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REPORT

drawn up on behalf of the Political Affairs Committee

on the human rights situation in Turkey

Rapporteur: Mr R. BALFE

PE 98.572/fin.

Or. En.



The European Parliament, pursuant to Rule 47 of its Rules of Procedure, referred the following motions for resolutions to the Political Affairs Committee at its sittings of the dates stated:

- 9 October 1984, the motion for a resolution tabled by Mrs VAN HEMELDONCK on the imprisonment of Suleyman Yasar (Doc. 2-556/84),
- 9 October 1984, the motion for a resolution tabled by Mr KUIJPERS AND Mr VANDEMEULEBROUCKE on the trial of 56 intellectuals in Turkey (Doc. 2-568/84),
- 9 October 1984, the motion for a resolution tabled by Mr STAES on the fourth anniversary of the coming to power of the military regime in Turkey and events there condoned or instigated by the Turkish Government (Doc. 2-595/84),
- 11 February 1985, the motion for a resolution tabled by Mr SIMPSON on torture and death sentences in Turkey (Doc. 2-1492/84),
- 11 February 1985, the motion for a resolution tabled by Mrs LIZIN on the imprisonment in Turkey of Mr TAMER KAYAS (Doc. 2-1521/84),
- 15 April 1985, the motion for a resolution tabled by Mr VANDEMEULEBROUCKE and Mr KUIJPERS on the fate of the Kurdish minority in Turkey (Doc. B 2-63/85),
- 18 April 1985, the motion for a resolution tabled by Mr ULBURGHS on the alarming situation of Kurdish prisoners in Turkey (Doc. B 2-89/85),
- 8 July 1985, the motion for a resolution tabled by Mr DE GUCHT on the abolition of the death penalty in Turkey (Doc. B 2-413/85),
- 10 July 1985, the motion for a resolution tabled by Mrs HOFF and Mr FELLERMAIER on the death of Fikri SONMEZ, Mayor of Fatsa, Turkey (Doc. B 2-530/85).

At its meeting of 19 December 1984 the Political Affairs Committee decided to draw up a report and appointed Mr Richard BALFE rapporteur on 23 January 1985.

At its meetings of 19 - 21 June 1985 and 24 - 26 September 1985 the committee considered the draft report. At the second of these meetings it adopted the motion for a resolution as a whole by 20 votes to 8 with 1 abstention.

The following took part in the vote with Mr FORMIGONI, chairman, in the chair: Mr HANSCH, first vice-chairman; Lord DOURO, second vice-chairman; Mr BALFE, rapporteur; Mr ADAMOU (deputizing for Mr EPHREMIDIS), Lord BETHELL, Mr BLUMENFELD, Mr CHRISTIANSEN (deputizing for Mr LOMAS), Mr COSTE-FLORET, Mr DANKERT (deputizing for Mr B. FRIEDRICH), Lady ELLES, Mr ERCINI, Mr FALCONER (deputizing for Mr JOSPIN), Mr HABSBURG, Mrs van den HEUVEL, Mr LEMMER (deputizing for Mr KLEPSCH), Mrs LENZ, Mr de La MALENE (deputizing for Mrs ANGLADE), Mrs PANTAZI (deputizing for Mr GLINNE), Mr PELIKAN (deputizing for Mr AMADEI), Mr PIQUET, Mr POETTERING, Mr SEEFELD, Mr SEGRE, Mr TZOUNIS (deputizing for Mr CROUX), Mr VANDEMEULEBROUCKE (deputizing for Mrs PIEMONI), Mr VETTER (deputizing for Mr WALTER), Mr VGENOPOULOS (deputizing for Mr PLACKOVITIS), Mrs VIERHOFF (deputizing for Mr VAN MIERT) and Mr WEDEKIND (deputizing for Mr PENDERS).

The report was tabled on 1 October 1985.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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The Political Affairs Committee hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

on the human rights situation in Turkey

The European Parliament,

- having regard to the following motions for resolutions:
 - motion for a resolution tabled by Mrs VAN HEMELDONCK on the imprisonment of Suleyman Yasar (Doc. 2-556/84)
 - motion for a resolution tabled by Mr KUIJPERS and Mr VANDEMEULEBROUCKE on the trial of 56 intellectuals in Turkey (Doc. 2-568/84)
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 - motion for a resolution tabled by Mr DE GUCHT on the abolition of the death penalty in Turkey (Doc. B 2-413/85)
 - motion for a resolution tabled by Mrs HOFF and Mr FELLERMAIER on the death of Fikri SONMEZ, Mayor of Fatsa, Turkey (Doc. B 2-530/85)
- having regard to the report of its Political Affairs Committee (Doc. A 2-117/85),
 - A. recalling that no fewer than 11 resolutions expressing concern about the human rights situation in Turkey have been passed by the Parliament since the 'coup d'état' in September 1980, and that more than 20 motions for resolutions to this effect have been tabled during the same period by Members from many different political groups,
 - B. recalling also the decision of the Parliament of 11 October 1984, sponsored by all the political groups, 'that the Delegation of the European Parliament/Grand National Assembly of Turkey Joint Committee will not be set up until the Association Agreement is implemented once

again and until the European Parliament has reconsidered the situation in Turkey'¹,

- C. noting also that allegations of breaches of the provisions of the European Convention on Human Rights by Turkey have been formally tabled, under Article 24 of the Convention, by five countries², of which three are members of the European Communities; and that these allegations have been referred to the European Commission on Human Rights, which has not yet reached a decision on this matter, but in an interim ruling on 6 December 1983, without in any way prejudging the merits of the case, declared the applications admissible,
- D. recalling that a rapporteur appointed by the Political Affairs Committee visited Turkey, under the authority of the Bureau of the Parliament, to prepare a report on the human rights situation, and had full discussions there with leaders of political parties and members of the Grand National Assembly as well as with other leading politicians, and with trade union leaders, lawyers, journalists, international and national civil servants, members of diplomatic missions, ex-prisoners and relatives of prisoners and with numerous other witnesses,
- E. welcoming the rapporteur's finding that progress has been made towards the restoration of human rights in Turkey and that there appeared to be a widespread recognition of the need for further such reforms,
- F. regretting, however, that these improvements did not appear to amount to the return to democracy and respect for human rights called for in the aforementioned resolutions passed by Parliament, and furthermore that safeguards have not even been restored for those human rights consistently regarded by the European Parliament as the most basic and elementary³, namely the right to life, the right to integrity of the person and the right to a fair trial on charges brought,
- G. noting, in particular, that as regards the right to life, while a most welcome reduction in the number of executions has taken place in the past eighteen months, the death penalty is still being imposed and occasionally carried out,
- H. noting, further, that as regards the right to integrity of the person, the Parliament's rapporteur was repeatedly informed by distinguished political leaders, lawyers and academics, among others, that torture, particularly in police stations, was still endemic and systematic and that its incidence did not seem to be diminishing significantly, and that furthermore the Prisons Committee of the Turkish Grand National Assembly, while its establishment is clearly a laudable development, did not seem to be having a significant impact in controlling this grave abuse of human rights,
- I. noting, further, that as regards the right to a fair trial on charges brought, the unsatisfactory procedures and practices noted in the Parliament's previous resolutions referred to above were continuing, notably infringements of the rights of prisoners to an adequate legal defence and to fair legal procedures,

¹ See OJ No. C 300, 12.11.1984, p. 49-50

² Denmark, France, Netherlands, Norway and Sweden

³ See Annual Reports of the Parliament on Human Rights for 1983 and 1984 and the resolution adopted following the report by Mr von HASSEL on behalf of the Political Affairs Committee in July 1982 (OJ No. C 238, 13.9.1982, p.51) and the resolutions adopted by Parliament under urgent procedure on 24 May 1984 (OJ No. C 172, 2.7.1984, p. 128-129)

- J. deploring, in this connection, the continuance and the protracted procedures of the mass trials of various bodies such as the Turkish Peace Association and the trade union confederation DISK and its affiliated unions, and of various groups of academics and intellectuals, for offences which seem to amount to no more than the peaceful and non-violent expression of political opinions,
- K. recalling, in particular, the European Parliament's resolution of 13 June 1985 on the trial of members of the Turkish Peace Association which called on the Foreign Ministers of the European Communities meeting in political cooperation to request the Turkish authorities to bring this trial to an end immediately, to abandon future such trials and to free immediately the accused,
- L. welcoming signs of relaxation in the strict and repressive censorship of writing and publishing, but concerned that a number of authors and publishers are still being prosecuted for expressions of non-violent opinions and that new legislation gives the police wide powers to seize films and video cassettes of a non-violent and non-pornographic character, to prohibit or control cultural activities without prior authority and to detain without a warrant persons whose behaviour they believe does not conform to the moral standards of society,
- M. regretting also that widespread violation of the human rights of the Kurdish minority is still occurring in Turkey and, even more so, of those who are politically active as Kurds,
- N. welcoming, in the field of freedom of association and the right to engage in democratic politics, the holding of local elections in 1984 for the first time since the 'coup d'état', with a wider representation of political parties than had been permitted in the general election of 1983,
- O. recognizing, nevertheless, that political democracy cannot yet be considered to exist in Turkey while major political parties, particularly the Social Democratic Party on the left and the True Path Party on the right, remain unrepresented in the country's parliament, while leading political figures such as Mr Demirel and Mr Ecevit remain excluded from active political life, while the Turkish Communist Party remains under a total ban with many of its members in prison, and while other political parties have been harrassed and their members prosecuted and imprisoned,
- P. recalling, in this connection, Parliament's decisions of 22 January and 3 July 1982 not to renew the mandate of its Members on the Joint Parliament Committee of the EEC-Turkey Association until such time as the Turkish Grand National Assembly has been freely elected, as well as the decision referred to above of 11 October 1984,
- Q. regretting that trade union rights continue to be severely restricted, with one major trade union confederation, DISK, a body affiliated to the European Trade Union Confederation and one of those recognized by the European Communities, forbidden to function in Turkey, and with its funds and assets sequestered,
- R. noting that martial law still remains in force in some areas of the country, including the largest city, Istanbul, and covers a large section of the population, that this involves severe restrictions on human rights, and that even where martial law has been lifted, it has been replaced by states of emergency in many areas with similar severe controls,

