

*Permanent Representation  
of Turkey  
to the Council of Europe*

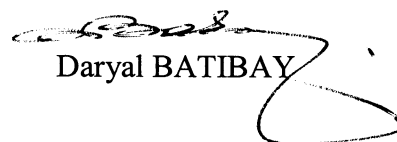
*The Ambassador*

Strasbourg, 20 February 2006

Mr. Secretary General,

Upon the instruction of the Minister of Foreign Affairs, Mr. Abdullah Gül, I enclose herewith the explanations requested in your letter dated 21 November 2005 in accordance with Article 52 of the European Convention on Human Rights.

Yours sincerely,

  
Daryal BATIBAY

Encl.

Mr. Terry Davis  
Secretary General of the  
Council of Europe

**THE RESPONSE OF THE TURKISH GOVERNMENT  
TO THE REQUEST BY THE SECRETARY GENERAL OF THE COE  
FOR AN EXPLANATION IN ACCORDANCE WITH ARTICLE 52 OF THE ECHR**

Referring to the request by the Secretary General of the Council of Europe in accordance with Article 52 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) with regard to the reports suggesting that individuals, notably persons suspected of involvement in acts of terrorism who might have been apprehended and detained, or transported while deprived of liberty, by or at the instigation of foreign agencies with the cooperation of High Contracting Parties, Turkish Government considers this inquiry timely and important.

In line with the ECHR and relevant Council of Europe, United Nations and other international Conventions and Protocols, necessary safeguards against arbitrary deprivation of liberty and torture or inhuman or degrading treatment or punishment are provided within the Turkish legislation, particularly in the Constitution, Penal Code, and the Code of Criminal Procedure.

Deprivation of liberty of persons is solely initiated and executed by the judicial authorities in accordance with the legal regulations as well as bilateral agreements and multilateral conventions such as European Convention on Mutual Assistance in Criminal Matters and European Convention on Extradition. Officials of another State, only with the consent of the judicial authorities, may observe the act of deprivation of liberty. However, foreign officials are under no circumstances entitled to conduct and/or actively participate in this process.

There is no specific provision in the domestic law with regard to sanctions to be imposed on in case of deprivation of liberty of the persons suspected to be involved in acts of terrorism by the agents of another State.

The acts of officials of foreign agencies in Turkey are subject to control of the relevant judicial and administrative bodies within the context of the legal regulations in force. The acts which supposedly entail criminal components are investigated and treated by the judicial authorities accordingly.

The procedure and the conditions for the deprivation of liberty of persons are set out in detail in Article 19 of the Constitution. Article 19 provides constitutional guarantee for the individual liberty and security as well as the procedure for objection and the compensation mechanism.

Moreover, Article 77 of the Turkish Penal Code defines the systematic act of deprivation of liberty based on political, philosophical, racial and religious motives towards particular part of the society as a crime against humanity. Article 109 of the Turkish Penal Code introduces sanctions on the illegal deprivation of liberty. The involvement of a public official, by abuse of his duty or failure to adhere to legal procedures and conditions in this act, constitutes an aggravating factor in terms of sentences.

On the other hand, no public official or other person acting in an official capacity in Turkey has been involved in any manner in any unacknowledged deprivation of liberty of any individual, or transport of any individual while so deprived of his/her liberty, occurred by or at the instigation of any foreign agency.