

TiHV  
Human Rights Foundation of Turkey

**2005  
HUMAN RIGHTS REPORT OF TURKEY**

Ankara, 2006

Human Rights Foundation of Turkey Publications (46)  
Edited by: Documentation Center

ISBN: 975-7217-56-5



This report was published by financial support of European Commission Delegation to Turkey

The Human Rights Foundation of Turkey was founded under the Turkish Law.  
It is a non-governmental and independent foundation. Its statute entered into force  
by promulgation in the Official Gazette No. 20741 on December 30, 1990

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Basım tarihi: 17.11.2006

## ABBREVIATIONS

<b>AKP</b>	Justice and Development Party	<b>LFT</b>	Law to Fight Terrorism
<b>ANAP</b>	Motherland Party	<b>Mazlum-Der</b>	Organization for Human Rights and Solidarity with Oppressed People
<b>BBP</b>	Great Unity Party	<b>MKP</b>	Maoist Communist Party
<b>BES</b>	Trade Union of Secretaries	<b>MHP</b>	Nationalist Action Party
<b>ÇGD</b>	Progressive Journalists' Association	<b>MİT</b>	National Intelligence Organization
<b>ÇHD</b>	Contemporary Lawyers Association	<b>MLKP</b>	Marxist Leninist Communist Party
<b>CHP</b>	Republican People's Party	<b>NSC</b>	National Security Council
<b>CPT</b>	Committee for the Prevention of Torture	<b>OHAL</b>	State of Emergency (Region)
<b>DBP</b>	Democracy and Peace Party	<b>ÖDP</b>	Freedom and Solidarity Party
<b>DEHAP</b>	Democratic People's Party	<b>ÖTP</b>	Free Society Party
<b>DEP</b>	Democracy Party	<b>PKK</b>	Kurdistan Workers' Party
<b>DETAK</b>	Family Union of Rev. Prisoners	<b>RTÜK</b>	Radio and Television Supreme Board
<b>DHKP-C</b>	Rev. People's Liberation Party	<b>SDP</b>	Socialist Democracy Party
<b>DİHA</b>	News Agency Dicle	<b>SES</b>	Union of Health and Social Workers
<b>DİSK</b>	Progressive Trade Unions	<b>SHP</b>	Social-democrat People's Party
<b>DSP</b>	Democratic Left Party	<b>SİP</b>	Socialist Power Party
<b>DTP</b>	Party of Democratic Society	<b>SSC</b>	State Security Court
<b>DYP</b>	True Path Party	<b>TAYAD</b>	Association of Prisoners' Families
<b>ECtHR</b>	European Court of Human Rights	<b>TBB</b>	Union of Bar Associations of Turkey
<b>EHRC</b>	European Human Rights Convention	<b>TCPC</b>	Code of Criminal Procedures
<b>EMEP</b>	Labor Party	<b>TGC</b>	Turkish Journalists' Association
<b>ESP</b>	Socialist Platform for Oppressed	<b>THÖD</b>	Ass. of Basic Rights and Freedoms
<b>FESK</b>	Armed Forces of the Poor and Oppressed	<b>TİKB</b>	Rev. Communist Union of Turkey
<b>GNAT</b>	Grand National Assembly of Turkey	<b>TİKKO</b>	Workers Peasants' Liberation Army
<b>Göç-Der</b>	Ass. of Social Aid and Culture of Migrants	<b>TİSK</b>	Employers' Trade Unions of Turkey
<b>HADEP</b>	People's Democracy Party	<b>TDP</b>	Social Democracy Party
<b>HAK-PAR</b>	Rights and Freedoms Party	<b>TMMOB</b>	Chambers of Engineers and Architects
<b>HEP</b>	People's Labor Party	<b>TOBB</b>	Chambers and Exchange Markets of T.
<b>HÖC</b>	Front of Rights and Freedoms	<b>TPC</b>	Turkish Penal Code
<b>HPG</b>	People's Defence Forces	<b>TSK</b>	Turkish Armed Forces
<b>HRFT</b>	Human Rights Foundation of Turkey	<b>TTB</b>	Turkish Medical Association
<b>HRA</b>	Human Rights Association	<b>TUHAD</b>	Ass. of Solidarity with Prisoners' Families
<b>HPG</b>	People's Defense Force	<b>TUYAB</b>	Union of Prisoners's Relatives
<b>ILO</b>	International Labor Organization	<b>TÜGİAD</b>	Young Businessmen Association
<b>İP</b>	Workers' Party	<b>Türk İş</b>	Confed. of Workers' Trade Unions
<b>KESK</b>	Public Laborers' Trade Unions	<b>TÜSİAD</b>	Industrialists and Businessmen
<b>KADEK</b>	Freedom and Democracy Congress of Kurdistan	<b>UNHCR</b>	UN High Commissioner of Refugees
<b>Kongra-Gel</b>	People's Congress of Kurdistan	<b>YÖK</b>	Higher Education Institution

## Names of Newspapers and Journals mentioned in the report

Dailies		Journals	
Turkish	English	Turkish	English
Akşam	Evening	Adalet ve Emek	Justice and Labor
Cumhuriyet	Republic	Atılım	Step, Attack
Evrensel	Universal	Azadiya Welat	Freedom of the Country
Hürriyet	Freedom	Çağrı	Call
Milliyet	Nation	Dema Nu	New Time
Radikal	Radical	Devrimci Demokrasi	Revolutionary Democracy
Özgür Gündem	Free Agenda	Gençlik Gelecektir	Youth is the Future
Özgür Politika	Free Policy	Genç Bakış	Young View
Tercüman	Translator	Kızıl Bayrak	Red Flag
Vatan	Fatherland	Özgür Halk	Free People
Yeni Şafak	New Dawn		
Zaman	Time		

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# INTRODUCTION

On 3 October 2005 the negotiations for full membership of Turkey to the EU started officially. While this mainly political decision put Turkey closer to the EU it also meant that the government of the Turkish Republic met the political Copenhagen criteria with the legal changes and that the situation in Turkey regarding basic rights and freedoms corresponded with the European norms.

For the historic year 2005 the Documentation Center and the Treatment Centers of the Human Rights Foundation of Turkey (HRFT) shall try to evaluate the human rights situation in Turkey.

## **The Right to Life and Personal Security**

The findings of the Documentation Center show that five people died in custody. Hundreds of people were torture or ill-treated. At least 376 people were killed by means of extra-judicial execution, shootings on disregard of stop warnings, arbitrary fire of the security forces, in prison, as the result of attacks from illegal organizations, political killings or because of mines and bombs.

In 2005 a total of 675 people applied to the treatment and rehabilitation centers of the HRFT because of torture. Among the applicants to the centers in Adana, Ankara, Diyarbakır, İstanbul and İzmir there were 13 children. A total of 193 people alleged to have been tortured in 2005.

The shortening of the period of detention, an increase in contact to a lawyer are positive developments but not sufficient to eradicate torture. Despite the announcement of the

government of a "zero tolerance" against torture and some legal provisions the tendency that torture does not result in criminal, administrative and practical punishment contributes to the fact that torture continues.

For instance:

The trial against 16 police charged in connection with the death of a person that had been detained during a raid on the offices of HADEP in Kocaeli on 20 November 1998 and who died because of the torture inflicted on him concluded in 2005. Kocaeli Heavy Penal Court No. 2 acquitted nine police officers and sentenced the other seven to 20 months' imprisonment.

On 33 April 2005 İskenderun Heavy Penal Court acquitted three police officers and their chief in connection with torture of two girls who had been detained in March 1999. The court ruled that there was not sufficient evidence for a conviction.

## **Freedom of Thought and Expression**

Having passed the GNAT on 26 September 2004 and entered into force on 1 June the Turkish Penal Code (Law 5237) was revised on 29 June and 40 Articles were changed. The amendments included the provision of up to three years' imprisonment for oral or written statements in an attempt to influence trials or interrogations. For the offence of "insult against the basic national interest" under Article 301 TPC foreigners were added to the list of possible offenders. In the years before Article 312 and 150 of the TPC had been

used in trials against writers, journalists and human rights activists, since 1 June the Article 301, 288 and some other provisions are used to open such trials and in some cases convict the defendants.

During a speech of Foreign Minister Abdullah Gül during the debate on the budget on 21 December he stressed again the in Turkey nobody would go to prison for expressing an opinion that did not include violence or an insult and maintained that the freedom of expression was protected. However, the report of the Union of Publishers stated for 2004 and the first half of 2005 a total of 25 publishers had been on trial for 43 books written by 37 different authors. The report stated that eight journalists were still imprisoned. In a positive step Birol Duru, reporter with the news agency DİHA and the HRA member Daimi Açığ who had been imprisoned when they tried to take the picture of a field of cannabis, were released on 29 December to be tried without being remanded.

The Documentation Center found out that during December a total of 38 people including two politicians, 20 journalists and editors-in-chief, three human rights defenders, two reporters, two TV directors, one news agency, six publishing houses, one translator and one photographer were tried. In addition, the offices of the daily *Özgür Gündem* were raided.

### **The Freedom of Association**

While the court case against the board of the HRFT continued a trial was initiated against the representative in Adana and the physician recording the applications. Between November 2004 and the end of 2005 a total of 55 court cases and six investigations were launched against the branches of the HRA in Malatya, Van, Trabzon, Hatay, Bingöl, Siirt, Urfa, Adiyaman, Batman, Mardin, İstanbul, Diyarbakır, Tarsus and İzmir. Since the branch in Bingöl had been founded in 2001 until July 2005 the prosecutor had investigated in 92

cases and brought charges in 51 of them. In 2005 officials of the HRA continued to receive oral and written death threats.

Together with six organizations and individuals we left the Human Rights Advisory Board (HRAB) that had been founded with the aim to share the problems related to human rights with NGOs, to take joint decisions and take legal measures, but never asked for advice or opinions.

The public prosecutor indicted the former chair of the HRAB, Prof. Dr. İbrahim Kaboğlu and Prof. Dr. Baskın Oran for the report on minorities they had prepared in October 2004. They were charged under Article 301 new TPC with incitement to separatism and humiliation of the judiciary.

Some examples in the area of freedom of expression are:

On 27 October the case concerning the closure of the teachers' union Eğitim-Sen was rejected for the third time. The General Assembly of the Judicial Court of Cassation had quashed the earlier decisions stating that it was a Constitutional provision that education could not be held in any other language than Turkish. The Court of Cassation will have to deal with the case once again.

In March Abdülmelik Fırat, President of HAK-PAR and 12 board members were indicted because they sent invitations to the State President, the Prime Minister and the President of the GNAT in Kurdish and spoke in Kurdish during the General Assembly.

### **The Prisons**

In 2005 another six prisoners went on death fast. According to the findings of the Documentation Center at least 10 prisoners, three of them political, died in prison because of illness, hanging or burning themselves or being beaten to death by other prisoners. During the year 233 prisoners applied to the

HRFT after release. Their applications show the devastating result of isolation in prison.

### **The Şemdinli Incident**

The events in Şemdinli and Yüksekova district of Hakkari province in November showed once again that the conditions of the state of emergency practically continue in the region. Strong evidence was found that the bombing of the bookshop in Şemdinli was carried out by a form of organization resembling the Susurluk gang. Police officers tried to hinder the prosecutor to collect evidence in shooting at the crowd; two of the three suspects were sergeants of the intelligence of the gendarmerie (JİT or JİTEM) and one was a defector; they had come in a car belong to the gendarmerie; in the car a list of people to be killed was found; all this is evidence for such an organization. The Commander of the Army stated that he knew one of the sergeants personally as a good man. This raises suspicion that they acted within the structure of orders.

During protest demonstrations in Yüksekova the police opened fire on the demonstrators and killed four of them. Seven police officers and many demonstrators were injured. Another example for the practical continuation of the state of emergency that prevented the investigation of human rights abuses is the trial of village guards, soldiers and defectors at Hakkari Heavy Penal Court. The Court passed its verdict on 18 November. It sentenced the defector (former PKK member) to 8 years and 4 months' imprisonment and acquitted the other 12 defendants including high-ranking officers.

### **“Active Monitoring for Democracy” Project**

On 1 January 2005 the Documentation Center of the HRFT started the Active Observing Project for Democracy. The project will last until 30 March 2006 and had three main areas:

"The Right to Freedom of Expression"

"The Right to Freedom of Association"

"The Prohibition of Torture"

The aim was to observe human rights violations in these areas and to broaden the capacity on reporting as well as to develop a common language among human rights organizations. The project was jointly conducted with the HRA. Within the projects seminars were held in seven different provinces at different date with NGOs working on human rights in these provinces. During the seminars information was shared on the kind of human rights violations in the three areas and the documentation of abuses. Information on the fight for human rights was also exchanged.

### **General Evaluation**

It is important to note that worldwide human rights abuses were reported in 2005. The CIA organized flights from countries outside the USA for suspects of terror to be taken to torture chambers and allegations were raised that CIA agents interrogated suspects under torture in Turkey.

Members of the security forces violated the right to life by killing civilians during demonstrations. Despite some positive steps against torture under the slogan of the government "zero tolerance for torture" there was no serious will (intention) to eradicate torture and deaths under torture continued.

The judiciary continued to protect suspects of torture, killings, drug trafficking and gangs founded on State level. Only few trials were initiated and in very few of them sentences were passed, but on the lowest level. Impunity continued as the rule.

The field of freedom of expression continued to be a field of mines. Provisions to persecute opponents and silence them were reproduced, but each change of the TPC was presented as a step towards democracy. We hope that the

trial against Orhan Pamuk has taught a lesson to the officials.

In a similar way the freedom of association is under threat. Trade unions, associations, professional organizations, foundations and political parties were subjected to administrative and judicial pressure.

Heavy conditions continued in the prisons. Political prisoners were subjected to isolation.

The Prime Minister talked about the Kurdish question, but no step was taken towards a solution. Regional measures to fight poverty and unemployment and to compensate the losses of the people were not taken.

The pressure on human rights organizations and activists continued. The civil society was invited to some meetings, but not included in the decision taking process. While the NGOs were left aside the influence of the military on political life was accepted.

Despite all these negative facts social dynamics were able to realize reactions and spend efforts for informing and encouraging the government. We hope that the new year will be a year of improvement of human rights, democracy, peace and welfare and that the problems will diminish.

YAVUZ ÖNEN  
**President of the HRFT.**

# THE KURDISH QUESTION

After the HPG (People's Defense Forces) declared on 1 June 2004 an end to the unilateral ceasefire that had been announced on 1 September 1998 clashes increased. Between 20 August and 3 October the PKK announced a period without actions. Prior to this there was an intense discussion on another ceasefire.

In 2005 the discussion of the Kurdish question mainly focused on incidents in Şemdinli, Hakkari and Yüksekova and the prison conditions of Abdullah Öcalan (for the bomb attacks in Şemdinli, Hakkari and Yüksekova see the chapter on Right to Life and for demonstrations in favor of Abdullah Öcalan see the chapter on Freedom of Assembly).

Between 28 March and 4 April a congress for the Re-Structuring of the PKK was held and the new establishment of the PKK was announced. On 9 April

the daily *Özgür Politika* presented a declaration of Murat Karayılan the spokesperson of the parliament of the PKK on the new perspective. He said that the name PKK did not mean that the organization would turn back to the old days. In the past the PKK had followed a violent course for the creation of an independent State. Although the spirit of being followers of Apo (Abdullah Öcalan) was still the same the aim was no longer a separate State based on a nation, but a democratic nation. Violence was to be used in defense and not as a tool for solution.

On 10 April some 200 intellectuals, writers, journalists, artists, academics and representatives of NGOs published a joined declaration expressing their fear of an increasing nationalism and a return to an atmosphere of violence. The declaration was published under the headline of "We are concerned and warn"

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## WE ARE CONCERNED AND WARN

As Citizens with Signatures below...

We see an attempt to hinder democratization, civilization and the peace process in our country and are concerned that there might be a return to an atmosphere of violence and clashes.

## WE ARE CONCERNED ABOUT THE NEW PENAL CODE

... restricting freedom of expression

## THERE IS AN ATTEMPT TO RETURN TO CLASHES

... in the hysteria about juveniles ripping the Turkish flag during Nevruz

... with a lynch attempt in Trabzon

... Turkish and Kurdish nationalism is provoked

## POLITICS OF PEACE ARE NO CONCESSION

... the discussion on the genocide and the rights of minorities increase the fear

... the aim should be to reach the level of civilization

... we are against discrimination, a mind of prohibition, status quo and clashes.

Adalet Ağaoğlu (Writer), Adalet Dinamit (Administrator), Ahmet Çakmak (Prof), Ahmet İnsel (Prof), Ahmet İsvan, Akın Atalay (Jurist), Ali Bayramoğlu (journalist, writer), Ali Kazancıgil (UNESCO Council for Social Sciences), Ali Nesin (Prof), Ali Uçansu (dentist), Alin Taşçıyan (Movie critic), Arzu Başaran (Painter), Aydın Cıngı (chair of SODEV), Aydın Engin (Journalist), Aydın Güven Gürkan (Prof), Ayla Gürsoy (Prof), Ayşe Buğra (Prof), Ayşe Gül Altınay, Ayşe Öncü (Prof), Aytaç Arman (actor), Bahri Bayram Belen (Jurist), Baskın Oran (Prof), Binnaz Toprak (Prof), Bülent Deniz (chair of Union of Consumers), Büşra Erşanlı (Prof), Can Dündar (Journalist, writer), Celal Yıldırım (chair of Chamber of Dentists), Cem Eroğul (Prof), Cemil Eren (Painter), Cemil Koçak (Writer), Cengiz Aktar (EU Expert), Cevdet Kocaman (Trade unionist), Cumhuriyet Ertekin (Prof), Cüneyt Ülsever (Journalist, writer), Çağatay Anadol (Publisher), Çetin Altan (Journalist, writer), Deniz Kavukçuoğlu (Writer), Derya Sazak (Journalist, writer), Doğan Tılıç (chair of Association of Contemporary Journalists), Doğu Ergil (Prof), Emine Uşaklıgil (administrator), Ercan Karakaş (SODEV), Erdal Öz (Publisher, writer), Ergin Cinmen (Jurist), Erhan Bener (Writer), Erol Kızılelma (SODEV), Ersin Salman (Communicator), Etyen Mahcupyan (Writer), Fadime Gök (Prof), Ferhat Kentel (Researcher, writer), Ferhunde Özbay (Prof), Feride Çiçekoğlu (Writer), Fethiye Çetin (Jurist), Feza Deymeer (Prof), Feza Kürkçüoğlu (researcher), Fikret Başkaya (Writer), Füsün Akatlı (Writer, critic), Füsün Sayek (chair of TTB), Gencay Gürsoy (Prof), Genco Erkal (artist), Gül

Demir (Journalist), Gülen Aktaş (Prof), Gülseren Güver (TGC), Günay Göksu Özdoğan (Prof), Gündüz Vassaf (Writer), Gürer Aykal (chief of an orchestra), Gürol Irzik (Prof), Hacer Ansal (Prof), Halil Berktaş (Prof), Halil Ergün (artist), Hasan Bülent Kahraman (Writer), Hasan Kuruyazıcı (translator, architect), Hasan Yazıcı (Prof), Haydar Ergülen (poet), Herkül Millas (Writer), Hikmet Çetinkaya (Journalist, writer), Hrant Dink (Editor of AGOS), Huri Özdoğan (Prof), İbrahim Betil (administrator), İbrahim Kaboğlu (Prof), İlhan Tekeli (Prof), İpek Çalışlar (Journalist), İsa Karataş (spokesperson of the Protestant Church), İsmail Duman (Prof), İzel Rozental (cartoonist), Jale Parla (Prof), Kadife Şahin (Journalist), Kadir Erdin (Prof), Kuvvet Lordoğlu (Prof), Lale Mansur (artist), Latife Tekin (Writer), Mahir Günşiray (artist), Mebuse Tekay (Jurist), Mehmet Aksoy (mason), Mehmet Ali Birand (Journalist, writer), Mehmet Altan (Prof), Mehmet Soğancı (engineer), Melek Ulagay (filmer), Meral Okay (writer), Meral Tamer (Journalist, writer), Meryem Koray (Prof), Mete Çubukçu (Journalist), Mete Tapan (Prof), Mete Tunçay (Prof), Muhsin Kızılkaya (Writer), Murat Belge (Prof), Murat Çelikkan (Writer), Murathan Mungan (Writer), Musa Ağacık (Journalist), Müge İplikçi (Writer), Müge Sökmen (Publisher), Müjde Ar (artist), N. Lerzan Özkale (Prof), Nadire Mater (Journalist), Nazan Aksoy (Prof), Necdet Saraç (Writer), Necmiye Alpay (Writer), Nesrin Sungur (Prof), Neşe Düzcel (Journalist, writer), Neşe Erdilek (researcher), Nevzat Helvacı (chair of Human Rights Foundation Institute), Nilay Kırıcı (public relations), Nilgün Cerrahoğlu (Journalist, writer), Nilüfer Kuruyazıcı (Prof), Nilüfer Tapan (Prof), Nilüfer Warhol, Niyazi Dalyancı (Journalist), Noyan Özkan (Jurist), Nur Sürer (artist), Nuray Mert (Writer), Nurdan Arca (filmer), Oral Çalışlar (Journalist, writer), Orhan Alkaya (poet), Orhan Bursalı (Journalist, writer), Orhan Silier (chair of History Foundation), Orhan Taylan (Painter), Oya Baydar (Writer), Oya Köymen (Prof), Öget Öktem Tanör (Prof), Özdem Petek (public relations), Özlem Dalkıran (Amnesty International), Piraye Serdaroğlu (Prof), Raşit Tükel (Prof), Reha İsvan, Reşit Canbeyli (Prof), Rezzan Tuncay (Prof), Rifat Bali (Writer), Rifat Okçabol (Prof), Rutkay Aziz (artist), Rüstem Batum (TV programmer), Salim Uslu (chair of Hak-İş), Sami Caner (engineer), Sami Evren (chair of KESK), Saruhan Oluç (Journalist), Selçuk Esenbel (Prof), Selim Deringil (Prof), Semra Somersan (Journalist), Seniş Özay (Jurist), Sermet Koç (Prof), Sibel Irzik (Prof), Stefan Yerasimos (Prof), Süleyman Çelebi (chair of DİSK), Süleyman Özyalçın (Prof), Şahika Yüksel (Prof), Şanar Yurdatapan (musician), Şebnem Korur Fincancı (Prof), Şemsa Özer (researcher), Taha Parla (Prof), Tahsin Yeşildere (Prof), Tan Oral (cartoonist), Taner Akçam (historian, writer), Taner Berksoy (Prof), Taner Timur (Prof), Tanıl Bora (Writer), Tarhan Erdem (Writer, researcher), Tarık Ziya Ekinci, Tayfun Mater (engineer), Tuğrul Eryılmaz (Journalist), Turgut Kazan (Jurist), Tülin Polat (Prof), Türker Alkan (Prof), Ufuk Uras, Ülkü Azrak (Prof), Ümit Kıvanç (Writer), Ümit Şenesen (Prof), Üstün Akmen (chair P.E.N. Turkey), Vecdi Sayar (chair of Art Council), Yasemin Tural, Yaşar Seyman (Trade unionist, writer), Yavuz Önen (chair of HRFT), Yıldız Sey (Prof), Yılmaz Ensaroğlu (Mazlum-Der), Yusuf Alataş (chair of HRA), Yücel Sayman (Jurist), Zafer Diper (artist), Zafer Üskül (Prof), Zeynep Gambetti (researcher), Zeynep Göğüş (Journalist, writer), Zeynep Tanbay (artist), Zülfü Livaneli (Journalist, writer).

On 15 June 151 intellectuals published a leaflet calling on the PKK to stop its actions. The leaflet stated inter alias: "Only in the last month 50 people lost their lives. During the last 15 years about 30,000 human beings lost their lives in what is called a 'low-level conflict' or 'dirty war'. We ask the PKK to stop its actions without any pre-condition and call on the government to take the necessary legal steps for everybody to participate in the political life."

On 19 June Fikret Bila reported in his column in the daily *Milliyet* on a conversation with Justice Minister Cemil Çiçek who commented on a meeting with ambassadors from EU countries and the leaflet of intellectuals. The Justice Minister said inter alias that it had been difficult to have the world agree that the PKK was a terrorist organization. It had taken another 2 to 3 years to get the acceptance after the PKK changed its name to Kongra-Gel.

Cemil Çiçek said further that the leaflet of intellectuals might be useful if it had an effect on the opposite side. The opposite side were the terror groups. The State or the government could not be the contact for such a call.

On 22 June a total of 264 Kurdish intellectuals supported the call of Turkish intellectuals with their signatures. Former deputy Tarık Ziya Ekinci spoke on a press conference and said that a general amnesty and developments of the economy and social and cultural affairs was a pre-condition for a solution. The Kurds in Turkey had to freely enjoy their language and culture.

On 10 August Prime Minister Recep Tayyip Erdoğan accepted the intellectuals who had called on the PKK

to put down their arms. He said that the Kurdish question just like many other problems should be tackled under the general question of democratization within the constitutional order of principles of the Republic. Regardless of whether one called it the social demands of the citizens of Kurdish origin or the question of the Southeast one should avoid linking this question to terror.

On 16 August Saygı Öztürk reported in the daily *Hürriyet* that following the declaration of the Prime Minister the General Staff had formed a working group to present a report to the National Security Council (NSC). The journalist stated that the report would not speak of the Kurdish question but the problem with terror. The military experts would stress that the main problem of the region was the underdevelopment. An unnamed expert had told the journalist that there were no demands for another state of emergency.

In separate news *Hürriyet* quoted from the report that was presented to the NSC before its meeting on 23 August. The reports stated inter alias that the organization (PKK) was short before dissolving itself. The question of leadership was imminent and Osman Öcalan who had left the organization was like a ricochet. Murat Karayılan, Duran Kalkan and Cemil Bayık were trying to stay at the top of the organization by founding groups to their own ends.

Prior to a visit of the Prime Minister to the region Recep Tayyip Erdoğan met 57 mayors from the DEHAP. Speaking on behalf of the mayors, Osman Baydemir, Mayor of Diyarbakır, said that the tension in the region was increasing day by day. The atmosphere

of clashes was harmful for the economy as well as the state of law. The mayors presented the following findings for a solution to the Kurdish question:

- the Kurdish question cannot be reduced to a problem of underdevelopment, even though the economic problems are important;
- in order to establish peace and development a civilian project has to be defined that includes the social, cultural, political, economic and judicial dimensions;
- arms have to be silenced in order to develop a democratic discussion, feeling of sympathy and security;
- reforms of laws and the Constitution as well as administrative reforms have to be made to continue the process of democratization;
- problems of internal displacement, harm to the environment, poverty, unemployment, health and accommodation have to be solved. Positive discrimination is needed for the region;
- one should refrain from the state of emergency or changes to the anti-terror law that would take us away from the harmonization with the EU;
- the solution will be easier, if local and central administration and the organizations of civilian society (NGOs) work close together.

On 19 August Kongra-Gel announced in Belgium that there would be a time without actions between 20 August and 20 September during which militants of the HPG would only defend themselves. The initiative of intellectuals had created a positive atmosphere for a solution and Kongra-Gel wanted to show that the organization was not against the State and carried an understanding of solving the question of democratization in Turkey within its unity.

On 20 August Murat Yetkin commented in the daily *Radikal* on the press conference in Brussels. Belgium had not allowed the President of Kongra-Gel, Zübeyir Aydar (former deputy of the Democracy Party DEP) to appear at the press conference since there was an arrest warrant issued in 2004 against him. Police officers had come to the international press center and informed the journalists that Aydar would be arrested and deported to Switzerland where he had been recognized as a political refugee.

On the other hand the Movement for a Democratic Society lead by former deputies of DEP (Leyla Zana and 3 others) had not been able to grasp the message from European countries such as the Netherlands, Germany, the UK and Austria to clearly separate them from the PKK and not be become another front organization such as KADEK or Kongra-Gel. The only positive development was the declaration of about one hundred NGOs in Diyarbakır who declared that they supported the speech of the Prime Minister of 12

August in saying that the solution of the question was mainly a question of democracy.

Later Kongra-Gel extended the period without actions until 3 October when the negotiations between Turkey and the EU were to start. During the 43 days without actions 43 militants were killed according to a later announcement of Kongra-Gel.

### The Killing of Hikmet Fidan

On 17 February Kemal Şahin (code name: Kemale Sor) who had left Kongra-Gel and joined the Patriotic Democratic Party (Partiya Welatparezen Demokraten = PWD) of Osman Öcalan was killed near Süleymaniye (North Iraq). The PWD claimed that HPG militants killed him.

On 6 July Hikmet Fidan, former deputy chair of the closed down HADEP, was killed in Diyarbakır. Apparently two people shot him in his neck. First statements claimed that there was no political dimension in the attack.

However, the PWD claimed on its website that the PKK had killed Hikmet Fidan. The declaration also attributed the killing of Kemal Şahin and Sipan Rohhilat to the PKK.

In November the public prosecutor in Diyarbakır indicted three people in connection with the killing. The indictment stated that Hikmet Fidan had participated in a meeting of the PWD in Northern Iraq and had been given the duty of organizing the PWD in Turkey. Veysi Akgönül and Mustafa Kemal Ok had also been at the meeting in Northern Iraq and had been instructed to found a print office in Diyarbakır in order to finance the organization. Later Veysi Akgönül had been threatened by the PKK and accepted to kill Hikmet Fidan. He had asked Fırat Karahan for help. He had called Hikmet Fidan to meet him, but being too afraid himself the PKK member Serkan Şitilay had carried out the killing.

The indictment asked for life imprisonment for Fırat Karahan and a sentence of 10 years' imprisonment for Mustafa Kemal Ok. Veysi Akgönül who had provided information to clarify the crime should not be punished. The file of Serkan Şitilay who had not been captured was separated.

On 28 December Diyarbakır Heavy Penal Court No. 4 started to hear the case. Mustafa Kemal Ok testified to the effect that after the killing Eyüp Karageçi (former executive of DEP) had called him and told him to say that the PKK had committed the killing. The defendant Fırat Karahan stated that he had been tortured in custody. The prosecutor Muammer Özcan had threatened him to put him in prison for 36 years, if he did not sign the statement. Therefore, he had used his right to remain silent.

The son of Hikmet Fidan, Tarık Fidan, participated as sub-plaintiff. He stated that Mehmet Ören, Murat

Karayılan and Zübeyir Aydar had called his father over the phone and threatened him. Tarık Fidan maintained that Abdullah Öcalan was informed about the killing.