- S. noting, further, with concern that there are some developments, notably in the recently acquired power of the police to remove, without the legal authority previously required, prisoners from prisons to police stations for further interrogation, and in new legislation giving the police substantially more extensive powers in the field particularly of censorship, powers of arrest and search without prior authority, incommunicado detention and the use of firearms by the police, the use of which may result in a worsening rather than an improvement in the human rights situation,
- T. noting that the Turkish authorities violate the rights of ethnic minorities even when they are protected by international treaties,
1. Expresses deep concern at the continuing seriousness of the situation with regard to human rights observance in Turkey and strongly condemns all forms of violence against the person practised in that country;
 2. Calls on the Turkish Government to move rapidly towards a restoration of human rights in the country, particularly as regards:
 - (a) the right to life, including the abolition of the death penalty for non-violent political crimes and an amnesty for prisoners of conscience;
 - (b) the right to integrity of the person, including the prosecution of those responsible for torture, the compensation of victims of torture and an end to all forms of inhuman and degrading treatment of prisoners;
 - (c) the right to a fair trial, including the removal of restrictions on the conduct of the defence of prisoners and court procedures which are in conformity with accepted practices of fairness to the accused;
 - (d) the discontinuance of the mass trials of the Turkish Peace Association, of the trade union confederation DISK and its affiliated unions, and of various groups of academics and intellectuals, and the immediate release of those still detained in connection with these trials;
 - (e) the granting of the right of individual appeal to the European Commission of Human Rights under Article 25 of the European Human Rights Convention (now accorded by 17 out of the 21 signatories of the Convention);
 - (f) the removal of the restrictions on freedom of political activity, trade union rights and expression of opinion;
 - (g) the rights of minorities, notably as regards religion, language and history and their right to take part in cultural and social activities;
 3. While fully recognizing the difficult political and economic circumstances faced by Turkey, is of the opinion that the human rights situation does not justify a reversal of the previous decision referred to in paragraph B of this resolution, and that the appointment of the European Parliament delegation to the EEC-Turkey Joint Committee should remain in abeyance;
 4. Instructs its President to forward this resolution to the Commission and the Council, the Foreign Ministers meeting in political cooperation, the governments of the Member States, the Council of Europe, the Turkish Government and the Turkish Grand National Assembly.

PART B : EXPLANATORY STATEMENT

I. INTRODUCTION: BACKGROUND TO THE REPORT

1 Since the coup d'état by Turkish army generals led by General Evren, the Chief of Staff, on September 12th 1980, and the declaration of martial law, the human rights situation in Turkey has been a cause for continuous concern to the European Parliament. Whereas for five years before this coup not a single motion for resolution was tabled in the Parliament on human rights in Turkey, since September 1980 no fewer than 11 resolutions expressing concern on the subject have been passed by the Parliament and more than 20 motions for resolution, and numerous oral and written questions have been tabled by Members from many different political groups of both left and right tendencies. Many of these resolutions have been referred to the Committee. These are listed on the first page of this Report. In addition, a hearing of the Political Affairs Committee was held in April 1984 on human rights in Turkey with representatives of various organisations taking part and expressing their disquiet at the situation. The Turkish Permanent Delegation to the Community declined an invitation to participate.

2 The activities of the European Parliament/Grand National Assembly of Turkey Joint Committee have been in suspense since the coup, as the draft Resolution points out¹, and a formal decision not to set up the European Parliament side of the Joint Committee was taken on 11th October 1984², when it was decided that the re-establishment of the Committee must wait until the European Parliament had reconsidered the situation in Turkey. Furthermore, economic aid envisaged by the Association Agreement between the EEC and Turkey has also been suspended.³

3 It should be said that anxiety about the human rights situation in Turkey is not limited to the European Parliament. It has also been expressed in Resolutions of the Council of Europe Parliamentary Assembly, the most recent of which was published in April this year, following reports by the rapporteurs of the Political and Legal Affairs Committees.⁴

4 In addition, a complaint about the human rights situation in Turkey was made under Article 25 of the European Human Rights Convention⁵ by the governments of five member countries of the Council of Europe⁵, of which three

¹ See relevant paragraph of the Motion for a Resolution

² Debates of the European Parliament No.2-317, pages 168-170 and OJ C300/51, 12 Nov. 84, pages 49-50

³ The Fourth Protocol to the Agreement, signed in 1981 and providing for aid amounting to 600 million ECUs over a 5-year period, has not been forwarded by the Commission to the Council for signature. Aid to Turkey in the 1985 Budget was blocked by a decision of the European Parliament in November 1984, (Item 9632).

⁴ Council of Europe Docs. 5378 and 5391

⁵ Denmark, France, Netherlands, Norway and Sweden.

are members of the European Communities. These allegations were referred to the European Commission on Human Rights. The Commission found the complaints admissible in a Decision dated 6 December 1983.⁶

5 Your rapporteur was appointed by the Political Affairs Committee of the Parliament on 23 January 1985 and the various documents mentioned above were referred to him in connection with this report, as also several other documents received by the Parliament and referred to the Political Affairs Committee since that date.

6 A considerable volume of evidence, written and oral was received by your rapporteur during the enquiry. In particular, it was clear from the outset that it would be impossible to complete the report without making a visit to Turkey in order to obtain an up-to-date and properly informed picture of the human rights situation. This visit was authorised by the Bureau of the Parliament on 12th March 1985. The decision specified that there should be no impediment to your rapporteur making whatever contacts he wished. No difficulty was experienced in this respect, as a communication from the Turkish Ambassador to the Communities dated 10 May 1985 makes clear. However, your rapporteur has to record that, equally, no facilities were given by the Turkish government comparable to those accorded to previous rapporteurs and even to individual Members of the Parliament visiting Turkey under their own auspices. These facilities were requested well in advance of the visit by your rapporteur who was given to understand, particularly at a meeting with a visiting Delegation of Turkish Parliamentarians to Strasbourg in April, that such facilities would be accorded. It was only at the very last moment, on the eve of the visit, that a Telex message was received from the Turkish Ambassador to the Communities saying that it would not be feasible for these facilities, such as meetings with Ministers and Civil Servants, to be granted.

7 However, despite these difficulties a full programme for the visit was carried out between 13th and 17th May by your rapporteur who was accompanied by Mr John Taylor, Director General of the Human Rights Service of the Parliament. For the successful arrangement of this programme, much credit must go to Mr Gwyn Morgan, the representative of the Commission of the European Communities in Turkey, who spared no effort to make high-level appointments covering the whole of this complicated subject at very short notice. Your rapporteur would like to convey his gratitude both to Mr Morgan and to the Commission who made his services available. As a result, your rapporteur was able to hold talks with the leaders of all five major political parties in Turkey, including the ruling Motherland Party. A most important exception to the political contacts, however, was any representative from the Turkish Communist Party. This party is banned; most of its leaders are in prison and trials of its members are still continuing. For similar reasons, other political parties, particularly, the Turkish Workers Party (TIP), were unable to have the opportunity of making representations to your rapporteur when he was in Turkey. However, representations from these parties have since been received on their behalf from Holland and Britain respectively. Meetings were also arranged with trade union leaders, again both recognised and not recognised and in some cases banned by the régime; together with lawyers, journalists, international and national civil servants, members of diplomatic missions, ex-prisoners and relatives of prisoners, and with

⁶ See Articles 26 and 30 of the European Convention on Human Rights, (1984 edition pp. 15-17). It should be noted that Turkey, while a signatory of the European Convention, is one of only two countries which does not accept the jurisdiction of the European Court of Human Rights, (the other country is Malta).

numerous other witnesses. Altogether, a total of over 100 separate groups and individuals in Turkey were interviewed. It should be recorded that many of the witnesses inside Turkey expressed serious concern to your rapporteur about the consequences to themselves and their families should this material become known to the Turkish authorities and should their identities be revealed. For this reason references to these sources have been omitted from the report.

II METHOD OF ENQUIRY: CRITERIA USED

8 Any enquiry into the human rights situation of a country must be based on the standard criteria for assessing human rights. These are: first, the Universal Declaration of the United Nations, made on 10 December 1948, and secondly, the European Convention on Human Rights, signed in 1950 and in force since 1953.

9 Within these guidelines, however, some selection had to be made. It should not be forgotten that the Universal Declaration has now been added to and includes not only political and civil rights but also economic and social rights. To examine all these would have taken the enquiry well beyond the intentions of Members whose concerns had been reflected in the decision of the Parliament to call for this report.

