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202

TURKEY

Torture and prolonged detention in the Region under State of Emergency

February 2002

SUMMARY

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The torture and ill-treatment of detainees in police and gendarmerie custody in the Region under State of Emergency is widespread and practiced systematically. People detained for the mainly political offences that fall under the State Security Courts are particularly at risk because they are held in incommunicado detention and denied access to their lawyers in the first days in custody.

On 17 October 2001, an amendment of the Turkish constitution apparently reduced the maximum period before detainees are brought before a judge to four days, but retained the restriction that "These periods may be extended under state of emergency, martial law or in times of war". Law No. 4744 which came into force on 19 February 2002 states that individuals suspected of collective crimes which fall under the scope of the State Security Courts may have the period of detention before they are brought before a judge extended from 48 hours to four days. In the Region under State of Emergency, this may be extended to seven days upon the request of the prosecutor and the decision of a judge.

Furthermore, under Article 3/c of Legal Decree Number 430, individuals in the Region under State of Emergency may - even after having been remanded to prison by a judge - be brought back to police or gendarmerie custody for interrogation for up to 10 days. Article 3/c of Legal Decree Number 430 had previously been used to keep "confessors" in prolonged detention. In the last two years it has been applied especially to people suspected of membership of the Islamist armed group Hizbullah. However, after the constitutional amendment of October 2001, it was applied to HADEP members and people suspected of support for the PKK.

This report details cases where individuals have been detained for periods of more than 40 days and allegedly been exposed to torture and ill-treatment. Returning prisoners to police

or gendarmerie detention under Legal Decree 430 places them at great risk of torture and ill-treatment.

On 29 January 2002 Turkey cancelled its derogation from Article 5 of the European Convention on Human Rights in the Region under State of Emergency - a step that has been presented as a reduction in the length of detention before an individual is brought before a judge. However, use of Article 3/c of Legal Decree Number 430 continues. Amnesty International urges the Turkish authorities to ensure that detainees are not brought back to police and gendarmerie custody after having been remanded in prison, that is to stop implementing Article 3/c of Legal Decree No. 430 or to abolish the said article.

Furthermore, incommunicado detention - which is a major factor contributing to the practice of torture - still continues. Law No. 4744 now lays down the right of individuals suspected of collective crimes which fall under the scope of the State Security Courts to meet with their lawyers after 48 hours (previously four days). Since most cases of reported torture apparently occur within the first 24 hours of police or gendarmerie detention, this is clearly an insufficient step to effectively combat torture.

In addition, the right for detainees to meet with their lawyers has often been denied in practice. Since incommunicado detention facilitates torture, Amnesty International urges the Turkish authorities to abolish incommunicado detention in law and practice entirely and to introduce clear guidelines to ensure that all detainees have in practice immediate access to legal counsel.

Amnesty International welcomes the initiatives designed to combat torture and impunity already taken by the Turkish government. However, taking into consideration the persistence of torture in violation of Turkey's obligations under international law, comprehensive reforms are required urgently. This report concludes with a detailed list of recommendations, the implementation of which would be a major step in ending the practice of torture and ill-treatment in Turkey. AI urges the Turkish authorities to implement these recommendations in a form compatible with international human rights standards and the recommendations of international human rights bodies.

KEYWORDS: TORTURE/ILL-TREATMENT1 / EMERGENCY LEGISLATION1 /
POLICE / ETHNIC GROUPS / INCOMMUNICADO DETENTION /

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Torture and prolonged detention in the Region under State of Emergency

"What I experienced was a crime against humanity" - Emrullah Karagöz

Emrullah Karagöz, an archeology student aged 23 years, was detained by gendarmerie in his home town of Diyarbakır on 28 October 2001. He was kept in detention for a total of 44 days and was not brought to prison until 11 December 2002. Throughout this period he reports that he was exposed to torture and ill-treatment almost every day:

"...My eyes were continuously blindfolded...every day they would bring me to a room for interrogation...They would beat me for about 30 minutes, afterwards they would ask me questions...They made me strip naked...[and] sprayed me for an hour with cold pressurized water. Afterwards they made me stand in front of an air-cooler and asked more questions.