In an article in the daily *Cumhuriyet* of 19 July the journalist Mehmet Faraç raised some questions on killings within the PKK. He pointed at parallels of this killing to the killing of Musa Anter who, too, was called from the hotel he was staying in to a meeting with a person he knew for his contacts to the PKK. The article attributed the following killings to the PKK: Engin Sincer, Halit Sofi, Hayrettin Aydın (treasurer of the PKK), his brother Nurettin Aydın, Mahmut Arda, Sema Yıldız, Aydın Şahin, Sevim Adıbelli, Sedat Bayraktar, Levent Buker, Mustafa Yaygır, Doktor Rodi Demirkapı, Mustafa Günaydın, Murat Bayun, Faruk Bozkurt, Berzan Dürre, Nazime Adtürk, Yücel Zeydan, Mehmet Emin Unay, Rahman Şen, Mamosta Osman (Osman Hoca), Helat Soran, Erdal İlaslan, Salih Tatoğlu, Fatoş Sağlamgöz, Muhammed Aslan, Cemal Polat, Murat Yücel, his lover Filiz Yerlikaya and Hüseyin Morsümbül.

### The Law to Re-Integration and other Issues

On 30 March Interior Minister Abdülkadir Aksu answered a question of Orhan Eraslan, deputy from Niğde on Law 4959 on the Re-Integration into Society. He stated that 4,340 members of illegal organizations had applied to benefit from the law. Among them 2,980 had already been imprisoned. 1,529 prisoners had belonged to separatist organizations; 1,095 belonged to organizations with a religious background and 356 to organizations of the extreme left.

In February the public prosecutor in Ankara finished the investigation into the advertisement that had been placed in the International Herald Tribune and Le Monde under the headline of "What do the Kurds want?" The prosecutor decided against charges on the grounds that the advertisement signed by 203 people was within the scope of freedom of expression.

In February the Ministry for the Interior decided against the application of former PKK executive Şemdin Sakık to benefit from the Repentance Law. The letter to Diyarbakır Heavy Penal Court No. 6 stated that, although Sakık had provided information that helped to crack down on the organization, he had given orders for the killing of hundreds of people. On 20 May 1999 Şemdin Sakık and his brother Arif Sakık had been sentenced to death. After the death penalty was lifted in Turkey the sentence was commuted to aggravated life imprisonment.

On 22 February Sohbət Şen, İmam Özpolat and Ali Şükran Aktaş were detained when they wanted to meet deputies from the CHP in the GNAT. All three had returned to Turkey in 1999 on the call of Abdullah Öcalan as a "peace group" and had been convicted as members of an illegal organization. On 23 February they were remanded on charges of membership of an illegal organization.

On 11 May Ankara Heavy Penal Court No. 11 started to hear their case. Defense lawyer Hamit Geylani said that articles of newspapers published abroad and letters written to the deputies could not count as evidence. The prosecutor insisted on charges under Article 314 new TPC for membership of an armed organization.

In January Nuriye Kesbir, member of PKK/Kongra-Gel, was released in the Netherlands after a court in The Hague had ruled against an extradition to Turkey. In Germany Remzi Kartal, deputy chair of Kongra-Gel was released on 28 February. He had been arrested in Nuremberg on 22 January since a demand for extradition existed for him.

In August Diyarbakır Penal Court No. 2 acquitted the lawyer Muharrem Şahin from charges of resisting the police and staging an illegal demonstration. The lawyer had been detained under beatings when he wanted to participate in the autopsy of Engin Sincer, an executive of KADEK who had died under suspicious circumstances on Kandil Mountain on 7 September 2003.

The public prosecutor in Bitlis started an investigation against Mehmet Can Demir, chair of DEHAP for the province, because a calendar of the organization for the year 2005 had included Kurdish names.

In March the Ministry for the Environment and Woods renamed some animal species, saying foreign scientists opposed to its territorial integrity had chosen their former names with ill intent. A sheep species previously known as *Ovis Armeniana* was renamed *Ovis Orientalis Anatolicus*. A species of red fox was renamed as *Vulpes Vulpes* rather than *Vulpes Vulpes Kurdistanica*.

### Attacks on Kurds

In the night of 2 August Kurdish construction workers and immigrants from Bulgaria had a fight in Görüklü town in Nilüfer district (Bursa). The immigrants beat Hakkı Pala, Abdurrahman Erdem, Mehmet Kapçak and Barış Dursun and damaged many cars. A crowd of some 000 people blockaded the road between Bursa and Balıkesir and shouted slogans against Kurds. The police detained 13 people including 9 Kurdish workers.

Following the funeral of Corporal Kemal Etiler who had been killed in a clash near Uludere district (Şırnak) on 3 August the office of DEHAP and Kurdish street vendors in Kemalpaşa district (Bursa) were attacked by right-wingers on 4 August.

In the night of 5 August the house of DEHAP member Ubeydullah Sayılğan in Bursa was attacked. Some 50 persons gathered outside the house and shot into the air. The family alleged that the police arrived only at 2am, although they had been informed at 9pm.

On 8 August CNN Türk reported that the Ministry of the Interior had issued a circular on how to prevent provocative and common incidents. The circular pointed at the crisis with the Turkish flag (in Mersin, see the chapter on Freedom of Assembly) and stated that there was an attempt to misuse national feelings and create an atmosphere of chaos. The aim was to create a situation of discrimination. The measures to prevent such incidents were mainly based on better coordination among the security forces and an improvement of contacts to NGOs and the press.

On 19 August the police in Elbistan (Maraş) raided the offices of DEHAP and detained Hüseyin Kısa, chair for the district, Ali Polat and two persons with the first names of Faruk and Oğuz. They were released after five hours. Metin Gönülşen, DEHAP chair for the province, stated that the police tried to provoke the population saying that the detainees had planted bombs and were terrorists. A group of 20 people had gathered close to the office and insulted the members of the party.

On 21 August a discussion with police officers in Ürkmez town, Seferihisar district (İzmir) resulted in the detention of Naim Doğan Balgün, Veysel Ferit Balgün, İbrahim Bedük, Halil Bedük and Uğur Tanık and a lynch attempt on the pretext that they were members of the PKK. In prison Naim Doğan Balgün told lawyers of the HRA:

"A sergeant of the gendarmerie objected to me parking in front of the pastry shop. I objected when he used heavy language stating that women were in the car. Because of the dialect the sergeant asked for my hometown and I said that I had come from Diyarbakır. He started to curse at the Kurds calling all of us members of the PKK that he would f... Several people gathered and when the sergeant attacked me with a pen the crowd also walked towards us. We were taken into a vehicle of the gendarmerie. Another sergeant beat me on my head and they left the door open for others to hit us."

After the incident Seferihisar Governor Mehmet Gödekmerdan stated that the citizens were sensitive on movements against the State and the army. Mustafa Rollas, chair of the HRA in İzmir stated that there were allegations that the mayor of Ürkmez and a lieutenant of the gendarmerie were directly involved in the incident. İbrahim Bedük, Halil Bedük and Uğur Tanık were released on 6 September, Veysel Ferit Balgün and Naim Doğan Balgün were released on 14 September.

On 5 September a fight broke out among workers collecting hazelnuts in Karatavuk village, Akçakoca district (Düzce). Abdulrezak Özdemir from Şırnak province died and the woman Şükran Yiğit was injured. The headman of the village claimed that the fight occurred when the workers from Eastern and Southeastern Anatolia shouted slogans in favor of the PKK. The daily *Özgür Gündem* on the other hand

claimed that right-wingers attacked the Kurdish workers.

Representatives of the gendarmerie said that 15 workers from the Adana and inhabitants of Karatavuk village had a discussion and one unidentified person shot from his house killing Abdulrezak Özdemir and injuring Şükran Yiğit.

The student Deniz Tekin alleged that right-wingers attacked him in a students' hostel in Eskişehir on 31 December because he was a Kurd. He had been sitting in the canteen when someone asked him to come outside and five to six people had attacked him. He had informed the administration of the hostel. A police officer had appeared and asked for his hometown. Because of this behavior he had not filed an official complaint.

### The Trial of the Deputies of the Democracy Party

On 25 February Ankara Heavy Penal Court No. 11 continued to hear the case of the former deputies from the Democracy Party (DEP), Leyla Zana, Hatip Dicle, Orhan Doğan and Selim Sadak. Defense lawyer Yusuf Alataş stated that the penal code and the code of criminal procedures had been amended and the proceedings should be carried out according to new legislation.

During the hearing of 22 April presiding judge Orhan Karadeniz maintained that the defendants had not made statements for a long time and the proceedings were protracted. Defense lawyer Yusuf Alataş said that the indictment had asked for a conviction of his clients under Article 125 old TPC, but during the new trial the charges had changed to Article 168 old TPC. He demanded that a new indictment should be prepared. The Court decided to hear eight witnesses of the defense, a public witness, Sedat Edip Bucak, former deputy of the DYP and Halit Aslan, a witness of the prosecution.

During the hearing of 23 May it turned out that the invitations to Sedat Bucak and Halit Aslan had not received a reply and nothing had been done in the case of the witnesses of the defense since the addresses were not known. The Court decided to ask experts for a transcription of recordings of the Turkish Radio and TV Institution (TRT) including experts to transcribe the Kurdish parts of the conversations.

During the hearing of 1 July defense lawyer Yusuf Alataş objected to the decision of the Court to ask experts for a transcription of recordings and said that during the first round of hearings three teams of experts had concluded that it was impossible to definitely attribute the recordings to certain persons. The Court turned down the objection of the lawyer.

On 7 October former deputy Sedat Bucak testified. He repeated his statement that he first had given in 1994.

### The History of the Trial

The defendants Leyla Zana, Orhan Doğan and Hatip Dicle were elected deputies for Diyarbakır province in the elections of 20 October 1991. Selim Sadak entered parliament as deputy for Şırnak province. In December 1991 the public prosecutor in Ankara asked the GNAT to lift the immunity of these and another 18 deputies. In March 1994 the joint Commission of Constitution and Justice agreed to lift the immunity of Leyla Zana, Hatip Dicle, Sırrı Sakık, Ahmet Türk, Orhan Doğan, Selim Sadak and Mahmut Alınak (all deputies for DEP). On 17 March 1994 Leyla Zana, Hatip Dicle, Sırrı Sakık, Ahmet Türk, Orhan Doğan and Mahmut Alınak were arrested.

In June 1994 the public prosecutor at Ankara SSC indicted the deputies under Article 125 old TPC accusing them of treasury, the attempt to separate part of Turkey and being connected to the PKK: The prosecutor asked for the death penalty. Selim Sadak and Sedat Yurttaş were arrested on 2 July 1994 after the reasoned verdict of the Constitutional Court to ban the Democracy Party (DEP) had been published on 30 June. These two deputies were also charged under Article 125 with the demand of the death penalty. There

cases were combined with the trial against the other deputies.

On 8 December 1994 Ankara SSC convicted Leyla Zana, Hatip Dicle, Orhan Doğan, Selim Sadak and Ahmet Türk under Article 168/2 old TPC and sentenced them to 15 years' imprisonment. Sedat Yurttaş was convicted under Article 169 old TPC and sentenced to 7.5 years' imprisonment and Sırrı Sakık and Mahmut Alınak were sentenced under Article 8 of the ATL and sentenced to 3.5 years' imprisonment and fined TL 60 million. Sakık and Alınak were released. On 26 December 1995 the Court of Cassation quashed the verdicts against Ahmet Türk, Sedat Yurttaş, Sırrı Sakık and Mahmut Alınak, but confirmed the verdicts against Zana, Dicle, Doğan and Sadak.

On 20 July 2001 the European Court of Cassation passed its judgment on the case and ruled that the trial against the four convicted deputies had been unfair. This opened the way to a re-trial. On 9 July 2004 the Court of Cassation ordered the release of the defendants who otherwise would have been released in June 2005. The trial did not conclude in 2005.

## 1- HUMAN RIGHTS IN THE REGION AFTER THE STATE OF EMERGENCY (OHAL) WAS LIFTED

Since 30 November 2002 the state of emergency that had been declared on 10 July 1987 (replacing martial law) is no longer in force, but human rights violations continue in the region.

The PKK confessor Abdülkadir Aygan continued to reveal details on political killings in the region. He first had presented details in 2004. Details on his revelations can be found in the chapter on The Right to Life and Personal Security.

### Mass Graves

In November 2004 a mass grave with the bones of 11 people was found near Alaca village in Kulp district (Diyarbakır). In January former PKK militant Arif Sakık stated that this could be PKK members who had been punished as agents. If the remains of the persons had been found under a certain tree he would be able to identify the place.

In March Deputy Prime Minister Mehmet Ali Şahin answered a question tabled by independent deputy from İstanbul, Mehmet Emin Şirin related to the mass grave in Kulp district. The answer included statement of the Ministry of the Interior, the Defense Ministry, the General Staff, the Justice Ministry and the secret service MİT.

The General Staff maintained that the prosecutor in Kulp had been investigating the claim of 11 villagers who "disappeared" in Kulp district in 1993. The investigation was still continuing and allegations that

the Armed Forces might be involved in such an incident aimed at weakening the security forces.

The Justice Ministry alleged that the persons found in the grave had been killed by the PKK, but the organization tried to attribute the killings to the armed forces.

In February allegations were raised that the corpses of four PKK militants had been buried in the garden of the gendarmerie station in Yedisu district (Bingöl). The daily *Özgür Politika* quoted a soldier named Mustafa Bayram who said that in 2000 five PKK militants had been captured and four of them had been alive. They had been questioned and then shot in front of the gendarmerie station. The former soldier alleged that more corpses might have been buried in the garden that was surrounded with mines.

After the statement of Mustafa Bayram the HPG declared that near Goma Kotan hamlet in Yedisu district one militant had been killed and four militants had been shot after being apprehended alive. The names of three of the militants were given as Fahrettin Cem, Tahir Sankut and Hulusi Yıldız. The family of Hulusi Yıldız asked the HRA in Muş for help to establish the whereabouts of him. The brother Erkan Yıldız said: "On 17 November 2000 a police officer in Varto district showed us a photograph suspecting that it was my brother and said that he was being held at Yedisu Gendarmerie station. The picture did not show my brother. We went to Yedisu Gendarmerie Station,

but were not allowed in. Soldiers said that two corpses were at the station. However, we were sent to Karlıova Gendarmerie Station. Here they showed us some photographs, but my brother was not among them. Since then we have not received any information on whether he is alive or dead."

In May the corpse of Hulusi Yıldız was exhumed from a place close to the garden of Yedisu Gendarmerie Station. The relatives had asked the prosecutor in Kiğı for help and he ordered the exhumation. Tahsin Yıldız, a relative of Hulusi Yıldız said: "The gendarmerie station is surrounded by barbed wire, but the graveyard is on the other side of the road that passes the station. We were told that 14 families already found their relatives here. There are still another 30 graves all with numbers and registered.

In September the weekly *Azadiya Welat* published news that between Demir and Kamişlo villages in Kulp district (Diyarbakır) a mass grave with the remains of 9 PKK militants had been found. A person named Dılşa İldeniz had told the paper: "On 21 September 1998 12 militants were killed in the region. We went there two days later and found the corpses of 9 militants. We later covered them with earth. The whole village knows about this grave. Soldiers took away 3 corpses." The names of some of the killed persons were given as Mehmet Şirin İnatçı, Mehmet Bozan, Mehmet Özdemir and three persons with the code names of "Piling" (from Diyarbakır-Hazro), "Xwendewan" (from Diyarbakır-Bismil) and "Hawar" (from Syria).

In 2005 allegations were raised that 7 PKK militants had been killed in a clash near Akçalı (Sewqan) village in Başkale district (Van) in November 1997. Soldiers and members of a special unit had driven over them with armored vehicles and buried them in Çavkan quarter (Başkale).

On 27 November a mass grave was found in Savur district (Mardin). The Commission for Unsolved Killings in Diyarbakır Bar Association and the prosecutor in Savur carried out an inspection close to Dereçi village where bones had been found. In the first place two skulls and various other bones were found. On 29 November an expert of the Forensic Institute inspected the bones and stated that they might belong to six different persons.

Testifying to the prosecutor in Savur the former commander of Dereçi Gendarmerie Station, Sergeant T.K. said that during a clash on 21 June 1995 seven militants had been killed. They had asked the headman of a village with Syrians to bury them there, but the headman had not given permission and, therefore, they had been buried close to the station.

The names of the killed militants were given as Mehmet Aktay, Şeymus Akboğa, Mehmet Akan, Serhat Özbahçıvan, Hafsat Aslan, Sadık Akçakoca and Hatice Şimşek (Menife Coşkun). The grave of Hatice Şimşek was not known. On her fate Sergeant T.K. said: "We

were informed of another corpse close to the place of the clash and informed the prosecutor. We went there together and found a corpse that was burned because of the fire that had broken out as a result of the bombs that had been thrown."

Diyarbakır Bar Association received allegations that the female militant Hatice Şimşek had been captured alive and died on 1 August 1995, when she stepped on a mine while showing the security forces some places.

On 23 August İlhan Şut spoke at a press conference of the HRA in İstanbul. He stated that his relative Ferhat Şut who had been killed in a clash between Iranian soldiers and PKK militants in July 2004 had secretly been buried. On 27 June they had been informed that the corpse was in Yüksekova district (Hakkari). They had identified him, but the soldiers had buried him secretly. The names of further killed PKK militants were given as İkrâm Ergül, Abdurrahim Bulut and Lokman Ergün.

### Threats against human rights activist Hüseyin Aygün

Hüseyin Aygün, former head of the Tunceli Bar Association, has worked with victims of human rights violations including torture and "disappearances". In 2005 he was working on behalf of the families of seven people who "disappeared" from Midrik village in Tunceli while Turkish army commandos were operating in the area in September 1994. He and other lawyers working on the case called for further investigations into these "disappearances". Their efforts to draw attention to this case led to it being raised recently at the Human Rights Commission of the Turkish Parliament.

On 3 February, the Commander of Gendarmerie Forces in Tunceli province visited the workplace of a relative of Hüseyin Aygün. The Commander told the relative that that Hüseyin Aygün was "a traitor to the country" and "an enemy of the state". The Commander also claimed that "soon you'll see that we have discredited him". At a meeting with Hüseyin Aygün on 7 February, the Gendarmerie Commander made similar statements, and told the lawyer that: "...we know you well, you are under every stone, our institution considers you very negatively... your family are good, but why are you like this? Don't go against us in every incident. OK, you are doing your job but don't do it any more – just leave it to others".

On 11 February, Hüseyin Aygün was visited by three members of the gendarmerie wearing plain clothes, who told him that the Gendarmerie Commander wished to meet with him again. When Hüseyin Aygün telephoned the Gendarmerie Commander to find out more, the Commander reportedly tried to blackmail him, saying that "I have in my hands some solid evidence, this time there's no saving you. However, I'm hesitant as to whether or not I should transfer

these files to the Prosecutor... perhaps if you listen to us we can come to some agreement with you."

(The text was taken from an Amnesty International report: AI Index: EUR 44/006/2005 of 15 February 2005, full report under: <http://web.amnesty.org/library/Index/ENGEUR440062005?open&of=ENG-TUR> and update under: <http://web.amnesty.org/library/index/ENGEUR440252005?open&of=ENG-TUR>)

### Further Incidents and Pressure

Dr. Mehmet Arsal Öztürk working at the Health Centre in Hozat district (Tunceli) was detained on 6 January after he had a discussion with the prosecutor Mehmet Falsa. The prosecutor had entered the office when Dr. Öztürk was examining a patient. The physician had asked the prosecutor to leave the room. Reportedly Dr. Öztürk was sent to the hospital for mental health in Elazığ on the assumption that he was mentally ill.

The daily *Özgür Politika* reported on 23 January that soldiers of the gendarmerie had raided six villages in Özalp district (Van) on 8 and 9 January. Reportedly they had gathered the inhabitants in the school and told them not to cross over to Iran any more. Under the pretext of smuggling they were indeed supporting the PKK. If they stopped the contacts with the villagers on the Iranian side the PKK would be forced to leave there within three days.

On 17 February the DEHAP officials in Bulanık district (Muş) Ali Topçu, M. Şah Karaçelik, Maşallah Selvi, Selahattin Karabalık, Kurban Kaya and Bahattin Bingöl were detained. First they were stopped on their way to a meeting and accused of false papers for the car. Later the accusations turned into insult to the General Staff. The politicians alleged to have been kept waiting in the snow for three hours.

On 14 January Düzali Seyrek and Kenan Yeşiltepe were hindered to go to Ataçınar village in Mazgirt district (Tunceli). Soldiers told them that there were operations in the region and they might not go to their village. They were forced to wait for three hours and their IDs were confiscated. At another point they were again forced to wait for half an hour.

In Siirt Hızır Ekinci alleged that he was rejected a green card for health services free of charge. Sergeant Kemal Koç from Aydınlar Gendarmerie Station had told him that his son İlyas Ekinci (born 1984) had a record of supporting the PKK. Vetha Aydın, chair of the HRA in Siirt said that many people were not given a green card either because they were members of DEHAP or because they had supported the PKK.

On 5 April juveniles of the Keçan and Haruna tribe clashed in İdil district (Şırnak). Adil Abay was knifed to death. He was said to be a relative of former mayor Abdurrahman Abay. After the incident juveniles of the Keçan tribe three stones at the shop of Hüseyin

Bayram (from the Haruna tribe) and the house of Mayor Resul Sadak (DEHAP).

On 17 May soldiers of the gendarmerie raided Yaprak (Tuti), Zümrüt (Pırpari) and Yünöçü (Melez) villages in Lice district (Diyarbakır) and detained 53 people allegedly in connection with a mine explosion in the region. They were released the next day. One villager reported that the commander had told them to inform him, if they saw anyone planting a mine. One sergeant had threatened them to kill them, if only one finger of a soldier would be bleeding.

On 18 May the gendarmerie raided houses in Altınbaşak village in Yüksekova district (Hakkari) and detained Necip Atak and Rifat, allegedly because they were found in possession of the book "To defend a People" by Abdullah Öcalan.

On 22 May juveniles in İskenderpaşa quarter of Diyarbakır clashed for an unknown reason with the police. Police officers shot in the air, beat children on the street and raided two houses without an arrest warrant. Shop owner Kenan Mutlu said: "I asked the police officers to stop shooting. They came towards me and pointed at me with a gun. They insulted me heavily."

On 22 May members of a special unit raided some houses in Kışla quarter of Yüksekova district (Hakkari). Kıymet Bakır stated that her house was raided without permission. She had been thrown on the ground and beaten on her shoulder that she had undergone an operation. Later the police had come again twice.

Süleyman Kızıldaş said that he and the other people in his flat had been forced to lie on the ground. When he asked for a reason for the raid he had been squeezed at his throat and thrown out of the flat.

On 31 May inhabitants from Susuz village in Tekman district (Erzurum) clashed with soldiers who wanted to detain relatives. The soldiers had searched the house of Metin Demir and detained Fidan Demir, Ayşe Demir, Abdülkerim Demir and Adnan Demir. The villagers protested at the detentions. The soldiers responded with shots in the air. The villagers threw three stones at the soldiers. After the incident many villagers escaped to a nearby forest. Reportedly the villagers were not allowed to take injured people to hospital.

In Yalova two families from Muş and Rize clashed resulting in the death of Turan Kalaycı. Reportedly Ahmet Artan (from Muş) went to the shop of Mustafa Ofluoğlu (from Rize) on 5 June and asked his money (400 YTL) back. The discussion turned into a fight and the police detained both men. After release Mustafa Ofluoğlu called relatives and went to the shop of Ahmet Artan. The group shouted slogans of "Down with the PKK". The police intervened and detained Cem Su from the group around the Ofluoğlu family.

Some 50 members of the Artan family stormed the police station and injured Cem Su with a knife.

Officially this incident happened outside the police station. The group also entered the shop of Mustafa Ofloğlu and injured Turan Kalaycı. He died in hospital. The police detained 13 people. Later Y. Artan and H. Artan were arrested for having killed Turan Kalaycı. The police surrounded the quarters in town with Kurdish population.

On 8 June unidentified people opened fire on a minibus near Geçitli village (Hakkari). The woman Firuze Özbek (46) was injured.

Necdet Yeşil filed an official complaint stating that members of JİTEM had shot at his car between Esendere and Yüksekova district (Hakkari) on 7 June. At the entrance of Dilimli village two cars with civilians had tried to stop him and the people in these cars shot at him when he did not stop. Necdet Yeşil stated that he would recognize the officers of JİTEM if he would see them.

On 9 June soldiers and village protectors raided Burmataş hamlet, close to Hasanova district in Karlıova district (Bingöl). They allegedly beat the villagers and fired shots into the air (for details see the chapter on Personal Security).

On 11 June soldiers, members of a special team and village guards raided Topyıldız hamlet of Yapraklı village in Gürpınar district (Van) and detained Dırbaz Duman, Havva Duman, Caziye Duman, Yusuf Başaran, Mehiman Duman and a child. They were released after testifying. Some villagers complained to the Human Rights Center at Van Bar Association. They said that during the raid soldiers had insulted them. Many people had been forced to take off their clothes and the soldiers had looked at their soldiers to find out whether they had been carrying heavy goods.

Soldiers hindered students from Dicle University to travel to Tunceli. The students were stopped at Seyitli Bridge on 23 April and told that the governor had prohibited their journey.

Etem Şahin, Mayor of Suruç district (Urfa) was reportedly not allowed to travel to Germany. On 23 May the governor's office sent him a letter stating that because of the bad service in town and the dirt the mayor and Mehmet Özkan, member of the parliament of the municipality were not allowed to go abroad.

In a similar way Mukaddes Kubilay, mayor in Doğubeyazıt district (Ağrı) was not allowed to participate in a meeting in France.

Erdoğan Alparslan, student at the 100 Year University in Van alleged that soldiers exerted pressure on his family on Aşağı Küpkıran village (Ağrı province). Soldiers of the gendarmerie had gone to the house of his family and told them that their son had left university and joined the PKK.

On 22 June the soldiers İdris Candan and Mehmet Ali Arslan died when a military vehicle drove on a mine

near Yukarı Toklu village in Taşlıçay village (Ağrı). Subsequently the villagers in the region were banned from going to the meadows on the plateau. Ağrı Governor Yusuf Yavaşcan confirmed the decision saying that it had been taken on the demand of the soldiers. He alleged that terrorists mixed with the shepherds and received support from them.

At the end of June Ali Haydar Çatakçın and İbrahim Çatakçın alleged that members of a special team attacked them on their way back from a cemetery. One soldier had held a gun at the neck of Ali Haydar Çatakçın and told him that they knew everything about him and he should take care. Relatives had prevented that the two brothers were detained and taken away in an armored vehicle.

On 1 July soldiers conducted an operation near Keklikdüzü village in Saray district (Van) and allegedly beat the shepherds Ecevit Karaer and Medeni Bilici on the accusation of supporting the PKK.

Davut Evin filed an official complaint against the commander of Durak Gendarmerie Station in Şemdinli district (Hakkari) stating that he had insulted him. On 4 July he had objected to a raid of his house without a search warrant. The villager had heard how badly he was insulted.

In July Murat Zurel, living in Yeşilbelen village in Karakoçan district (Elazığ) went to the HRA in Elazığ and complained that soldiers and plain clothed detectives were constantly following him. They had gone to relatives of his and threatened them that he should leave the village. Zurel alleged that he was not safe when he went to the district town, because he was constantly being followed.

Bülent Yılmaz (30) living in Ovacık district (Tunceli) alleged that he was kidnapped and tortured on 10 July. He suspected that the kidnappers either belonged to JİTEM or the police (for details see the chapter on personal security).

On 18 July shots were fired at the house of Şefik Yıldırım in Varto district (Muş). The shots were reportedly fired from an armored vehicle. The next day police officers came and asked the family not to file any complaint because they would pay for the damage.

On 19 July soldiers returning from an operation fired at random in İnönü quarter of Tunceli. Fatma Demir said that the windows of her house were broken and the children had been screaming for fear.

In Tunceli Barış Yiğit was detained on allegations of being a member of the PKK. On 26 July he was arrested on these charges. His mother Selvi Yiğit said that the bomb that allegedly was found in their garden had been put there by soldiers. Suddenly a soldier had held a bag in his hand and it had been said that there was a bomb in it. There had been a sound, but no

proper detonation and she had heard the soldiers say that this had not been a bomb.

DEHAP member Mahmut Kavak, living in Çınarönü village in Savur district (Mardin) alleged that the commander of Sürgücü Gendarmerie Station threatened him with death. Mahmut Kavak said that he had gone to Beytüşşebap district (Şırnak) to get the corpse of Mehmet Emin Sincar, a relative who had been killed in a clash. On his return on 7 August he had been called at 11pm and the commander had asked him to come to the gendarmerie station. The commander had asked him why he went to Beytüşşebap and then had said that in his village there had been an incident with a lieutenant. He would wish that a similar incident happened and he would know what to do to him. Mahmut Kavak said that in 1997 Lieutenant Coşkun Telci had been killed in a clash and four villagers had been tried in connection with the incident. He had been released from prison about one year ago and since then he was frequently threatened.

On 22 August soldiers of the gendarmerie raided a wedding in Duruca town, Yazıhan district (Malatya) on the pretext that a flag of the PKK had been displayed. Duran Boztepe said that they had objected to the raid without a written order of a prosecutor. The sergeant with the first name of Zekeriya had cursed them and threatened to kill anyone who would move.

Ali Erol, village guard in Geçitli (Peyaniş) village (Hakkari) alleged that police officers kidnapped and tortured him on 12 October. He had left his village in the evening to go to Hakkari. In Merzan quarters he had been stopped and civilian dressed officers had taken him out of the minibus saying that he should testify. They had taken him to an unknown place. Other passengers in the minibus had informed DEHAP and lawyers. Lawyer Zeydin Kaya was told by Hakkari Police HQ and the Command of the Gendarmerie that Ali Erol had not been detained. Several people including Hakkari deputy Fehmi Öztunç called the governor and chief of police. As a result Ali Erol was set free in Merzan quarter.

After release Ali Erol said: "Four people detained me saying that they were police officers. I thought I would be taken to Hakkari Police HQ. However, in their car I was laid on the grounds and they stepped on my feet and neck blindfolding me. We drove for about 20 minutes. I was taken to a building that I could not see. Because of the smell it might have been close to the waste site. They asked me many names of persons living in the village and accused me of being a member of the PKK and the other villagers to assist me. I was constantly beaten since I rejected their allegations. I was hit on my head with a hard tool. Twice I heard shots at my back. They would have killed me there. Only some phone calls saved me. Before they left me in Merzan quarter they threatened me not to say anything wrong. Otherwise they would kill me."

The prosecutor sent Ali Erol to hospital and he was certified injuries requiring 22 days' sick leave.