10 Even confining the inquiry to the political and civil aspects of human rights in Turkey, it has been necessary to concentrate on only the most fundamental human rights for reasons of time and to ensure that unfairly high standards were not being applied to Turkey. The report has therefore followed the criteria chosen by the Political Committee in its annual reports which, since 1982-83, have concentrated upon:-

- (1) The right to life, (Article 2 of the European Human Rights Convention),
- (2) The right to respect for the physical and moral integrity of the person, and in particular the right to freedom from torture or inhuman and degrading treatment (Article 3 of the Convention);
- (3) The right to a fair trial by an independent legal procedure, (Article 6 of the Convention);

In view of the special interests of the European Parliament, the report also examines:-

- (4) The rights to freedom of expression and to association and assembly, particularly in the political and trade union fields and in writing and publishing, (Articles 10 and 11 of the Convention).

III THE RIGHT TO LIFE⁷

11 It should be noted that the European Convention on Human Rights, in the form in which it was originally signed in 1950, while stating formally that, "everyone's right to life shall be protected by law", did not outlaw the death penalty. It provided that:-

"no one shall be deprived of his life intentionally, save in the execution of a sentence of a court..."⁸

⁷ See relevant paragraphs of the Motion for a Resolution

12 However, a Protocol was subsequently added to the Convention in 1983 which stated that it was, "expressing a general tendency" by adding the abolition of the death penalty to the Convention.

13 Although not a signatory to this Protocol, the "general tendency" referred to in the preamble to the Protocol undoubtedly had an influence on Turkey and affected its practice in this matter up to the time of the military take over. For eight years before the coup, no executions took place. In some cases the death sentence was passed but death sentences, then as now, required ratification by the Grand National Assembly, the Parliament of Turkey. Arrangements used discreetly to be made that these sentences were not brought before the Assembly and so they were not ratified. Within one month of the coup, however, executions were resumed and have continued ever since.¹⁰ Official figures are not available, but according to various sources¹¹, 50 people have been executed since the coup, 27 of whom were involved in politically motivated killings. In a later report, Amnesty International said that in May 1985, 500 people were under sentence of death and in approximately 60 of these cases, legal proceedings had been concluded and death sentences were now awaiting ratification.¹² There are, however, no recorded cases of the Grand National Assembly, (which currently has a very restricted membership following the prohibition on many political parties participating in the electoral process), ever having refused to ratify a death sentence since the coup. At the same time, it should be said that the situation seems to have improved in that the number of death sentences carried out has dropped considerably in the past year and certainly since the period immediately after the coup, when at first there was no parliamentary assembly and death sentences were confirmed direct by the military authorities.

⁸Section 1, Article 2 of the European Convention on Human Rights

⁹Sixth Protocol of the European Convention on Human Rights, signed in Strasbourg on 28th April 1983. Up till now, 15 of the 21 member countries of the Council of Europe have ratified it. The only countries which have not so far ratified the 6th Protocol, apart from Turkey, are Cyprus, Ireland, Lichtenstein, Malta and the United Kingdom.

¹⁰See "Violations of Human Rights in Turkey", document by Amnesty International dated 26th February 1985, Document No. 44/07/85, page 3.

¹¹See evidence of Dr Seyfi Tasan, Director of Turkish Foreign Policy Institute,
Amnesty International Index EUR 44/16/85
Agence France Presse, April 24th 1985

¹²Amnesty International "Violations of Human Rights in Turkey", May 1985, Doc. 44/12/83. According to another source, this figure of executions awaiting parliamentary ratification numbered 102 in April this year, 52 of which related to "political and ideological crimes". In the report of the Legal Affairs Committee of the Council of Europe Parliamentary Assembly, it is stated that 1,500 death sentences had been passed and in 44 cases execution had already taken place. At the time of the report (April 1985) 30 were awaiting the ratification of the Grand National Assembly, (Doc. 5391, pp. 9-10).

14 Unfortunately it cannot be assumed that this necessarily reflects a general desire by the authorities not to use the death sentence so frequently as in the past. In a widely quoted recent statement by General Evren, President of the Council of Ministers, the ruling body of Turkey, in reply to a suggestion that amnesties might be granted for some political prisoners, he is reported as saying:-

"Do you mean we should look after these traitors for the rest of their lives and not hang them?"

15 The absence of a desire to abolish the death penalty might also be inferred from a communication to the Chairman of the Subcommittee on Human Rights of the Political Affairs Committee dated 11th April 1985. In this communication, the permanent delegate of Turkey to the EEC, protesting at the contents of a draft report of the Subcommittee which had "come to his knowledge", said that the question of the death sentence was a matter of internal law and was a consequence of the social conditions in the country and the choice made in accordance with these conditions; and that Turkey was not the only country in western Europe which included capital punishment in its legislation.¹³

16 While this may be so in theory, in practice other member-countries of the Council of Europe do not make use of the death penalty, and a report attempting to assess the human rights situation has to take note that the right to life has always been regarded as most fundamental. This is true, not only in Conventions on human rights, but also in the legislation of member countries who sign such Conventions. Turkey itself recognises this to some extent. The communication from the Turkish Ambassador to the Communities, already quoted, said that,

"Due to the non-revocability and the character of the capital punishment the Turkish legislation has established in this field a unique and very careful procedure compared to other sentences. The verdict, after going through all the legal departments and instances and getting finalised, is submitted to the Turkish Grand National Assembly which has to confirm it by a law which, later, is required to be ratified by the President of the Republic".

17 Unfortunately, this requirement does not seem to have acted as a very effective check on the use of the death penalty¹⁴ and even less on its imposition. The Director of the Foreign Policy Institute in Turkey, a quasi-official body, told your rapporteur that the death sentence is demanded in many instances, even where there is, in fact, little firm intention at the time of carrying it out. The anxiety which this practice causes was graphically described to your rapporteur when, at their request, he met a number of wives and other relatives of prisoners, some of whom had been condemned to death and whose ultimate fate was still uncertain.

18 It should be noted that the death penalty in Turkey is provided for many more crimes than was the case elsewhere in western Europe, even before these countries, de facto, abolished the death penalty. One striking example is Article 141 of the Turkish Criminal Code which states that whoever conducts or

¹³-----
¹³ Communication dated 11th April 1985, pages 1 and 2

¹⁴ See paragraph 13, above.

administers societies with the purpose of "overthrowing any of the established basic economic or social orders of the country" may be punished by death. Even more drastic, perhaps, is Article 146¹⁵, which makes punishable by death,

"inciting people to commit crimes either by words or by writing or by actual conspiracy or by delivering speeches or putting up posters in public squares or streets or by making publications even if these efforts do not go beyond the degree of attempts".

Similar use of the death penalty for "incitement" is to be found in Article 147 where inciting others to prevent the performance of duty by the Council of Ministers of Turkey is so punished. That these laws are still in use was shown by the hanging as recently as October 1984 of Hidir Aslan, age 26, convicted of "attempting to overthrow the State" and "belonging to a revolutionary organisation". Up to the time of writing no further executions have taken place but death sentences are still being demanded and sometimes passed. Mr Aslan had not been convicted of physical violence. The European Parliament had already expressed its deep dismay at another execution, of Mr Ilyas Has, which took place shortly before.

19 Your rapporteur appreciates fully the security difficulties faced by the Turkish authorities. However, the Turkish government is now the only government, not only in the EEC but among the 21 member countries of the Council of Europe, which still regularly carries out the death penalty and, as indicated, shows little sign of wishing to change this situation. In these circumstances, your rapporteur finds that respect for the right to life is still considerably less than that prevailing in the other European countries with which Turkey wishes to be most closely associated.

IV THE RIGHT TO FAIR TREATMENT AND SECURITY OF THE PERSON¹⁷

20 Various provisions in the European Convention on Human Rights concern fair treatment and security of the person. The most important of these is undoubtedly Article 3:-

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

21 Allegations of torture in Turkish penal institutions formed the most important part of the cases brought under the Convention by member-governments of the Council of Europe and referred to above, which are now pending before the European Commission on Human Rights. In these actions, the applicant governments submitted evidence of numerous cases of torture which showed, they claimed, that torture in Turkey, under the present régime, has been, not merely a series of incidents and exceptions, but a widespread and systematic practice.

¹⁵ See Felonies against the State, Chapter 2, page 61

¹⁶ Doc. 2-662/84, (name misprinted as 'Hag' in the Official Journal of the European Communities), dated 11th October 1984, which specifically expressed the fear that Mr Aslan and a further 18 political prisoners might be executed (paragraph B)

¹⁷ See relevant paragraphs of the Motion for a Resolution

22 The Commission accepted these claims as admissible and ruled that there was prima facie evidence of a breach of Article 3 of the Convention, and that the efforts of the Turkish Government to prevent such violations on a considerable scale were not sufficient and, at least during the relevant period covered by the allegations, did not achieve their aim.

23 Your rapporteur's task in this field was to consider whether there had been a diminution in the incidence of torture in Turkey since this relevant period (12 September 1980 to 1st July 1982) sufficient to be able to find that respect for Article 3 of the European Human Rights Convention could be reasonably said to exist.

24 In support of this view, it was represented to your rapporteur by Turkish government spokesmen, first, that cases of torture were diminishing; secondly, that torturers were punished; and, thirdly, that a parliamentary committee had been set up specifically to look into conditions in prisons.