They made me lie on the ground which had been covered with layers of blankets. They wrapped my arms and legs in the blankets so that I could not move at all. Someone sat on my legs and elbows and they stuffed my mouth with a piece of cotton. At this point another person began to squeeze my testicles. I felt a deep pain and I thought that I would die. After about half an hour of this, I passed out.

When I came to, they did the same things again...I again felt great pain. I can't guess how long this lasted for - I lost all concept of time."

The background: A state of emergency which gives the authorities wide-ranging powers...

Diyarbakır is one of the four Turkish provinces currently under State of Emergency. The predominantly Kurdish southeast area of Turkey has been under forms of extraordinary legal arrangements since December 1978, when Martial Law was proclaimed in 13 provinces. On the day of the military coup of 12 September 1980, Martial Law was imposed on the whole country. From March 1984 to July 1987 Martial Law was gradually lifted and replaced by State of Emergency. A Governor of the Region under State of Emergency was established by a decree issued on 10 July 1987, in response to the armed insurrection of the Kurdistan Workers' Party (PKK). The governor was originally responsible for the provinces of Bingöl, Diyarbakır, Elazığ, Hakkari, Mardin, Siirt, Tunceli and Van, but this was later further extended to the neighboring provinces of Adıyaman, Batman, Bitlis, Muş and Şırnak. The State of Emergency has been lifted in most of these provinces and now continues only in the four provinces of Diyarbakır, Hakkari, Şırnak and Tunceli. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has strongly

recommended the Turkish government to consider lifting the state of emergency in all provinces of the country.¹

...and their systematic abuse by the police and gendarmerie

The torture and ill-treatment of detainees - like Emrullah Karagöz - in police and gendarmerie custody in these provinces is widespread and practiced systematically. Torture is used by police or gendarmes to extract confessions, elicit information about illegal organizations, intimidate detainees into becoming police informers or as unofficial punishment for presumed support of illegal organizations. People detained for the mainly political offences that fall under the State Security Courts are particularly at risk because they are held in incommunicado detention and denied access to their lawyers in the first days in custody.

Torture methods in Turkey documented by Amnesty International include severe beatings, being stripped naked and blindfolded, hosing with pressurized ice-cold water and then made to stand in front of an air conditioner, suspension by the arms or wrists bound behind the victim's back, electric shocks, beating the soles of the feet, death threats and sexual assault. In recent months, there have been numerous reports of a new technique where the victims are made to lie on their backs with their arms and legs wrapped in blankets while their shoulders and knees are sat on. This can apparently induce loss of consciousness.

Constitutional and legal changes are insufficient...

Since reports indicate that torture in Turkey is more common in police and gendarmerie stations than in prisons, prolonged detention by police or gendarmerie contributes greatly to the likelihood of a detainee being tortured or ill-treated. One of the effects of the State of Emergency has been the application of longer terms of police or gendarmerie custody and thus an increased risk of torture and ill-treatment. According to the Turkish Criminal Procedure Code, for example, people suspected of crimes under the jurisdiction of State Security Courts could until recently be held in police or gendarmerie custody for up to seven days before being brought before a judge. In the Region under State of Emergency this period could be extended to up to 10 days.

The amendment of the Turkish Constitution, which entered into force on 17 October 2001, apparently reduced the maximum period before detainees are brought before a judge to four days, but retained the restriction that "These periods may be extended under state of emergency, martial law or in times of war".

¹ UN Doc. E/CN.4/2002/74/Add.1, 18 December 2001.

Law No. 4744, which was passed by the Turkish parliament on 6 February 2002, translated some aspects of the constitutional amendment of October 2001 into law. It states that detainees who have allegedly perpetrated collective crimes which fall under the scope of the State Security Courts may - at the written order of the public prosecutor - have the period of detention before they are brought before a judge extended from 48 hours to four days. For such crimes committed in the Region under State of Emergency, this four-day period may be extended to seven days upon the request of the prosecutor and the decision of a judge.

...and prolonged detention continues through the application of an 11 year-old decree

However, individuals in the Region under State of Emergency may - even after having been remanded to prison by a judge - be brought back to police or gendarmerie custody for interrogation. Article 3/c of Legal Decree Number 430 issued in December 1990 grants the State Prosecutor - following a proposal from the Governor of the Region under the State of Emergency - permission to ask a judge to return a person already in remand or imprisoned to police or gendarmerie custody for up to 10 days. This can be applied several times and is applicable in cases related to crimes that caused the declaration of State of Emergency.