Following an attack on the gendarmerie station in Erenkaya village, Eruh district (Siirt) on 29 October soldiers raided the village. They beat the villagers, threatened them and exerted pressure on them to leave the village. The HRA sent a delegation to the village to research the complaints. One villager told the delegation that all males in the village had been taken to Erenkaya Gendarmerie Station. With their hands behind their heads they had been forced to kneel down and sit in one row. For one and half an hour they had been kept waiting in this position. Afterwards their personal data and photographs were taken. Only 15 out of 45 men were interrogated.

The villagers added that the headman Nurettin Yıldız had been taken to Eruh and soldiers had beaten him. The commander had told him that he should be happy about this, because the people would have been shot, if he had not been in command. The villagers also complained that for two days their phone and electricity had been cut and they had not been allowed to graze their sheep. The houses close to the gendarmerie station had been destroyed and the owners had been forced to sign papers stating that they had destroyed their houses themselves.

Reports from Habur Border Station on Silopi district (Şırnak) stated that police officers beat the lorry driver İsmet Öztürk on 4 December. İsmet Öztürk had asked them for the time when they would proceed. The police officers had beaten him with sticks and truncheons and, when other drivers came to his rescue, they had fired shots into the air. The driver Mahmut Koç stated that the police officers kept them waiting because they expected to get bribes. Anyone who would try to jump the queue would be fined 100 dollars.

Reportedly Mehmet Mamuk was threatened on 7 May when he wanted to return to Baldan village in Tunceli district. He said that two people had stopped him and threatened to shoot him because he was taking bread to the mountains. Mehmet Mamuk added that he went back to Tunceli because of the threats.

In December Mehmet Mamuk was threatened again. He believed that the persons who threatened him belong to the intelligence service. They had been three people who stopped him with his car on his way to the village. They had asked him questions about his daughter living abroad.

On 16 December lawyer Erdal Kuzu went to attend a hearing at Mardin Heavy Penal Court No. 1 against 13 soldiers charged in connection with the killing of Ramazan Demir and the wounding of four people in Kovalı village, Derik district (Mardin) in October 2003. He was informed that the case had been transferred to Adana because of security reasons.

### The System of Village Guards

In July Justice Minister Cemil Çiçek answered a question tabled by Diyarbakır deputy Mesut Değer who wanted to know whether secret statutes were still in force. The question was based on Article 1(2) of Law 3011 that stated that statutes concerning the national security and were characterized as confidential were not published.

Justice Minister Cemil Çiçek pointed at law 442 on Villages that carried the provision that temporary village guards might be employed and stated: "For 12 years temporary village guards have been employed according to the amended second paragraph of Article 74 to prevent terror. In that sense it is not advisable to publish the Statute for Temporary Village Guards and details on who to be employed, the scope of their duties and their education in the Official Gazette."

In June Interior Minister Abdülkadir Aksu answered a question by İzmir deputy Türkan Miçoğulları on the situation of temporary village guards. Aksu stated that a total of 57,757 village guards were employed in 22 provinces. These people received an average wage of 365 YTL. The details for the provinces were listed as: in Diyarbakır 5,187 village guards, in Şırnak 6,756, in Batman 2,887, in Bingöl 2,511, in Bitlis 3,730, in Mardin 3,323, in Muş 1,860, in Siirt 4,661, in Van 7,320, in Hakkari 7,614, in Tunceli 368, in Adıyaman 1,485, in Ağrı 1,838, in Ardahan 91, in Elazığ 2,083, in Gaziantep 555, in Iğdır 362, in Kilis 33, in Maraş 2,236, in Kars 558, in Malatya 1,365 and in Şanlıurfa 934 village guards.

Since the establishment of the village guards system on 26 March 1985 a total of 2,284 village guards had been charged with "terror offences", 934 with offences against property, 1,234 with offences against individuals, and 420 with offences of smuggling. Among the 4,972 accused village guards 853 had been put in pre-trial detention.

On 28 January Corporal Gökhan Yaşartürk was killed in a clash near Akçay village (Şırnak). The daily *Özgür Politika* reported that the corporal was killed accidentally by the village guard with the first name of M. Ali.

On 19 March village guards killed Selahattin Günbey (13) in Düzce village, Nusaybin district (Mardin). With his relatives Zeki Günbey (12) and Seyithan Gürkan (13) he had been grazing sheep outside the village and village guards had asked them to go to another place, before they shot at them. The villager Abdülhakim Özdemir said about the incident:

"First there was a discussion among shepherds and some of them informed the village guards. Five of them came and the children ran away. The village guard H.D. said that he would not return unless he shot one of them. The children were hiding behind a stone and

when Selahattin Günbey raised his head to look for the village guards he was hit with a bullet to his right eye."

After the incident the village guards Ahmet Dinç, Aburrahim Dinç and Hasan Dinç were detained and remanded on 22 March. Meanwhile, a delegation of the HRA that wanted to investigate into the incident was hindered by soldiers of the gendarmerie. They were not allowed to enter Dırçomer village.

The daily *Özgür Politika* reported that six out of 10 village guards who had been convicted in connection with the killing of eight villagers in Çalınar village, Midyat district (Mardin) on 20 April 1993 had been arrested. Their trial had been heard at Denizli Heavy Penal Court No. 2 and in 2003 Tacettin Sakan, Mihdi Özbey, Halit Aktar, Şehmus Seyde, Nevaf Aydın, Mehmet Sayhan, Ethem Sayhan, Tefik Akbay, Rahmi Kaçmaz and Abbas Taş had been sentenced to life imprisonment. Among them Tacettin Sakan, Mihdi Özbey, Ethem Seyhan, Abbas Taş, Şehmus Seyde and Halit Aktar had been arrested on 5 February. In October Nevaf Aydın was arrested in İzmir.

On 6 June a fight broke out between the Bozkurt and Dursun families in Çatalipaşa village (Ağrı) because of a dispute on ownership of land. The village guards Abdullah Bozkurt and Sait Bozkurt were killed and Kemal Bozkurt was injured. The village guard Kasım Dursun was arrested in connection with the incident.

The village guard Abdullah Aksu and his son Aziz Aksu reportedly beat Menci Şen (60) in Kuştepe village, Güçlükönak district (Şırnak). On 13 April Menci Şen had warned the son of Abdullah Aksu not to damage his garden. Reportedly Aziz Aksu started to curse at Menci Şen and beat him particularly on his legs. Later Abdullah Aksu came and hit Menci Şen with a stone.

In mid-April the daily *Özgür Politika* reported that village guards in Uzungeçit town, Uludere district (Şırnak) were put under pressure not to quit their jobs. The gendarmerie commander Zeki Es had accused them of having told everybody including the TV station Roj TV about their intentions to put down their arms and now they had to take them up again in order to restore the image of the State.

The governor's office in Şırnak issued a statement on the incident stating that the news that 72 temporary village guards wanted to lay down their arms was not correct. Almost 10,000 village guards were continuing their duty in the Şırnak region.

Rahmi Alkan, Sadi Kılınc and İlhan Akbulut complained to the HRA in Hakkari and said that village guards beat them when they wanted to go to a picnic near Ağaçdibi village on 22 May. Rahmi Alkan said that two village guards had asked them why they had not greeted them and they had replied that they were not obliged to do so. The village guards had become angry and pointed their loaded guns at them. When they left the picnic area another village guard had come up to them in a car and started to beat them

with the butt of his rifle. Other people had rescued them from the hands of the village guards.

On 1 June members of the Mendi family from Günyurdu village in Güçlükönak district (Şırnak) were attacked by six village guards from the Oral family when they worked on their fields close to the border of Akçakuşak village. Şahin Mendi was injured to his legs and had to be taken to hospital.

The village guard Salih Seyhan killed his son Ubeydullah Seyhan in Suçatı village, Dargeçit district (Mardin) on 10 July with his gun.

On 10 August the village guard Ramazan Güler shot Şehmuz Özer in his throat in Derinsu hamlet, Kuyucak village (Adıyaman). Özer died in Adıyaman State Hospital.

On 13 August the village guard Muhyettin Şengül was killed in Kovuktaş village, Hasköy district (Muş). First statements accused the HPG of the killing, but later Muş Governor İbrahim Hasçimen declared that his son had killed him and other villagers had tried to protect him by stating that the incident had a terrorist background.

On 28 August the temporary village guard H.A. killed his wife M.A. and the visitor Z.A. in Sarıköy village, Midyat district (Mardin).

On 6 July village guards attacked inhabitants of Çatma village in Yüksekova district (Hakkari). The villagers Sinem Korkmaz and Mecit Anuk were wounded seriously. The villagers stated that in 1994 the governor in Hakkari had settled the village guards in a camp between Çatma and Kamışlı village. The village guards were using the land of both villages and there was a constant tension among them.

In a statement of the HPG it was alleged that village guards who had come to the gendarmerie stations in Xalinke and Xerkaya villages in Başkale district (Van) opened random fire on the villagers and injured one of them on 8 August.

The village guards Fikret Korkmaz, Süleyman Korkmaz, İsmail Korkmaz, Mehmet Korkmaz and Taha Korkmaz were reportedly tortured because they refused to participate in an operation in the Uzundere region in Çukurca district (Hakkari) on 1 September. Fikret Korkmaz told the HRA in Hakkari that they had participated in an operation that started on 16 August and lasted for 15 days. "During this time in the mountains health problems started. We informed the commander and said that we were not able to walk. NOC B. started to curse us and beat us. They took away the arms we had got 15 years ago and threw us out of the office."

Mahmut Alici from Oğuldami village in Gürpınar district (Van) alleged that he was put under pressure to become a village guard. He filed an official complaint on 21 April. On 25 July he was informed that the prosecutor in Gürpınar had decided not to bring any

charges against the commanders of the gendarmerie in Van and Gürpınar.

Inhabitants of Kızılsu village (Şırnak) alleged that the village guards Abdullah K. and Bakattin Ç. were exerting pressure on them to become village guards. They were not even allowed to leave their village.

### **Abdullah Öcalan**

On 12 May the European Court of Human Rights (ECtHR) passed its judgment on Abdullah Öcalan. The important facts from the judgment as related in the press release of the same day are:

The case concerns an application brought by a Turkish national, Abdullah Öcalan, who was born in 1949. He is currently incarcerated in İmralı Prison (Bursa, Turkey).

On 9 October 1998 he was expelled from Syria, where he had been living for many years. From there he went to Greece, Russia, Italy and then again Russia and Greece before going to Kenya, where, on the evening of 15 February 1999, in disputed circumstances, he was taken on board an aircraft at Nairobi airport and arrested by Turkish officials. He was then flown to Turkey.

On arrival in Turkey, he was taken to İmralı Prison, where he was held in police custody from 16 to 23 February 1999 and questioned by the security forces. He received no legal assistance during that period. His lawyer in Turkey was prevented from traveling to visit him by members of the security forces. 16 other lawyers were also refused permission to visit on 23 February 1999.

On 23 February 1999 the applicant appeared before an Ankara State Security Court judge, who ordered him to be placed in pre-trial detention... It was not until the hearing on 4 June 1999 that the State Security Court gave the applicant permission to consult the case file under the supervision of two registrars and authorized his lawyers to provide him with a copy of certain documents.

On 29 June 1999 Ankara State Security Court found the applicant guilty of carrying out actions calculated to bring about the separation of a part of Turkish territory and of forming and leading an armed gang to achieve that end. It sentenced him to death, under Article 125 of the Criminal Code. That decision was upheld by the Court of Cassation.

Under Law no. 4771, published on 9 August 2002, the Turkish Assembly resolved to abolish the death penalty in peacetime. On 3 October 2002 Ankara State Security Court commuted the applicant's death sentence to life imprisonment.

### **Decision of the Court**

Right to have lawfulness of detention decided speedily by a court

The Government had raised a preliminary objection that the applicant had failed to exhaust his domestic remedies under this head. However, the Grand Chamber saw no reason to depart from the Chamber's findings in this respect, notably as to the impossibility for the applicant in the circumstances in which he found himself while in police custody to have effective recourse to the remedy indicated by the Government. Nor could the possibility of obtaining compensation satisfy the requirement of a judicial remedy to determine the lawfulness of detention. The applicant did not therefore have an effective remedy available to him and there had accordingly been a violation of Article 5 § 4 of the Convention.

#### No unlawful deprivation of liberty

The Grand Chamber agreed with the Chamber that the applicant's arrest on 15 February 1999 and his detention had been in accordance with "a procedure prescribed by law" and that there had, therefore, been no violation of Article 5 § 1.

#### Right to be brought promptly before a judge

The Grand Chamber found that the total period spent by the applicant in police custody before being brought before a judge came to a minimum of seven days. It could not accept that it was necessary for the applicant to be detained for such a period without being brought before a judge. There had accordingly been a violation of Article 5 § 3.

#### **Fair trial**

#### Whether Ankara State Security Court was independent and impartial

The Grand Chamber noted that the military judge on the bench of Ankara State Security Court which convicted the applicant had been replaced on 23 June 1999. However, the replacement of the military judge before the end of the proceedings could not dispose of the applicant's reasonably held concern about the trial court's independence and impartiality. There had been a violation of Article 6 § 1 in this respect.

#### Whether the proceedings before the State Security Court were fair

The Grand Chamber agreed with the Chamber's findings that the applicant's trial was unfair because: he had no assistance from his lawyers during questioning in police custody; he was unable to communicate with his lawyers out of the hearing of third parties; he was unable to gain direct access to the case file until a very late stage in the proceedings; restrictions were imposed on the number and length of his lawyers' visits; and his lawyers were not given proper access to the case file until late in the day. The Grand Chamber found that the overall effect of those difficulties taken as a whole had so restricted the rights of the defense that the principle of a fair trial, as set out in Article 6, had been contravened. This amounted

to a violation of Article 6 § 1, taken together with Article 6 § 3 (b) and (c).

The Grand Chamber further held that it was unnecessary to examine the other complaints under Article 6 relating to the fairness of the proceedings.

#### **Treatment and conditions**

#### Conditions of the applicant's transfer from Kenya to Turkey

The Grand Chamber considered that it had not been established 'beyond all reasonable doubt' that the applicant's arrest and the conditions in which he was transferred from Kenya to Turkey exceeded the usual degree of humiliation that was inherent in every arrest and detention or attained the minimum level of severity required for Article 3 to apply. Consequently, there had been no violation of Article 3 on that account.

#### Detention conditions on İmralı

While concurring with the Council of Europe's Committee for the Prevention of Torture's recommendations that the long-term effects of the applicant's relative social isolation should be attenuated by giving him access to the same facilities as other high security prisoners in Turkey, such as television and telephone contact with his family, the Grand Chamber agreed with the Chamber that the general conditions in which the applicant was being detained at İmralı Prison had not reached the minimum level of severity required to constitute inhuman or degrading treatment within the meaning of Article 3. Consequently, there had been no violation of Article 3 on that account.

End of the press statement of the ECoHR.

In January the HRA and the lawyers of Abdullah Öcalan separately applied to the Justice Minister to have an independent team of experts examine the health situation of Abdullah Öcalan. At the same time newspapers reported that Öcalan was visited by a psychologist every fortnight. Quoting sources of the Justice Ministry it was also stated that the room Abdullah Öcalan was staying in was well equipped with sufficient light and air and that he had possibilities of cultural and sports activities, benefited from health services and had the right for fresh air, read books and newspapers and listen to the radio.

Aysel Tuğluk stated as one of Abdullah Öcalan's lawyers that they did not ask for a psychologist. Their client had complained of problems with breathing and they had asked for experts to examine him on this connection.

Justice Minister Cemil Çiçek answered a question tabled by CHP deputy from Antalya, Osman Özcan on whether a ship had been provided for the lawyers of Abdullah Öcalan to visit him on the island. The Minister said that on 23 September 2004 the ship called "Tuzla" had been ordered at the disposal of the

lawyers for their visits. The ship had to be repaired to be used under all kinds of weather conditions.

On 16 February the lawyers of Abdullah Öcalan declared that they had not been able to meet their client since 19 January. The next visit was only possible on 24 February. During the year many visits of Abdullah Öcalan's lawyers and relatives did not take place either because of bad weather or because of irregularities of the ships.

When reports appeared in the press that the prison conditions of Abdullah Öcalan were absolutely comfortable, Bekir Kaya, one of Abdullah Öcalan's lawyers made a declaration and stated: "Abdullah Öcalan is held in a cell of 13 not 19 square meters. He is allowed one hour in the morning and one hour in the evening to go out for fresh air. It is not true that he is doing sports. He is only walking. We are only allowed to take as much as two newspapers a day with a choice among *Milliyet*, *Hürriyet*, *Sabah* and *Radikal*. He is allowed only three books at a time. There is no right for open (not supervised) visits and phone calls. Our demand to have a TV was rejected. There is no possibility to provide food, only clothes are allowed. Our client does not benefit from the canteen and shares the same food with the personnel. Compared to the F-type prisons the conditions of our client are worse."

During a press conference on 26 January the deputy chief of the General Staff, İlker Başbuğ alleged that Abdullah Öcalan was directing the PKK from prison. He complained that no measures were taken against the lawyers. Following this declaration news appeared in the press that investigations had been launched against 25 lawyers on charges of exceeding the limit of defense lawyers and holding press conferences.

On 18 February lawyer Okan Yıldız from the Century Law Office stated in the daily *Özgür Politika* that all lawyers of the office were under prosecution and lawyers who went to visit Abdullah Öcalan just once were subjected to investigations under the assumption that they were members of an illegal organization. The lawyer added:

"After each visit investigations start. These cases restrict our right of defense. The dailies *Tercüman* and *Vatan* publish false stories after each visit. We never made any declaration to these papers, but we are held responsible for the false news."

According to the new code of criminal procedures (TCPC) that entered into force on 1 June 12 lawyers were banned from visiting Abdullah Öcalan for one year. İstanbul Heavy Penal Court No. 9 took the decision on 16 June and stated that in connection with Article 7/2 of the ATL the lawyers Aysel Tuğluk, İrfan Dünder, Ahmet Avşar, Doğan Erbaş, Hatice Korkut, Aydın Oruç, Mahmut Şakar and Türkan Aslan had been banned from acting as defense lawyers of Abdullah Öcalan for one year according to Article

151/3 of the TCPC. A similar decision was taken by İstanbul Heavy Penal Court No. 14 on 22 June. The Court banned the lawyers Okan Yıldız, Bekir Kaya, Devrim Barış Baran and Fırat Aydınkaya for one year from acting as defense lawyers of Abdullah Öcalan.

On 7 February lawyer İrfan Dünder testified at İstanbul Heavy Penal Court No. 12 on charges of being a member of an illegal organization and having forwarded instructions of his client to the organization. The Court lifted the arrest warrant issued *in absentia*. After testifying İrfan Dünder said that all lawyers were indicted under the same accusation, but there was no such thing as Öcalan giving directives to them or anybody else, because their talks were always conducted in the presence of officials.

On 29 March Diyarbakır Heavy Penal Court No. 4 started to hear the case of İrfan Dünder and Mahmut Şakar, defense lawyers of Abdullah Öcalan, on charges of being members of an illegal organization. The hearing was adjourned under the directive to have the testimony of the defendants been taken in İstanbul

On 31 March Ankara Heavy Penal Court No. 11 acquitted İrfan Dünder, Mahmut Şakar and Mehmet Salih Yıldız, Mayor of Yüksekova from charges of supporting an illegal organization with speeches they made on Med TV in 1999. On 5 April the same court acquitted İrfan Dünder and Mahmut Şakar from the same charges for another speech they had made on Med TV.

On 4 May the lawyer Bekir Kaya was detained in Gemlik district (Bursa) where he had gone to visit Abdullah Öcalan. Bekir Kaya testified in connection with a court case at İstanbul Heavy Penal Court No. 11 on charges of having misused his duty and disseminated propaganda for an illegal organization. Bekir Kaya was released after testifying.

On 6 May İstanbul Heavy Penal Court No. 14 continued to hear the case of the lawyers Aysel Tuğluk, Doğan Erbaş and Okan Yıldız on charges of having disseminated propaganda for an illegal organization. The Court issued a ban on the defendant to travel abroad. It was alleged that the decision was taken in order to prevent the lawyers from attending the hearing at the European Court of Human Rights.

On 11 May Muhammet Şakar, brother of Mahmut Şakar was detained when he came to Turkey from Germany. He was reportedly detained because of the phone numbers on his mobile.

On 23 June İstanbul Heavy Penal Court No. 9 heard the case of Hatice Korkut and Ahmet Avşar charged with disseminating propaganda for an illegal organization. Hatice Korkut said that she had not forwarded any information to newspapers, but had answered questions of journalists when they called her.

In 2005 notes on meetings of lawyers with Abdullah Öcalan were published for 5 January, 19 January, 23 February, 16 March, 27 April, 4 May and 30 November (the texts in Turkish can be found under <http://www.welatparez.com/tr/arsiv/gorusmenotlari/>).

Over the year Abdullah Öcalan also met relatives, mainly his brother Mehmet Öcalan. After such meetings special attention was drawn to the health situation of Abdullah Öcalan. For details on demonstration in favor of Abdullah Öcalan see the Chapter on Freedom of Assembly.

## 2. INTERNAL DISPLACEMENT

It was announced that YTL 6.4 billion were spent in 2005 for the Project Return to the Village and Rehabilitation. This project had been run by the General Directorate for Village Service between 1994 and 1999 and since then by the Ministry of the Interior. Since 1999 a total of YTL 26 trillion had been spent enabling 127,820 people to return to their villages.

The Law to Compensate the Damages from Terror and the Fight against Terror was enacted on 27 July 2004 with the aim of securing aid to victims of evacuations of villages, people whose houses had been sent on fire and other damages during the time of clashes without the necessity to raise their cases with the ECoHR. The time for application was prolonged until 17 July 2005.

On 23 May the daily *Radikal* reported that 1,500 applications to the ECoHR concerned the evacuation of village. The ECoHR had passed judgments in 24 cases and ruled that Turkey had to pay YTL 4.8 million. The commission that were to deal with the application on the Law for Compensation in Case of Damages of Terror had received 69,832 applications, but only dealt with 1,595 of them. In 1,253 cases they had rejected the claim and only accepted 342 of them.

In July Interior Minister Abdülkadir announced that of 360,000 people who had been forced to leave their villages 124,539 had returned. He sent a circular to the offices of governors in the provinces of Adiyaman, Ağrı, Bingöl, Bitlis, Hakkari, Muş, Tunceli, Van, Elazığ, Batman, Diyarbakır, Mardin, Siirt and Şırnak where the Project to Return to the Villages was being implemented and stated *inter alia* that meetings should be held with NGOs and projects of NGOs should be supported.

The solidarity association with internal displaced persons, Göç-Der announced in July that of 3.5 million people who had been forced to leave their homes 80,000 were entitled to benefit from the Law on Return to the Villages and just 2% of them had received aid.

In August Interior Minister Abdülkadir Aksu answered a question tabled by CHP deputy from Diyarbakır, Mesut Değer. He stated that 104,734 people had applied to benefit from the Law on Compensation for Damages from Terror. The commission had decided on 5,239 applications. They had accepted 1,190 applications and rejected 4,049 applications. A total of 781 people had signed an agreement and 755 of them had been paid TL 5.756 trillion.

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Press statement of Human Rights Watch (HRW) on 7 March:

### **“Still critical”: Prospects in 2005 for Internally Displaced Kurds in Turkey**

(Ankara, March 7, 2005) — On a key benchmark for European Union membership, the Turkish government has failed to honor pledges to help 378,000 displaced people, mainly Kurds, return home more than a decade after the army forced them from their villages in southeastern Turkey, Human Rights Watch said in a report released today.

On March 7-8, the European Union's commissioner for enlargement, Olli Rehn, and a delegation of other high-level EU officials will visit Ankara to discuss Turkey's membership. The EU officials should press Turkey to take effective steps to facilitate the return of the internally displaced persons (IDPs) to southeastern Turkey, where Turkish security forces expelled hundreds of thousands from their villages during an internal armed conflict that raged during the 1980s and 1990s.

The 37-page report, “Still Critical: Prospects in 2005 for Internally Displaced Kurds in Turkey,” details how the Turkish government has failed to implement measures for IDPs the United Nations recommended nearly three years ago. Since the European Union confirmed Turkey's membership candidacy in December, the Turkish government appears to have shelved plans to enact those measures.

The report also details how Turkey has overstated its progress on internal displacement in reports to the European Commission. Before the European Union announced its decision to open membership talks, the Turkish government sent the European Commission statistics suggesting that the problem was well on its way to a solution—a requirement Turkey must fulfill for full membership. Turkey claimed that a third of the displaced had already returned, but Human Rights Watch revealed that permanent returns in some places were less than a fifth of the government's estimate.

“When we checked Turkey's figures on helping the displaced return home, the numbers proved unreliable,” said Rachel Denber, acting executive director of Human Rights Watch's Europe and Central Asia Division. “Also, the bare figures don't convey how, thanks to government inaction, villagers are returning to places that are practically uninhabitable.”

In southeastern Turkey, the government has failed to provide infrastructure such as electricity, telephone lines and schools to returning communities, and has not provided proper assistance with house reconstruction.

“What's worse, the government's paramilitary village guards are attacking and killing returnees in some parts of southeastern Turkey,” added Denber.

Numerous intergovernmental bodies, as well as Turkish parliamentary commissions, have condemned the village guard system, which was devised in the 1980s to combat the illegal armed Kurdish Workers' Party (PKK, now known as Kongra Gel). More than 58,000 paramilitary village guards remain on the government payroll.

Human Rights Watch said that the government's paramilitary guards have killed 11 returned villagers in southeastern Turkey in the past three years.

When the United Nations examined the plight of the displaced in Turkey in 2002, it recommended that the government establish a dedicated IDP unit, develop a partnership with the international community for the resolution of IDP problems, and provide compensation for the damages arising from the displacement. Nearly three years later, the Turkish government has established no joint projects with intergovernmental organizations, and there is still no central governmental office responsible for IDPs. Last year, the Turkish parliament passed a compensation law, but no payments have yet been made.

It is now 18 years since Human Rights Watch warned of the impending program of village destruction in a 1987 report during the conflict in southeastern Turkey. The Turkish army duly carried out its campaign with considerable violence, torturing, "disappearing" and extrajudicially executing villagers in the process. Human Rights Watch has since repeatedly criticized the Turkish government's empty gestures in its return programs, issuing further reports in 1995 and 2002.

"The Turkish state tried to cover up what it did, and now it's subjecting the displaced to years of delay," said Denber. "When EU officials arrive in Ankara, they need to put the problem of the displaced at the top of their agenda."

Human Rights Watch called on the European Union to press the Turkish government to move ahead by immediately approving an IDP project submitted last year by the United Nations Development Program. In addition, Ankara needs to establish an agency for IDPs that will take effective measures.

Since the European Union accepted Turkey's membership candidacy in 1999, human rights reform has been a stop-start process in the country. Turkey still has much to do on the protection of freedom of expression, freedom of religion, language rights and protection against torture.

"The predicament of the displaced is the most pressing concern, but the Turkish government has lost focus on its reform task as a whole," Denber noted. "Last week we had three delegates observing trials of Ragip Zarakolu and Fikret Baskaya, a publisher and a professor threatened with imprisonment for expressing their nonviolent opinions."

Preventing torture is another area where the Turkish government seems to have run out of energy. Turkey has made substantial improvement in recent years, but in order to combat persistent incidents of torture and ill-treatment, the European Union recommended in October 2004 that the Turkish government establish independent monitoring of detention facilities. Five months later, Turkey has still not implemented independent monitoring, even though the necessary legal mechanisms are already in place.

In 2000, the European Union presented Turkey with a list of benchmarks—known as the Accession Partnership—that Turkey had to meet to become a full member. This was revised in 2003, and will be revised again later this year.

On 23 February the daily *Özgür Politika* reported that money of the project to return to the villages had been spent for military reasons. The provincial parliament had discovered that of TL 1.9 trillion sent in the years 2003 and 2004 a total of TL 35.6 billion had been spent for other purposes. The article stated that members of parliament applied to the Interior Ministry stating that 11 readily made houses had been distributed to people who were not entitled for such accommodation. Governor Mustafa Erkal responded by saying that the money had been spent within the project to return to the village. However, in February

members of parliament filed an official complaint against Governor Ali Cafer Akyüz and civil servants of the Directorate for Special Administration.

Deputy Governor of Diyarbakır, Serdar Polat, stated that 14 people who had been harmed during the police operation in the Hevsel Gardens had received YTL 8.179 in compensation. He added that the commission would accept application without further documents but it was difficult to get compensation in these cases.

Between 4 and 6 May the UN Secretary-General's Special Representative on the Human Rights of Internally Displaced Persons Dr. Walter Kaelin visited Turkey. He asked to prolong the Law on Compensation for Damages of Terror and expressed concern that 75% of 70,000 applications had been rejected.

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#### SUPPORT TO THE DEVELOPMENT OF AN IDP PROGRAMME IN TURKEY

**Project name:** Support to the Development of an Internally Displaced People Programme in Turkey

**Budget:** USD 322,000

**Timeline:** May 2005 - December 2006

**What's the situation?**

Substantial internal displacement took place in Southeast Turkey from 1985-1997 due to terror and armed conflict. The involvement of the UN with the IDP issue is grounded in the 2002 mission and the report of Mr. Francis Deng, the UN Secretary General's Special Representative for Internally Displaced Persons. The Deng report notes that while the Turkish Government discussed its efforts to bring about return, programmatic attention paid to their current conditions has not been systematic. The Deng report also emphasises the need for the Government to clarify and publicise its policy on IDPs.

Progress has been made on a number of points including the institution of a survey on internal displacement. The Turkish Government through its own resources has initiated the conduct of the survey and designated the State Planning Organisation (SPO) to coordinate it. SPO has contracted the Institute of Population Studies (IPS) of Hacettepe University to undertake the study independently. While the survey is currently the highest priority as the basis for the formulation of concrete programmes for IDPs, it is vital that government momentum be maintained in defining policy, developing administrative structures and establishing operational modalities.

#### What's our mission?

With this project it is aimed to assist the Turkish Government in developing a well defined IDP return programme by:

- providing consultancy for the compliance of the development and implementation of an IDP survey according to international standards;
- piloting a project to facilitate the government's efforts to support the return and reintegration in one of the provinces in Southeast Turkey;
- dissemination of the UN Guiding Principles on Internal Displacement and its annotations as well as build NGO awareness and capacity to apply them; and
- enabling UNDP to respond to the technical and other expertise needs of the Government and the UNCT on a demand basis.

#### How are we doing this?

UNDP Turkey is seeking to build on UNDP's global capacity and experiences to support the Turkish Government to ensure that the survey is developed and conducted in accordance with international standards. This will be done through contracting international and national technical expertise, which defines the critical benchmarks where UNDP advocacy is needed in consultation with IPS and SPO.