25 As regards the first point, clearly it is probable that there has been a reduction in the total number of prisoners being tortured since, as Amnesty International have pointed out, four and a half years have elapsed since the coup and the number of political prisoners has inevitably diminished; but this does not necessarily mean that the proportion of prisoners tortured has diminished, and this view was put, not only by Amnesty International but by many witnesses interviewed by your rapporteur in Turkey. As regards the second argument, that torturers are punished, the same sources claim that this happens only in a minority of cases, and that, in any event, complaints of torture are strongly, and often violently, discouraged and even where made are usually disregarded by the Courts. Furthermore, some sentences are not, in fact, carried out and convicted torturers have been discovered once more at work.

26 Partly for this reason, the efficacy of the new parliamentary committee on prison conditions as an adequate safeguard against torture was also doubted. Your rapporteur considers the setting up of this Committee a most praiseworthy development and earnestly hopes that it will produce the highly desirable result of a decline in the incidence of torture. However, it was suggested by many witnesses, and seemed clear to your rapporteur after hearing evidence from Mr Akarçali its chairman, that the Prisons Committee is concerned more with living conditions in prison and ways in which these could be improved. This is obviously a very laudable object, particularly in view of the harsh régime which, Mr Akarçali himself admitted, prevails in prisons; but it seems unlikely to have much effect in reducing torture, which is the most serious cause of complaint, and which it is alleged happens less in prisons than in police stations, where, in any event, the remit of the parliamentary Prisons Committee does not at present apply.

27 Since police stations rather than prisons are the most dangerous places for persons detained by the police, it was emphasized to your rapporteur that the period during which prisoners could be held before they were charged,

¹⁸ Decision of the European Commission on Human Rights, dated 6th December 1983, (Doc. E. 70.347), page 31

¹⁹ See also communication from the Turkish Ambassador to the European Communities op. cit., paragraph 16 above.

²⁰ See Amnesty International Document, "Violations of Human Rights in Turkey", May 1985, Doc. No. EUR 44/16/85

incomunicado, without access to a lawyer or even to their own family (often unaware of their whereabouts), was vital. Up till very recently this period was 30 days in Martial Law areas, which included all the large towns. Under the newly passed Police Powers legislation, the maximum period for "collective crimes", involving three or more persons (the most usual category of political crime) is fixed at fifteen days. An extension beyond this period may be possible with the authority of a judge or the public prosecutor²¹. This, however, does not apply in Martial Law areas, which includes Istanbul, for example, where the period of incomunicado detention may still be thirty days. Extentional legislation also applies in areas where "States of Emergency" legislation has replaced Martial Law.

28 In general, your rapporteur regrets to have to report that the overwhelming majority of evidence submitted to him did not, unfortunately, confirm either that torture was no longer a major problem in Turkey, or that the parliamentary committee referred to above had been effective in checking it. This evidence came from highly authoritative sources, including the presidents of Bar Associations and leaders of political parties, as well as from those engaged more directly as lawyers in the courts. The President of the Union of all the Turkish Bar Associations, himself, was reported, recently, as saying at a public meeting that his members received many complaints of torture, and that these allegations were valid. He is reported as having called upon the security forces to exercise their responsibilities towards prisoners in their charge and to remember that a person in prison or detention should be under state security control at all times.

29 The statement of the President of the Union of Bar Associations was confirmed by several lawyers seen at different times and in different places by your rapporteur. He was informed of cases where their clients had had to be interviewed in bed as a result of ill-treatment they had received. A large number of practising lawyers signed a Petition addressed to the Istanbul Martial Law Command on 4th April 1984, a copy of which was given to your rapporteur. This document said that the authors had tried, repeatedly, to raise the question of malpractices and illegal treatment encountered at the hands of security forces without any success. The Petition claimed that "conditions prevalent in prisons and places of detention are past the stage of causing concern, or even of being harrowing, and have become totally unbearable".²² Many tortures and cases of inhuman and degrading treatment on a scale generally applicable are listed in the Petition which was signed by a total of 63 practising members of the Istanbul Bar. An even more up-to-date survey of the incidence of torture was carried out by Amnesty International in a memorandum on Human Rights in May 1985.²³ On the basis of their own investigations, Amnesty International believe that torture is still a routine practice in most police stations in Turkey and that ill treatment of prisoners is carried out routinely in military prisons.²⁴

²¹ Explanatory note submitted by the Turkish Permanent Delegation to the European Communities, June 1985. The text of the legislation itself was not yet available at the time of writing.

²² Petition, op. cit., paragraph 3

²³ "Violations of human rights in Turkey", 7th May 1985, Amnesty International, Index Number EUR 44/04/85

²⁴ Ibid. p.5

30 This and other evidence received by your rapporteur inside Turkey tended to confirm that there has been no reduction in the incidence of torture, despite the claims to the contrary by the authorities, even though the number of victims may now be less, for the reason already mentioned, that the total number of political prisoners still in custody four and a half years after the coup is less. Several witnesses interviewed claimed that torture was becoming more, rather than less, severe, with deaths from it occurring more often than in the past. Furthermore, the Police Powers legislation, passed very recently, has exacerbated fears that the authorities are not seriously attempting to eradicate torture. In addition to permitting prisoners to be taken from prison back to police stations for further interrogation and the detention of prisoners incommunicado, the legislation also empowers the police to "take any measures, short of impairing the health of the suspect, to prevent a detainee's escape or aggressive acts"²⁵, a provision which has been regarded with considerable misgivings among lawyers and even in the press in Turkey

31 In addition to actual torture, many cases of inhuman and degrading treatment applied routinely, are listed in the Petition of the 63 lawyers mentioned above, as well as in the Amnesty International and many other documents submitted to your rapporteur.²⁶ To single out just one of these, it appears to be routine practice to manacle, fetter and chain all prisoners when transporting them to court and on other occasions. Frequent falls inside prison vans, sometimes causing serious injuries, result from this practice, and lawyers report that some prisoners even prefer not to attend court hearings of their cases as a consequence. Strip searches are also alleged to be routine practice. As is the case in the North of Ireland, the purpose of these searches appears to be to degrade the individual rather than to attempt seriously to discover anything carried by the person concerned.

32 Quite apart from evidence received from independent sources, perhaps most significant in considering the current situation regarding torture in Turkey is a recent memorandum on the subject by the Turkish Ministry of Foreign Affairs addressed to the Prime Minister's Office, a copy of which was submitted to your rapporteur.

33 This internal document stated that in order to consider allegations of torture in police stations, three issues needed to be dealt with:

- (a) The families of persons taken into custody by the police are not notified;
- (b) The custody period is too long, and the person in custody is not allowed to contact his lawyer;

²⁵ Quotation from summary of the legislation. Full text not yet available.

²⁶ See, for example:-

- Memorandum by Comité d'Arret des executions, repression et torture en Turquie et au Kurdistan to Council of Europe, 22 April 1985;
- "Turkish Peace Monitor", November 1984;
- Papers relating to ex-Ambassador Mahmut Dikerdem, former President of Turkish Peace Association and candidate for Nobel Peace Prize;
- Report in Cumhuriyet, 20 January 1985 of torture in prisons;

(c) The decision to extend the period of custody is not done through the due process of law. In other words, the decision is not ratified by the court but is made arbitrarily.

34 The counter-measures proposed by the Foreign Ministry were:-

- (i) The Parliamentary Committee on Prisons should be authorised, also, to visit police stations.
- (ii) The Ministry of the Interior should publish and forward to all police stations the legal procedures to be followed during interrogation.
- (iii) The families of those taken into custody should be informed immediately.
- (iv) Those taken into custody, if their period in custody is extended, should be allowed to contact a lawyer.
- (v) During the interrogation, a third person, e.g. someone appointed by a judge, should be present.
- (vi) If the custody period is to be extended, the decision to extend the period should be handed down by a judge in a court of law.
- (vii) The procedures and the officials who will handle petitions by those who have been subject to ill treatment during interrogation, should be determined. The procedures for petitioning and the officials who will handle these petitions, should be known to the police.

35 In your rapporteur's view, the adoption of these procedures (the absence of some of which has been the cause of complaint in various European Community countries, also), would do much to improve the fears and anxieties about torture and ill-treatment in Turkey at the present time. Additionally, some compensation should be paid to the victims of torture in Turkey which the authorities have admitted has taken place. The European Convention on Human Rights requires²⁷ such compensation to be paid to victims of arbitrary arrest and detention²⁸ and, a fortiori, to victims of torture, and the Turkish Constitution itself provides that,

"Damages suffered by persons subject to treatment contrary to the above provisions²⁸ shall be compensated for according to law by the State."²⁹

Meanwhile, however, despite some indication (mentioned above, paragraph 25) that the situation is not as bad as it was immediately after the coup, your rapporteur cannot, in the face of all the evidence received, conclude that respect for Article 3 of the European Human Rights Convention is adequately safeguarded in Turkey or is likely to be in the future without a more determined effort at reform than is so far evident.

²⁷ Article 5(5) of the Convention.

²⁸ i.e. to the provisions relating to personal liberty and security.

²⁹ Article 19, last paragraph, of the Constitution. The United Nations established a voluntary Fund for victims of torture in 1981. Turkey has not yet contributed to this but neither, it is fair to add, have the majority of members of the U.N. and even one member-country of the EEC (Italy).

