

Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Letter III to Dutch Minister of Justice

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I am writing on behalf of Human Rights Watch (HRW) regarding the case of Nuriye Kesbir. Ms. Kesbirs lawyers informed us in November that your ministry appealed the Hague District Court Decision of November 8, 2004. Subsequently, Ms. Kesbirs lawyers provided us with a copy of the November 18, 2004 letter to you from the Turkish Embassy in the Netherlands. In that letter, the Turkish government provides an additional assurance that Ms. Kesbir will be brought before a judge upon arrival in Turkey if she is indeed extradited.

Minister Donner:

I am writing on behalf of Human Rights Watch (HRW) regarding the case of Nuriye Kesbir. Ms. Kesbirs lawyers informed us in November that your ministry appealed the Hague District Court Decision of November 8, 2004. Subsequently, Ms. Kesbirs lawyers provided us with a copy of the November 18, 2004 letter to you from the Turkish Embassy in the Netherlands. In that letter, the Turkish government provides an additional assurance that Ms. Kesbir will be brought before a judge upon arrival in Turkey if she is indeed extradited.

Human Rights Watch has made submissions to you twice before in Ms. Kesbirs case regarding our serious concerns that diplomatic assurances of this type from Turkey do not provide a reliable or effective safeguard against torture and ill-treatment. In a December 15, 2004 briefing paper titled, *A Crossroads for Human Rights? Human Rights Watches Key Concerns on Turkey in 2005*, we stated that Torture remains common in Turkey today and that such abuse continues, largely due to the lack of supervision by the state over the forces that perpetrate acts of torture and ill-treatment. Assurances by high-level Turkish authorities that Ms. Kesbir will not be tortured or ill-treated cannot be considered an effective safeguard against abuse because the Turkish government lacks the political will to ensure that there is an effective monitoring and accountability system for torture. Thus, the government has little or no control over the continuing practice of torture on the ground.

The newest assurances from Turkey do not constitute assurances of an unequivocal nature, as required by the U.N. Special Rapporteur on Torture, acting specifically in this case. As we have noted before, they are so vague as to render them virtually meaningless. They merely paraphrase what is clearly provided for in existing Turkish law. The promise to facilitate Ms. Kesbirs appearance before a judge has little or no bearing on what treatment she will receive at the hands of law enforcement officers once she is placed in detention, particularly given the absence of supervision of these officers for acts of torture and ill-treatment.

Diplomatic assurances should not be relied upon by governments to circumvent their obligation not to return a person to a place where she would be at risk of torture or ill-treatment. By seeking assurances from the Turkish government, the Dutch authorities acknowledge that Ms. Kesbir is at risk of such treatment. The assurances in themselves do not eliminate that risk for the reasons clearly stated above.

The additional assurances of the Turkish government do not alter Human Rights Watches conclusion that Ms. Kesbirs safety cannot be adequately guaranteed if she is extradited to Turkey.

Sincerely,

Rachel Denber
Acting Executive Director
Europe and Central Asia Division

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