Before any programme can be formulated to assist the return of IDPs, there is a need to develop a process whereby the concrete reintegration needs of IDPs are identified and assessed in a transparent way that contributes to sustainable return and social reconciliation. The development of a pilot project will be designed to address and strengthen participatory planning and programming processes at the appropriate provincial and local levels, and will be the basis for the formulation of a budgeted provincial plan for the provision of needs related to IDP programming.

UNDP will arrange for the UN Guiding Principles and its Annotations, as well as a summary of key Guiding Principles that are directly relevant to IDPs in Turkey to be available in the Turkish language for distribution to Governors' offices, local and central government, the police, gendarmerie, NGOs, the Provincial Assessment Committees, and other professional organizations. Likewise, UNDP will engage NGOs in specific awareness-raising and capacity development for IDP related issues through a step-by-step approach, with gradual progression from building and piloting the training module to expanding the target audience.

UNDP will also work with government and civil society partners to identify and respond to future areas of support that may be required as the Government's efforts at addressing IDP related issues further evolve and progress. UNDP's support under this component may entail technical assistance including further project development and implementation at the local level, support to training and awareness-raising, and policy support and advice on issues related to international standards and the Guiding Principles. (further details on the homepage of UNDP in Turkey: <http://www.undp.org.tr/>)

#### Incidents and Pressure

On 8 February the daily *Özgür Gündem* reported that 45 headmen from villages in Pertek district (Tunceli) had been forced to sign papers that their villages had not been evacuated because of pressure but that people had left the villages for economic reasons.

Reports from İdil district (Şırnak) stated that village guards exerted pressure on the Syriac İbrahim Konutgan who had returned four years ago after staying in Germany for 17 years. Konutgan complained to the HRA in Diyarbakır and accused former chair of the DYP in İdil, Şükrü (Hasan) Demirsoy, the former Mayor Murat Dalmış, his brother Faysal Dalmış and others of putting him under pressure. İbrahim Konutgan said that Faysal Dalmış and four of his sons had attacked him on 7 March. He had filed an official complaint but at the police station the accused had said that they attacked him because he had insulted the State and then they were allowed to leave.

In March inhabitants of the villages Minyanis (Ayrancılar), Kültik and Arıdağ went to the Van branch

of Göç-Der and complained that they were put under pressure to become village protectors. Their villages had been evacuated in 1994, but they had returned in 2001. Göç-Der sent a delegation to the villages and took testimony of several villagers.

İkram Altıntaş from Minyanis village said: "In 1994 soldiers evacuated our village with 43 families, because we did not accept to become village guards. We returned 2001 with our own possibilities. Since then there is pressure that we become village guards. Six people were given arms as temporary village guards on the grounds that this was done voluntarily. However, the gendarmerie told us that many operations were carried out in the region and they could not guarantee our security. It would be better, if we left the village. Hasan Hoçak rejected to take up arms and two soldiers had taken him by his arms saying that they would take him to the gendarmerie station. Hasan Hoçak then accepted arms."

The report of Göç-Der drew attention to the poverty in the villages and demanded that schools and other facilities should be erected for the villagers to live in dignity.

On 25 May the daily *Özgür Politika* reported that soldiers tried to force people to leave the plateau near Yolmaçayır village in Başkale district (Van).

Form Faraşın Plateau it was reported that soldiers prevented nomads to go there in June. They had hindered them at Kasrik Pass between Cudi and Gabar Mountain. Mehmet Soyhan said that they were hindered despite the fact that they had paid rent to the governor's office. When they showed the permission to the soldiers they had said that they could only go there with vehicles, but they did not have the money to pay for vehicles.

On 14 June the daily *Özgür Politika* reported that villagers who wanted to go to Dader (Yolağız) hamlet in Silopi district (Şırnak) were not allowed to do so. A major had threatened them. An unnamed villager told the newspaper: "Soldiers from the central command of the gendarmerie had been conducting operations there, but we wanted to look after our gardens and fields. We were threatened not to go there any more. A major said that they had found mines in our village and accused us of having planted them."

The report in the newspaper also contained information on villagers from Mixtepe, Abdi Zozanı, Küçük Ağrı, Kire Hallac, Tujik, Deçare and Kire Zogor (near Mount Ararat) to have been prevented from going to the plateau. Reportedly the governor in Van and the command of the gendarmerie had ordered the ban. Earlier inhabitants of İnek, Güngören, Şex Mirzo, Kule, Gir, Cadde Kiran, Zorava, Demirkapı and Sela Qosa (Abdiyurt) where the population belongs to the Şaka tribe had also been banned from going to the plateau.

Haydar Kapu (60) alleged that he was threatened with death to leave his village Pınar (Tunceli). On 28 June his son had been taken to the command of the gendarmerie in Tunceli. He had gone to the station and soon the commander Namık Dursun had come. He had cursed at the NOC who had accepted him inside. Then he had turned to him saying that he knew everything about him. He should leave the village, because he was supported militants with flower and cigarettes. He had not been able to speak himself and in the end the commander had said that a civilian dressed person with a beard would deal with him.

Some 30 families from Yeşilöz village in Beytüşşebap district (Şırnak) alleged that village guards prevented them from going to their village. In June they had tried to go there from Van where they had settled. Some 12

kilometers from the village soldiers and village guards had erected a tent and not allowed them to pass. When they complained to the district's governor he had told them that the village guards were right and they were wrong. They did not go to their village to look after their fields but for a different purpose.

In August Cevat Taşdemir complained to the Van branch of Göç-Der and said that families from Dönertaş village in Tatvan district (Bitlis) who had left their village in 1994 but later returned were put under pressure to become village guards. Cevat Taşdemir said that 50 families had returned and two of them had not accepted to take up arms. Soldiers had told them that they could not stay in the village if they did not accept arms. Cevat Taşdemir said that if operations in the region and the pressure continued he and the 7 members of his families would have to go back to İstanbul.

### The Right to Asylum and Situation of Refugees

It was announced that 10,671 refugees were living in Turkey as of 1 June (2005). The General Directory for Security declared that since 1994 a total of 35,349 foreigners had applied for asylum in Turkey. Until 2004 a total of 19,579 asylum seekers had been granted permission to settle in third countries. There were 10,671 foreigners with a stay permit and the rest of the asylum seekers were staying in Turkey without official permission.

In April a national action plan for the adoption of the EU acquis in the field of migration and asylum was presented to the Council of Ministers. The plan stated that the geographical reservation Turkey had raised when signing the 1951 Geneva Convention (no asylum to person from non-European countries) should be lifted by the year 2012.

Speaking at a symposium of the UNHCR and Amnesty International, Turkey section Işıl Tokcan said that of the 6,215 asylum seekers in Turkey 60% came from Iran and 20% from the Iraq. In 2004 a total of 2,292 persons had been resettled. Every year about 100,000 people used Turkey as a transit country.

On 22 July the Mesopotamian News Agency published an article stating that between 2001 and 2005 a total of 51,539 citizens from Turkey had been deported from 81 countries. The lead among these countries had Germany with 19,027 deportations, followed by France with 3,995, the United Kingdom with 2,200 and the Netherlands with 1,814 deportations.

### Amnesty International's concerns at the 56th session of the Executive Committee of the United Nations High Commissioner for Refugees

Document: AI Index: IOR 41/060/2005 of 3 October 2005; Full text at: <http://web.amnesty.org/library/Index/ENGIOR410602005?open&of=ENG-GRC>

#### Waiting for a solution – the case of Iranian Kurds in Turkey

Amnesty International is concerned about the situation of a group of some 1,200 Iranian Kurdish refugees who fled to Turkey between 2001 and 2003 having previously claimed asylum in Northern Iraq, and who have been waiting for a durable solution for some years in Turkey.

This group was part of a larger group of Iranian Kurdish refugees who had originally fled Iran and claimed asylum in Northern Iraq in the 1990s and were registered there by the UNHCR. Due to a lack of effective protection in Northern Iraq at the time, resettlement was the primary tool of both protection and solutions for this group of refugees. However, in 1999, the UNHCR office discontinued resettlement referrals from northern Iraq, leaving the group of refugees with no effective access to a durable solution. In 2003, the UNHCR office in Northern Iraq was closed as a result of the deteriorating security situation in the region. As they were unable to access either effective protection in Northern Iraq, due in part to the deteriorating security situation in the region(1), or a durable solution in the form of resettlement to a third country, the group fled to Turkey, either via Iran or directly from Northern Iraq. Many of the group allege that they were advised to do so by UNHCR staff in Northern Iraq.

Turkey maintains a geographical reservation to the Refugee Convention and its 1967 Protocol, which means in effect that non-European refugees are unable to receive protection from the Turkish government. In the case of non-European refugees in Turkey, the authorities will register their details but leave it to the UNHCR office in Turkey to determine their status. Persons recognised as refugees under the mandate of UNHCR are referred for resettlement to a third country. Pending resettlement, non-European refugees in Turkey are provided only with temporary protection.

However, while the group of 1,200 Iranian Kurdish refugees have been recognized as refugees by UNHCR in Turkey, as well as by UNHCR in Northern Iraq, the Turkish authorities have refused to grant protection to these refugees on its territory and have refused permission to the vast majority of this group to resettle in a third country, which has placed them at serious risk of *refoulement* to Iran. In addition, it appears that third countries of resettlement are also unwilling to accept this group of refugees due to concerns that the refugees, legitimately through the principle of family reunification, would eventually be joined by family members, which would result in a significant increase in the numbers of persons being resettled.

Members of this group have been compelled to sign statements by the Turkish police, declaring that they will not be treated officially, in accordance with the regulation that lays down the rights of asylum seekers and refugees in Turkey,(2) but rather in accordance with the law that deals with foreigners seeking to visit or reside in Turkey(3). The statement further asserts that they will be given temporary residence permits under which they risk *refoulement* to Iran if they cannot renew these permits or if they act in a way "contrary to public order, public health, general morality or national security". Finally, the statement indicates that permission will not be given to allow them to be resettled in third countries, and that they shall not benefit from any of the medical support afforded to other refugees. Local lawyers have been informed by the Turkish Ministry of the Interior that the measures are necessary "in order to discourage the coming of other foreigners of Iranian origin to our country"(4).

The organization is concerned that this group of refugees have not been provided with access to effective protection, including a timely and appropriate durable solution, despite being recognized as refugees under UNHCR's mandate. In addition, this group of Iranian Kurdish refugees have been provided with a lower level of financial aid by UNHCR Turkey compared to others in the country. This has particularly affected those refugees who have serious health problems as well as other vulnerable groups among them including women, elderly people and children, since they cannot afford treatment in Turkish hospitals.

#### Recommendations

Amnesty International urges the Turkish government:

- To lift the geographical reservation to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and undertake to provide effective protection to all refugees under its jurisdiction;
- To treat the members of this group in accordance with the 1994 Regulation that lays down the rights of refugees and asylum seekers in Turkey;
- To undertake to uphold the principle of non-refoulement;
- To give permission to all refugees who have obtained visas from a third country to leave Turkey to be resettled in a third country;
- To enable all refugees on its territory to enjoy their fundamental human rights, including the right to work, to an adequate standard of living and to adequate housing. Particular attention should be given to the situation of vulnerable individuals;

Amnesty International calls on UNHCR:

- To refrain from any actions that might amount to discrimination towards this group of refugees and to provide them with the same level of support as enjoyed by other persons recognized as refugees under UNHCR's mandate in Turkey;
- To advocate for and facilitate the resettlement of this group to third countries;

Amnesty International calls on third countries:

- To urgently consider offering places for resettlement to all members of this group of refugees.

Footnotes:

(1) The security situation had been bad even before the US invasion of Iraq due inter alia to the risk of attacks by Iranian agents alleged to be operating in Northern Iraq as well as the threat posed by the existence of Ansar al-Islam (Protectors of Islam), an Islamist group reportedly linked to al-Qa'ida, in the area near Halabja.

(2) The 1994 Regulation on Foreigners who "claim asylum in Turkey or who come to Turkey in order to claim asylum in another country".

(3) Law no 5683 on the Residence and Visits of Foreigners in Turkey.

(4) Letter from the Head of the Department of Foreigners and Asylum in the Police Headquarters to the Van Bar Association which Amnesty International has on file.

In March the gendarmerie raided the house of Mehmet Zeki Kalay in Üçgöçerler village in Çaldıran district (Van) and found three people from Iran. They said that a fourth person was missing. He was found near Esengöl, frozen to death. His identity could not be established.

On 22 March a boat with refugees who tried to go from Ayvalık (Balıkesir) to Lesvos Island (Greece) capsized. Two persons from Mauritania died and one person from Mauritania and 8 from Iran were rescued.

On 14 April the gendarmerie opened fire on a vehicle near Uzunyol village in Çaldıran district (Van) reportedly because the vehicle did not stop. The vehicle was carrying asylum seeker. In the incident Muhammed Hüseyin from Afghanistan died and İsmail Fadir, Nadir Ertan (Bangladesh) and Mubaşer Ebugafur (Pakistan) were injured.

On 3 May a boat that had started in Aliğa (İzmir) and tried to go to Greece capsized. The captain of the boat and 19 people from Mauritania and one from Somalia were rescued; one woman "disappeared".

On 29 May a boat sank between Ayvacık district (Çanakkale) and Lesvos Island. The owner İsmail T. and five people from Mauritania were rescued. Four people from Mauritania "disappeared".

Two people died when a boat sank between Dikili district (İzmir) and Lesvos Island on 27 May. 15 people from Mauritania, five from Tunisia and one from Palestine were rescued. The victims were said to come from Tunisia.

On 12 July a boat sank between Aliğa district and Lesvos Island. Three people from Somalia drowned and 22 people from Somalia, Palestine and Mauritania were rescued.

On 21 July the crew of a Russian ship threw three people from the Ivory Coast into the water between Bodrum and Kos Island. Reportedly the migrants were handcuffed on their backs. One of them drowned, another one "disappeared" and the third one was rescued by a yacht.

One person from Pakistan who tried to enter Turkey in Erçiş district (Van) died in September. On a tip-off the police discovered a locked van with 47 asylum seekers. They had been in the van for three days. One of them died on his way to hospital.

Two persons who had entered Turkey illegally died in a traffic accident in İstanbul on 13 September. The driver of a lorry carrying these people stopped his vehicle and ran away when the police wanted to stop him. Two people left the lorry and were hit by a car coming from behind. The remaining 27 people from Pakistan and Bangladesh were detained.

A boat carrying 12 people from Iraq and two from Turkey sank near Enez district (Edirne) on 17 September. Ten persons including two children

"disappeared" in the incident. Four people who could swim ashore were detained near Gülçavuş village. On 18 September the corpses of four people were found.

On 18 September the coastguard opened fire on a boat that tried to carry 30 people from Seferihisar district (İzmir) to Greece. In the incident Fenzans Hashakczan (26 from Syria) died and Ammar Bozan (31), Metas Shab (23) and the Greek captain Agiadis Dimitris were injured. The captain and his assistant Aygiadis Georgios were arrested.

On 20 September a boat sank near Çeşme district (İzmir) in an attempt to go to Greece. Two women from Somalia died and 28 people (25 from Somalia and three from Palestine) were detained.

On 23 September a lorry with people who had entered Turkey illegally had an accident near Pazaryolu district (Erzurum). Seven people died and 63 were injured. These people reportedly came from Afghanistan, Pakistan and Bangladesh.

A fisher's boat that wanted to go from Mersin to Cyprus sank in the evening of 25 September. Five people including two from Syria were rescued and 33 people "disappeared". One corpse was discovered.

In an article in the daily *Özgür Gündem* allegations were raised that Greek soldiers killed two persons from Mauritania who tried to go to Lesvos Island. The paper quoted inhabitants of Bektaş village as saying that the boat had started at 1am near Ayvacık district (Çanakkale) on 13 October. After five hours the Greek coastguard had discovered the boat and taken 11 people on board. They had been beaten and around 6am they had been thrown into the sea. Two had been wounded to their heads. The others had been rescued by fishermen.

On 2 November a boat sank that tried to go from Çeşme district (İzmir) to Chios Island. The coastguard rescued 8 people from Palestine, Mauritania and Algeria and found 12 corpses. For another 16 people there were no hopes to find them alive. The survivors said that the captain and his assistant escaped when they heard the sound of a helicopter. They had counted 36 passengers on board.

In December two people who tried to cross the Turkish-Greek border near Balabancık village in İpsala district (Edirne) froze to death. The nationality and identity of these people could not be established.

# THE RIGHT TO LIFE

## Bomb Attacks in Hakkari province and districts

After July several bomb attacks happened in Hakkari province. On 9 November a peak was reached with a bomb attack in Şemdinli. First the attacks were attributed to the PKK, but later there were indications that the State within the State (derin devlet = deep State) might be involved. Until the Şemdinli incident the following bomb attacks had been reported:

On 15 July a bomb exploded in Hakkari in the car used by Hacı Demir with an İstanbul plate number. The passers-by Tamer Akarsu and Kemal Gezer were slightly injured. Hakkari Deputy Governor Sezgin Uçuncü stated that the reason of the explosion was not known and that investigations had been launched.

The bomb that exploded on 20 July in a waste bin in front of the hostel of Yüksekova Lyceum caused material damage of building in the surrounding.

On 29 July a car bomb exploded in Hakkari resulting in the death of the sergeants Şevket Kaygusuz and Burhan Baykal from a mountain commando in Hakkari. Three people were injured. Following the incident Faik Baş, İskan Kazandıoğlu and Hamit Kazandıoğlu, executives from the Avaşın Culture Center were detained. The prosecutor released them after testifying on 31 July.

On 2 August a bomb exploded in Yüksekova in a street with offices of long-distance bus companies. The bomb caused material damage.

On 4 August the Command of the Gendarmerie in Şemdinli (Hakkari) was attacked. The sergeants **Dursun Çetin**, **Durmuş Ali Uzun**, **Evren Ayyarın** and the soldiers **Ramazan Çakar** and **Halil Kaan Kayabaş** were killed. The soldiers İnan Hakan was injured.

On 31 August a bomb exploded close to the tent DEHAP had erected in Şemdinli on behalf of 1 September, World Peace Day. Kadri Yalçın, İlhami Öztürk, Kerem Elmas, Naim Erkoyuncu, Gülcan Tekin, Ayhan Öztürk, Beyhan Sevgi, Hüseyin Avcı, Pınar Mavigöz, Metin Yılmaz, Turan Korkmaz, Mehdi Zerende and Numan Erkoyuncu were injured; İlhami Öztürk seriously.

On the same day a bomb exploded in Yüksekova district in a building with offices. It caused material damage.

On 1 September another bomb exploded under a bus in Yüksekova in the same street as the bomb that exploded on 2 August. The bomb caused material damage.

On 11 September a two hand grenades were thrown into the house of Hasan Öztunç, the brother of AKP deputy for Hakkari, Fehmi Öztunç. The bomb caused material damage. Hasan Öztunç stated that he had been fighting the terrorist organization. In 1994 a bomb had been thrown into his house and he (and his family) had hardly survived." He complained that the administration in Hakkari was not intact and called on the government to correct the mistake. He stated that the hand grenades had been thrown into his garden and damaged trees and windows. He hoped that investigation might turn reveal the background of the incident.

On 15 September a bomb exploded in the fourth floor of the shopping center Zagros in Yüksekova resulting in injuries of Ömer Faruk Aslan.

On 3 October a bomb exploded in a dustbin of the "Twin Towers" in Yüksekova. A second bomb exploded when the police arrived. Commissioner Hamdi Kaman and four police officers were injured.

On 10 October a bomb exploded between two cars in Hakkari and caused material damage.

On 20 October a bomb exploded in front of a restaurant in Yüksekova resulting in material damage of building around.

On 24 October a bomb exploded in the street of the recruitment office and hostel of soldiers in Yüksekova. The explosion caused material damage. In connection with the incident M.T., A.T. and Z.T. were detained. Among them M.T. was arrested on 4 November.

On 28 October a bomb exploded in the fifth floor of the shopping center Zagros causing great damage to the building. İrfan Sarı from the Chamber of Shop Owners and Craftsmen complained that the 10 explosions in the last months had frightened the people and caused damage for the shop owners.

On 1 November a heavy bomb exploded on a lorry close to the Command of the Gendarmerie in Şemdinli. Four soldiers, three police officers and 16 civilians were injured. Buildings in a distance of up to 200 meters were affected and 67 houses and shops were completely damaged. The bomb was said to have had the weight of 140 kilograms. As a result of the explosion the electricity in town was cut. Because of damages to the primary school some 2,000 pupils could not go to school for a long time.

### The Şemdinli Incident

On 9 November at 12.15am armed persons entered the Özipek passage in Cumhuriyet Street in Şemdinli district Hakkari. They went up to the bookshop "Umut" (Hope) run by Seferi Yılmaz alleged to have participated in the first (armed) action of the PKK in Eruh (Siirt province) in August 1984 and threw a hand grenade into the shop. **Mehmet Zahit Korkmaz** was killed and Harbi Kaya, Kerim Korkmaz, Mehmet Korkmaz, Hamide Korkmaz, Metin Korkmaz, Erşat Korkmaz, Dilber Korkmaz, Şemsettin Korkmaz, Necmettin Korkmaz and Refik Gelici were injured. The explosion caused material damage, too.

Passers-by caught civilian dressed sergeants Ali Kaya, Özcan İldeniz and the PKK "confessor" Veysel Ateş. In their car three Kalashnikovs, hand grenades and intelligence notes were found and handed over to the officials. There was also a sketch of the bomb attack of that day. The sketch also showed 5-6 buildings in the surrounding that had been marked in red.

After the incident the district town was closed for traffic into and out of town. Barricades were erected in front of the Command of the Gendarmerie and the governor's office. Some 5,000 people who had gathered in front of the hospital staged a demonstration. The police tried to disperse the crowd with shots in the air. The crowd responded by throwing stones. Mayor Hurşit Tekin tried to calm the crowd and was hit by a stones. Another nine people were injured.

At 4.30pm when the prosecutor was inspecting the scene shots were fired at the demonstrators. In this incident **Ali Yılmaz** died. Vahit Canan, M. Reşit Oğuz, İslam Kaya and Abdurrahman DüNDAR were injured. Later it was revealed that sergeant Tanju Çavuş had fired the shots.

It turned out that the name of Sergeant Ali Kaya had been mentioned in connection with other incidents. The confessor Abdülkadir Aygan had mentioned his name in the series published in *Özgür Gündem* in 2004 as "Ali from Mutki", a staff member of JİTEM. "Ali from Mutki" had been involved in the detention of Mehmet Ali Altındağ and 8 relatives in 1998, first as supporters of Hizbullah and 20 later as supporters of the PKK. The local newspaper "Söz" reported on 14 November:

Sergeant Ali from Mutki interrogated some 100 businessmen in Diyarbakır at the time on allegations of providing financial aid to Hizbullah or PKK. He even forged papers in the name of the PKK that "Söz" had donated 350,000 German marks to the PKK." At the time General Yaşar Büyükanıt had been responsible for the 7th Corps in Diyarbakır.

The report in *Özgür Gündem* of 15 March 2004 (Revelations of Abdülkadir Aygan) had included the following information:

After inspecting the incident CHP Hakkari Deputy Esat Canan said: "There was a bomb attack in the morning. People prevented the car of the assailants to move. Three people were in the car. The crowd beat the passengers and handed them over to the police. The people wanted that the car be inspected closely because it suspected that it might be the deed of the State within the State. I told the officials what the people wanted, but I saw that not three but just one person had been detained. The other two must have been bleeding, but there was no trace of them."

Speaking about the incident during the inspection of the prosecutor Canan said: "The crowd still was around the car aiming at protecting the evidence. No one's life was save not even the life of the prosecutor. Therefore the inspection of the scene was not completed."

On 12 November Veysel Ateş was arrested on charges of killing with a bomb and Sergeant Tanju Çavuş was arrested on charges of having caused the death of a person in exceeding the limits of defense. The sergeants Ali Kaya and Özcan İldeniz who first had said that they had passed the scene accidentally and had been kept at a secure place were secretly taken to the prosecutor on 11 November. They were released after testifying because of lack of evidence.

Deputy Esat Canan suspected that the release of these two suspects already showed that the case would not be treated as an organized crime of a gang.

Tanju Çavuş said in his testimony that he passed the scene accidentally. His wife and children had been in the car. The crowd marched towards his car and he drew his gun and fired into the air.

The released sergeants reportedly stated in their testimonies that they had been given orders to collect intelligence and, while they had tried to find information on Seferi Yılmaz the explosion had occurred. However, the order for collecting intelligence found on the sergeants only entitled them to research the countryside and not town or district capitals.

On 14 November the daily "Star" reported that Veysel Ateş had stated that Seferi Yılmaz himself had thrown the hand grenade into his shop and later had pointed at him (Ateş) shouting that he had thrown the bomb. Out of fear he had gone to the car of the security officers since he could have been lynched. The police had rescued him with shots in the air.

"The businessmen Ali İhsan Kaya and Mehmet Ali Altındağ were in competition. Ali İhsan Kaya had persuaded Abdülhakim Güven (confessor). Ali from Mutki and Abdülhakim Güven got on well. In my presence Ali from Mutki wrote testimonies attributed to Mehmet Ali Altındağ that he had sent sport shoes to the militants and had helped the militants in villages."

In connection with the "disappearance" of HADEP executives Ebubekir Deniz and Serdar Tanış in Silopi district (Şırnak) in January 2001 the name of NCO Veysel Ateş was mentioned as having been on duty of 25 January (the day of their "disappearance"; see the annual report of 2001).

Harun Ayık, chief prosecutor in Şemdinli, said that Veysel Ateş was responsible for providing information to the gendarmerie. In his first testimony Veysel Ateş had said that the people had not recognized him and therefore attacked him. Later it turned out that his car was registered for JİT. The document on duty of the sergeants had been signed by Major Erhan Kubat, in command of the gendarmerie in Hakkari.

On 15 November the prosecutor announced the result of the search in the car of the sergeants. There had been a sketch on the explosion of 1 November. Besides the buildings the house of Seferi Yılmaz had also been marked on the sketch. There had been a photograph of Seferi Yılmaz taken outside town and the two persons next to him had been named as Hasan and Ali Kısıkyol. The name of Mülazim Çetinkaya had also been mentioned.

Another document had listed the tribes in the area with indications of whether they were for or against the State. There had also been a list of delegates to the DTP from Şemdinli. Some names had been marked with an "x".

On a list of persons information on Seferi Yılmaz had been found. Further information had related to the place and friends he visited and stayed with. It was also noted that he kept his shop closed on 18 and 19 September. On another form remarks on his physical condition and a photograph had been found.

In an article of the news agency DİHA it was also alleged that receipts of the Turkmen front in Iraq and an ID for a Turkish citizens of Pakistani origin "Şahit Mahmut" had been found.

In continuation of the investigation the prosecutor asked GSM companies and Telekom about phone conversations at the time of the incident, since there were claims that Veysel Ateş had called someone saying that he had left the package. Deputy Esat Canan stated that four files had been in the car. One file had contained documents stating that the car belonged to the gendarmerie. In another file information on the bookshop had been listed. There had also been sketches and details on other shops in the town.

The newspaper reported in three lists found in the car. On one list there had been 80 names. A list with 25 names was named "List of militia" and a third list had mentioned people working as agents for the State. Reportedly Nurten Tarhan and the HADEP executives Emin Sarı and Sezer Öktem were on the list. On 4

November masked men broke into the house of Nurten Tarhan and reportedly showed her the sketch of her house.

In an interview published in *Özgür Gündem* on 12 November Seferi Yılmaz stated that Veysel Ateş had thrown the hand grenades. He added that the sergeants had come back after the incident as the guards of the governor. On 15 November *Radikal* reported that the chief prosecutor in Van had withdrawn from the investigation stating that this was an ordinary offence and not the work of a gang. It was added that the prosecutor would only act on directives of the Justice Minister.<sup>1</sup> The investigation file was sent to the "special" prosecutor in Van on 22 November.

On 14 November TV channel CNN Türk presented background information on lawyer Mehmet Göçmen ready to defend the suspects of the incident in Şemdinli. The report mentioned that Mehmet Göçmen was a retired officer. At Van Airport he had been met by an officer and had been taken to Şemdinli in a helicopter. Reportedly commanders had ordered him to look into the case file. The name of Mehmet Göçmen was mentioned in connection with the evacuation of a village in Mardin province in 1992. He had been a major at the time.

The ballistic report on the hand grenade thrown into the bookshop and the ones found in the car of the sergeants turned out to be the same. The other arms, however, had not been used in any other incident.

The prosecutor in Van decided on confidentiality of the file. Officials from the office reportedly stated that the file would only remain in Van if evidence existed that the PKK was responsible for the bomb attack. As far as the position of the suspects was concerned the Command of the Gendarmerie in Hakkari confirmed in writing that the sergeants had been occupied with investigation of PKK relations in Şemdinli and Veysel Ateş was a staff member of the gendarmerie.

Meanwhile it was revealed that no investigation was running against the owner of the bookshop 'Umut' in Van,

<sup>1</sup> Since the State Security Courts (SSC) were replaced by Heavy Penal Courts (since 1 June 2005 authorized under Article 250 of the Criminal Procedure Code) the prosecutor's offices at a SSC carry the same name as the office of the prosecutor for ordinary crimes, but for offences that have to be tried at a court authorized under Article 250 TCCP the prosecutor's office for these "special" courts is responsible and for offences in Hakkari province the prosecutor at former Van SSC has to look into the offence.

Hakkari or Şemdinli. On 25 November three prosecutors went to Şemdinli (from Van) and started with collecting testimonies of victims and eye witnesses. On 28 November the sergeants Ali Kaya and Özcan İldeniz testified to the prosecutor and were arrested on orders of a court. The charges reportedly related to establishing a gang with the intention to commit crimes and activities against the unity of the State.

At the beginning of December Van Heavy Penal Court No. 4<sup>2</sup> turned down the objection to the arrest warrants.

### Reactions, Investigations and Inspections

The CHP sent a delegation to Hakkari and Şemdinli to investigate the situation. One of the deputies, Ahmet Küçük said afterwards:

"The situation is terrible. The people are right in being suspicious about the government to be able to solve the problem. Incidents have continued since July. While the State is fighting illegal organizations it establishes structures outside legality and at one point the thing explodes. The perpetrator tries to escape from the people and hides in a car of intelligence officers. The population tries to catch someone who the police protect. How can you say that the State was not involved in this:"

Another CHP deputy, Esat Canan stated after the end of the research on 13 November that he received signs of attempts to cover up the incident. He added: "The gendarmerie is responsible for the rural area. They have no job in towns. They came for such an action. No explanations were made for two days in order to prepare a defense for the sergeants. In the end they testified in a prepared manner." On the shooting after the incident Esat Canan said: "Before Tanju Çavuş shot, shots were fired from an armored vehicle. The prosecutor is a witness to the attempt to frighten the people. The second shooting was related to the first round of shootings."