V. THE RIGHT TO FAIR TRIAL BY INDEPENDENT COURTS³⁰

36 Next to torture, the absence of fair trials by independent courts and under fair legal procedures is the most serious defect alleged in the human rights situation in Turkey. It formed an important part of the case brought by the five member countries of the Council of Europe before the Commission on Human Rights. The allegations cover a wide range of alleged defects, ranging from the system of martial law to court procedures. The applicants to the Commission on Human Rights claim that the martial law courts cannot be regarded as in any way independent since the military régime appoints some of the judges and a law³¹ prohibits any appeal against administrative decisions taken by martial law administrators in the exercise of their duties. Furthermore, martial law courts can be dissolved and re-constituted by the military authorities and lack the independence of a constitutionally safeguarded judiciary.

37 Your rapporteur also received complaints about the martial law procedure during his visit to Turkey. Moreover, he was informed that where martial law had been abolished in an increasing number of provinces it had generally been replaced by states of emergency where the laws are equally strict and, according to the information given him, applied even more severely. Governors in areas covered by states of emergency can control all meetings and deport people whom they consider undesirable outside a particular area of the country³². The absence of any relaxation of restrictions imposed under the martial law régime merely by abolishing martial law and replacing it by a state of emergency is maintained, according to representations made, even where states of emergency themselves are replaced by the powers given to the police. This legislation was specifically stated to be necessary in order that martial law could be relaxed but its provisions, some of which have been outlined above, are, in fact, almost equally restrictive. The difference, if any, lies in the fact that these restrictions will be controlled by the police themselves, whereas the martial law restrictions were controlled more directly by the military authorities. Doubts were expressed as to whether this would, in fact, result in a more relaxed régime.

38 The court procedures complained of, both by the applicant countries to the European Commission on Human Rights in their case against Turkey, and by lawyers and others seen by your rapporteur, centred around the limitations on the rights of defendants, particularly in political trials. It is claimed that accused persons and their defending lawyers are sometimes unaware of the charges preferred and do not have access to the complete case filed; defending lawyers are frequently intimidated and even arrested³³, and the right to free communication between the accused and his lawyer is restricted to a considerable extent in some cases.

³⁰ See relevant paragraphs of the Motion for a Resolution

³¹ Martial Act No. 2342

³² This power also exists in areas subject to Martial Law. See Article 1 of Law 2836, amending Article 3(d) of Martial Law Regulation No. 1402.

³³ The distinguished lawyer, former President of the Istanbul Bar Association, who defended the leading prisoners in the Turkish Peace Association trial, was himself subsequently arrested and imprisoned.

39 Examples of all these and many more restrictions were given to your rapporteur by several lawyers and ex-prisoners in Turkey. For example, the right to challenge a judge's ruling is restricted to the extent that where two such challenges are made the lawyer can be refused permission to continue the defence. Restrictions have been imposed on the number of defending lawyers and severe restrictions on their access to their clients. In some cases they cannot even show their clients documents for verification, etc., because of the physical conditions at interviews, which are often limited to as little as 15 minutes in any one week. Often also, it was claimed, prison staff are present or the defending lawyer is told that he cannot see a prisoner but can only speak to him by telephone. More important than any of these is undoubtedly the prohibition on consultation of a lawyer by a prisoner during the period when he is held incommunicado and before a charge is made against him. The actual court procedures themselves were also the subject of many complaints. In some cases no reasons are given for judgments which have been, in many cases, brought under Articles 141 and 142 of the Criminal Code which use vague terms like, "attempting to overturn the established order"³⁴, and which were taken over from the Italian Fascist Code of Mussolini.

40 Undoubtedly the most serious complaints of the absence of fair trials must be those against the trials of a large number of defendants simultaneously which have been going on for some years. The most notorious of these are the trials against the Turkish Peace Association (TPA), to which reference has already been made. The President of this Association, Mr Mahmut Dikerdem, who was sentenced to 8 years' imprisonment, is an ex-Ambassador with a long and distinguished diplomatic career, and other defendants are also distinguished in the academic field. None was accused of having either used or advocated violence in any way. Many of the charges, indeed, can only be described as bizarre. For example, to support that part of the charge alleging that the TPA was pro-Soviet, it was claimed that Peter the Great had declared that Russia must have a warm-water port and therefore must control the Dardanelles. For this reason therefore, the TPA and Russian peace organisations were both seeking the same ends and so in favour of Turkey being dominated by Russia. The Resolution proposed by your rapporteur calls for the discontinuance of this trial and the immediate release of those charged.³⁵ This echoes a Resolution recently passed by the European Parliament.³⁶ Unfortunately, there seems little chance of its being accepted by the Turkish Government, who have now started a second and possibly even a third trial of former members of the IPA.

41 Similar considerations apply to the trial of the DISK Confederation of Trade Unions. Again, the large number of defendants has been followed by further arrests and further trials of defendants who were members of unions affiliated to DISK. Again also, the charges which have been brought are in some cases difficult to take seriously. For example, members of DISK have been charged with belonging to an illegal organisation. Since DISK was declared an illegal organisation immediately after the coup, the defendants could not help being "guilty" of this charge, which breaches the most

³⁴ See paragraph 18 above

³⁵ See relevant paragraph of the Motion for a Resolution

³⁶ Resolution on those convicted at the trial of members of the Turkish Peace Committee, 13 June 1985, (Doc. B2-488/85).

elementary human right of not being subject to retro-active law. It should be noted that DISK is itself a member of the European Trade Union Confederation, a body recognised by the European Community.

42 In conclusion, the continuance of mass trials and of the restrictions originally imposed by martial law but now imposed also or alternatively by other means, together with the continued complaints of harassment and unfair trial practices, makes it difficult for your rapporteur to conclude otherwise than that the human rights involved, under Articles 5 and 6 of the European Human Rights Convention, are not being respected in Turkey. Perhaps the most hopeful sign of a possible reform is the movement, tentatively beginning, to press for Turkey to recognise the right of individuals or non-governmental organisations or associations to address petitions themselves to the Commission against the Government. This recognition has now been granted by all the original signatories of the European Convention on Human Rights, apart from Turkey and three other countries.³⁷ An even more welcome sign of an improvement in the human rights situation in this field would be a general amnesty for political prisoners who have neither been involved in nor advocated violence. Your rapporteur was heartened to hear from leaders of opposition political parties that they intended to propose this.

43 Up till now the only provisions for an amnesty for political offences were embodied in a piece of legislation known as the "Law on Repentance".³⁸ This provided that if political prisoners were prepared to repent and to give information on organisations involved in "Crimes against the State" they would be pardoned if they had not themselves taken part in any act of violence, or would benefit from significant reductions in their sentences if they did not fulfil this condition. Furthermore, the State would ensure their protection by enabling them to change their identity, if necessary by cosmetic surgery, and to settle in a foreign country. This Law was the subject of considerable criticism even inside Turkey and was, in fact, originally vetoed, just before it was due to come into effect, by General Evren, President of the Republic.³⁹ His action was taken, however, not because of the Law's violations of human rights but mainly because General Evren objected to the possibility of those involved in "Crimes against the State" being repeatedly pardoned if they were prepared to act as informers, and to "members of clandestine organisations" arranging reductions in their sentences by denouncing each other in a planned way.⁴⁰

44 Experience in one member-country of the European Community has shown, in your rapporteur's view, that the system of "supergrasses" has serious defects, and it is to be hoped that if a new amnesty law is to be passed it will not take this form.

VI. THE RIGHT TO FREEDOM OF EXPRESSION⁴¹

45 Under the European Human Rights Convention:-

³⁷-----
Greece, Cyprus and Malta.

³⁸For summary, see "Info-Türk", No. E.103, May 1985, pp. 1-2

³⁹On 20th May 1985

⁴⁰"Info-Türk", op. cit. p.2

⁴¹See relevant paragraphs of the Motion for a Resolution

"Everyone has the right to freedom of conscience and religion...⁴² and to freedom of expression. This right shall include freedom...to receive and impart information without interference by public authority and regardless of frontiers."⁴³

46 Complaints that Turkey was in breach of these provisions were made in the case brought by five member-governments of the Council of Europe before the European Commission on Human Rights, referred to earlier.⁴⁴ In particular, the five member-governments claimed that after the coup numerous journalists and intellectuals were arrested on charges of crimes of opinion⁴⁵ and severe restrictions involving censorship and control of publishing were introduced.

47 The Turkish Government's main reply⁴⁶ to these allegations was that "the exigencies of the situation made these provisions necessary; that the paralysis in the democratic institutions of the State had been brought about precisely because of the activities of the press and the political parties". The measures introduced, it was claimed, were necessary to deal with the public emergency existing before the coup and were therefore justified under Article 15(1) of the Convention.

48 As already noted, the European Human Rights Commission found the allegations of breaches of the Convention, generally, to be admissible, but reserved for an examination of its merits the question whether, and to what extent justification within the meaning of Article 15 existed.⁴⁷

49 In any event, the case against Turkey brought by the five Council of Europe member-countries related mainly to the period up to July 1982. It was the task of your rapporteur to examine how far these measures restricting freedom of expression and publication were still operating repressively some four and a half years after they were introduced by the military authorities when they took power in December 1980.