Emrullah Karagöz, for example, had after his initial detention been remanded by a court to Diyarbakır prison on 1 November 2001. However, he was instead brought straight back to gendarmerie headquarters in Diyarbakır for a further 10 days under Article 3/c of Legal Decree Number 430. His detention was extended thus a further three times - in other words he was kept in gendarmerie detention for a total of 40 days through the use of this decree.

Article 3/c of Legal Decree Number 430 had previously been used to keep "confessors" in prolonged detention. In the last two years it has been applied especially to people suspected of membership of the Islamist armed group Hizbullah². However, after the constitutional amendment of October 2001, it was applied to HADEP members and people suspected of support for the PKK.

² For more information see Urgent Actions EXTRA 64/01 on 14 September 2001 for Hacı Bayancık, UA 218/01 on 4 September 2001 for Hacı Elhunisuni, UA 209/01 on 22 August 2001 for Yasin Karadağ, UA 194/10 on 31 July 2001 for Edip Balık, UA 317/00 on 17 October 2000 for Fesih & Hatice Güler - updated on 5 July 2001, EXTRA 30/00 on 3 April 2000 for Fahrettin Özdemir. See also AI Index: EUR 01/03/00.

The case of Fehime Ete

Kurdish woman and mother of six Fehime Ete was detained on 21 October 2001 from her home in Siirt in the southeast of Turkey and brought to the gendarmerie headquarters in Van. On 25 October, she was remanded to Van prison by the State Security Court on charges of "supporting an illegal organization". A week later, she was transferred to the women's ward of Bitlis E-type prison with her five-year-old daughter Şahadet Ete.

However, on 25 November Fehime Ete was transferred - together with her daughter - to gendarmerie headquarters in Diyarbakır for interrogation. This transfer was carried out under Article 3/c of Legal Decree Number 430 despite the fact that neither Van (where she was charged) nor Bitlis (where she was imprisoned) are inside the Region under State of Emergency. Her lawyer was not apparently informed of their whereabouts despite repeated inquiries. The decree was applied again on 5 December 2001 to keep her in gendarmerie detention for a further 10 days - she was not returned to prison until 14 December 2001.

After Legal Decree 430 was applied to her, Fehime Ete was reportedly subjected to torture and ill-treatment throughout the time that she spent in detention at Diyarbakır gendarmerie headquarters. This included being blindfolded, beaten with truncheons about the head, being stripped naked and sprayed with pressurized water. She reportedly fainted several times and now suffers from health problems and both she and her family were threatened that they would suffer torture if she complained about her treatment. Fehime Ete was also alleged threatened that her daughter would be tortured.

Şahadet Ete was reportedly able to hear her mother's screams as she was being tortured. After six days at the gendarmerie headquarters, she was taken to stay with another family member. A doctor has reportedly diagnosed Şahadet Ete as suffering from shock. Fehime Ete apparently now suffers from shortness of breath and has difficulty moving her arms as a result of alleged torture.

Legal Decree 430 is criticized...

It is clear that returning prisoners to police or gendarmerie detention under Legal Decree 430 places them at great risk of torture and ill-treatment. Cihan Aydın, lawyer for the Diyarbakır branch of the Human Rights Association, has asserted that "...the detention and interrogation of prisoners or detainees on the basis of Article 3/c of Legal Decree 430 for periods of unclear length either encourages concerns about - or is even evidence of - torture, ill-treatment or cruel, inhuman or degrading treatment."³

³ *Yedinci Gündem*, 12 January 2002.