On 23 November the GNAT decided on parliamentary investigation. The decision was taken in closed session. Interior Minister Abdülkadir Aksu claimed that everything was done to clarify the background of the incidents in Şemdinli. He had sent two secretaries to the region and they would terminate their work at the end of the week."

During the session Esat Canan compared the incident to the Susurluk scandal and stated that the Şemdinli incident would not have happened if the Susurluk case had been solved and the "dark forces" had been silenced. He demanded that all political parties should join in their determination to solve the Şemdinli case.

The Commission to investigate the incident was founded under the chair of AKP Kastamonu Deputy

<sup>2</sup> The former SSC Van (No. 1 and 2) became Van Heavy Penal Court No. 3 and 4.

Musa Sivacıoğlu. Members of the Commission became (for AKP) Metin Kaşıkçıoğlu, Ayhan Sefer Üstün, Semiha Öyüş, Hüsrev Kutlu, Enver Yılmaz, Orhan Yıldız, Şükrü Önder, (for CHP) Ahmet Ersin, Mesut Değer, Sırrı Özbek (and for ANAP) İbrahim Özdoğan.

The report of the Commission was announced on 13 December. The General Staff was asked whether structures such as JİTEM or JİT existed and General Yaşar Büyükanıt was criticized for his comments after the incident that might affect the judiciary. Chief prosecutor in Şemdinli, Harun Ayık was quoted in the report as saying, "The incident may have been planned by foreign intelligence. The aim might be to provoke the population. The security forces here do not work properly. All stages of the State are obliged to look into the case."

Some evidence on the case reached the Commission late. In mid-December notes found on the sergeants were sent to the Commission. The notes included a form on question to be posed to members of organizations after detention. The questions related to contacts with NGOs such as Göç-Der or the HRA. As far as the political party DEHAP was concerned the answers were already given as "DEHAP is the party of the organization acting according to the directives of Abdullah Öcalan and other leaders".

On 21 December Esat Canan testified to the Commission. He suggested lifting Article 105 of the Regulation for proceedings in the GNAT stating that parliament would not investigate State secrets or trade secrets. Canan further suggested that the Commission should try to find answers to the following questions:

- Why did the people in the car not say that it belonged to the gendarmerie right at the beginning?
- Why was no information given to the deputy and public for two days that the car belonged to the gendarmerie?
- Why was the car abandoned for the whole day, while all the evidence stayed in it?
- Why did Sergeant Ali Kaya say that he was a police officer?
- Would the PKK be able to carry 150 kilograms of explosive into the town despite all checkpoints? Are the suspects related to the incident of 1 November?
- The sergeants had been authorized for the rural area. What kind of intelligence were they collecting in town?
- Is it coincidence that the name of and his Seferi Yılmaz were marked in red in the documents found in the car?
- Why were the sergeants not taken to the police for interrogation? Why did they testify two days later to the prosecutor? Did the prosecutor find any evidence apart from the evidence that the people handed over to him?

- Is it coincidence that the hand grenades in the car and the ones used against the shop of Seferi Yılmaz were the same?

- Why were shots fired from an armored vehicle when the prosecutor investigated the scene?

On 9 and 10 November eight NGOs including the HRA and Mazlum Der carried out investigations in Şemdinli. Their report was announced on 12 November. Prosecutor Harun Ayık reportedly told the delegation:

"The passage and the car were inspected. The car belongs to the gendarmerie. It stood 70 meters away from the passage. At the moment there are allegations raised from within the population. There is no concrete suspicion, but three suspects."

The report included a part on "subjects for clarification" including the following questions: "Did the people in the car come to Şemdinli on their own initiative? How did the JİT staff use the sketch on the shop that was bombed? Why was the old court file on Seferi Yılmaz in that car? What use were the photographs in the car?"

"Why did the prosecutor not take the testimony of the suspects immediately? Was the explosion of 1 November with 67 destroyed shops and further bomb attacks the act of the same people? How could two persons that had been caught by the people get free from the hands of the police? Did the prosecutor authorize the release?"

"Are the hand grenades and arms found in the car registered to the gendarmerie?"

The full report in Turkish can be found under <http://www.ihd.org.tr/rapozel/semdinli.html>.

According to the daily *Yeni Şafak* General Mehmet Çörten President of the Intelligence in the General Staff visited the parliamentary commission in December. Musa Sivacıoğlu, chair of the Commission did not inform the members of the Commission or the public. Reportedly Mehmet Çörten told the chair of the commission that the sergeants Özcan İldeniz and Ali Kaya had acted foolishly.

On 28 December the Commission heard former Hakkari Governor Erdoğan Gürbüz, former Şemdinli Governor Cihan Feslihan and Ahmet Selim Akyıldız, President of the Department to Fight Terrorism in the General Directorate for Security, who had been in town at the time of the explosion. Akyıldız stated that he had seen Veysel Ateş speaking over his mobile. Ateş had introduced himself as sergeant, but Akyıldız had ordered to confiscate his mobile. Governor Gürbüz reportedly provided a file in the contacts of the PKK in Şemdinli and the intelligence information on Seferi Yılmaz. Gürbüz did not answer questions of the deputies stating that these related to State secrets.

On 11 November General Yaşar Büyükanıt, Commander of the Ground Forces, answered questions

on the Şemdinli incident and said: "The sergeant whose photograph was published in the newspapers served at my side. When the peshmergas were with us during the "steel operation" he assisted me. He knew Kurdish well. I don't think that he is someone to commit a crime, but that will turn out after the investigation".

Later General Büyükanıt claimed that his words had been misquoted. He told Fikret Bila from the daily *Milliyet*: "What I said is: I know this sergeant. He worked under my command. He is a good soldier and speaks Kurdish well. He was with me during the 'steel operation'. One has to look at the investigation whether he is guilty or not. This is what I said. During the operation he made the contact with the peshmergas. It was mainly quoted that I said he is a good soldier, but my words that one has to wait for the result of the investigation were either put behind or not quoted at all."

General Hilmi Özkök, Chief of the General Staff, told journalists that there was an immediate intervention into the incident. The military commander for order went from Van to Şemdinli right away. The army carried out a disciplinary investigation and there was a penal investigation as well. One should wait for the results. He (Hilmi Özkök) would neither defend nor accuse his personnel.

Defense Minister Vecdi Gönül answered question of the daily *Akşam* and said: "If the bomb that exploded was registered to the military there will be a big problem. If officials are involved in the incident one has to look who organized it, who gave the order and how far do the contacts go. But I can say that the responsible people will be found and punished."

Vecdi Gönül was reminded of the killing of 33 villagers in 1943 on the orders of General Mustafa Muğlalı and replied: "Some circles in the State may have applied unlawful methods, but the State has always found them."

Prime Minister Recep Tayyip Erdoğan said on 13 November that they would recommend a parliamentary investigation and continued: "In Şemdinli we see how the old attitude goes on. Once the findings are available we can make a more profound evaluation. One wants to create a confrontation between the State and the nation. That is the purpose. But they will pay the price." Being asked as to whether this could be called the second Susurluk Erdoğan said that the incident did not need a label. It was enough to state that old attitudes continued.

Erdoğan stated further: "This does not resemble a local incident. There is an understanding behind it. It can be based on an ideological structure or can have emerged from an emotional movement of a group. Once the findings are clear we are determined to unearth it. We shall not close our eyes on violation of law and the attempt to make the nation and the State enemies. I spoke to the General Staff. We decided together to

move as far as necessary. The State President also shares this view."

On 20 November Prime Minister Recep Tayyip Erdoğan went to Van and on 21 November continued to Hakkari. During talks with Hakkari Governor Erdoğan Gürbüz the governor said that 200 billion TL had been allocated to repair the 194 shops that had been damaged in Şemdinli on 1 November. 143 billion TL had been paid to the citizens.

On 21 November Erdoğan also visited Şemdinli and Hakkari. Interior Minister Abdülkadir Aksu, Justice Minister Cemil Çiçek and the deputies from Hakkari, Mustafa Zeydan and Fehmi Öztunç accompanied him to Şemdinli. They inspected 67 houses and shops in which 23 people had been injured on 1 November. Later the group went to the Özipek Passage with the bookshop Umut that had been bombed on 9 November. Outside the passage a group of young people met the group with banners stating "say the truth in Şemdinli and don't get confused in Ankara", "no ban for Roj TV" and "if the State kills, who shall we devote our lives to". Erdoğan asked that the banner be removed. The police removed the banners under protest. In front of the administration building Erdoğan spoke in the presence of about 1,000 people:

"From the beginning we said that we shall follow the incident and expect that the subject will be forwarded to the judiciary speedily and there be a just verdict. What I want to tell you is that some like dusky weather. We should not be mistaken by dusky weather. Democratic rights will be in force. Nothing is gained by killing our people. The country lost 40,000 humans in the last 40 years. We have to continue living side by side regardless of the ethnic element or whatever religion and belief we belong to and whatever region we live in. If not, someone will be glad. The ones who are pleased are those who want to divide our country."

On 22 November Mehmet Elkatmış, chair of the parliamentary commission to inspect human rights, CHP İzmir deputy Ahmet Ersin, CHP Gaziantep deputy Ahmet Yılmaz Kaya, AKP Batman deputy Nezir Nasıroğlu and AKP Adıyaman deputy Faruk Ünsal went to Şemdinli to carry out an inspection. On 24 November they met the sergeants Ali Kaya and Özcan İldeniz. During the talk the sergeants said that they had nothing to do with the bombing arguing, "It is impossible to throw two bombs at the same time and to run away. You have 3 seconds after you ignite the first bomb. If you ignite a second one you will be blown up as well. Had we intended to throw bombs we would not have done it at day time in an official car."

The sergeants claimed that Seferi Yılmaz had received a phone call from Germany, one day before the incident. The person on the phone had said that he was sending an important gift that would be in a package and that he (S. Yılmaz) should be careful. In

fact they (the sergeants) had been at the scene in an attempt to get hold of the package. But the persons from the organization had been suspicious about Veysel Ateş sitting in their car and had prepared the plot.

On 25 November the members of the commission returned to Ankara. On 26 November the daily *Yeni Şafak* presented news that the commission had determined that during the attack on the bookshop on Şemdinli on 9 November hand grenades of Turkish production had been used; the arms found in the car of the gendarmerie had not been used during any incident and that sergeant Özcan İldeniz was the responsible person for JİTEM (JİT) in Şemdinli. According to the newspaper the military officials in Şemdinli had told the commission that the event was impossible. Nobody would go to such an action in daylight. No such order would be given. Sergeant Özcan was known in the area and he would certainly not be appointed.

The military officials reportedly also commented on the fact that during the explosion of 1 November the military casino close to the place of detonation had been empty. There had been an order that football (soccer) matches should not be watched together and, therefore, the casino had been empty.

On 25 November a summit on security was held under the chair of Prime Minister Recep Tayyip Erdoğan. Special concern was given to the incidents in Hakkari, Şemdinli and Yüksekova.

### Actions, Demonstrations

On 10 November shops and schools in Şemdinli remained closed. A large crowd had gathered for the funeral of Mehmet Zahir Korkmaz and Ali Yılmaz. The crowd dispersed after a speech of Yüksekova Mayor Salih Yıldız. Later, however, a control post of the police was set on fire.

On 11 November a protest demonstration was held in Hakkari. The police tried to disperse the crowd that had gathered in front of the municipality at 10am. The crowd responded with stones. Ten people were injured.

During a demonstration in Van on 12 November clashed occurred. 24 people were detained. Demonstrations in other towns ended without incidents.

On 11 November the building of the Foundation of Order in the Gendarmerie in Yenimahalle (Ankara) was the target of a bomb attack. There were no casualties. Later FESK claimed responsibility stating that action was a protest at the incidents in Şemdinli.

On 13 November demonstrators clashed with the police in Seyhan district (Adana). One police officer was injured by a stone to his leg.

### Incident in Yüksekova

Casualties were reported from a demonstration in Yüksekova on 15 November in protest at the incidents in Şemdinli. Hakkari Governor Erdoğan Gürbüz stated that three people had been killed and many persons had been wound including seven police officers. Yüksekova Mayor Salih Yıldız said that members of a special team had killed **İslam Barkin, Ersin Mengeç** and **Faruk Geylani**. In response the governor said that the police had not used arms, but the demonstrators.

At midday a large crowd wanted to hold a press conference in Cengiz Topal Street. The crowd started to march towards the administration building when the police intervened with tanks and gas bombs. The demonstrators erected barricades and responded with stones and Molotov cocktails. In front of the shopping center Zagros and the old prison two armored vehicles were set on fire. In Mezarlık quarter a health center was set on fire.

During this NCO Metin Baltacı was kidnapped by the crowd. Reportedly he was taken to a building beaten up severely and then released. Governor Gürbüz stated that 13 people had been detained: Tahsin Düşsöz, Cahit Düşsöz, Şükrü Duman, Baki Olcay, Nihat Aksan, M Sabir Oruç, Rıdvan Öztaş, Barış Işık, Mehmet Beli, İslam Duman, Taner Duman, Tahir Tekin and Naim Bahadır.

DEHAP chair for the district, Şehabettin Timur, said:

"After the press conference we wanted to walk to the office of our party. At this moment the police threw gas bombs at us. We tried to run away and heard shots. The people erected barricades and responded with stones. Shots were not only fired from armored vehicles but also from some houses."

The incidents continued on 15 November. During the whole night shots could be heard. On 16 November the shops and schools remained close and demonstrations continued.

Former Yüksekova Mayor Ethem İlke said about the incident: "Once an armored vehicle had turned over because he hit an electricity post the police started to shoot at random. Two women stayed under an armored vehicle. Afterwards the people responded by throwing stones." An eye witness named E.K. told journalists: "I was opposite the hospital. Ahmet Durmaz was hit right next to me. Later a 16-year old juvenile was injured by a bullet and a woman because an armored vehicle hit her. Shots were not only fired from the vehicles but also from the houses of military and police officers."

Hikmet Durmaz, father of Ahmet Durmaz stated that his son had been injured to his leg when he was on his

way home. The eye witness E.T. stated: "After the press statement we went back. They threw gas bombs after us. Some juveniles responded by throwing stones. After one armored vehicle had turned over because he hit a post shots were fired from the second vehicles and police officers."

Hakkari Governor Erdoğan Gürbüz told the daily *Hürriyet*:

"We have instructed the security forces not to immediately use arms against those who throw stones. But there are times when a huge crowd puts the officers under a hail of stones. In Yüksekova the police fired warning shots. Three police officers stayed under the overturned vehicle. We could hardly save them from the crowd. How long do we abstain from using arms. In the end the demonstrators are armed and attempt to lynch the officers. Whatever the mayors from DEHAP want the people act accordingly. They can stop them and can make them move. We have informed them that the officers will use arms against those who shoot on police officers." Gürbüz further stated that 60 members of an anti-riot squad had been sent from Ankara to Hakkari.<sup>3</sup>

Remzi Çelik from the Red Crescent filed an official complaint against police officers who had attacked him when he was taking injured people to hospital.

İslam Barkin, Ersin Mengeç and Haluk Geylani were buried on 17 November. No incidents were reported from their funerals. Two war planes flying very low created some tension.

On 16 November protest demonstrations were held in İstanbul Gazi, Kağıthane and Ümraniye districts. During the demonstration in Kağıthane a bus of the municipality was set on fire.

In Hakkari the police intervened in a protest meeting on the same day and injured 10 people. Reportedly some police officers were injured with stones.

First reports stated that the demonstrator Ayhan İnci had been killed, but later it was said that he had been injured seriously. The demonstrators Sadullah Işık, Mehmet Çiftçi, Abdurrahman Atalay, Hayri İnci and Eyüp Bor were also seriously wounded. At midday a press conference was held in front of the DEHAP office. Later the police tried

<sup>3</sup> On 23 November Hakkari Governor Erdoğan Gürbüz was appointed to Tokat and Tokat Governor Ayhan Nasuhbeyoğlu took his place. Hakkari Mayor Metin Tekçe said that the appointment corresponded with the wish of the people. "If the representatives of the State love the people, the people will love them".

At the beginning of December the Minister of Interior also changed the position of the governors in Şemdinli and Yüksekova. Şemdinli Governor Mustafa Cihat Feslihan was appointed to Ovacık district (Karabük) and the governor of Alpu district (Eskişehir), Altuğ Çağlar took his place. Yüksekova Governor Aytaç Akgül changed his place with the governor of Bulanık district (Muş), Uğur Kalkar.

to disperse groups that had gathered in side streets. The police used water cannons, gas and pepper bombs and fired shots into the air. Some demonstrators used sticks and stones and threw stones at houses of police officers.

During a demonstration in Cizre district (Şırnak) five people including two police officers were injured on 18 November. On the same 40 people including the DİHA reporter İsmail Yıldız were detained during a demonstration in Isparta. They were released shortly afterwards.

On 20 November demonstrators gathered in Çilek quarter (Mersin). The police fired shots in an attempt to disperse the crowd and killed **Murat Demir**. Enver Ekinci and Recep Çağlar were injured. The lawyers Muzaffer Akad and Ali Bozan who went to hospital on behalf of the Ekinci and Demir family were reportedly beaten by police officers. The police detained DİHA reporter Nesrin Yazar who wanted to follow the developments in hospital.

Mustafa Çağlar, brother of the injured Recep Çağlar said: "During the demonstration we heard shots all of a sudden. We stood 15 to 20 meters away from the police officers. Members of the anti-riot squad and plain clothes detectives shot at random. Murat Demir was hit with a shot in his eye. My brother wanted to look at him but was hit as well. Later Enver Ekinci was wounded to his leg. Members of the anti-riot police came and dragged him to a dustbin. Later police officers came to collect the bullet shells. One person with a car brought my brother to hospital."

Eye witness Kudbettin Demir alleged that the police had fired targeted shots. Lawyer Muzaffer Akad said that he had asked the prosecutor to take the testimony of three eye witnesses in their presence, but the prosecutor had insisted on a written application. Being asked to inspect the scene of the offence the prosecutor had said that at this time he could not go there because nobody could guarantee his safety. Muzaffer Akad was concerned that the evidence might be covered up.

Ömer Demir, the father of Murat Demir said: "On that day my son wanted to go to a celebration (wedding). He and his friends saw an official police car at the side of the street some 10 to 15 meters away. One police officer shot at Murat as soon as he stepped out of the car. Two friends tried to help him

but the officer shot at them, too, and injured them. They are witnesses as well as another two witnesses. They said that another police officer in the car reacted against his colleague by saying that he shot an innocent juvenile. The witnesses can tell the prosecutor all the details."

The autopsy report stated that Murat Demir was hit to his eye by a shot from close range. Murat Demir was buried on 21 November. The police used force to disperse the crowd and in the ensuing clash two police officers were injured.

Enver Ekinci came out of hospital on 5 December. The prosecutor took his testimony and released him. Later Enver Ekinci said: "I was on my way from a wedding to the house of my uncle. I saw the group with demonstrators. A was hit when I passed the group. The police officer who shot at me was in uniform. A woman and a man took me to a car to bring me to hospital. Murat Demir was in the car as well. First we drove to the house of Murat Demir. At that moment an unknown person burst the tire and the driver ran away. Later an ambulance came and took us to hospital."

In Toros State Hospital police officers had warned him that he would not be treated if he did not testify "correctly". Therefore he had said that he did not recognize the person who shot at him.

On 18, 19 and 20 November many demonstrations were held in Küçükçekmece, Beyoğlu and Ümraniye quarters of İstanbul. In Küçükçekmece the demonstrators clashed with the police. One armored vehicle was damaged and 12 people were detained. On 21 December the demonstrators Abdülbari Güneş (16), Abdullah Arslan (17) and one with the first name of Abdülhakim (15) were arrested. During a demonstration in Seyhan district (Adana) five ESP members were detained. Among them Gülcan Taşkiran, Sedat Bektaşlı, Hatice İlden Dirini and Halil Göğercin were arrested on the same day. On 21 November Hasan Karakuş and Hekime Beyaz were detained during house raids in Adana.

On 21 November Mihdi Perinçek announced a report of NGOs on the incidents. He complained that the security forces had even shot at health institutions during the incidents in the center of Hakkari on 16 November. The report accused Hakkari Governor Erdoğan Gürbüz of escalation. There had been no indication that any of the demonstrators had been armed.

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#### **Among smugglers, partisans and bombers**

**Tuesday, April 18, 2006**

#### **KurdishMedia.com (Translated)**

Among Smugglers, Partisans, and Bombers: Through the wilds of Kurdistan to the beginning of spring. Observations in the Turkish/Iranian/Iraqi border region.

By Nick Brauns

The commander of the Turkish military police, the "Jandarma", receives us at the checkpoint on the road from Van to Hakkari with the bearing of a colonial officer: "What do you want in Hakkari? Only terrorists and barbarians live there. You should go to Antalya; that's the place for tourists."

The province of Hakkari, in the Iranian/Iraqi border region, is the poorhouse of Turkey. 7,121 square kilometers in size, and 266,061 inhabitants. A tourist guide from the newspaper "Milliyet" says "The Hakkari region is the most mountainous and desolate corner of our country.

It is surrounded by impassable mountains, without roads. The mountains that enclose the area on all sides reach a height of up to 4,000 meters. (...) In many places, the valleys turn into narrow gorges. Even in summer, not even motorcycles can reach the tiny settlements and villages."

In the autumn of 2005, a series of bomb explosions shook Hakkari. The center for the attacks was Semdinli, the most remote town in Turkey, by the Iranian border. First, on 1 September, World Peace Day, a hand grenade was thrown. Two months later, 100 kilograms of explosive concealed in a truck detonate in front of a shopping passage. A crater in the street, and the ruins of the building, still attest to the force of the explosion, which injured 23 people. Then, on 9 November, a hand grenade was tossed into the "Umut" ["Hope"] bookshop, located only a few meters from the devastated shopping center. One customer was killed, and 15 other people injured.

The special aspect this time: Passers-by were able to apprehend the fleeing perpetrators. Their identity documents showed them to be non-commissioned officers of the military intelligence service. Additionally, a turncoat from the Kurdistan Workers Party (PKK) was also captured. In their getaway car were found, in addition to weapons and attack plans, a list with the names of 105 people who ostensibly supported the outlawed PKK. At the very top, marked in red, was written "Seferi Yilmaz" -- the owner of the bookshop...

The vibrant town of Semdinli lies in the midst of high, snow-covered mountains. Some of its residents have, through smuggling, come to prosperity. Men in baggy pants with cloths tied around their heads stand around leaning on off-the-road pickup trucks or fan themselves with commercial documents. A white car follows us slowly. No strangers ever escape the notice of the military intelligence service.

The "Umut" bookshop lies in a passage on the main street. Yilmaz, the bookshop owner on the hit-list of the secret service people, is happy when he hears that we write for a Marxist daily newspaper. The 43-year-old man explains that he has been a socialist since the age of 15. He joined the PKK as far back as 1977. He explains that "You can't fight fascists without force." At that time, the organization was almost unknown. "The people here in Kurdistan were uneducated, and couldn't read. Lenin had the newspaper "Iskra" ["The Spark"]; the PKK went to the villages in order to raise people's consciousness."

In the bookshop hang copies of the attack plans seized from the perpetrators. And in the display window one can see books spattered with blood and damaged by fire. Upon our departure, Yilmaz quotes from Heinrich Heine: "Where they have burned books, they will end in burning human beings."

#### Smugglers' Paths

I meet Mesut and Hamit in the taxi to the Turkish-Iranian border post at Esendere. They are on a shopping trip. Their shopping list includes digital cameras, DVD-players, and computer equipment. In Iran, they will buy the hi-tech goods cheaply, and then bring them into Turkey on horseback over hidden paths. Smuggling from Iraq is also lucrative, ever since the USA set up a customs-free zone there. A mule costs 2,000 euros. Entire villages have pooled their money in order to buy themselves a few horses. In just a few years, poor peasants have reached prosperity via these hidden paths.

Shortly before the border, the taxi turns off into a farmyard. Here flourishes the black market. A boy fills the tank with cheap gasoline from large canisters...

The border gate at Esendere offers contrasts: Pictures of Mustafa Kemal Ataturk, the founder of Turkey, and of the Ayatollah Khomeini, the leader of the Islamic revolution in Iran, hang opposite one another. Yet there prevails a rather friendly atmosphere between the Turkish border guards and their Iranian counterparts dressed in green uniforms with gold buttons. Everyone here profits from the smuggling. Within visual range of the checkpoints men load sacks full of sugar, tea, and tobacco into a shed. And in the bazaar in Yuksekova, soldiers pay with cartons of cigarettes.

But it is not only gasoline, sugar, and digital technology that is smuggled in the Iranian/Iraqi/Turkish border region, but harder goods as well. Amid the hilly landscape with its poor peasant villages stand ostentatious, garishly colored villas. They belong to the big-time dealers, grown rich from the drugs path out of Afghanistan, which leads through Iran into Turkey. If peace should return to the region and the military presence be reduced, fear some war profiteers, the lucrative business would suffer. This consideration may constitute a possible motive for the bombings in Semdinli.

#### Village Guards

Over and over again we see collections of great piles of stones along the road. These had once been villages. Because their inhabitants had been suspected of supporting the PKK, they were driven out and their houses leveled to the ground. The driver of the "dolmus" (shared taxi) turns the cassette-player up – a song against the "Village Guards". These armed men were at one time put into the fight against the guerrillas by the large landowners and the state. In the newly constructed houses with tin roofs there now live only such Kurdish militia men and their families. Many of them are themselves people who have been driven out of their previous villages. First their livelihoods were taken from them, and then the state bought the desperate men. 400 Liras (around 260 euros) of monthly salary amount to a fortune in this area.

Army land rovers pass by. Beside soldiers sit also Village Guards with the traditional Kurdish "pushi", like the Palestinian scarf. Yet it seems that there has been a change in thinking among many of the men who have been put into action against their own people. Two men who invite us for tea tell us "We are ashamed to be Village Guards." They take the money from the state, but for the past six years have not taken part in any military operations.

Almost half of the approximately 8,000 Village Guards in Hakkari would vote for the Kurdish Parties DEHAP [Democratic People's Party] or DTP, according to Hasan Ciftci, of the local DTP committee in the area. "Don't be deceived; on the outside, I'm a Village Guard, but at heart I'm a Kurd." The man with the prominent hooked nose, who appeared to have appeared out of

nowhere, wears traditionally green baggy pants. His glance sweeps to the ridges of the nearby chain of peaks. Up there on the Turkish/Iraqi border, which runs right through Kurdistan, patrol “peshmergas” [Kurdish irregular fighters] of the Kurdistan Democratic Party, which is a co-ruler in occupied Iraq. The Barzani tribe, of the President of Iraqi Kurdistan, Mas’ud Barzani, numbers among the winners of the US war against Iraq. The man tells his story. He is a smuggler. In order not to be driven away from his land, he had to agree to become a Village Guard.

Now he regularly visits the camp of the PKK that is only a short distance on the other side of the border. Naturally, the Turkish military is also aware of the camp. Yet out of fear of the United States, it does not attack it...

The closer we come to the town of Sirnak, the more massive becomes the military presence. In the 1990s, there was a liberated zone, controlled by the guerrillas, here in the Besta region. Yet by using modern night-vision equipment and driving out the local population, the army succeeded in retaking the area. But Sirnak still has strategic significance for the guerrillas. Coming out of their camps in Northern Iraq, the PKK fighters have to pass through a narrow area from the Cudi Mountains into the Gabar Mountains.

At a checkpoint in Uludere we see eight-wheeled armored personnel carriers. They are just coming back from an “operation” against the guerrillas, explains the commander. “All from Germany” notes the commander proudly, in terms of the origin of the vehicles. The German government has always denied that armored vehicles provided by Germany are utilized, contrary to the agreements, against the Kurdish population.

Translated from German by KurdishMedia.com; originally published in “Junge Welt”, 15 April 2006. Original German text available at <http://www.nadir.org/nadir/initiativ/isku/AKTUELL/2006/15/097.htm>

### The Death Penalty

On 6 October the Grand National Assembly of Turkey passed the draft law to ratify additional Protocol to the European Convention on Human Rights that lifts the death penalty for all times (including times of war).

The Council of Ministers ratified the Protocol in December. It entered into force with promulgation in the Official Gazette on 13 December.

On 28 October the second optional Protocol to the UN Convention on Civil and Political Rights was ratified. Turkey had signed the Protocol on 7 April 2004. It provides that member States make no derogation from the abolition of the death penalty that can only be passed for military offences during times of war.

## 1 - EXTRA-JUDICIAL EXECUTIONS

### Deaths as a result of extra-judicial executions (EJE), stop warnings and arbitrary shootings

#### Zuhal Esen, Zerga Esen, Sibel Sartık, Nergis Özer, Hamdullah Çınar

On 19 January soldiers killed five people near Toptepe village of Kumçatı town in Şırnak province. Officially it was stated that these person were militants of the HPG who had been killed in a clash. The HPG on the other hand maintained that the victims were civilians who wanted to contact militants. The names of the victims were given as Zuhal Esen, Zerga Esen, Sibel Sartık, Nergis Özer and Hamdullah Çınar.

Relatives of Hamdullah Çınar spoke of marks of burning and beating on his body. His right leg had been broken under the knee and on his right leg he had marks of burning at the back. The thumb of his right hand had been cut and there had been burn marks as if cigarettes had been stubbed out on his body.

The report of a delegation of the HRA that researched the incident in Şırnak was published on 27 January. Deputy chair of the HRA, Reyhan Yalçındağ said that even if these persons intended to join Kongra-Gel (the PKK) they had been unarmed and the action had been an EJE. She pointed at the fact that the victims had worn civilian dress and had been killed close to a military unit. Toptepe village had been searched before and after the incident. Reyhan Yalçındağ criticized that the prosecutor had not inspected the scene of the

incident and further vital evidence was missing in the investigation file.

During the funeral of Nergis Özer and Sibel Sartık clashes between the police and demonstrators broke out, when the police wanted to bury them on the cemetery of the municipality. Among the crowd of some thousand people the police detained many demonstrators. On 25 January Tahir Çetin, M. Fadıl Taşçı, Mustafa Gündüz, Yusuf Kaplan and M. Emin Döner were arrested. Houses were raided according to video recordings and on 26 January İbrahim Kılıçaslan, Emine Oğuz (executives of DEHAP), İbrahim Tektaş and Yusuf Akın were arrested. Meanwhile soldiers had taken the corpse of Sibel Sartık and Nergis Özer to Erüh and buried them there.