50 A mass of evidence on this subject was received by your rapporteur from a large variety of sources, official and unofficial. Perhaps not surprisingly, it was in many respects conflicting. Several sources, but by no means all, claimed that there had been a relaxation in the restrictions on freedom of expression as compared even with a year ago. In particular, this was the "general impression" of the two rapporteurs of the Council of Europe Parliamentary Assembly who visited Turkey shortly before your rapporteur.⁴⁸

⁴²Article 9

⁴³Article 10

⁴⁴See paragraph 4 above, et seq.

⁴⁵Under Articles 141 and 142 of the Turkish Penal Code

⁴⁶See Document E 70.347 of the European Commission of Human Rights, pp. 11-12

⁴⁷Ibid., p.35

⁴⁸Reports by Mr Steiner on behalf of the Political Affairs Committee (Doc. 5378, paras. 16-18) and by Mr Stoffelen on behalf of the Legal Affairs Committee (Doc. 5391, section 8)

51 On the other hand, all the evidence, including that obtained by the Council of Europe rapporteurs, seemed to point to this increase in freedom of expression being very limited. It was agreed that it did not apply to television or radio which remain strictly controlled. Nor did it apply in universities and other places of education where new measures have recently been taken against academic staff and students alike. Even beards have been banned and, more seriously, the control of university appointments and curricula remains strict. More serious still, publishers and authors are still being prosecuted and several cases were quoted to your rapporteur of straightforward histories, encyclopaedias, etc., and even articles in cinema magazines being banned with severe penalties which might include the confiscation of the printing machinery used to publish the book or periodical. Censorship of publications, it was claimed, is not infrequently carried out by a telephone call from the authorities ordering a newspaper or magazine not to publish a certain article. Even the reception of "subversive" information is banned. A recent decree by the Minister of the Interior, cited to your rapporteur, called for an inspection to be made of television masts on houses close to Turkey's borders. Any masts thought to be capable of receiving foreign broadcasts were to be removed and their owners' names sent to the Ministry.

52 The most severe violations of human rights occur when not only is freedom of expression prevented but when the authors or publishers are punished by imprisonment. The imprisonment of the Turkish Peace Association leaders for nothing more than peaceful expression of opinions has already been mentioned but it should be noted that any conviction under the censorship laws entails for an author or publisher a ban on travel abroad and a ban on employment in the State sector. As this includes universities and other places of education, the effect is very drastic.

VII. THE RIGHT TO FREEDOM OF ASSOCIATION AND ASSEMBLY⁴⁹

53 The right to freedom of assembly and association is stated in the European Convention on Human Rights as follows:-

"Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests."⁵⁰

54 This right, while not perhaps so basic as the four previously discussed - the right to life, the right to freedom from torture and to integrity of the person, the right to a fair trial by an independent judicial process and the right to freedom of expression - is, nonetheless, fundamental to any democratic state and of particular concern to the European Parliament. When the military intervention took place in Turkey in 1980, the right to freedom of assembly was, of course, the first to be seriously breached, with the dissolution of the Parliament and the prohibitions and restrictions imposed on virtually all political activity. These measures featured prominently in the case brought by the five Council of Europe member-countries before the European Human Rights Commission. They alleged that all criticism of the measures taken by the military authorities had been prohibited; that all former politicians were barred from making political statements and from

⁴⁹ See relevant paragraphs of the Motion for a Resolution

⁵⁰ Article 11

future political activities and that all existing political parties had been forced to disband. In the Trade Union field, several Trade Union Confederations were dissolved⁵¹ and subsequently their funds were sequestered and in some cases confiscated. Martial Law Commanders were empowered to prohibit strikes; and collective bargaining was suspended and largely replaced by a system of compulsory arbitration. In addition, numerous political leaders and thousands of Trade Union leaders and workers, notably of the DISK Confederation, were arrested, tried and imprisoned. Most of the prosecutions were preferred under Articles 141 to 146 ("Felonies against the State")⁵². It should, perhaps, be again noted that several of these provisions were imported directly from the criminal code of the Italian Fascist régime of Mussolini.

55 The Turkish Government admitted that restrictions had been imposed on political and trade unions' activity but said that they were essential. A state of "veiled war or public emergency threatening the life of the nation"⁵³ existed at the time of the military take-over. Furthermore, the restrictions were intended to be only temporary.

56 In support of this claim, the Turkish Government could point to the elections to a reconstituted Turkish Parliament in November 1983, albeit with a seriously restricted representation of political parties; to the dissolution of the National Security Council and its replacement by a civilian body whose President (General Evren, formerly President of the National Security Council) was also elected, and to local elections which had been held earlier this year with a more complete representation of political parties.

57 In this field of freedom of assembly and association for political purposes, your rapporteur is pleased to be able to report that he formed the impression from the Turkish politicians he has seen, both inside and outside the country, including some not recognised by the Government and so far forbidden to take part in political activity, that there has been some relaxation of the generally repressive atmosphere. While the Grand National Assembly still remains profoundly unrepresentative, with no members at all from the Social Democratic and True Path parties, which between them obtained 43% of the vote at the recent local elections; while, if only for this reason, the main opposition to the Government, still remains outside Parliament; and while most of the restrictions on political activity are still on the Statute book, nonetheless, it seemed to be agreed that political criticisms could be made in more subject areas than hitherto and that political repression was less severe than it had been even two years ago.

58 Unfortunately, the same cannot possibly be said, in your rapporteur's view, about the right of assembly and association as applied to Trade Unions. The mass trial of members of the DISK Confederation continues with proceedings being started against more of its affiliated Unions.⁵⁴ Many DISK trade unionists are still in prison and nearly a hundred are under direct threat of

⁵¹ Notably DISK, MISK and BANK-IS

⁵² Doc. E.70.347 of the European Commission on Human Rights, pp. 5-6

⁵³ Ibid. p.11

⁵⁴ Some of the defendants have been on trial for more than four years. For 76 of them the Prosecution has demanded the death penalty. (See 237th Report of the Committee on Freedom of Association of the International Labour Office (ILO), November 1984 (Annex, para. 18).)

a death sentence. It should not be forgotten that DISK is a member of the European Trade Union Confederation (ETUC), a body recognised by the European Community in this field. Evidence from other sources, including the much larger Trade Union Confederation, TURK-IS, officially recognised by the Turkish Government, also indicated deep dissatisfaction with the rights of trade unionists in Turkey. Complaints focussed both on the right to organise their activities (Unions, co-operatives, etc., may only be organised on a very strictly local basis and not at all in many sectors, both public and private) and on the right to carry out normal trade union activities (collective bargaining is severely limited, as is the right to strike). Turk-is is also a member of the ETUC. The ETUC stated in a letter, dated 17th April 1985, to the President of the Council of Europe Parliamentary Assembly, that it "sees no visible improvements when it comes to the Turkish Government's behaviour and policy in the matter of human rights". On the contrary, only recently at a trial of mineworkers which started three years ago, the military prosecutors have asked for three death sentences. Nothing is being done to stop these trials and nothing to improve trade union rights in general in Turkey. In fact, the letter goes on, "Turkey has an anti-trade union legislation, as has been pointed out by the ILO".

VIII. CONCLUSION

59 In this brief survey, necessarily restricted because of space limitations imposed on all European Parliament reports, your rapporteur has tried to cover the principal aspects of the human rights situation in Turkey.

60 Having exhaustively considered all the representations made to him, both inside and outside Turkey, your rapporteur feels bound to conclude that, while there has been some improvement in respect for human rights in Turkey, it has been by no means dramatic. Of all the fields which most closely concern the European Parliament and which form the basis of the European Convention on Human Rights, - the right to life, to freedom from torture, to a fair trial, to freedom of expression and to freedom of assembly and association particularly for both trade union and political purposes, - it is only as regards the last of these that there seemed to be any consensus that the situation had substantially improved. Even here, the improvement still seems to be very fragile. At the time of writing, news was received of the arrest by the Martial Law Authorities of the Deputy Secretary General of the SODEP Party, which received the second highest proportion of the votes in the most recent (local) elections. He is reported to be being held incommunicado.⁵⁵ In all the other aspects of his survey, the views expressed to your rapporteur, even from orthodox quarters, were that respect for human rights in Turkey were still a long way short of complying with the most elementary standards. In these circumstances, your rapporteur regrets that he cannot recommend resumption of the parliamentary relations which existed between the European and Turkish Parliaments before the military intervention in 1980 resulted in the abolition of the Turkish Parliament. In his view, it would be wholly inappropriate for the Parliament to re-establish its delegation to the Joint Committee of the European Parliament/Turkish Grand National Assembly while the latter continues to represent only a limited number of political parties and excludes two which, between them, obtained nearly 40% of the total vote in the most recent elections.