In a statement made on Human Rights Day - 10 December 2001 - Turkey's State President Ahmet Necdet Sezer reportedly criticized the use of Article 3/c of Legal Decree Number 430 to keep individuals in prolonged police or gendarmerie detention. He stated: "When they happen one after another, these detention periods can last as long as 30 to 40 days. This shows that human rights are not being realized". He further suggested that the decree be subjected to revision by the Constitutional Court.⁴

...but there is no end to its use

However, even since this statement by the State President, prisoners have been returned to detention through the use of this decree. Naif Demirci was detained on 20 December 2001 and was remanded to Diyarbakır E-Type prison on 24 December 2001 - he was instead returned to gendarmerie custody for 10 days' interrogation under Article 3/c of Legal Decree Number 430. At the end of this period he was brought back to prison. He was allegedly exposed to torture throughout this time in custody including blindfolding, testicular squeezing, electric shocks, threats and beatings. His wife Mekiye Demirci was herself also detained on 21 December 2001 and similarly returned to gendarmerie custody on 26 January 2001 despite an order that she be remanded to prison. She was not brought to prison for another 10 days. She was also apparently exposed to torture throughout this time in custody including blindfolding, electric shocks, threats, beatings and sexual abuse. A case has been opened against both Mekiye and Naif Demirci but no investigation has been opened by the authorities into their complaints of torture.

The Region under State of Emergency and Turkey's derogation from the European Convention on Human Rights

Turkey is a state party to the European Convention on Human Rights, Article 3 of which states that "No one shall be subjected to torture or to inhuman or degrading treatment or punishment". While Article 15 of the Convention allows signatory countries to derogate from some articles of the convention "...in times of war or other public emergency threatening the life of the nation", Article 3 is "non-derogable". That is to say, the right not to be subjected to torture must apply fully at all times and may not be suspended under a state of emergency.

Turkey had, in a letter to the Council of Europe dated 6 August 1990, derogated from various articles of the European Convention on Human Rights in the Region under State of Emergency. These articles concerned rights such as the right to liberty and security, the right to a fair trial, the right to freedom of expression and freedom of association. In 1992, Turkey limited the derogation to Article 5 which covers the right to liberty and security. Article 5 (3) of the European Convention on Human Rights provides the right to be brought

⁴ *Cumhuriyet*, 11 December 2001.

promptly before a judge. The European Court of Human Rights has ruled that detaining a person for four days and six hours constitutes a failure to allow prompt presentation to a judge.

On 29 January 2002, Turkey informed the Council of Europe that it was cancelling its derogation from Article 5 of the Convention. Cancelling the derogation has been presented as a reduction in the length of detention in the Region under State of Emergency. However, it may only affect the length of time that individuals spend in detention before being brought before a judge and not the possibility that individuals may be brought back from prison and subjected to prolonged police or gendarmerie detention.

Use of Legal Decree 430 continues despite the cancelling of the derogation

Ekrem Kilavuz was detained on 21 January 2002 following an armed confrontation between members of the armed Islamist group Hizbullah and police in Batman. Two days later he was reportedly remanded to Batman E-Type prison. His father apparently attempted to visit him but was told on 29 January 2002 that he had been returned to police custody at the Anti-Terror branch of Diyarbakır Police Headquarters where he remains. Ekrem Kilavuz was reportedly subjected to "all the usual kinds" of torture during his initial two days detention in Batman. Amnesty International is concerned that he may be subjected to torture and ill-treatment while in police detention.

The Turkish Minister of Justice in a circular of 4 February 2002 offered guidelines to state prosecutors on the use of Article 3/c of Legal Decree Number 430 indicating that the use of this decree in the Region under State of Emergency will persist. Amnesty International urges the Turkish authorities to ensure that detainees are not brought back to police and gendarmerie custody after having been remanded in prison, that is to stop implementing Article 3/c of Legal Decree No. 430 or to abolish the said article.

Incommunicado detention persists despite a recent legal change

A fundamental legal change required for an effective fight against torture, namely the abolition of incommunicado detention, is neither among the constitutional amendments nor among the short-term measures promised by Turkey in its National Program for the Adoption of the Acquis [of the EU].⁵

The UN Special Rapporteur on torture has urged the Turkish government that "(a) *The [Turkish] legislation should be amended to ensure that no one is held without prompt*

⁵ For further details please see the Amnesty International reports *Turkey: Constitutional amendments: Still a long way to go* (January 2002, AI Index: EUR 44/007/2002) and *Turkey: An end to torture and impunity is overdue!* (October 2001, AI Index: EUR 44/072/2001).