#### Vehbi Canpolat

On 26 January soldiers opened fire on two persons alleged to be smuggling between the districts of Özalp and Saray in Van province. In the shooting Vehbi Canpolat was killed and his relative Hüsamettin Canpolat was injured. Officially both persons had not obeyed orders to stop and shot at the soldiers.

On 28 February Rıza Canpolat, the elderly brother of Vehbi Canpolat, went to the HRA in Van. He told them that the prosecutor claimed that his brother had been killed in a clash. However, his brother and his uncle had gone to visit a relative in Kepir village. On their way home they had been shot at near Gövelek village.

While his brother had been wounded and kept waiting dogs of the soldiers had attacked him. The official autopsy report however had stated that he died because of insufficiency of blood circulation and breathing due to wounds of shots.

### **Ümit Gönültaş**

On 15 February (anniversary of the transfer of Abdullah Öcalan to Turkey) a demonstration was held in Mersin. The demonstrator gathered in Akdeniz and Toroslar Township and the police shot in the air and used water cannons to disperse the crowd. Later the corpse of Ümit Gönültaş (19) was found close to the scene. He had been shot.

Deputy Chief of Mersin Police, Süleyman Ekizer stated after the incident that an investigation into the allegation that Ümit Gönültaş had been shot by police officers was continuing. The bullet had been found and it could also be possible that he had been shot by an enemy. The person had a criminal record of an offence against property, but no record of activities for the PKK.

The daily *Özgür Gündem* quoted an unnamed witness as saying that members of the political police had shot Ümit Gönültaş. The witness had stated that they made an action at 9.30pm by lighting a fire. The police had occupied the side street. Ümit Gönültaş had been between him and his brother. Officers of the department to fight terrorism had shot at them directly. Ümit had held his chest and then tumbled to the ground. They had only been able to carry him for 15 to 20 meters, because the police had shot at them again.

The witness alleged that Ümit Gönültaş had been alive when they left him and that it would have been possible to rescue him, if the police officers had taken him to hospital in time.

The report of the HRA in Mersin on the death of Ümit Gönültaş was announced on 26 February. It stated that no evidence was found that the demonstrators had used arms. The report mentioned that Gönültaş had been shot at 9pm, but the police claimed to have been informed one hour after the incident. The HRA asked whether the police had made recordings of the action and criticized that no testimony had been taken from the persons that had been with Ümit Gönültaş.

One witness, Mehmet Suretli, had told the HRA that armored vehicles had come to the place of the action and he had heard some shots. Someone had shouted "he was hit, he was hit" and then he saw that they had taken the wounded person in front of his house. At the same time police officer had shouted "they escape" and "catch them". He had seen how the police officers had followed the persons who carried the wounded man. First civilian dressed police officers with sticks in their hands had come and later members of the anti-riot squad and uniformed police

officers had gathered there in numbers of 150 to 200. Mehmet Suretli added that he had not heard any warnings before the shots, but also had not seen the person who fired the shots. (For more details see the Chapter of Freedom of Assembly)

### **Poyraz Dikyar**

Poyraz Dikyar, leader of the Cono tribe, was killed in Adana Ceyhan district on 17 February. Reportedly the police had followed him after a robbery in Osmaniye and killed him at the entrance to Ceyhan. During the incident two children accompanying Poyraz Dikyar were injured.

In October the prosecutor in Adana indicted 14 police officers stating that they fired targeted shots. The police officers could have shot at the tires of the car but in exceeding their orders had shot at the victim. However, it could not be established who fired the lethal shots. The trial with the demand for aggravated life imprisonment started at Adana Heavy Penal Court on 27 October.

### **Seydi Battal Özcan**

On 18 February police officers opened fire on a vehicle close to Mahmuđiye district (Eskişehir) allegedly because stop warning were overheard and killed Seydi Battal Özcan. After the incident the police officers Vedat Aktaş was arrested. The police officers Hüseyin Duran and Murat Kayalı were released to be tried without pre-trial detention. Later it turned out that Hüseyin Duran had fired the shot. He was arrested instead of Vedat Aktaş.

On 5 April the trial against the three police officers started at Eskişehir Heavy Penal Court. The defendants were charged with intentional killing and assistance.

### **Selahattin Günbey**

On 19 March village guards killed Selahattin Günbey (13) near Düzce village in Nusaybin district (Mardin). Reportedly the village guards had warned Selahattin Günbey, Zeki Günbey (12) and Seyithan Gürkan (13) not to graze their sheep in that area. In connection with the incident the village guard Ahmet Dinç and the villagers Abdurrahim Dinç and Hasan Dinç were arrested on 22 March (for further details see the chapter on the Kurdish Question).

### **Muhammed Hüseyin**

On 14 April fire was opened at a vehicle carrying refugees who had entered Turkey illegally. During the incident close to Uzunyol village in Çaldıran district (Van) Muhammed Hüseyin (Afghanistan) was killed and İsmail Fadir, Nadir Ertan (from Bangladesh) and Mubaşer Ebugafur (Pakistan) were injured.

### **Orhan Açıkyürek**

On 16 a group of people trying to blackmail Erdoğan Tomris in Aşağı Hasinli village in Boğazlıyan district

(Yozgat) and soldiers broke out. During the incident Orhan Açıkyürek was killed and Halil İbrahim Açıkyürek was injured. The soldiers detained 14 members of the Açıkyürek family.

#### **Hakan Bektaş**

On 19 April the police in İstanbul raided a house in Halkalı and killed Hakan Bektaş. Yavuz Erzor was injured. Officially they had clashed with the police. After the incident Ayhan Duygu and the girl B.B. (16) were detained.

#### **Hüseyin Doğan**

On 20 April the police in Tarsus (Mersin) opened fire on two persons who had broken into a market. Hüseyin Doğan was killed and Murat Keleş was detained.

#### **Hasan Kurşun**

On 27 April the police in İstanbul killed Hasan Kurşun (23) when they opened fire on a car that allegedly did not follow stop warning in Göztepe. Reportedly the car had hit the police officer Yücek Uğur before the other police officers opened fire. The companions of Hasan Kurşun brought him to a hospital in Kartal, where he died.

#### **Çetin Kum**

On 1 May soldiers killed Çetin Kum near Yukarı Tulgali (Turgay) village in Özalp district (Van). It was said that Çetin Kum was smuggling petrol and did not follow stop warnings.

The HRA in Van researched the incident. Later Zeki Yüksel, chair of the HRA in branch said that Çetin Kum was killed without prior warnings. He had been shot once from close distance and the bullet had hit his heart. Zeki Yüksel added that soldiers had beaten A. Kum (17) who had been with Çetin Kum.

A. Kum said: "They targeted my uncle Çetin Kum. He was hit and fell to the grounds. The soldiers were cursing. I begged them to help my uncle, but they did not allow me to help. Villagers came and were not allowed to get close. The soldiers hit me on my head until I fainted. My uncle died on the way to hospital, because of a loss of blood."

#### **Murat Horoz**

On 24 May police officers killed Murat Horoz on İstanbul-Fatih allegedly because he did not listen to stop warnings.

#### **İsmail Demir**

Special security officers from the Directory for Agriculture (TİGEM) killed İsmail Demir from Hamik village in Ceylanpınar district (Urfa) on 2 June. Three security officers were arrested on 8 June.

On 4 June a delegation of the HRA, Mazlum Der and DEHAP carried out an investigation. Speaking in the name of the delegation Ahmet Dağtekin, DEHAP chair

for Urfa province, said that they spoke with relatives and villagers who told them that İsmail Demir had made himself a storage place for straw in 2001. One week before the incident officers from TİGEM had asked him to destroy the storage place, but he had refused. On the day of the incident the security officers had put the storage place on fire and when İsmail Demir came out of his house they had shot at him.

The villagers also had told the delegation that they had protested the action by throwing stones at the officers. One of them, Haydar İnan had been injured. The villagers further complained that they were not given their rights, roads were not established, they had no electricity and water and even if they only built a toilet TİGEM would interfere.

The report of the delegation was announced at the office of Mazlum Der in Urfa on 10 June. Sedat Gözkıran, executive of Mazlum Der added to the observations of Ahmet Dağtekin that İsmail Demir had not been shown any official decision to destroy his storage place, before the officers from TİGEM set it on fire. First the officers had discussed with the son of İsmail Demir, who had come later, but without anything that could be regarded as a weapon. He had not even had a stone in his hand. It was uncertain who among the officers fired the deadly bullet.

#### **Ömer Yüce**

On 7 June the police in Denizli killed Ömer Yüce who reportedly did not listen to stop warnings. Denizli Police HQ stated that they had been informed of an attempted robbery. Police officers had gone to Barışkent Housing Estate and had seen two persons trying to enter a house. The thieves had not stopped and, therefore, the police officers had shot.

#### **İhsan Bertan**

İhsan Bertan, former DEHAP chair in Malazgirt district (Muş) was killed on 13 June. Unidentified assailants attacked his car near Karlova district (Bingöl) and shot him dead. One person accompanying İhsan Bertan was injured.

After the incident his brother Nizamettin Bertan filed an official complaint against Hasan Bektaş, Veli Bingöl and Aydın Baysal. Nizamettin Bertan said that Aydın Baysal had been with his brother. Many members of his family were village guards. Now they could not find Aydın Baysal. The ballistic report had concluded that the shots had been fired from close range and empty cartridges of Bikisi, M-16 and Kalashnikov weapons had been found. The testimonies the investigation file of the prosecutor were contradictory. Nizamettin Bertan added that after his complaint the suspects had been detained, but released shortly afterwards.

#### **Orhan Deniz**

On 16 June soldiers killed Orhan Deniz apparently when he tried to cross the border into Iran near

Başkale district (Van). Osman Yumuşak who had been with Orhan Deniz said:

"Some 200 meters outside the village soldiers stopped us. They shot from close range without a warning. Immediately Orhan shouted that he had been hit. I went to him and saw that he had been wounded to his leg. I wanted to take him to the village but the soldiers ordered me to go away. I informed the villagers and later heard that Orhan had died."

Rıza Adıyman, a cousin of Orhan Deniz said that they had filed an official complaint against a sergeant called Hüseyin from Alev Piyade Gendarmerie Station in connection with the detention of his son İlyas Adıyaman. Afterwards they had been threatened frequently.

"About one month ago the sergeant Hüseyin had detained my son without any reason and held him for 24 hours. I complained and at Van Military Court I repeated my complaint." About a week ago the commander of Gelenler Gendarmerie Station had asked him to take back his complaint and, if he should not take back the complaint, "one soul would be taken from the village in revenge".

#### **Fahrettin İnan**

During the funeral of the PKK militants Mehmet Bozan Şahin and Cevher İsnaz in Bostaniçi town (Van province) on 21 June the police shot at the demonstrators and killed Fahrettin İnan. Rahmi Aslan, Bahattin Aslan, Menal İpek, Gülan Bilek and Ekrem Aydın were injured.

On 30 June the HRA published a report about the incident. It stated that some people connected to the army and police had provoked the crowd. One eye witness, Bazi Aslan had told them: "I was at the funeral after information had arrived at the DEHAP office that the coffins would arrive. At 4.30pm we were informed that the persons had been buried secretly. We set off for Bostaniçi and walked for about 3 kilometers. There were some people in the crowd that were not related to us. They provoked the crowd and some of them went to the soldiers and police officers, when they left us."

The report termed the killing of Fahrettin İnan an EJE and added that the crowd did not use any arms. Besides the seven people that had been injured several others did not go to hospital because they feared that they might be detained.

#### **Eyüp Beyaz**

On 1 July the police in Ankara killed Eyüp Beyaz after an unsuccessful suicide attack on the Ministry of Justice. The official declaration stated about the incident:

"At 9am Eyüp Beyaz wanted to enter the Ministry. The warning device at the entrance gave a signal. A female officer stopped Eyüp Beyaz and wanted to search him. Eyüp Beyaz refused and other police officers forced

him to the ground. He was handcuffed. Eyüp Beyaz wanted to explode the bombs on him. Just one device exploded and while the police officers panicked he could escape. Officers ran after him and at the entrance of Güvenpark they shot him in his leg. Eyüp Beyaz wanted to get up and made another attempt to explode the bombs. One police officer shot him from close range."

Later specialists defused the bombs. Reportedly Eyüp Beyaz was wanted for two years as an alleged member of the DHKP-C.

After the incident the HRA stated that it was the first duty of the security forces to respect the right to life. Considering that the victim had been handcuffed and laying on the ground it should have been possible to catch him alive. .

#### **Murat Üçgül**

In the night of 30 July a police officer on duty at the governor's office in Kocaköy district (Diyarbakır) shot at three village guards believing that they were PKK militants. He killed Murat Üçgül and injured Yılmaz Kaya. Mehmet Kaya was able to escape. The daily *Özgür Gündem* quoted an unnamed witness as having heard the police officer on duty that he had killed a village guard by an accident.

The official announcement stated that PKK militants had attacked the village guards.

#### **X.X.**

On 5 August the police in İstanbul killed an unnamed person in Kadıköy. The official announcement said that two persons kidnapped M.Y.K. in İçerenköy asking for a bribe. M.Y.K. was set free to get the money, but informed the police instead. When delivering the money the kidnappers did not surrender and the police allegedly killed the person in a clash.

#### **Abdurrahman Bahadır**

On 7 August Abdurrahman Bahadır killed Osman Balbaşı who had been detained in connection with an ordinary offence in Hatay and was taken from court to the police vehicle. Subsequently police officers killed Abdurrahman Bahadır. Actually the prosecutor had ordered the release of Osman Balbaşı and Adil İncili who had been detained on 6 August after a fight in a pastry shop. However, the suspects had been informed that the people they had quarreled with were waiting outside and asked for protection.

The prosecutor ordered protection but Abdurrahman Bahadır was able to kill Osman Balbaşı in the police car and could injure Adil İncili. Police officers shot him when he tried to escape.

#### **Yusuf Yaşar**

On 12 August soldiers killed Yusuf Yaşar near Kavaklı village (Hakkari). The governor's office in Hakkari announced that Yusuf Yaşar was a PKK militant who

had tried to place a mine on the road and who had been killed in a clash.

Later it turned out that Yusuf Yaşar had been killed from close range after he had been detained. Kamil Yaşar, the younger brother of Yusuf Yaşar said that his brother had no connection to the PKK. He added:

"My brother told me that police officers frequently pointed at him and harassed him. He was afraid that something might happen to him. I believe that he was abducted in the town. Only three days ago we had been on the meadows. He wanted to marry soon. A person aged 40 cannot suddenly become a militant. Many people saw him on that day. At 8pm I was still with friends in town. How can it be that he travels for 60 kilometers to plant a mine? In the night when my brother was killed the driver of a minibus wanted to get the corpse, but members of a special unit threatened him with a gun to his head. We were not allowed to be present during the autopsy."

Later Kamil Yaşar added that witnesses saw how his brother was kidnapped by people with masks, but these people were too afraid to testify. His brother had shouted that his kidnappers were from JITEM.

Naif Kayacan, member of the province parliament for the SHP said:

"On the day of the event I drank tea together with Yusuf at 5pm. At 7pm his uncle came and asked him for help with the water pipe. Yusuf said that he would come in 10 minutes. We left the coffee shop and later I heard that Yusuf had been killed. The way to the house of his uncle is very dark. Possibly Yusuf was kidnapped on this way."

Necibe Güneş, chair of the HRA in Hakkari said that if the victim had been a militant it would have taken at least two days to identify him. In this case, however, the family was informed immediately which shows that the person was known to the security forces.

The autopsy report stated that Yusuf Yaşar was hit by 20 bullets to his head and chest. Next to the corpse had been a shovel and behind a rock they had found a small amount of C4 explosives. The victim had worn civilian dress.

### **Mehmet Kaçar**

The child Mehmet Kaçar from Kıydüzü village in Tatvan district (Bitlis) was shot close to his village on 14 August. Together with two friends had been grazing sheep when presumably members of a special unit shot him.

*Özgür Gündem* reported on 5 October that masked people had come to the boys and asked them their names. Mehmet Kaçar who was called "Hogir" in the village was asked for the meaning of that name and he answered that it meant "soldier of Apo". The masked

persons beat Mehmet Kaçar with the stock of their rifles and then killed him.

Erdoğan Altan, reporter for the news agency Dicle was detained on complaint of the village headman Habib Atacan, when he went to research the incident. The news in *Özgür Gündem* also stated that the families of the other two boys prevented them to speak to the press and one villager H.A. had stated that everybody knew what happened but nobody dared to speak.

Orhan Kaçar, the elderly brother of Mehmet Kaçar stated: "In the evening there should be a wedding of a relative. Hogir went to get the sheep from outside the village. When the wedding was over my father and my brothers went to look for him at 11-11.30pm. We searched until 1-2am, but could not find him. In the morning we found him with his head cut to the back. It was horrible. We don't have any enemy. We are all like relatives in the villages. I do not suspect anyone."

### **Ersin Karabulut**

In mid-August soldiers killed Ersin Karabulut (17) near Yukarı Tugalı (Turgay) village in Özalp district (Van). Reportedly he did not listen to stop warnings.

Lawyer Taner Polat, lawyer Cüneyt Canış and Ömer Işık, executives of the HRA in Van researched the incident. Cengiz Karabulut, a relative of the victim stated that he had been together with Ersin Karabulut: "At 7.30pm on 15 August we went to look for disappeared sheep. There was a distance of 100 meters between us. The villagers came when they heard shots. Soldiers told them that they had fired into the air and one person had fled to the village. Only one soldier told me that the commander had shot Ersin. We found him in a hollow where he had been dragged to. He was still alive. We wanted to take him to Özalp State Hospital, but he died on the way. I did not hear any warnings before the shots and Ersin was shot from close range." Village headman Abdullah Akgül stated that during the last two year 6 inhabitants of the village had been killed by the soldiers.

Zeki Yüksel, chair of the HRA branch in Van stated that the prosecutor had decided to run the investigation secretly. He demanded that the responsible soldiers and commanders should be suspended from duty. Zeki Yüksel also called on the Human Rights Commission in the GNAT to carry out an investigation. Allegedly Ersin Karabulut was smuggling petrol, but on his clothes no traces of petrol had been detected.

### **Suat Kandemir**

On 15 August gendarmerie soldiers opened fire on a vehicle in Ümraniye (İstanbul) apparently because it did not stop. Suat Kandemir (19) was heavily wounded and died in hospital on 18 August.

His brother Fuat Kandemir said that they had been afraid when three soldiers came up to their car

because they had no driving license. His brother had started the car and driven onto a wall. The soldiers had shot at the same time and he had asked them to care about his wounded brother, but they had ordered him to lie on the ground and searched the vehicle.

In the hospital a group of soldiers and police officers had attacked him. He had been handcuffed and taken to Sarigazi Gendarmerie Station. The lawyer Bekir Cindi complained that the minutes of the incidents had included witnesses unrelated to the event and the criminal record of Fuat Kandemir had been included although this was unimportant. Bekir Cindi also complained that the prosecutor had not inspected the scene of the incident.

The office of İstanbul Governor declared that the car had been observed for the last five days and that fire had been opened when the occupants of the car tried to escape. It had appeared that a person in the back of the car had been holding something resembling a pistol. The suspects had been ordered to stop and shots had been fired when they drove away. In a distance of 50 meters one shot had been fired at the tires.

#### **Hasan İş**

During the funeral of HPG militants who had been killed near Tepecik village in Beşiri district (Batman) Hasan İş was killed. He was buried on 29 August. The autopsy report of Batman State Hospital claimed that Hasan İş had been killed before the funeral was held. Batman Police HQ maintained that the police was not responsible for the death (for further details see the Chapter on Freedom of Assembly).

#### **Abdullah Aydan**

On 6 September the police in Siirt intervened when a group met the people returning from Gemlik where they had tried to protest the situation of Abdullah Öcalan. During the clashes 17 people including one police officer were injured and 93 people were detained. Abdullah Aydan who had been wounded to his head with a gun died in hospital (for further details see the chapter on Freedom of Assembly).

#### **Hasan Akdağ**

In the night of 14 September the police officer R.L. killed the taxi driver Hasan Akdağ in Tunceli. Tunceli Governor Mustafa Erkal stated that there was no political background to the case. The killing had happened under the influence of alcohol. The police officer and two further passengers of the taxi had been detained. During the funeral of Hasan Akdağ participants clashed with the police resulting in damages to four police vehicles.

#### **Kazım Taşdemir**

On 17 September the police officer Gökhan Gündüz shot three people in İstanbul-Bayrampaşa allegedly

during a robbery. One of the, Kazım Taşdemir, was killed.

#### **Üzeyir Taşar, X.X., Selçuk İnci, Şerif Kaya**

On 21 September police officers killed Üzeyir Taşar, Selçuk İnci (20) and an unnamed person in the city center of Van. On 23 September soldiers killed Şerif Kaya who had managed to escape during the incident in Van and was discovered in a house in Otbiçer (Ermelur) village in Gürpınar district (Van).

The official announcement stated that police officers had surrounded a house in Van, but the HPG militants had tried to escape with a taxi. Üzeyir Taşar had been shot and the other three suspects had been detained. In the house remaining militants had clashed with the police. Selçuk İnci and the unnamed person had been killed. Three people had been detained; one of them wounded and one person had managed to escape.

According to news in *Özgür Gündem* the police in Van had intensified their control after an attack on Cumhuriyet Police Station on 17 September. On the day in question police officers had followed a taxi that Mehmet Saydam was driving. At 10.30pm Üzeyir Taşar had been killed when he left the taxi. Yakup Taşar and the taxi driver had been detained. Later the police had raided the house of Salih Turgut in the same street. Two people had been taken out and shot there. The police had detained Salih Turgut, Hüsna Turgut and Y. Turgut (15).

The eye witness Enver Görün said that he saw police entering the quarter with armored vehicles. He had heard shots and raids of their houses started. They had been dragged over the ground and beaten heavily. In the end the police had taken three persons with them.

The eye witness Cemil Aslan said that the police killed Üzeyir Taşar who had discussed with them from close range. The father of Üzeyir Taşar, Cevher Taşar said that the officials had told him that his son had been shot by mistake and promised that the detainees would be released if the funeral passed without an incident. Accompanied by a delegation Cevher Taşar met with Van Governor M. Niyazi Tanılır and security officers. He had informed the governor that his son had been killed 500 meters away from the house where the other two people were shot and that he had no connection to them. The governor had told them to go to Van Police HQ and get the necessary information. Here they had been told that Üzeyir Taşar had been killed by mistake. Despite the promise to release the detainees if the funeral passed without an incident the police had not released Yakup Taşar and the taxi driver Mehmet Saydam after the funeral stating that arms and bombs had been found in the car.

A relative of Üzeyir Taşar said that the father of eight children had come from İstanbul to Van to ask for a bride. He had gone to the quarter to inform his relatives

that he was about to leave. As far as the other two persons were concerned they were shot in front of the house and there had been no clash. Abdullah Saydam, elderly brother of Mehmet Saydam, stated that the police kept them in an attempt to cover up the killing.

On 23 September the police raided many houses in the quarter. Later the woman Ayten Yaşar complained to the HRA in Van. She said that masked people had entered her flat while she was watching TV with her children. The police had broken the back door and pointed to her head with a pistol. One police officer had kicked her and she had lost consciousness. When she regained consciousness she had seen that the whole flat was in a mess.

On the Internet pages of the news agency Mesopotamia the death of Şerif Kaya was attributed to the raid of the flat of Abdülbaki Üçer. Şerif Kaya had jumped out of the window but soldiers caught him and shot him after detention. Abdülbaki Üçer, his wife Sinem Üçer and three visitors had been detained.

Mehmet Kaya, the father of Şerif Kaya, stated that the repentant confessor M.Emin Gül had denounced three HPG militants including his son. Two of them had been killed, but his son had managed to escape. In Otbiçer village he had been detained without arms. In front of the villagers he had twice been shot to his feet. Later he had been killed under torture. Right next to the cemetery of Gürpınar district he had been thrown into a hole. Mehmet Kaya added that he had had difficulties to identify his son, because his head had been destroyed.

Among the persons that were detained during the raid M.A., Y.B., A.T., Y.T., H.T., S.T., M.A.S. and A.B. were arrested. H.A. and A.U. were released.

#### **X.X.**

On 23 September the police in İstanbul killed one person during an attempted bank robbery. The person aged 27 to 28 had entered the bank in Eminönü at 5pm and asked for money showing explosives on his body. While one staff member had given him the money another one had informed the police. The robber had left the bank with a hostage, but later tried to run away without the hostage. Police officers had shot him on escape. İstanbul Chief of Police Celalettin Cerrah said that the pistol and the explosives had been faked.

#### **Simge Ege**

On 25 September the police in İzmir shot at a vehicle that did not stop and killed the woman Simge Ege (18). Reportedly Simge Ege had been sitting in the front of the stolen car and was hit to her head. The driver Yaşar Selçuk B. took her to hospital where she died. The driver was detained there and it was said that he was wanted.

#### **Talat Işık**

On 27 September Talat Işık (15) died in Bostaniçi town (Van) apparently when an illumination rocket exploded. The eye witness Ferhat Işık said:

"We were sitting on the balcony. I heard an explosion and the area was enlightened. That lasted for two minutes. At the end something fell on Talat's head. When I looked at him I saw that his head was cut."

Haydar Işık, the father of the child said that the prosecutor and the police came after the incident and wanted to search their flat. The owner did not allow them to do so and after they had searched the environment they concluded that the illumination rocket had caused the injury.

#### **Atilla Geçmiş**

On 2 October the police in İstanbul opened fire on a group demonstrating for Abdullah Öcalan in Bağcılar quarter and killed Atilla Geçmiş (25). During the demonstration that started at 3pm the demonstrators threw stones and Molotov cocktails at the police. One police officer, who was hit by a Molotov cocktail shot and injured Atilla Geçmiş, Murat Olgun (15) and Erol Çalıışkan. Atilla Geçmiş who was hit by four bullets to his chest died in hospital.

İstanbul Police HQ announced that the demonstrators also used arms and, when the police officer Faruk Y. was injured, a colleague fired shots that resulted in the death of Atilla Geçmiş.

Erol Çalıışkan later filed an official complaint. During the investigation he was able to identify three police officers. They were detained, but released shortly afterwards. In his testimony Erol Çalıışkan said that he was on his way to Taksim Square when the road was blocked with demonstrators. He had been wounded, when he tried to get away from the scene of the incident. The lawyer Suat Eren said about the action:

"Right at the beginning of the demonstration two vehicles, one of them an official police car, that had been waiting about 100 meters away from the crowd came closer. Three police officers came out of the official car and shot without a warning. As a result of the fire Murat Olgun and Erol Çalıışkan were wounded to their legs. A group that saw the incident attacked the police officers. Atilla Geçmiş was among this group. The group got hold of the shooting police officer and beat him up. The police officer responded by saying that he was a Kurd, too and did not shoot. The group let the police officer loose, but as soon as he was free he pulled his pistol and shot Atilla Geçmiş from close range."

#### **Burhan Budak**

On 4 October soldiers killed Burhan Budak and injured Ferzende Budak near Değerli village in Yüksekova district (Hakkari) allegedly because they did

not listen to stop warnings. Officially the victims first shot at the soldier and Burhan Budak had died in a clash. It was also said that arrest warrants existed against both persons for drug smuggling.

After the incident CHP deputy for Hakkari, Esat Canan, came to the hospital. He said that contrary to the official statement the villagers had told him that the soldier had directly fired at the victims. The daily *Özgür Gündem* quoted the village headman as saying that the soldiers raided the village at 3am. Shots were fired without a warning. Burhan Budak who had been sentenced for drug smuggling and who was on the run was killed when he tried to run away.

#### **Y.K.**

On 7 October gendarmerie soldiers shot at a car in İstanbul Büyükçekmece Kumburgaz settlement because it did not stop. Y.K. died as a result of the shots. According to the official statement the three occupants of the car first shot at the soldiers.

#### **X.X.**

On 11 October the police in İzmir killed one person allegedly because he did not stop. In the incident a police officer also died. Reportedly the police tried to stop a stolen car in Bornova district. The vehicle drove on and hit the police officer Kurtuluş Karabacak. He died because of his injuries. Later the car was found in Yeşilova quarter. The police found out that Emin Yamanlı had been using the car. When the police surrounded his house he reportedly shot at the police officers and tried to escape. He was shot on escape. In connection with the incident Erdoğan E. and Dilek E. were detained and Ali K. was wanted by the police.

#### **Uğur Özkonak**

On 13 October the police in İstanbul killed Uğur Özkonak in Kadıköy reportedly because he did not follow orders to stop. It was said that a police officer on guard in front of a building saw Uğur Özkonak taking something out of car and shot him dead. It was further reported that Uğur Özkonak was suffering from schizophrenia.

#### **A.D.**

On 22 October the police in Didim district (Aydın) discovered a gang of 5 people trying to steal goods from a market. The police officers shot one of them, A.D. Officially the thieves opened fire at the police officers before they shot back. A.D. was hit and the other four men, S.A., Y.A., A.U. and E.G. were detained. Two police officers who the suspects hit with their car when they tried to escape were slightly wounded.

#### **Barış G.**

In the night of 5 November the police in İzmir killed Barış G. Reportedly the police officers asked Barış G.

and Can K. for their IDs and Barış G. shot and tried to escape. He was wounded but died in hospital. Can K. was detained. Both men had allegedly been wanted.

#### **Kamer Özel**

The governor's office in Tunceli announced that a HPG militant had died on 9 November, when he tried to plant a mine near Çiçekli village and the mine exploded early. Later it was discovered that the person was Kamer Özel, executive of DEHAP in Tunceli.

On the website of *Halkın Sesi* it was said that the chest of Kamer Özel had been ripped into pieces while he had not been wounded to his legs as it would have happened if a mine had exploded. In addition, there was no hole at the place of the incident.

On 14 October Kamer Özel was buried in Güleç village. Speaking at the funeral Murat Polat, chair of DEHAP in Tunceli said that the phone of Kamer Özel was in the hands of JİTEM since executives of his party still received calls from this phone. On 15 November Murat Polat spoke at a press conference and said about the dark points in the event:

"On 9 November our friend came with a tractor from Baldan village to Tunceli. It was 6pm. How can he get to Çiçekli Gendarmerie Station in just 3 hours? If someone is killed when trying to plant a mine first his hands and arms must be injured. But there were no injuries and allegedly he was identified from his fingerprints. The HPG itself stated that there was no action on their behalf at that place and called the deceased a civilian. On 10 November Atilla Aslan called Kamer Özel on his mobile with the number 0533-6300565. After a normal ring tone the phone was set to occupied. From the same number one of our executives, Songül Ataş received a phone call on 13 November at 9.47am. Who is in possession of this phone that apparently was not destroyed?"

