading to ill-treatment. [25]

ENDNOTES

[1] Article 16.1 of Child Protection Law (Law no. 5395; published in the *Official Gazette*, 15 July 2005)

[2] Article 15.1 of Child Protection Law (Law no. 5395; published in the *Official Gazette*, 15 July 2005) See Amnesty International, *All children have rights: End unfair prosecutions of children under anti-terrorism legislation,* EUR 44/011/2010 pp12-13. http://www.amnesty.org/en/news-and-updates/report/turkey-must-stop-unfair-prosecutions-children-under-anti-terrorism-laws-2010

[3] "Adli Tıp Kurumu Başkanlığı'nın 2007, 2008 ve 2009 Yıllarına Ait Faaliyet ve İşlemlerinin Denetimi ile Adli Tıp Kurumu Hizmetlerinin Etkin ve Verimli Şekilde Yürütülmesinin ve Geliştirilmesinin Sağlanması" Hakkında Hazırlanan 01/07/2010 tarih ve 2010/12 sayılı Denetleme Raporu Özeti. Available at http://www.tccb.gov.tr//kategori-ilk-icerik.asp?caid=366&categoryName=ddk-raporlari

[4] See Report of the Working Group on Arbitrary Detention Mission to Turkey A/HRC/4/40/Add.5 7, February 2007, paras. 86-90

[5] See *Abdolkhani and Karimnia vs. Turkey* (Application no. 30471/08), Judgment of 22 September 2009

[6] See Amnesty International, *Stranded: Refugees in Turkey denied protection*, Index: EUR 44/001/2009, pp 24-26, available at http://www.amnesty.org/en/library/info/EUR44/001/2009/en

[7] See Amnesty International, *Stranded: Refugees in Turkey denied protection*, Index: EUR 44/001/2009, p.13-15, available at http://www.amnesty.org/en/library/info/EUR44/001/2009/en

[8] See Amnesty International, *Stranded: Refugees in Turkey denied protection*, Index: EUR 44/001/2009, p.19, available at http://www.amnesty.org/en/library/info/EUR44/001/2009/en

[9] TBMM İnsan Hakları İnceleme Komisyonu, *Karakollarda İnceleme Raporu 2008* Full text of the report available at

http://www.tbmm.gov.tr/komisyon/insanhaklari/belge/Karakollarda_inceleme_Raporu2008.pdf

[10] See Amnesty International, *Turkish officials convicted over activist's death*, 2 June 2010. Available at http://www.amnesty.org/en/news-and-updates/turkish-officials-convicted-over-activists-death-2010-06-02

[11] See Amnesty International, *All children have rights: End unfair prosecutions of children under anti-terrorism legislation,* EUR 44/011/2010 pp11-12. http://www.amnesty.org/en/news-and-updates/report/turkey-must-stop-unfair-prosecutions-children-under-anti-terrorism-laws-2010

[12] See Amnesty International, Turkey: *The Entrenched Culture of Impunity Must End*, Index EUR 44/008/2007, pp.16-22. Available at http://www.amnesty.org/en/library/asset/EUR44/008/2007/en/40714f7e-d38d-11dd-a329-2f46302a8cc6/eur440082007en.pdf

[13] See Amnesty International, *Turkey: No impunity for state officials who violate human rights*

Briefing on the Semdinli bombing investigation and trial, Index: EUR 44/006/2006. Available at http://www.amnesty.org/en/library/asset/EUR44/006/2006/en/3bfcfa21-d436-11dd-8743-d305bea2b2c7/eur440062006en.pdf

[14] See Amnesty International, *Fears of a cover-up in the Şemdinli bombing case,* Index EUR 44/020/2007. Available at http://www.amnesty.org/en/library/asset/EUR44/020/2007/en/ce2634f4-ad88-11dc-8aee-ed0e803226be/eur440202007eng.pdf

[15] Indictment no. 419/2010 dated 25 August 2010.

[16] See Amnesty International, *Justice Delayed and Denied*, Index: EUR 44/013/2006, pp. 23-28 available at http://www.amnesty.org/en/library/asset/EUR44/013/2006/en/e83c909f-d3fe-11dd-8743-d305bea2b2c7/eur440132006en.pdf

[17] See Amnesty International, *All children have rights: End unfair prosecutions of children under anti-terrorism legislation,* EUR 44/011/2010 pp21-24. http://www.amnesty.org/en/news-and-updates/report/turkey-must-stop-unfair-prosecutions-children-under-anti-terrorism-laws-2010

[18] Amnesty International, *Turkey ends prosecution of child demonstrators under anti-terrorism laws,* 23 July 2010. Available at http://www.amnesty.org/en/news-and-updates/turkey-ends-prosecution-child-demonstrators-under-anti-terror-laws-2010-07-23

[19] See *Abdolkhani and Karminia vs. Turkey* (Application no. 30471/08), Judgment of the European Court of Human Rights, 22 September 2009

[20] See Amnesty International, *Amnesty International criticizes judicial harassment of LGBT association*, Index: EUR 44/003/2010. Available at http://www.amnesty.org/en/library/asset/EUR44/003/2010/en/73cd6f61-9a2d-4fa2-a8d4-53ce87dd7e1d/eur440032010en.pdf

[21] See *Dink vs. Turkey*, (Application nos. 2668/07, 6102/08, 30079/08, 7072/09, 7124/09), judgment of the European Court of Human Rights, 14 September 2010.

[22] Prosecutors allege that KCK is an organization formed by the Kurdistan Workers' Party (PKK) to bring together and mobilize pro-PKK groups within urban areas across Turkey

[23] See Amnesty International, *Justice delayed and denied: The persistence of protracted and unfair trials for those charged under anti-*

terrorism legislation, Index: EUR 44/013/2006. *Available at* http://www.amnesty.org/en/library/info/EUR44/013/2006

[24] See Amnesty International *Turkey: One dead scores injured as police break up demonstrations,* Index: PRE01/254/2008. Available at http://www.amnesty.org/en/for-media/press-releases/turkey-one-dead-and-scores-injured-police-breakup-demonstrations-2008102. Also see Amnesty International, *All children have rights: End unfair prosecutions of children under anti-terrorism legislation,* EUR 44/011/2010 pp9-11. http://www.amnesty.org/en/news-and-updates/report/turkey-must-stop-unfair-prosecutions-children-under-anti-terrorism-laws-2010

[25] See Amnesty International *Turkey: Conscientious objection is a human right not a personality disorder,* Index: EUR 44/013/2010. Available at http://www.amnesty.org/en/library/info/EUR44/013/2010/en