access to a lawyer of his or her choice as required under the law applicable to ordinary crimes or, when compelling reasons dictate, access to another independent lawyer. (b) The legislation should be amended to ensure that any extensions of police custody are ordered by a judge, before whom the detainee should be brought in person; such extensions should not exceed a total of four days from the moment of arrest or, in a genuine emergency, seven days, provided that the safeguards referred to in the previous recommendation are in place.”⁶

Since 1992, detainees in Turkey have the right to benefit from legal counsel at any stage, except for those suspected of crimes which fall under the scope of the State Security Courts who could be held in incommunicado detention for four days. Law No. 4744 now lays down the right of the detainee to meet their lawyer after they are remanded to prison or - in the cases of detainees suspected of collective crimes which fall under the scope of the State Security Courts - after the order of the public prosecutor to extend detention. Therefore, those suspected of crimes under the jurisdiction of the State Security Courts can be denied access to a lawyer and be held in incommunicado detention for 48 hours. Since most cases of reported torture apparently occur within the first 24 hours of police or gendarmerie detention, this is clearly an insufficient step to effectively combat torture.

Furthermore, Article 16 of Law No. 2845 on the State Security Courts had, since its amendment in 1997, provided the right for detainees to meet with their lawyer after the initial extension of detention by a judge (that is after four days). However, this right has often been denied. If lawyers are given access to their detained clients, the meeting generally takes place in the presence of police or gendarmerie officers and can last only five to 10 minutes. Since incommunicado detention facilitates torture, Amnesty International urges the Turkish authorities to abolish incommunicado detention in law and practice entirely and to introduce clear guidelines to ensure that all detainees have in practice immediate access to legal counsel.

Amnesty International's recommendations

AI welcomes the initiatives designed to combat torture and impunity already taken by the Turkish government. However, taking into consideration the persistence of torture in violation of Turkey's obligations under international law, comprehensive reforms are required urgently. AI urges the Turkish authorities to implement the recommendations below in a form compatible with international human rights standards and the recommendations of international human rights bodies such as the European Committee for the Prevention of Torture, the UN Committee against Torture and the UN Special

⁶ UN Doc. E/CN.4/ 1999/61/ Add.1, para. 113, 27 January 1999.

Rapporteur on torture. Some of the recommendations are very simple and could be implemented immediately.

- **Incommunicado detention:** Incommunicado detention should be abolished and clear guidelines should be introduced to ensure that in practice all detainees have immediate access to legal counsel.
- **Stop implementing - or abolish - Article 3/c of Legal Decree No. 430:** Steps should be taken to ensure that detainees are not brought back to police and gendarmerie custody after having been remanded in prison.
- **Shorten periods of custody in the Region under State of Emergency:** All people deprived of their liberty should be brought promptly before a judge. Prosecutors and judges should only extend the custody period after having seen the detainees in person and making sure that they are not being tortured or ill-treated.
- **Condemn torture:** The highest Turkish authorities should demonstrate their total opposition to torture. They should condemn torture unreservedly whenever it occurs. They should make clear to all members of the police, military and other security forces that torture will never be tolerated.
- **Opening detention records for scrutiny by families of detainees and by lawyers:** Relatives and lawyers should be able to find out immediately where a detainee is held and under which authority. Scrupulous record-keeping of all detentions is important, not only to establish responsibility for any violations committed during custody but, more urgently, in order to prevent "disappearances". A standardized pattern of registration form provided for in the Regulation on Apprehension, Police Custody and Interrogation, issued jointly by the Justice and Interior Ministries on 1 October 1998, would be an important innovation if presented in the form of a bound ledger with numbered pages, but this is not mentioned in the regulation.
- **No secret or unofficial detention:** As Article 10(1) of the UN Declaration on the Protection of All Persons from Enforced Disappearance states: "Any person deprived of liberty shall be held in an officially recognized place of detention".
- **Outlaw blindfolding:** Steps to promote accountability by police and to end torture should include ending the practice of blindfolding in police custody. Blindfolding is a form of ill-treatment in itself, and makes the reliable identification of officers responsible for abuses more difficult.
- **Videotape interrogations:** In accordance with the recommendation made to the Turkish government by the UN Special Rapporteur on torture in 1999, the authorities should seriously consider the introduction of video recording of interrogations, as a means of protecting both detainees held incommunicado and law enforcement officers who may be falsely accused of acts of torture or ill-treatment.