#### **X.X.**

On 28 November gendarmerie soldiers tried to stop a vehicle at the entrance to Aşağı Çarıkçı village in Iğdır province. The vehicle apparently carrying people who had entered Turkey illegally reportedly did not stop and the soldiers shot at it. A person from Pakistan died as a result of the wounds, another three persons from Pakistan were injured and 12 people were detained.

#### **Ramazan Harmancı**

On 29 November the police in Reyhanlı district (Hatay) shot Ramazan Harmancı wanted in connection with theft. Officially Harmancı was caught red-handed and died in a clash.

#### **Metin Durbak, Halil Meşe**

On 27 November unidentified persons shot the villager Metin Durbak (38) and Halil Meşe (41) in the Domudağı region in Dörtöyöl district (Hatay). The

official announcement claimed that the HPG shot them. However, Halil Meşe had earlier been convicted for helping PKK militants.

The HPG announced not to be involved in this incident and claimed that soldiers had believed them to be HPG militants and shot them. The same statement also claimed that a person called Ali Asker who had been kidnapped in İslahiye district (Gaziantep) several days ago had been killed.

### **Muzaffer İszade**

On 23 December soldiers killed Muzaffer İszade (from Iran) near Koçdağı village in Saray district (Van). He was said to have taken petrol from Iran to the village. He first had been shot to his foot, but was kept at the gendarmerie station very long so that he died because of a loss of blood on his way to hospital. Later soldiers and relatives from Iran tried to get the corpse but reportedly were refused to get it because the incident happened on the Turkish side.

Haşım İszade, father of the victim, claimed that his son had been shot at noon from close range. People accompanying his son had told him that he had not moved, but soldiers had shot at him all the same. He could have been taken to a nearby hospital on the Iranian side.

### **Incidents resulting in Injuries**

*Nihat Gülbeyaz:* On 19 April police officers in İzmir shot at a suspect at the central bus station in Bornova and wounded unrelated Nihat Gülbeyaz (30) heavily.

*Murat İlksoy:* On 31 May the police in Aydın shot at three persons who tried to steal from a kiosk. Murat İlksoy (20) was injured to his neck and reportedly will remain paralyzed. Murat İlksoy was held responsible for the wounding of police officer N.D.

*Şahin Mendi:* Six village guards attacked the Mendi family on 1 June when they were working on a field between their village Günyurdu and Akçakuşak in Güçlükönak district (Şırnak). Şahin Mendi was injured with two bullets to his leg and taken to hospital.

*Mustafa İ.:* On 15 August the police on İstanbul-Fatih carried out an ID check. Reportedly Mustafa İ. drew a knife before the officers shot at him and injured him to his leg.

*Esen Yayan, Züheyla Yayan:* On 28 August the police in Mezitli town (Mersin) shot at a car that did not stop, but injured Esen Yayan and Züheyla Yayan (60) traveling in a different car.

On 6 July soldiers opened fire on villagers near Taşdelen village in Uludere district (Şırnak). The villagers Cemil Altürk, Haydar Dinar, Kadri Aykut, Rehber Aykut and Ziya Dindar were allegedly smuggling goods to Iraq. They claimed that the

soldiers killed eight of their horses and threatened them not to complain.

### **Trials on EJE**

**Fevzi Can:** On 11 January Hakkari Heavy Penal Court started to hear the case of Sergeant Murat Şener charged in connection with the killing of Fevzi Can near Örencik hamlet, Ortaklar village in Şemdinli district (Hakkari) on 30 November 2004. The defendant was released after the hearing. During the hearing of 22 March the plaintiffs asked for an on-site inspection and a report of the Forensics on the clothes of Fevzi Can. The court rejected both demands.

On 16 December Murat Şener was sentenced to 16 months' imprisonment for having killed Fevzi Can by exceeding the limits of his duty. The sentence was suspended.

Meanwhile the HRA had approached the Ministry of the Interior and was told that there was no need for disciplinary punishment of Sergeant Murat Şener. The reply of the Ministry was dated 31 January and related the results of an investigation "on the spot" on 2 December 2004. According to this report Fevzi Can had been warned twice to stop, but tried to escape.

**Yücel Solmaz:** The Sergeants Atalay Boylu, Halil Karakaş and the soldiers Müslüm Demir and Halil Kül were indicted in connection with shots at a car in Edremit district (Van) on 25 December 2004. As a result of these shots Yücel Solmaz working at the health station in Van had been killed. The defendants were charged with killing by exceeding the limits of their duty.

Lawyer Taner Polat said that the indictment was incomplete. It did not mention the fact that there was no sign for drivers to stop at that point. One of the defendants had mentioned masked men, but the indictment did not. The lawyer also criticized that the commander of the unit who gave the order to shoot was not indicted.

The first hearing was held at Van Heavy Penal Court No. 2 on 3 March. The court issued an arrest warrant for Sergeant Halil Karakaş. On 29 March the defendant Müslüm Demir was heard. He claimed that they had shouted to stop, but the car had driven on. He had fired one shot without targeting anyone. Later he had heard that a person had died.

The Human Rights Council in Van announced a report on the incident in April. It stated: "The place in question is under control of the police, but the gendarmerie put itself in the place of the police. Even if there was suspicion of a crime all possibilities to catch the person alive should have been used. In such a tourist place no court decision was ever made to carry out routine searches. Even if the gendarmerie was disturbed by noise and carried a certain suspicion the

soldiers should not have shot but only informed the competent authorities."

The court case did not conclude in 2005.

Kenan Çubukçu, Olcay Bayrak: On 25 January Gümüşhane Heavy Penal Court continued to hear the case of a captain and seven soldiers charged in connection with an incident near Elmaçukur village, Şiran district (Gümüşhane) on 17 September 2004. In this incident Kenan Çubukçu and Olcay Bayrak had been killed and Selahattin Çubukçu and İsmail Sarı had been wounded.

In March the report of the Human Rights Research Commission in the GNAT on the incident was announced. It stated *inter alia*: "In this region there was no terror of the PKK and none from the area joined the PKK. The incident happened at 8 to 8.30pm and not at 10.30pm. 40 minutes after the incident one shot from a hunting gun was shot to create the impression that the operation was a reaction to such a shot."

Süleyman Yılmaz, governor of Şiran, disclaimed allegations that he had told villagers not to pursue the case because the State was responsible. The court case did not conclude in 2005.

**Ahmet Kaymaz, Uğur Kaymaz:** In January the State inspectors appointed by the Ministry of the Interior to look into the killing of Ahmet Kaymaz and his son Uğur Kaymaz in Kızıltepe district (Mardin) on 21 November 2004 finished their report.

The report said that four members of a special unit had been suspended from duty and were on trial at Mardin Heavy Penal Court No. 2. It was recommended to postpone disciplinary measures until the end of the trial. It was up to the General Directorate for Security to decide on continuation of duty. In case the officers should return to work they should be appointed elsewhere. The Directorate decided on return to work and appointed the offices to other places.

In May deputy chief of Mardin Police, Kemal Dönmez was promoted to first degree chief of police. After the incident he had been suspended as well, but the prosecution had decided not to charge him. The objection against this decision had been turned down by Midyat Heavy Penal Court in March. The Court ruled that the chief of police had not used arms though he had been part of the operation.

In March the prosecution's office also turned down the investigation against Makbule Kaymaz, the wife of Ahmet Kaymaz. It was stated that there was no sufficient evidence to prove that she was a member of an illegal organization.

In February the press was informed that the Human Rights Research Council had not been given documents concerning the incident. The prosecution's

office had turned down the request according to Article 138 of the Constitution providing "No organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of judicial power, send them circulars, or make recommendations or suggestions."

In March the Commission announced its report. It stated *inter alia*: "The allegation that the PKK militant Nusret Bali with the code name 'Kabat' said to have hidden in the house escaped from there could not be upheld. It is beyond human feelings to believe that Ahmet Kaymaz gave his son a gun to assist the escape of the militant. The Forensic Institute established that eight shots were fired from the gun of Ahmet Kaymaz and five shots from the gun of Uğur Kaymaz. The date of the shots being fired could not be established. The laboratory stated that of the six bullet casings found at the place none carried the characteristics of the automatic weapons and, therefore, such a point could not be clarified. In the light of this information there are serious doubts that the arms allegedly belonging to Ahmet and Uğur Kaymaz were used in the incident. The shots fired at them were shot from 2 to 3 meters distance. This minimizes the possibility of a clash, since the police officers, too, would have suffered wounds. But none of them suffered the slightest injury. There were no fingerprints on the hand grenades. Father and son had been wearing slippers."

At the end of the report it was said: "Looking at the event with the information available it can be said that the security forces used extreme force leaving us in a difficult situation face to face to our citizens, the members of the EU and other Western States,"

During a press conference on 7 April CHP Mersin deputy Hüseyin Güler, member of the Commission, stated that a police officer called Suat had called him and asked him not to stir up the case.

Meanwhile the prosecutor in Kızıltepe indicted Mehdi Perinçek, HRA representative for East and Southeast Anatolia and Selahattin Demirtaş, chair of the Diyarbakır branch of the HRA, in connection with a report on the killing of Ahmet and Uğur Kaymaz. The report of 25 November 2004 allegedly had violated Article 19 of the Press Law concerning the confidentiality of investigations. Selahattin Demirtaş said that their report only presented the fact without looking into any files of investigation.

The trial started on 13 July at Kızıltepe Penal Court No. 4. After the hearing Selahattin Demirtaş expressed his astonishment about the fact that only two of the five authors of the report had been indicted and were treated as journalists. At the same time Ramazan Er, press officer of the General Directorate for Security had made an announcement quoting from results of laboratory research. They had filed an official complaint against Ramazan Er trying to influence investigation, but had been told that the officer had not commented on the file, but only informed the public.

The latest hearing was on 21 October.

### The Trial

On 21 February Mardin Heavy Penal Court started to hear the case in relation to the killing of Ahmet Kaymaz and Uğur Kaymaz. The defendants Seydi Ahmet Töngel, Yaşafettin Açıksöz, Mehmet Karaca and Salih Ayaz did not participate since they had been appointed to other places. The hearing was closed for the press. Acting for the family the lawyer Tahir Elçi and Sezgin Tanrıku criticized the absence of the defendants and stated that the indictment had been prepared with the intention to protect the police officers. The evidence had been collected by colleagues. It was said that there was a clash but no bullets had been found in the wall of the house and the lorry. All participating police officers should be on trial.

Defending the police officers the lawyer Veysel Güler said that the incident lasted for 5 or 10 seconds. The report of the Human Rights Commission had mentioned that the number of children terrorists in the world had gone down from 360,000 to 300,000, but this was proof that even children could be terrorists. The lawyer also doubted the age of Uğur Kaymaz said to have to shave already.

During the hearing the prosecutor asked to transfer the case to another place for security reasons. The Ministry of Justice decided that the case should be heard in Eskişehir.

The trial continued at Eskişehir Heavy Penal Court on 20 July. The police officers testified and claimed that Ahmet and Uğur Kaymaz first had shot at them. Acting for the sub-plaintiffs the lawyer Tahir Elçi reminded of the fact that five months had passed since the first hearing. He criticized that the hearing had been transferred to a distant place and alleged that the Ministry of Justice had interfered with the judiciary in an attempt to prevent the truth from being discovered rather than of fear for security.

Before the hearing a group of members of DEHAP, EMEP, ÖDP and SHP had gathered in front of the courthouse. They were attacked by right-wingers. In the fight five people were injured including one police officer.

Shortly after the hearing of 24 October started 20 lawyers representing the Kaymaz family left the courtroom because 30 of their colleagues from İstanbul had not been allowed entry to Eskişehir. Defense lawyer Veysel Güler claimed that the lawyers of the sub-plaintiffs only held a show and tried to get compensation from the ECoHR. He also maintained that Uğur Kaymaz was not a small child anymore. The photographs in the press had been taken when he was a pupil in the second class of primary school. In fact he had been 15 to 16 years old. With the weight of 65

kilogram he had been able to wear a Kalashnikov of 3 kilograms.

The day before the hearing Eskişehir Chief of Police, Savaş Yücel had announced that only 100 persons would be allowed into the courtroom and all others would not be allowed entry to Eskişehir. Some 25 students who had gathered close to the city center had a discussion with police officers before the police officers dispersed them under beatings. Several students were detained but released the same day.

In December a report of the First Expert Department in the Forensic Institute on the question whether the injuries sustained by Uğur Kaymaz had prevented him from entering a clash arrived in court. The report stated that 11 bullets had entered the body of Uğur Kaymaz. The ones entering from the back had destroyed internal organs and each of them had been lethal. Once the heart had been hit the person would have been unable to continue with any movement. However, other injuries might not have prevented the person from movement and from firing shots. Since it could not be established which of the bullets reached the body first it could not be said whether the injured person had been able to engage in a clash or not.

No observers were allowed to the hearing of 19 December because of security. Defense lawyer Veysel Güler repeated his arguments on the status of a minor. Lawyer Tahir Elçi asked for the testimony of deputy chief of Mardin Police, Kemal Dönmez as witness and for pre-trial detention for the defendants. The Court rejected demands to arrest the police officers and to make an on-site inspection. The trial did not conclude in 2005.

**Şiar Perinçek:** The trial relating to the killing of Şiar Perinçek in Adana on 28 May 2004 continued throughout the year at Adana Heavy Criminal Court No. 2.

During the hearing of 8 February the police officer Kadir Kara on duty at Adana State Hospital was heard as witness. He claimed that he had not seen the clothes that the victim had been wearing. Yet he and others had carried out a body search and found 900 dollars, some Turkish currency, cigarettes and a lighter. They had noted this and handed over the note to police officers from the department to fight terrorism. The victim had still been wearing his clothes when he was transferred to the operation room. The presiding judge reminded the witness of his testimony to the prosecutor where he had said that he and others had taken off the clothes and handed them over to the officers from the department to fight terrorism.

Acting for the sub-plaintiffs lawyer Mustafa Cinkılıç maintained that the witness was lying. He should have appeared in a previous hearing and at the time they had suspected that the evidence might be manipulated.

During the hearing of 12 April lawyer Veysel Güler defending the police officers claimed that the clothes of Şiar Perinçek were not important. The person had been a terrorist and had shot at the police officers. They had shot back in order to defend themselves. Lawyer Mustafa Cinkılıç interfered and said that the point in question was not whether Perinçek had been a terrorist or not. The point was that a human being had been killed. He did not share the opinion that terrorists can be killed. If there was an offence the offender should be apprehended, tried and given a sentence. During the hearing two further witnesses from Adana State Hospital were heard on the question of Şiar Perinçek's clothes. Both staff members at Adana State Hospital said that they had not seen the clothes.

After the hearing of 31 May the sub-plaintiffs filed an official complaint against the police officers Kadir Kara and Durmuş Ali Öztürk from Adana State Hospital accusing them of concealing evidence. During the hearing of 18 July lawyer Yasemin Dora Şeker acting for the sub-plaintiffs alleged that some documents that the defendants had presented were faked. The signature of Nurettin Başçı (the person accompanying Şiar Perinçek) under the note of apprehension did not belong to him. Lawyer Şeker claimed that the police officers had prepared this note at a later stage.

In the trial in Adana that did not conclude in 2005 the police officer Davut Özateş is charged with killing while the Commissioners Mesut Gürkan and Erhan Çiloğlu are charged with having tortured Mehmet Nurettin Başçı.

In November four people including three police officers were indicted in connection with the disappearance of the clothes of Şiar Perinçek. Besides the police officers Kadir Kara, Durmuş Ali Yücel and Taner S. (from the department to fight terrorism) Engin Pekdemir working at the hospital were charged with negligence of duty. The trial was to be heard at Adana Penal Court No. 11.

The clothes are important to establish the distance of the shots fired at Şiar Perinçek. The sub-plaintiffs argued that there was no clash, but deliberate shooting from close distance. The lawyers further argued that the defendants should not only be charged with negligence of duty but also concealing evidence.

**The Gazi Trial:** Trabzon Penal Court No. 2 acquitted the judge Yusuf Kandemir on trial in connection with the trial at Trabzon Heavy Penal Court on the incidents in İstanbul Gazi quarter in March 1995 during which 19 people died was acquitted. He had been charged with negligence of duty because he lost a directive sent to the prosecutor's office in Gaziosmanpaşa (İstanbul) asking for the identity of further suspects in an attempt

to prolong the hearing until the statute of limitations was reached.

**Ramazan Demir:** On 9 June Mardin Heavy Penal Court No. 1 started to hear the case of 13 soldiers charged in connection with the killing of Ramazan Demir and injuries of 4 people in Kovalı village, Derik district (Mardin) in October 2003. Demands for pre-trial detention of the defendants were rejected. The trial did not conclude in 2005, but surprisingly for the sub-plaintiffs was transferred to Adana in December.

On 13 October 2003 soldiers had opened fire on the villagers and injured Murat Demir (17), Ramazan Demir (80), Hamdullah Demir (67), Nusret Demir (65) and Mehmet Demir (38). Ramazan Demir died in hospital on 18 October 2003.

**Burak Yılmaz:** On 8 July İstanbul Heavy Penal Court No. 1 concluded the case against the police officer Mehmet Yıldız who had killed Burak Yılmaz in İstanbul-Kumkapı on 22 May 2004. He was acquitted on the grounds that he did not exceed the limits of duty.

In the same trial Aşır Kurnaz was sentenced to 4 years', 5 months' and 10 days' imprisonment for the attempt to kill the police officer Mehmet Yıldız and carrying a pistol without a license. During the incident of 22 May 2004 Aşır Kurnaz first had injured Haluk Önal with a weapon. The police officer Mehmet Yıldız had tried to stop him, but Aşır Kurnaz shot at him too. Firing back police officer Mehmet Yıldız had killed Burak Yılmaz standing close to Aşır Kurnaz.

**Rıdvan Altun, Abdurrahman Sarı, Ömer Bayram, Dilan Bayram, Berivan Bayram:** On 8 August 1996 the police in Adana had raided a house in Küçükdikili quarter and killed (22), Abdurrahman Sarı (27), Ömer Bayram (25), Dilan Bayram (3) and Berivan Bayram (1,5). The relatives appealed to the ECoHR. In September the Court decided on compensation to the relatives totaling €82,000.

**Cemil Aktaş:** On 14 March Adana Heavy Penal Court started to hear the case of the police officers Mevlüt Z., Murat Ş., Nihat K., Ömer Y. and Dursun Ç. charged with having injured Cemil Aktaş during the Newroz celebrations of 2004. The sub-plaintiffs argued that the police officers should not be charged with causing bodily harm but attempted murder.

**Mehmet Acar, Hasan Akan, Süleyman Acar, Kadir Akan, Mehmet Ağırman, İsmet Acar, Sabri Acar, X.X:** In February six of 10 village guards sentenced to life imprisonment for having killed eight villagers in Çalpınar village, Midyat district (Mardin) on 20 April 1992 were imprisoned. According to the report in the daily *Özgür Politika* of 20 November 2004 the case had been heard in Denizli because of reasons of security. Denizli Heavy Penal Court No. 2 had

sentenced the village guards Tacettin Sakan, Mihdi Özbey, Halit Aktar, Şehmus Seyde, Nevaf Aydın, Mehmet Sayhan, Ethem Sayhan, Tefik Akbay, Rahmi Kaçmaz and Abbas Taş to life imprisonment, but they

had continued their jobs. On 5 February Tacettin Sakan, Mihdi Özbey, Ethem Seyhan, Abbas Taş, Şehmus Seyde and Halit Aktar were arrested. Nevaf Aydın was arrested in İzmir in October.

## 2 - POLITICAL KILLINGS (assailants unidentified)

### Nevzat Akkaya

The corpse of Nevzat Akkaya living in Ağapınar village (Eskişehir) was found between Çağlayan and Ağapınar village at the end of June. Reportedly he had been tortured and had a fractured head.

Enver Teke, chair of DEHAP in Eskişehir, said that Nevzat Akkaya had been detained a month ago on allegations of having met his brother Yusuf Akkaya, militant of the PKK. He had been released but "disappeared" on 18 June.

### X.X.

In mid-July the corpse of a man with a cut-off head was found in the Beyaztepe region between Dereüstü and Kıratlı villages (Van province). The person had been killed 20 days ago and from the clothes he was suspected to be a PKK militant.

### Hasan Şahin

Hasan Şahin (68), the father of Süleyman Şahin, a leading member of the HPG, was killed in Meytan hamlet, Aktuluk village (Tunceli) on 3 August. Hasan Şahin was living in Germany and had come on summer vacation. In the killing a silencer was used and Hasan Şahin was hit by 7 bullets.

Reportedly Hasan Şahin had informed friends that he was being followed. Murat Polat, chair of DEHAP in Tunceli, stated that the place to look for the assailants was JITEM. Even the public prosecutor had spoken of professionals that had not left any bullet casings. Murat Polat reminded that everybody was waiting for the release of the kidnapped soldier Coşkun Kırandı and claimed that the killing was an attempt to further complicate the release.

The autopsy report was announced on 27 August. According to the report Hasan Şahin had been killed with a hunting gun. No traces of force or blows had been found on the body.

Ali Hıdır Şahin, the elderly brother of Hasan Şahin stated in September that unknown people had set the garden next to their house on fire, 10 days before the killing and on the day of the killing. Shots that were fired close to their house continued and they were afraid that another murder might be committed.

### - Development in Earlier Cases

*İmam Boztaş:* In September the prosecutor in Mazgirt district (Tunceli) decided not to charge anyone in connection with the killing of İmam Botaş in Alanyazi

village on 8 March 2004. He argued that an illegal organization had committed the murder.

After the killing Derman Boztaş, the wife of İmam Boztaş had said that after release from prison the security forces had asked her husband to provide information but he had rejected to do so. The father Hıdır Boztaş said that he had been called to the gendarmerie station in October and had been accused of "feeding militants of illegal organizations". He had been told that he deserved a bullet, rather than being imprisoned.

*Giyasettin Bağlam:* On 11 March the daily *Cumhuriyet* reported the release of the alleged PKK militant Ümit Işık suffering from epilepsy after 11 years in prison. It had been revealed that the Hizbullah militant Murat Kurtboğa was responsible for the killing of an imam in Tatvan district (Bitlis) in February 1994. On a videotape that had been found in the house of Hüseyin Velioglu in Beykoz (İstanbul) on 17 January 2000 Murat Kurtboğa had confessed to the killing. The transcript of the tapes had lasted until 2004, reported *Cumhuriyet*.

This news in *Cumhuriyet* is only partly correct. Already on 28 July 2002 the daily *Özgür Politika* reported on a session at Diyarbakır SSC No. 3 in mid-July, where the judge Ali Haydar Yücesoy and 5 defense lawyers of Hizbullah cases watched a videotape with "confessions" of the repentant Hizbullah militant Murat Kurtboğa. The videotape found in the house in Beykoz included the "confession" about the killing of the imam Giyasettin Parlak (Bağlam), committed together with a police officer and a person called Nurettin (possibly a repentant PKK member).

Actually Diyarbakır SSC No. 3 was the Court that had convicted Ümit Işık and 3 others on 19 October 2000. On 9 June 1994 Ümit Işık had been detained in İstanbul, but he was suspected of activities for the PKK in Tatvan district (Bitlis). He was transferred to Tatvan and interrogated at Tatvan Police HQ between 16 June and 6 July 1994. Later he alleged that he was suspended by his arms, his testicles were squeezed, and he was beaten being naked in the dark and deprived of food and water. As a result of the torture he suffered radial paralysis and had psychological problems.

In the end he signed a "confession". At the prosecutor's office and in front of the arresting judge he raised torture allegations and denied having any connection to the PKK. As far as the bombing of the office of the

Welfare Party was concerned he had been threatened by PKK militants to distort attention by shooting into the air, but he had not done so and escaped to İstanbul, partly because he feared reactions of the PKK and partly because of his mental illness (epilepsy).

Nevertheless, he was remanded under Article 125 TPC and indicted with another 8 defendants. The first hearing was held at Diyarbakır SSC No. 4 on 1 December 1994. Ümit Işık repeated his torture allegations. After a total of 23 hearings in more than 3 years only Ümit Işık was convicted on 26 February 1998. The death penalty against him was commuted to life imprisonment.

On 11 March 1999 the Court of Cassation quashed the verdict because of shortcomings in the investigation of the prosecutor and the reasoning of the verdict. The Court of Cassation also ordered to combine the case of Ümit Işık with another case at Diyarbakır SSC No. 3. Here, three more defendants including Erdoğan Yakışan had been tried for the same action, but the Court of Cassation had quashed that verdict in 1998.

On 1 July 1999 both cases were combined and continued at Diyarbakır SSC No. 3. On 19 October 2000, after 11 hearings Diyarbakır SSC No. 3 passed a verdict, which in relation to Ümit Işık was almost identical to the verdict of February 1998. The verdict made hardly any reference to torture allegations of the defendants, but the formulations suggested that all four defendants claimed that they had been tortured into "confessions".

Only the defendant Erdoğan Yakışan was related to the killing of the imam Giyasettin Parlak (Bağlam). He had signed a statement to the police, where he accepted to have shown the victim as target by linking arms with him. The major accusation against Ümit Işık and Erdoğan Yakışan, however, was their alleged involvement in a clash on 27 February 1994, during which the 2 PKK militants, who Ümit Işık claimed to have threatened him, had been killed by the security forces. One of them allegedly carried a note that identified Erdoğan Yakışan, who had been detained the same day.

The Court of Cassation quashed the verdict of Diyarbakır SSC No. 3 on 13 June 2001 and ruled that the Court had to establish, whether Ümit Işık was punishable as a person suffering from epilepsy.

In the hearing of 24 January 2002 Diyarbakır SSC No. 3 asked the Forensic Institute for an expert opinion on this question and 21 months later received an answer concluding that Ümit Işık was punishable. After 16 June 2004 the hearings were continued at Diyarbakır Heavy Penal Court No. 6.

On 6 October 2004 the physician in Diyarbakır Prison issued a report on Ümit Işık, certifying that he was suffering from epilepsy in an advanced state and had 5

to 6 attacks each month. Mainly because of his illness Diyarbakır Heavy Penal Court No. 6 ordered the release of Ümit Işık in December 2004 (after 10.5 years in pre-trial detention).

Erdoğan Yakışan was not released. In the hearing of 31 March 2005 he stated (according to the minutes of the hearing): "Including the prosecutor's office in Tatvan in all institutions I always rejected the charges. Since 1994 thousands of members of the organization have fled from it and some have become 'confessors' and (but) until today no member of the organization has testified against me. My statement to the uniformed forces is based on pressure, force and torture. For almost 12 years I have been victimized and want reparation (an end) for it."

The Court ordered the continuation of pre-trial detention (after 11 years and one month). Presumably as a reaction on the article in *Cumhuriyet* the Court now decided on inspection of the file on Murat Kurtboğa (at the same Court) and asked the prosecutor in Tatvan, whether the investigation into the death of the imam Giyasettin Parlak (Bağlam) had resulted in the arrest of any assailant. The latest hearing was held on 22 December 2005, but again requests for release of Erdoğan Yakışan were rejected. The next hearing was scheduled for 16 March 2006.

On 15 March 2005 the daily *Özgür Gündem* had quoted Naciye Yakışan, the wife of Erdoğan Yakışan. She had been detained together with her husband. She had been shown torture instruments and threatened to be tortured in order that her husband confessed. She had been put on a chair with electricity and her husband had been forced to sign a paper. Necmettin Yakışan, father of Erdoğan Yakışan, said that he and a second son of him, Murat, had also been detained. He had been held for 9 days, but his sons for 21 days. Murat had been released, but Erdoğan had been remanded.

*Abdülkadir Çelikkilek*: In June the ECoHR passed its judgment on the case launched by relatives of Abdülkadir Çelikkilek, killed in Diyarbakır in 1994. The Court ruled that Article 2 of the ECHR (right to life) and Article 13 (effective remedies) had been violated and ordered compensation of ₺ 83,500.

Abdülkadir Çelikkilek had been kidnapped by unidentified persons in Diyarbakır on 14 December 1994. His corpse had been found near Mardinkapı on 21 December 1994 (also see the court case opened on revelations of Abdülkadir Aygan).

*Necip Hablemitoğlu*: In December Ankara Regional Administrative Court decided that the Ministry of the Interior had to pay 222,000 YTL in compensation to the family of Dr. Necip Hablemitoğlu, staff of the Language, History and Geography Faculty at Ankara University, who had been killed on 18 December 2002. The Court decided on misconduct of duty.

**Revelations of Abdülkadir Aygan**

According to the revelations of Abdülkadir Aygan that were published in the daily *Özgür Gündem* in March 2004 the public prosecutor in Diyarbakır indicted 8 people in March.

Upon the revelations of Abdülkadir Aygan the corpse of **Murat Aslan** who had been killed on 10 June 1994 was found near Kötük village (Silopi district) in April 2004. In return several lawyers had filed an official complaint.

**Confession of JİTEM' member Aygan and the mainstream media...** (*Yeni Şafak/Kronik Medya-6 February 2005*)

In March 2004 Abdülkadir Aygan had revealed numerous killings of unidentified assailant that he witnessed as a member of JİTEM... Our press had slept on its ears for eight days during which *Özgür Gündem* presented the stories as headlines... Last week one of these killings turned to have happened just the way it was reported... Now the mainstream press felt the necessity to report on it...

On 16 March 2004 one of the articles in the "Kronik Medya" carried the headline "Shall we keep watching what the JİTEM confessor tells us?"

The article started with a quote from Perihan Mağden in *Radikal* of 10 March where she drew attention to the series in *Gündem* under the headline of "The facts must be researched/Justice has to be accomplished"... In this country it was even said that JİTEM does not exist, despite the fact that the founders carried out many acts and political killings happened... You have to face it; you have to face your torturer and the system protecting the torturer. You have to face what you have during war; you have to face your JİTEM and the lives that JİTEM took...

In the article in "Kronik Medya" of 16 March 2004 we concentrated on the best known killings of Musa Anter and Vedat Aydın because of the silence in the mainstream media. We finished saying that we did not know whether all the details Abdülkadir Aygan presented were true, but argued that the judiciary had to act which could hardly be expected if the mainstream media remained silent.

One month later *Özgür Gündem* published a document showing that Aygan was a member of JİTEM. The paper had proven the allegation that Aygan had been an active member of an organization whose existence was denied and again the mainstream media did not report on it, well knowing that only their news get the status of "truth".

Only after one incident turned out to have happened exactly as narrated the mainstream media felt obliged to report on it. On 3 February 2005 *Hürriyet* wrote: "10 years after Murat Aslan (25) had been kidnapped in Diyarbakır his corpse was found in a riverbed near Silopi. One hole of a bullet was found in his head... Following the confession of Abdülkadir Aygan stating that JİTEM commander Abdulkerim Kırca and his team had kidnapped Murat Aslan and near Körtük village they had poured petrol over him and burned him to death İzzettin Aslan, father of Murat Aslan went to the village. A shepherd showed him the place where his son might be buried. A skeleton was found and sent to İstanbul Forensic Institute. A DNA test carried out with samples from the parents revealed that the skeleton belonged to Murat Aslan".