⁵⁵ Le Monde, 2 July 1985

European Communities

EUROPEAN PARLIAMENT

Working Documents

1984-1985

13 September 1984

DOCUMENT 2-556/84

MOTION FOR A RESOLUTION

tabled by Mrs VAN HEMELDONCK

pursuant to Rule 47 of the Rules of Procedure

on the imprisonment of Süleyman Yasar

(PE 91.979)

The European Parliament,

- A. having regard to its resolutions of 18 September 1980¹, 10 April 1981², 22 January 1982³, 8 July 1982⁴, 13 October 1983⁵ and 26 May 1984⁶ on political and human rights in Turkey;
- B. whereas Turkey is a Member of the Council of Europe and one of the signatories to the Convention on Human Rights, to which the Community Member States and institutions attach the greatest importance⁷ and which lays down freedom of expression in Article 10 and freedom of association (also within trade unions) in Article 11,
- C. whereas in May 1983 the Turkish authorities arrested Suleyman Yasar because of his trade-union activities in the Tob-Der, a teachers' union, and sentenced him to eight years' imprisonment to be followed by two years and eight months of internal exile,
1. Draws the attention of the Turkish Government to its obligations within the framework of the Council of Europe, and in particular under Articles 10 and 11 of the European Convention on Human Rights;
 2. Condemns the action taken by the Turkish authorities against Suleyman Yasar;
 3. Calls on the Turkish authorities immediately to release this prisoner of conscience;
 4. Calls on the Foreign Ministers meeting in political cooperation to take all necessary measures to ensure that Turkey accedes to this request;
 5. Instructs its President to forward this resolution to the Foreign Ministers meeting in political cooperation, the Council, the Commission and the governments and parliaments of the Member States.

¹ OJ No. C 265, 13.10.1980

² OJ No. C 101, 4.5.1981

³ OJ No. C 40, 15.2.1982

⁴ OJ No. C 238, 13.9.1982

⁵ OJ No. C 307, 14.11.1983

⁶ OJ No. C 172, 2.7.1984

⁷ Joint Declaration of 5 April 1984

(PE.91.979)

European Communities

EUROPEAN PARLIAMENT

Working Documents

1984-1985

20 September 1984

DOCUMENT 2-568/84

MOTION FOR A RESOLUTION

tabled by Mr KUIJPERS and Mr VANDEMEULEBROUCKE

pursuant to Rule 47 of the Rules of Procedure

on the trial of 56 intellectuals in Turkey

The European Parliament,

- A. whereas 56 intellectuals are now standing trial in Turkey,
 - B. whereas these individuals have not committed any crime but have merely exercised their democratic right of freedom of expression,
 - C. whereas no foreign journalists have been admitted to the trial,
 - D. whereas reports by Amnesty International provide evidence of violations of human rights,
 - E. whereas the Turkish people, and Kurds in particular, are the victims of oppression,
 - F. whereas in these circumstances there can be no guarantee of a democratic trial,
1. Calls on the Turkish Government to respect human rights and the rights of peoples;
 2. Calls on the Turkish Government to create the conditions in which a fair trial can be held in the presence of international observers;
 3. Instructs its President to forward this resolution to the Turkish Government.

(PE 92 141)

EUROPEAN PARLIAMENT

Working Documents

1984-1985

27 September 1984

Document 2-595/84

MOTION FOR A RESOLUTION

tabled by Mr STAES

pursuant to Rule 47 of the Rules of Procedure

on the fourth anniversary of the coming to
power of the military regime in Turkey and
events there condoned or instigated by the
Turkish government

(PE 92.139)

PE 98.572/lin./Ann. III

The European Parliament,

- A - disturbed by the reports reaching Parliament on the suppression of democracy in Turkey despite the fact that after taking power on 12 September 1980 the military regime authorized free elections on 6 November 1983, followed by local elections on 25 March of this year,
- B - whereas only three of the 14 parties set up after 12 September 1980 were authorized to take part in the parliamentary elections on 6 November 1983,
- C - whereas on 12 September 1980, the date of the coup d'état, all political parties were disbanded and their leaders prohibited from taking part in any political activity for 10 years,
- D - whereas three of the parties excluded from taking part in the parliamentary elections of 6 November 1983 were permitted to participate in the local elections of 25 March 1984, in which they obtained 41% of the vote, which means that the second and third largest parties in the country are not represented in parliament,
- E - whereas severe pressure was exerted on a number of parties during the election campaign, during which no criticism of the generals or of the new constitution was permitted,
- F - whereas publication of all the main newspapers has been prohibited at least once since the coup d'état,
- G - whereas several journalists are now in prison,
- H - whereas a ban was recently placed on the publication in the Cumhuriyet and Tercüman newspapers of a series of interviews with Mr ECEVIT and Mr DEMIREL (former prime ministers and party chairmen),
- I - whereas on 1 January 1984 the autonomy of Turkish radio and television (TRT) was abolished and the TRT was placed under the authority of the Supreme Council for Radio and Television,
- J - whereas the universities have been placed under the authority of the Council for Higher Education (YOK),
- K - whereas 861 professors and university lecturers have resigned in protest against the policy of the YOK and 327 others have been dismissed by

(PE 92.139)

PE 98.572/fin/Ann. III

the YOK, so that by April 1984, 1,188 teaching staff had left the Turkish universities,

L - whereas the social problems in Turkey are considerable. Although the government of the present premier Mr Ozal has been able to raise several thousand million Belgian francs for the building of 160 F16 fighter planes for delivery by 1990, this decision contrasts sharply with the social situation:

- * official statistics show that unemployment in Turkey is running at 3.5 million or 19% of the working population;
- * real purchasing power has fallen by more than 50% since the coup d'état of 12 September 1980 and by much more compared to 20 years ago;
- * inflation more than doubled last year, according to official sources;
- * since the coup d'état Turkey's foreign debt has continued to increase rapidly and is leading Turkey into yet another financial crisis;
- * following the elections of March 1984 prices have shot up, with increases ranging from 25 to 125% for foodstuffs, public transport and commodities,

M - whereas every possible attempt has been made to impose Turkish culture on the Kurdish area, with the population of this south-eastern part of the country being forbidden to speak their own language,

N - whereas 18 people have been executed since 12 September 1980,

P - whereas since the elections of 6 November 1983 138 new death sentences have been passed and the death sentence has been requested for 565 other people, bringing the number of people in this position to 5,000,

P - whereas 10 hunger strikers have died in the prisons of Diyarbakir, Metris and Sagmalcilar; the number of hunger strikers in the prisons of Istanbul and Erzincan is more than 500; these hunger strikers are demanding an end to torture, the right to receive visits from lawyers and their families, better prison conditions and authorization to have books and newspapers in prison,

Q - whereas the brutality of the regime is such that prisoners are tortured in public,

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- R - whereas the writer and publisher Ilhan ERDOST and the lawyer Ahmet Fevzi FEVZIOGLU have died following brutal torture while Sergeant Sükru BAG, the NCO who tortured ERDOST, was acquitted on 4 March 1984,
- S - whereas the chairman of the Turkish Peace Committee, former Ambassador Mahmut DIKERDEM, who has been sentenced to eight years imprisonment, has been refused permission to go abroad for urgent treatment for cancer,
- T - whereas between 6 November 1983 and 19 April 1984 63 people have been sentenced to death by military judges; the death sentence has been called for in new trials opened since 6 November 1983 against 132 other people; since 6 November 1983 17 new cases have been brought against various organizations including the prosecution of 289 trade unionists from six different unions,
- U - whereas the total number of defendants in the DISK trial was 147, 75 of whom are at risk of being sentenced to death,
- V - whereas a total of 1,233 people have been charged in these trials and a further 1,379 people are being sought by the authorities,
- W - whereas more than 200,000 people are being detained for political reasons, in a European country with a population of 47 million,
- X - whereas more than 5,000 people have been brought before military courts in political trials,
- Y - whereas all progressive political parties, trade unions and associations are banned in Turkey,
- Z - having regard to the adoption of a new constitution in Turkey which is designed to legalize the reign of terror by the State,
- AA - whereas Turkey was one of the first countries to sign the Rome Convention on Human Rights in 1950,
- BB - having regard to the Helsinki and Lausanne agreements and the Universal Declaration of Human Rights,
- CC - whereas in view of the scale, nature and rising trend of violence and suppression of democracy and since Turkey is a signatory to the above conventions, reactions to the situation cannot be regarded as foreign interference in Turkey's internal affairs,
- DD - whereas these anti-democratic and inhuman practices have been sharply and repeatedly condemned by the international press, the European

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Parliament, the Council of Europe, the Commission of the European Communities and the European Trade Union Confederation,

EE - whereas, in view of the above, Turkish representation in the Parliamentary Assembly of the Council of Europe was suspended in 1981,

FF - whereas the handing over of power by the military leaders to the civil government of Prime Minister Ozal following the parliamentary elections of 6 November 1983 was welcomed as a 'return to democracy' by Europe's elected representatives who paid little or no attention to the way in which the elections were conducted under the authority of General EVREN, leader of the coup d'état of 12 September 1980,

GG - whereas on 8 May 1984, as a result of this so-called return to democracy, the Council of Europe readmitted the Turkish Government to the Parliamentary Assembly of the Council of Europe,

HH - whereas in view of the real situation as described above there can be no question of any 'return to democracy' in Turkey,

II - whereas Europe is the birthplace of democracy and has already rid itself of the military regimes in Spain, Portugal and Greece,

LI - whereas Turkey forms part of continental Europe,

KL - having regard to the various European and international conventions on human rights,

1. Requests the President of the European Parliament, as a matter of urgency:

- (a) - to condemn strongly the current policy in Turkey, in the name of the European Parliament;
- (b) - to do everything possible to help bring about a return to democracy and respect for basic human rights in Turkey;
- (c) - to urge the Council of Europe to suspend Turkish representation in the Parliamentary Assembly once again until such time as democracy and human rights have been restored in that country;
- (d) - to bring pressure to bear on the Turkish Government to suspend death sentences in all trials;
- (e) - to urge the Turkish Government to permit a delegation from the European Parliament to attend all trials of a political nature in Turkey, be they civil or military;
- (f) - to urge the Turkish Government to allow a fact-finding commission appointed by the European Parliament to visit all Turkish prisons

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in order to draw up a report on the real situation there;

- (g) - to protest to the German Government at the fact that the Turkish Prime Minister Ozal was recently received in Germany with full military honours despite the fact that he was there on a private visit;
- (h) - to urge the German Government, in view of the privileged relationship it has with the Turkish Government, to suspend all economic and military cooperation with Turkey, such as the projects to expand armaments factories and nuclear power stations;

2. Requests the Members of the European Parliament to take especial care to ensure that Parliament rejects the proposal that the European Institutions should grant the Turkish regime aid of Bfrs 3,600 million for military and scientific purposes, which is to be submitted to it in October 1984.