- **Define torture in line with international standards:** The definition of torture in Turkish law should at a minimum incorporate the definition in the Convention against Torture.
- **Define rape and sexual abuse in line with international standards:** All officials involved in the custody, interrogation and medical care of detainees and prisoners should be informed that **rape and sexual abuse** are acts of torture or ill-treatment. Rape should be defined in line with international standards.⁷ Forcibly subjecting female detainees to so-called “virginity tests” is a form of gender-based violence constituting torture or cruel, inhuman or degrading treatment. Mechanisms to ensure that such practices will not be tolerated should be put in place.
- **End isolation regimes in prisons:** Regimes of small-group isolation and solitary confinement in F-Type and other prisons should end immediately and prisoners should be allowed to spend at least eight hours of the day taking part in communal activities outside their living units, as called for by the CPT.
- **Investigation of complaints:** Turkish authorities should ensure that complaints and reports of torture or ill-treatment, “disappearance” and extrajudicial execution are promptly and effectively investigated. Even in the absence of an express complaint, an investigation should be undertaken whenever there is reasonable ground to believe that torture or ill-treatment might have occurred. The investigators should be competent, impartial and independent of the suspected perpetrators and the agency they serve. They should have access to, or be empowered to commission investigations by impartial and independent medical or other experts. The methods used to carry out such investigations should meet the highest professional standards, and the findings should be made public.
- **Medical reports:** Detainees should have immediate access to independent, impartial and competent medical experts. Independent medical or psychiatric reports should be admissible to the investigation. Appropriate equipment for the medical investigation of different forms of torture and ill-treatment should be provided. Medical examinations should be conducted in private under the control of the medical expert and outside the presence of security or other government officials. In the case of rape and other forms of sexual abuse, the examining health personnel should be of the same sex as the victim unless otherwise requested by the victim.

⁷ There is no single definition of rape in international law. The International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY) concluded that rape is a form of aggression and that the central elements of the crime of rape cannot be captured in a mechanical description of objects and body parts. They have defined rape as a “physical invasion of a sexual nature, committed on a person under circumstances which are coercive. Sexual violence, which includes rape, is considered to be any act of a sexual nature which is committed under circumstances which are coercive.”

- **Witness protection:** Alleged victims, witnesses, those conducting the investigation and their families should be protected from violence, threats of violence or any other form of intimidation that may arise pursuant to the investigation. Those potentially implicated in human rights violations should be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as those conducting the investigation.
- **Prosecution:** Those responsible for human rights violations, including those who order it, should be brought to justice. As recommended by the UN Special Rapporteur on torture after his visit to Turkey, "prosecutors and judiciary should speed up the trials and appeals of public officials indicted for torture and ill-treatment. Sentences should be commensurate with the gravity of the crime."
- **Suspension of officers suspected of torture:** Police officers or gendarmes under investigation or trial for ill-treatment, torture, "disappearance" or extrajudicial executions should be suspended from active duty and if convicted they should be dismissed from the force.
- **Independent decisions on whether to prosecute:** The Law on Prosecution of Civil Servants and similar laws should be amended in order to ensure that any decision as to whether or not to prosecute a government officer for ill-treatment, torture, "disappearance" or extrajudicial execution, or for abuses of authority which might lead to such human rights violations, is taken exclusively by prosecutors and judges.
- **Statements elicited under torture:** Article 15 of the UN Convention against Torture obliges states parties to "ensure that any statement which is established to have been made as a result of torture should not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." A body should be established to review previous convictions based on evidence alleged to have been extracted under torture and, where appropriate, to arrange for prompt retrial.
- **Documentation of torture cases:** The Ministry of Justice should compile a list of complaints, prosecutions, convictions and sentences relating to torture and other human rights violations.
- **Compensation and rehabilitation:** Under Article 14 of the UN Convention against Torture, victims of torture and their dependants are entitled to fair and adequate redress from the state. This should include appropriate medical and psychological care, financial compensation and rehabilitation.
- **Training:** It should be made clear during the training of all officials involved in the custody, interrogation and medical care of detainees and prisoners that torture is a criminal act. They should be instructed that they have the right and duty to refuse to obey any order to torture.

Appendix: Cases of torture and prolonged detention in the Region under State of Emergency

Emrullah Karagöz and Mustafa Yaşar - both members of the legal pro-Kurdish political party HADEP - were detained in Diyarbakır on 28 October 2001 on suspicion of aiding and abetting the armed opposition group Kurdistan Workers' Party (PKK). Although a court ordered that they be remanded to Diyarbakır prison on 1 December, they were returned to gendarmerie headquarters for a further 10 days in accordance with Article 3/c of Legal Decree Number 430. Their detentions were extended a further three times and they were not remanded to Şanlıurfa prison until 11 December. During these 44 days they were repeatedly brought to interrogation during which they were allegedly tortured and ill-treated. They were apparently blindfolded, stripped naked, beaten, suffocated, had their testicles squeezed, were sprayed with pressurized water and left in the cold. They were further subjected to sleep deprivation and prevented from lying down. They were reportedly made to sign blank pages and statements the contents of which they did not know.

Hatip Alay - a tradesman and board member of HADEP in Diyarbakır - was detained on 11 November 2001 and remanded to prison on 14 November accused of aiding and abetting the PKK. He was, however, returned to detention at Diyarbakır gendarmerie headquarters where he was held until 24 November 2001 under Article 3/c of Legal Decree Number 430. Throughout his detention he was reportedly subjected to torture and ill-treatment including blindfolding, beatings, threats, having his testicles squeezed and being sprayed with cold pressurized water and then made to wait naked in front of an air conditioner for several hours. He was also apparently hung by the arms with his hands tied behind him. He is receiving medical treatment as a result of this alleged torture.

Fehmi Ak was detained on 13 November 2001. On 16 November he was remanded to prison by Diyarbakır State Security Court, but was brought from the entrance of Diyarbakır E-Type prison back to gendarmerie detention under Legal Decree 430. On 24 November, Legal Decree 430 was again used to extend this detention for a further 10 days. He was not returned to prison until 7 December. Except for the last three days in detention, he was reportedly exposed to torture and ill-treatment every day of his 24 days in detention. This included being stripped naked, sprayed with pressurized water and being left in front of an air conditioner, and having his testicles squeezed. No investigation has been opened into the allegations of torture.

Medeni Kavak was detained in Diyarbakır on 10 December 2001. Four days later, a court ordered that he be remanded to Diyarbakır E-Type prison on charges of being a member of an illegal organization. However, he was instead brought to gendarmerie detention in accordance with Legal Decree Number 430. While in detention he was reportedly

continuously blindfolded and exposed to torture including having his testicles squeezed, electric shocks, threats and beatings. He was also apparently prevented from going to the toilet and was not given enough food. He was finally remanded to prison on 24 December 2001. A investigation has been opened by the prosecutor into the allegations of torture.

Police or gendarmerie detention can be extended in other ways apart from the use of Legal Decree Number 430. Tekin Ülsen and eyewitnesses state that he was detained by four plainclothes police officers on 23 June 2001 and taken to the Anti-Terror Branch of Police Headquarters in Diyarbakır. The local police and prosecutors repeatedly denied to his family that he was in detention and his name did not appear on any lists of detainees at local police stations. During this period of unacknowledged detention, he says that he was blindfolded and questioned in relation to the Hizbullah. He was apparently tortured with electric shocks, hosed with cold water, had his wrist cut and his testicles squeezed. Police officers also allegedly took him to the Tigris river and threatened to kill him and his family unless he confessed to carrying out assassinations. On 13 July, police brought his sister to Police Headquarters to identify him from a group who had been detained with false identity papers. He reportedly had difficulty recognizing her and was unable to stand. He continued to be held until 19 July, when a judge ordered that he be remanded to prison. His family saw him at the entrance to the court and state that his eyebrows had been torn out, and that it seemed as though he was not really conscious. In spite of the judicial order, he was instead returned to Police Headquarters in accordance with Legal Decree Number 430. He was not brought back to Diyarbakır prison until 20 July 2001.