(PE 92.139)

EUROPEAN PARLIAMENT

Working Documents

1984-1985

21 January 1985

DOCUMENT 2-1492/84

MOTION FOR A RESOLUTION

tabled by Mr SIMPSON

pursuant to Rule 47 of the Rules of Procedure

on torture and death sentences in Turkey

The European Parliament,

- A. having regard to its earlier Resolutions on Human Rights violations in Turkey,
- B. having regard to recent reports from Amnesty International indicating its concern about widespread torture, hundreds of prisoners of conscience and the passing of death sentences in Turkey,
- C. bearing in mind that the Turkish Government is desirous that Turkey should become a Member State of the European Community,
 - 1. Expresses its grave concern about the use of torture and the imposition of death sentences in Turkey;
 - 2. Calls upon the Turkish Government to release all prisoners of conscience forthwith and to cease all practices involving torture;
 - 3. Calls upon the Turkish Government to commute all existing death sentences and to abolish the death sentence forthwith;
 - 4. Instructs its Human Rights sub-committee of the Political Affairs Committee to investigate and draw up a full report on the above breaches of human rights in Turkey;
 - 5. Instructs its President to forward copies of this Resolution and Report to the Human Rights Sub-Committee, to the Council of Ministers, the Commission and to the Turkish Government.

European Communities

EUROPEAN PARLIAMENT

Working Documents

1984-1985

25 January 1985

DOCUMENT 2-1521/84

MOTION FOR A RESOLUTION

tabled by Mrs LIZIN

pursuant to Rule 47 of the Rules of Procedure

on the imprisonment in Turkey of Mr TAMER KAYAS

fr.-kmb/lhw

(PE 95.521)

English Edition

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PE 98.572/in./Ann.V

The European Parliament,

- A. recalling its previous positions on the human rights situation in Turkey,
- B. whereas Mr TAMER KAYAS has committed no crime but has been sentenced to ten years' imprisonment merely for having exercised his right to freedom of expression as a newspaper editor,
- C. noting that his imprisonment contravenes Article 10 of the European Convention on Human Rights, to which Turkey is a signatory,
 - 1. Calls on the Turkish Government to release Mr TAMER KAYAS immediately;
 - 2. Calls on the Foreign Ministers meeting in political cooperation to make representations to the Turkish authorities for the release of Mr TAMER KAYAS and other prisoners of conscience;
 - 3. Instructs its President to forward this resolution to the Commission, the Council, the Foreign Ministers meeting in political cooperation and to the Turkish authorities.

(PE 95.521)



European Communities

EUROPEAN PARLIAMENT

WORKING DOCUMENTS

English Edition

1985-86

22 March 1985

SERIES F

DOCUMENT B2-0063/85

PROPOSITION FOR A RESOLUTION

tabled by Mr VANDEMEULENBROUCKE and Mr KUIJPERS

pursuant to Rule 47 of the Rules of Procedure

on the fate of the Kurdish minority in Turkey

(PE 96.919)

The European Parliament,

- A. having regard to its resolutions of 17 May 1983¹ and 22 May 1984² on human rights in the world,
- B. having regard to Article 27 of the International Covenant on Civil and Political Rights which stipulates that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language,
- C. whereas on 19 February 1985 17 Kurdish militants were sentenced to death by the special court at Diyarbakir and 4 other defendants were not sentenced since they had earlier died in custody,
- D. whereas on 21 January 1985 the special court at Diyarbakir started another trial of 84 Kurdish militants, in which the military prosecutor has called for the death penalty for 30 of the defendants, including two young people under the age of 16,
1. Protests strongly at the oppression of the Kurdish minority in Turkey;
 2. Calls for the immediate release of all political prisoners who are being detained on the grounds that they are members of minority or opposition groups;
 3. Instructs its President to forward this resolution to the Council, Commission and the Foreign Ministers meeting in political cooperation.

¹ O. No. 1101, 20.6.1983

² O. No. 1172, 2.7.1984

(PE 96.919)

PE 98.572/fin./Ann. VI



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WORKING DOCUMENTS

English Edition

1985-86

3 April 1985

SERIES B

DOCUMENT B 2-89/85

MOTION FOR A RESOLUTION

tabled by Mr ULBURGHS

pursuant to Rule 47 of the Rules of Procedure

on the alarming situation of Kurdish prisoners in
Turkey

PE 98.572(fin./Ann. VII)

(PE 96.823)

The European Parliament,

- A. having regard to the report drawn up by Dr Konrad Meingast, an observer from the International Commission of Jurists, on the trials of Kurdish prisoners conducted by the military courts of Diyarbakir,
 - B. having regard to various reports by Amnesty International on the degrading practices carried out in Diyarbakir Prison against political detainees and in particular against Kurdish prisoners,
 - C. having regard to alarming reports of the renewed use of torture in Mersin Prison which has resulted in the death of two Kurdish detainees,
 - D. having regard to the growing number of death sentences passed on Kurdish prisoners (from Eruh, Semdinli, Birecik and Erzurum),
 - E. having regard to the twenty-two death sentences passed in Diyarbakir on 21 February 1985 against members of the Kurdish PKK Party or its sympathizers,
 - F. having regard to the growing repression of the Kurdish people,
 - G. having regard to the Kurdish people's right to their own cultural and linguistic identity,
1. Calls on the Turkish Government to put an end to the violation of the human rights of the Kurdish people;
 2. Calls on the governments of the Member States to consider economic sanctions which could lead to the democratization of the current regime;
 3. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.



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English Edition

1985-86

7 June 1985

SERIES B

DOCUMENT B2-413/85

MOTION FOR A RESOLUTION

tabled by Mr DE GUCHT

pursuant to Rule 47 of
the Rules of Procedure

on the abolition of the death penalty in Turkey

PE 98.572(fin./Ann.VIII)

(PE 98.052)

The European Parliament,

- A. having regard to the resolution on the abolition of the death penalty in the European Community (Doc. 1-65/81),
 - B. having regard to Resolution 727 (1980) adopted by the Parliamentary Assembly of the Council of Europe on the abolition of capital punishment,
 - C. having regard to Recommendation 891 of 22 April 1980 adopted by the Parliamentary Assembly of the Council of Europe on the European Convention of Human Rights - abolition of capital punishment in peace-time,
 - D. whereas there is no possibility of rectifying any judicial error once the death penalty has been carried out,
 - E. whereas the death penalty does not serve as a deterrent and numerous statistics show that the crime rate has not increased in countries where it has been abolished,
1. Calls on the Turkish Government to commute every death sentence that has been passed but not yet carried out into a more humane form of punishment;
 2. Calls on the Turkish Government to bring its legislation into line with the recommendation adopted by the Parliamentary Assembly of the Council of Europe (22 April 1980),
 3. Instructs its President to forward this resolution to the Turkish Government, the Commission of the European Communities, the Council and the Council of Ministers meeting in political cooperation.



European Communities

EUROPEAN PARLIAMENT

WORKING DOCUMENTS

English Edition

1985-86

13 JUNE 1985

SERIES B

DOCUMENT B 2-530/85

MOTION FOR A RESOLUTION

tabled by Mrs HOFF and Mr FELLERMAIER

pursuant to Rule 47 of
the Rules of Procedureon the death of Fikri SÖNMEZ,
Mayor of Fatsa, Turkey

PE 98.572/fin./Ann.IX

The European Parliament,

- A. deeply affected by the death of the Mayor of Fatsa as the result of five years' detention and torture in Turkish prisons,
 - B. dismayed by the fact that heart failure was given as the cause of death and that no autopsy was permitted,
 - C. concerned by the arrest and torture of over 2 000 inhabitants of the town of Fatsa which became famous outside Turkey after the election of Mayor Fikri SÖNMEZ in 1979 on account of the 'Fatsa model' introduced by him,
 - D. having regard to the fact that, as a result of a campaign by the Fascist 'National Action Party', 759 inhabitants of Fatsa are said to have been prosecuted and 268 of them to have been sentenced to death;
- 1. Demands a full explanation of the mysterious death of Fikri SÖNMEZ;
 - 2. Reiterates its demand in the light of this man's death for an immediate end to torture in prisons and, more particularly, in police stations;
 - 3. Observes that respect for human rights and an amnesty for political prisoners are absolute prerequisites for the resumption of relations between the European Community and the Turkish Republic;
 - 4. Instructs its President to forward this resolution to the Commission and Council and to the Prime Minister of the Republic of Turkey.