This case has increased the probability that other "stories" of Abdülkadir Aygan may be true, but one cannot expect that the mainstream media will deal with them.

**WHO IS ABDÜLKADİR AYGAN?**

Aygan born 1958 joined the PKK in 1980. He left the organization in 1985 and become a "confessor" staying in a war at Diyarbakır Prison for "confessors". His sentence was reduced and in 1990 he was released. Subsequently he served his military duty. According to his own account he was among the first seven members of the JİTEM staff led by Major Cem Ersever. For 10 years he served in JİTEM under his new name of Aziz Turan. In 2000 he was dismissed and appointed to a civilian job in the gendarmerie in Burdur. Ayhan is married with 5 children and based on his conscience decided to report his experience...

The official complaint of several lawyers resulted in an indictment against Abdülkadir Aygan, pensioned Major Abdulkerim Kırca, Sergeant Uğur Yüksel, Mahmut Yıldırım (code named "Yeşil"), Muhsin Gül, Fethi Çetin, Kemal Emlük (from Diyarbakır Police HQ) and Saniye Emlük (working at the military recruit office). They were charged with forming an organization to commit crimes and intentional killing.

The indictment described JİTEM as allegedly acting in the name of the State but in fact being responsible for many illegal acts such as killings, kidnapping and robbery of people who they believed to be related to the PKK. The suspects acting under the command of Abdulkerim Kırca were accused of 8 unsolved killing between 1992 and 1994 including HEP member Harbi Arman (January 1992), Zana Zuğurlu (October 1993), Lokman Zuğurlu (October 1993), SHP member

Servet Aslan (September 1994), Şahabettin Latifeci (September 1994), Ahmet Ceylan (October 1994), Sıddık Etyemez (October 1994) and Abdülkadir Çelikbilek (December 1994).

Meanwhile it turned out that Abdülkadir Aygan was on trial at Diyarbakır Heavy Penal Court No. 3 on similar charges and in this trial it had been noted that he died in a clash. In this trial the co-defendant Fethi Çetin (confessor) had been deprived of his Turkish citizenship and the confessors Hüseyin Tilki and Ali Ozansoy had been registered as "dead".

It was also stated that Abdülkadir Aygan was on trial in Bucak district (Burdur). Here he had done his military service under the false identity of Aziz Turan and was tried on allegations of torture.

On 5 April Diyarbakır Heavy Penal Court No. 2 held a session on the acceptance of the indictment. It rejected demands of the sub-plaintiffs to put the defendants in pre-trial detention and separated the files of the military personnel to be tried at a military court. The Court also decided against the combination of this trial with the other trial of Abdülkadir Aygan at Diyarbakır Heavy Penal Court No. 3.

In this trial (at Court No. 3) arrest warrants had been issued on 23 March against the confessors Recep Tiril and Adil Timurtaş.<sup>4</sup>

In an interview with the Swedish newspaper "Expressen" Abdülkadir Aygan stated in April that during the time he had been working for JİTEM 36 people had been killed by the unit of which he was a member. All official institutions had assisted JİTEM except for Diyarbakır Chief of Police, Gaffar Okkan (killed in 2001).

### **New revelations of Abdülkadir Aygan**

Starting on 30 June *Özgür Gündem* published further revelations of Abdülkadir Aygan in which he gave a detailed account of 18 political killings (at the time with unidentified assailants). Many of these killings can be found in the reports of the HRFT.

Concerning the fate of Edip Aksoy and Orhan Cingöz, who had been detained on 7 June 1995 Abdülkadir Aygan that they had killed the two men and buried them on the Cizre-Silopi road on the way to Habur Border Station in a riverbed.

On the complaint of the families the prosecutor in Silopi started an investigation. It turned out that 17 days after the "disappearance" of Aksoy and Cingöz workers from cotton fields had found two corpses at the place, which Aygan had described. At the time the prosecutor had not investigated the case assuming that the corpses belonged to militants who had been killed by the PKK. These people had been buried at the cemetery for people without relatives. 10 years after the incident the persons working at the cemetery had difficulties in identifying the graves saying that too many of such events had occurred at the time. Finally the graves 28 and 29 were opened on 14 July. In both graves the skeletons of 2 persons each were found. The bones were to be sent to İstanbul for a DNA test.

<sup>4</sup> In May repentant PKK militant, confessor and JİTEM staff Adil Timurtaş was detained in İstanbul. Reportedly he tried to blackmail Lezgin Bingöl, chair of DEHAP in Bağcılar district and was caught with another seven suspect "red-handed". However, the police in İstanbul released Adil Timurtaş, Erdal Atalay, Abdulvahap Demir and Abuzer Gün on 5 May. The other four people were released on court's order. The lawyer Asya Ülker acting for Lezgin Bingöl tried to intervene, but did not get much access to the files. She only noted that Fadil Timurtaş had been carrying two IDs in the name of the "Command of Special Forces".

On 1 July *Özgür Gündem* quoted Abdülkadir Aygan on the "disappearance" of Fethi Yıldırım in January 1994. According to Abdülkadir Aygan he had been killed and buried close to Hani district (on the way from Karaçalı village to Hani) in Diyarbakır province. The name of Fethi Yıldırım is among the cases of "disappearances" listed in the annual report of the HRFT for 1994 and Edip Aksoy and Orhan Cingöz are listed in the annual report of 1995.

On 2 July *Özgür Gündem* presented the death of Hakkı Kaya who had disappeared after detention in Lice district (Diyarbakır) on 18 November 1996. According to Aygan the corpse had been buried at a similar place as Fethi Yıldırım. Presumably a third person had also been buried there. The name of Hakkı Kaya is mentioned in the annual report of the HRFT for 1996.

In the paper of 3 July details were presented on İdris Yıldırım. He had been a member of JİTEM, but wanted to leave the group. Allegedly he was detained in Silopi in October 1994 and killed in Elazığ and burnt on the road to Baskil. Abdülkadir Aygan admitted that he and the leader of his group, Kemal Emlük had been engaged in this incident.

On 4 July the killing of Hasan Ergül and Atilla Osmanoğlu was the subject. Aygan said that Hasan Ergül had been detained in Silopi on 5 June 1995 and his corpse had been thrown into the Hazar Lake. Atilla Osmanoğlu had been detained on 25 March 1996. His corpse had been thrown into the hulk of a lorry at the road to Habur Riverbed. In order not to be identified his face had been ruined.

On 30 March 1996 a corpse had been found at the place that Abdülkadir Aygan described but had been buried on the cemetery of people without relatives without any further investigation. The name of Atilla Osmanoğlu is mentioned in the annual report of the HRFT for the year 1997.

On 5 July Abdülkadir Aygan presented information on the deaths of İzzettin Acet (Melle İzzettin) and Mehmet Emin Kaynar. He said that Abdülhakim Güven had shot both men and Kemal Emlük had burned the corpses. Acet and Kaynar had been detained in Cizre in October 1994. According to Aygan they were killed close to Karpuzlu village on the road from Siverek to Diyarbakır. Both deaths are mentioned in the annual report of the HRFT for 1994 under the heading of "Killings by unidentified assailants".

On 6 July Aygan said on the killing of Harbi Arman executive of HEP in Malazgirt district (Muş) on 14 January 1992:

"In one case I worked with Mahmut Yıldırım (Yeşil). Yeşil took me and Fethi Çetin with him to kill an executive of HEP on the Elazığ road. Our introduction was to tell Harbi Arman that he was wanted and that we would take him to testify. We took him as far as the JİTEM center in Diyarbakır and interrogated him. Later we said that we had to tie his hands and cover

his eyes and would take him to a military compound outside town. We blindfolded him in the car. On the Diyarbakır-Elazığ road (at Deveğçidi Riverbed) we took him out of the car. We took him by his arms as if we wanted to take him to a building, but instead took him to the beginning of the bridge. A sergeant who accompanied us ordered us back and wanted to shoot Harbi Arman with a Kalashnikov. But Yeşil took his pistol and killed him with two shots. We left him under the bridge with his eyes being blindfolded."

The corpse of Harbi Arman was found on 20 January 1992.

On 7 July details on the death of the SHP members Servet Arslan and Şahabettin Latifeci were presented. They had been killed on 4 September 1994. Aygan said:

"Şahabettin Latifeci was detained on information of female repentant Servet Toprak. He was taken to JİTEM and the sergeant Yüksel U. who called himself 'Palulu Zaza' strangled him with his hands. Servet Arslan, too, was detained on information of Servet Toprak. He was taken to Sivas, interrogated and killed. Both corpses were taken to a factory for milk and cheese on the road from Diyarbakır to Silvan and deposited in a sack at the back of the factory."

In the report of the HRFT the killing of both men is mentioned. Their corpses were found on 7 September 1994.

On 8 July the newspaper printed the revelations of Abdülkadir Aygan on the deaths of trade unionist Necati Aydın, Mehmet Ay and Ramazan Keskin. According to Aygan Major Abdülkerim Kırca, Sergeant Yüksel U., Kemal Emlük, Sergeant Nuri A., Captain Tuna Y. and he himself participated in the killings:

"We had heard when these three men would be taken to court. When they came out of the court we drove up to them and said that they had to come to the police station because someone had forgotten to ask them a question. We took them to JİTEM. They were interrogated under torture for several days. Then we left JİTEM in two civilian cars. We had passed Kağıtlı Gendarmerie Station on the road from Silvan to Diyarbakır and left the main road entering a field. Abdülkerim Kırca shot them there."

The last report in the newspaper was on 9 July. Abdülkadir Aygan talked about the killing of two persons whose names he did not know. He attributed one of the killings to Kemal Emlük and the other one to an intelligence team from Diyarbakır.

### Susurluk

**Sedat Edip Bucak:** The trial that started after the Court of Cassation had quashed the acquittal of former DYP deputy Sedat Edip Bucak continued throughout the year. In the hearing of 29 March at

İstanbul Heavy Penal Court the prosecutor asked again for acquittal.

**Haluk Kırıcı:** Haluk Kırıcı who had been convicted in the "Bahçelievler massacre" trial was extradited from the Ukraine on 4 February. In March 2004 Kırıcı had been released on false accounts relating to a change of death sentences to life imprisonment. On 24 October 2004 Kırıcı had been arrested in Kiev.

On 5 January the daily *Milliyet* had reported that Haluk Kırıcı had been equipped with a "green" (diplomatic) passport issued by the General Directorate for Security. The offence of issuing false documents had reached the statute of limitations and, therefore, the police officers involved in this incident could not be tried. Later Abdülkadir Aksu, Minister for the Interior stated that the document from the Ministry of Finance that served for issuing the passport had been forged just like the stamps that the passport in the name of Remzi Bulut had twice been prolonged at the Turkish Consulate in Hamburg.

Later that year Hüseyin Ayan, lawyer of Haluk Kırıcı appealed to Ankara Heavy Penal Court No. 5 asking that the provisions of the new TPC in favor of his client should be applied. He argued that his client needed to be released. The Court, however, rejected this demand.

One of the defendants in the Susurluk case, former police officer Oğuz Yorulmaz, was killed in Bursa during a fight in a bar on 29 May. In connection with the incident Hüdayda Bulum, Murat Selli, Coşkun Numan and Alpaslan Çınar were detained. Allegedly Hüdayda Bulum had fired the shots.

In June the prosecutor in Adana indicted 50 people in connection with fraud in the company "Endüstri Holding". The mafia boss Kürşat Yılmaz was accused of having found an organization with the purpose to commit crimes and the convicted Susurluk defendant Korkut Eken was charged with support of that organization.

### Arms that disappeared in Batman

On 23 March the 8<sup>th</sup> Chamber of the Court of Cassation ruled that former Batman Governor Sali Şarman and his deputies Ahmet Mithat Kuşadalı and Ahmet Soley had to be acquitted. They had been involved in ordering arms between 1994 and 1996. These arms later disappeared. The offence of violating the Law on Firearms had reached the time limit (compare the annual report of 2003).

**The Yüksekova Gang:** On 18 November Hakkari Heavy Penal Court concluded the trial against the so-called Yüksekova gang. The 13 defendants had been charged with drugs and arms trafficking, robbery and other offences. On 22 March 2001 the third round of the original trial had ended at Diyarbakır SSC 4.

Major Hamdi Poyraz, Ali İhsan Zeydan, former mayor of Yüksekova (Hakkari), Lieutenant Ali Kurtoğlu, village guard İsmet Ölmez, Hasan Öztunç, Mustafa Koca, Oğuz Baygüneş and Captain Nihat Yiğiter had been acquitted. PKK confessor Kahraman Bilgiç had been sentenced to 30 years' imprisonment, Major Mehmet Emin Yurdakul to 25 years and 2 months' imprisonment, Kemal Ölmez, leader of village guards had received a sentence of 13 years and 4 months' imprisonment, lieutenant Bülent Yetüt 7 years, 4 months' and special team member Enver Çırak 3 years and 8 months' imprisonment.

For the "Yüksekova gang" the first verdict was delivered on 17 September 1998. The Court of Cassation had quashed the sentences on 15 September 1999, except for the verdict against Kahraman Bilgiç. The second trial ended on 26 December 1999. Only Fatih Özhan was sentenced to 16 years, 8 months' imprisonment.

This time only PKK confessor Kahraman Bilgiç was sentenced to 8 years', 4 months' imprisonment and the Court ordered his release. All other defendants were acquitted. Acting for the sub-plaintiffs lawyer Yaşar Altürk said that the court had not mentioned charges related to the foundation of a gang and Bilgiç had only been convicted for the robbery of Abdurrahman Düşünmez.

The "Yüksekova gang" had been discovered in 1996 and the charges brought against them had included 9 killings, blackmailing and the bombing of a hotel. The

public prosecutor and the prosecutor at the SSC in Diyarbakır prepared four different indictments. When the offence of "founding a gang" was taken away from the responsibility of the state security courts Hakkari Heavy Penal Court had started to deal with the case. The first verdict at Hakkari Heavy Penal Court had ended on 20 November 2003.

The Court had sentenced retired Major Mehmet Emin Yurdakul to 29 years, Lieutenant Bülent Yetüt to 7 years, 4 months, 26 days, special team member Enver Çırak to 4 years, 5 months, 10 days, the village guard Kemal Ölmez to 14 years, 10 days and the repentant PKK militant Kahraman Bilgiç to 31 years, 4 months and 20 days' imprisonment. The other defendants, including the former Mayor of Yüksekova, Ali İhsan Zeydan, gendarmerie commander Hamdi Poyraz, Ali Kurtoğlu, İsmet Ölmez, Hasan Öztunç, Mustafa Koca, Oğuz Baygüneş and Nihat Yiğiter had been acquitted.

The verdict had stated *inter alias*:

"A unit under the command of Yurdakul had a hot contact with terrorists. They fled into the Iran and Yurdakul came to Ağaçalı village. Believing that the villagers had supported the terrorists the unit beat Şemsettin Yurtsever, Mikdat Özeken and Münir Sarıtaş. Yurtsever died as a result of the beatings. Yurdakul decided to kill the other two villagers, since they could be witnesses. He ordered their execution at the education field of the garrison, put the corpses in a hole and burned them by pouring oil over them."

### 3 - LANDMINES

On 16 February the daily *Yeni Şafak* reported that companies had been asked to hand in offers for cleaning the Turkish-Syrian border from landmines. The involved institutions including the General Staff and the Ministry for Agriculture and Villages had put the need for the operation at \$ 44.7 millions (\$ 35 millions for equipment and \$ 9.7 millions for security). So far only \$ 17 had been allocated. Since 2003 three different machines had been tried in the region between Nusaybin and Mardin.

Abdüllatif Şener, deputy Prime Minister, said that the project was to be conducted in two steps. First some 250 kilometers between Cizre and Akçakale had to be cleaned and in the second step 260 kilometers between Akçakale and Hassa had to be cleaned. It was estimated that the work could be done in 15 years if one military company were to do it. The time could be shortened if more military personnel would be involved.

In April the commission for the assignment met for the first time in the Ministry of Finance. It was decided that foreign companies could participate in the bet. Apparently some companies had offered to remove mines for \$ 1,000 or \$ 1,500 instead of the usual \$ 5,000 needed for the removal of one mine.

#### *Mine and Bomb Explosions*

In January the investigation into the incident in Hozat district (Tunceli) on 26 October 2002 concluded. As a result of the explosion of a mortar bomb Gürkan Günel (14), Uğur Günel (14) and Ergün Aslan (14) had died, Hayri Çiçek, Hıdır Çelik and Murat Doğan had been injured.

On 31 December 2004 the military prosecutor in Tunceli had ruled not to bring charges against military personnel. Lawyer Barış Yıldırım had appealed to the military court in Malatya and argued that the military compound had had no wires around and the children had not been warned to enter the area and touch anything. The bombs had been left in their places even though they needed to be destroyed, if they did not explode during training.

On 28 March the children Zafer Büroğlu and Cahit Eşsiz were injured when a bomb exploded which they had found in a military area between Diyarbakır and Dicle district. Reportedly Zafer Büroğlu lost two fingers and Cahit Eşsiz was injured to his face.

On the same day Harun Kaygu (13) died when a mortar bomb exploded near Geneyik village (Gaziantep) where the boy was grazing sheep.

Reportedly the bomb had been left behind after a training of 22 to 26 March.

On 31 March the woman Sultan Erkuş (55) died when she stepped on a mine near Oyuklu village, Lice district (Diyarbakır).

On 4 April refugees tried to cross the border between Turkey and Greece over the Meriç River. One person from Mauritania and one from Tunisia died and one person from Iraq was heavily wounded, when they stepped on a mine.

On 6 April children found explosives on the grounds of a military unit in Topkule in Gaziosmanpaşa district (İstanbul). Emrah Gültekin (16), Mücahit Sümer (15), Fırat Tutuş (14), Hasan Özer (15), Bayram Aras (16), Ramazan Alhan (16) and Nesim Kurt (17) were injured in the explosion. Bayram Aras died in hospital on 15 April.

The children later said that they entered the compound frequently in an attempt to collect scrap-iron. Sometimes soldiers would catch and beat them, but they would enter the area again.

Latif Yılmaz (14) died on 5 April when a mine exploded near Taşburun village in Nusaybin district (Mardin).

In the Sağgöze district in Lice district (Diyarbakır) one person died on 7 April when a mine exploded. One person was injured. The identities remained unknown.

On 18 April the children İsmail Işık (15), Emrah Akbay (10) and his brother Adem Akbay (9) played close to a military compound with a bomb. They were injured when it exploded. İsmail Işık died in hospital.

Alihan Ölmez (20) was seriously wounded when he stepped on a mine near Güzeldere village, Çukurca district (Hakkari) at the end of April.

Ahmet Akın (10) died and the child Necdet Oral was seriously injured when a bomb they had found near Beşevler hamlet, Serneli village, Savur district (Mardin) exploded on 7 May.

Mehmet Sabak (55) was heavily wounded when a bomb he had found near Şenköy in Yedisu district (Bingöl) exploded on 10 May.

Hıdır Demir was slightly injured when on 18 May he stepped on a mine near Balveren village in Ovacık district (Tunceli).

On 23 May Hacı Yaşar (22) was seriously wounded, when he stepped on a mine near Cevizli village in Çukurca district (Hakkari)

On 27 May a tractor drove on a mine near Lice district (Diyarbakır). The tractor was carrying food to a military unit. The driver Hüseyin Bolat and his brother Taha Bolat died. The explosion also caused the death of the soldiers Doğan Yarıtaş and Musa Memiş.

İlyas Kondu (14) was injured on 8 June when the dynamite he found near Sivas exploded. He lost two fingers. The dynamite was used for fishing.

On 13 June M.D. (26) tried to cross the border to Syria near Kilis. He was injured when a mine exploded.

On 14 June a vehicle of the Directorate for Village Services drove on a mine near Kemerli village (Şırnak). In the explosion Mehmet Güner (55) and M.Emin Ceylan (48) died.

On 21 June Fesih Dursun (14) stepped on a mine near Esenmez village in Doğubeyazıt district (Ağrı). He was seriously injured.

On 24 June Ali Akbayır, the driver of a car that drove on a mine near Batman village (Tunceli) was seriously injured.

On 9 July a van drove on a mine near Şırnak. Kasım Anık, Ahmet Tatar, İsmail Tatar, Abdülkerim Tatar, İdris Gerez, Sait Gerez and Ağıt Gerez were injured.

Mehmet Aydemir (48) died when he stepped on a mine near Uzungeçit town, Uludere district (Şırnak) on 22 July. Şefik Yıldırım was injured.

On 28 July a vehicle of the telephone company drove on a mine near Şebinkarahisar district (Giresun). The car was damaged.

Hamza Oruç (13) died when on 18 August a bomb exploded that he had found near Damlarca village in Güçlükönak district (Şırnak).

Ağıt Yıldız was seriously injured when on 22 August he stepped on a mine near Uludere district (Şırnak).

Staff of the land register working near Suveren Gendarmerie Station in Genç district (Bingöl) stepped on a mine on 19 September. The explosion killed Fehmi Doğan. Furkan Yatar and Ayhan Ağırbaş were injured.

On 9 October a minibus drove on a mine between Seydibey and Akçağül village in Muradiye district Van. The driver Seyfettin Avun, Okan Avun (13), Gökhan Avun (13), Ümit Avun (9), Seyfettin Balkız (10), Ferdi (Nedim) Balkız and Erhan Eren (15) were injured. Seyfettin Balkız died in hospital on 10 October.

Hizbullah Kavak (43) was injured when on 10 October he stepped on a mine near Gedikbaşı village in Başkale district (Van).

Okan Sarıhan (11) was seriously injured when on 10 October he stepped on a mine near Telçeker village in Doğubeyazıt district (Ağrı).

On 14 October Servet Erdoğan (15) was injured when he stepped on a mine near Çiftlik village in Doğubeyazıt district (Ağrı).

Celal Sahur (16) was injured when on 22 October he stepped on a mine near Tepe village in Cizre district (Şırnak).

On 29 October Özcan Öbnal (9) and Kerem Tosun (7) died when they stepped on a mine near Esendere town in Yüksekova district (Hakkari).

Bülent Keman (12) was seriously injured when at the end of October material he found at a military compound near Kazan (Tane) village in Yüksekova district (Hakkari).

On 1 November Şeref Ecer died and Veysek Ezer (15) was injured when they stepped on a mine near Gülizar village in Çaldıran district (Van).

Selçuk Beykondu and Sezer Kulen were injured when a hand grenade they had found close to Bingöl Police HQ exploded on 1 November.

On 8 November Ehmet Hamel from Afghanistan was injured when he stepped on a mine in an attempt to cross the border from Iran near Gürbulak district (Ağrı). His brother Muzaffer Ali Hamel was detained.

Hanım Akdoğan (50) was injured when on 25 November she stepped on a mine near Çalı village in Nusaybin district (Mardin).

Harbi Şenlik (23) died on 5 November after a bomb he had found near Güvenlik village in Şemdinli district (Hakkari) exploded.

#### Armed Clashes

In an announcement at the end of the year the HPG stated that during clashes in 2005 a total of 1,004 soldiers, 54 lieutenant, 10 police officers, 8 village guards and 138 militant died.

At the end of March A. Selim Akyıldız, President of the Department to Fight Terrorism and Action within the General Directorate for Security stated that between 1994 and the end of 2004 a total of 31,733 people had died. Among them 456 had been police officers, 4,351 soldiers, 1,364 village guards, 20,666 militants and 6,260 civilians. In an answer to a question tabled by CHP deputy from Kırklareli, Mehmet Kesimoğlu, Minister of the Interior Abdülkadir Aksu stated in July that in 2004 99 PKK militants had been killed, 139 had been captured alive and 130 had surrendered. In 2005 until the end of May 65 PKK militants had been killed, 43 had been captured and 41 had surrendered.

#### Decision of Non-Activity

On 19 August Kongra-Gel made a written statement in Brussels and announced a decision of non-activity between 20 August and 20 September. The organization was not opposed to the State and aimed at the democratization of the State to solve the Kurdish question within the entity of the State. The decision of non-activity was later expanded until 3 October, the

day when the talks for membership in the EU were to start.

Later the HPG stated that during the time of non-activity 20 HPG militants, 46 soldiers, 2 village guards and 3 police officers had been killed. For the same time the daily *Milliyet* stated that 30 militants and 11 members of the security forces had been killed.

During a clash between Iranian soldiers and PKK militants in July 2004 one militant had been killed. It was later revealed that his name was Ferhat Şut and that soldiers had buried him secretly. On 23 August İlhan Şut, a relative of Ferhat Şut, spoke at a press conference of the HRA in İstanbul. He said that the Turkish military had informed them that the corpse of Ferhat Şut was in Yüksekova. He had been buried secretly. During the same clash further militants had been killed. Their names were given as İkrâm Ergül, Abdurrahim Bulut and Lokman Ergün.

On 14 May the family of Hulusi Yıldız was given his remains. He had been killed in a clash near Yedisu district (Bingöl) in 2000 and had been buried in the garden of Yedisu Gendarmerie Station. Tahsin Yıldız stated that other families, too, had been able to get the remains of their relatives. There were about 30 graves and 14 families had got the remains of their relatives.

In February, Mustafa Bayram who had done his military service in that area in 2000 had told the newspaper *Özgür Politika* that four PKK militants had been captured alive. They had been killed and buried in the garden of the gendarmerie station. The HPH had announced that among these militants had been Fahrettin Cem, Tahir Saknut and Hulusi Yıldız.

#### Reports on Clashes

In January two HP militants died in a clash in the Şenoba region near Şırnak.

During a clash near Şişik village in Mazgirt district (Tunceli) on 15 January the soldiers **Ali Atıl** and **Emin Uyar** and the militants of the Maoist Communist Party (MKP) **Melahat Yalçın**, **Yurdanur Özkan**, **Yılmaz Göç**, **Umut Çatakçı** and **Ahmet Küçükboğar** died. Three soldiers were injured

The soldier **Harun Kahya** died and the soldier Erkan Aslan was wounded during an attack on the gendarmerie station in Göllü village, Ömerli district (Mardin) on 26 January.

Staff Sergeant **Gökhan Yaşartürk** died during a clash near Akçay village (Şırnak) on 28 January. The daily *Özgür Politika*, published in Europe, claimed that the village guard M. Ali killed the sergeant.

During a clash on the Bagok Mountain in Nusaybin district (Mardin) on 27 February the HPG militant **Yılmaz Bulut** died. The HPG claimed that he was killed after having been captured alive and added that in the same region another clash occurred resulting in the death of one and injuries of four soldiers.

The HPG alleged that soldiers killed the HPG militant **Gafur Can** who had been detained between Cizre and İdil district (Şırnak) on 2 March. He had been unarmed. Abdulkahim Can, an uncle of Gafur Can stated that his nephew had been killed with shots to his temple and back from close range. The official statement maintained that two HPG militants had been killed in a clash. In a later statement the HPG alleged that Iranian national **Xebat Rençber** had been killed under torture after having been captured on Gabar Mountain in Şırnak province on 2 March.

The HPG militants **Nusret Bali** and **Abdullah Deniz** died in a clash near Çay village in Derik district (Mardin) on 26 March. Kadriye Gürel (10) was reportedly seriously wounded because he stayed between the two fronts.

The militant Nusret Bali allegedly had escaped from the house of Ahmet Kaymaz on 21 November 2004, when Ahmet Kaymaz and his son Uğur Kaymaz were killed. On the other hand, Hali Bali, brother of Nusret Bali, claimed that his brother had been unarmed and killed after having been captured alive.

On 26 March a bomb attack was carried out on a vehicle with village guards in Silopi district (Şırnak). Two village guards and a soldier were wounded.

During a clash that occurred on Cudi mountain (Şırnak) at the end of March the HPG militant **Selim Nas** was killed. The governor in Şırnak announced that 9 militants had been killed during a clash on Cudi Mountain on 2 April. In this clash Corporal **Mustafa Civelek** had been killed.

The HPG named their victims as Fıryel Hüseyin (from Syria), **Nurten Gülmez**, **Faik Yayla**, **Alaaddin Akbaş** and **Mehmet Yiğit**. Allegedly chemical weapons had been used during this incident.

During a clash near Yarbaşı village in İdil district (Şırnak) on 11 April the HPG militants **Yılmaz Altınışık** and **Muhammed İbrahim** (Syria) were killed,

During a clash near Fındık town in Güçlükonak district (Şırnak) on 12 April the officers **Kamil Baltacı**, **Haydan Vural**, **Tuncer Soner Dağ** and the village guard **Abdulkerim Çabuk** were killed. The official statement reported the death of 21 militants, while the HPG said that no militant had been killed.

The HPG announced that between 1 and 17 April 14 militants had been killed and presented names of seven of them: **Mehmet Şexo** (Syria), **Muhammed Reşo** (Syria), **Yaser Tahir** (Lebanon), **Gülsün Akalan**, **Hiyam Muhammed** (Syria), **Meral Van** and **Muhammed Ferhadi** (Syria).

On 17 April a clash occurred near Ovacık district (Tunceli). Two MKP militants died and one soldier was injured. The name of one MKP militant was given as **Süleyman Açikel**.

Around the same date the HPG militant **Fideyl Özbey** was killed in a clash near Ömerli district (Mardin).

During a clash in the Dereler region (Şırnak) on 18 April five HPG militants were killed and 11 members of the security forces were injured.

On 27 April a village guard died when he stepped on a mine near Dicle district (Diyarbakır). Two village guards were injured.

During a clash near Işıklı village (Hakkari) on 6 May two sergeants were killed, one of them named **Aziz Mutlu**.

On 13 May a clash occurred between Yayladere and Kiği districts (Bingöl). The soldiers **Şenol Özgün**, **Selçuk Demir** and **Seyvan Yavuz** were killed. Metin Yavuz, Ömer Arslan, Mehmet Hasım Arslan and Vural Aydoğdu were injured.

On the same another clash broke out near Yaylagünü village in Ovacık district (Tunceli). The HPG militants **Tülay Şendul**, **Kavdan Sadi (Syria)**, **Mehmet Yaşar Yıldız**, **Metin (Medeni) Kandilci**, **Feridun Sarı**, **Lokman Konepos**, **Özgür Altan**, **Erkan Dayaklı**, **Nezire Kasım**, **İbrahim Oğuz**, **Mesut Tekin** and **Cemil Doğu Başaran** were killed.

On 13 May an attack was carried out on the Uluyol Police Center at the entrance to Doğubeyazıt district (Ağrı). The police officers Bünyamin Akgül, Çetin Çelebi and Bülent Karagülle were injured.

Two people died on 16 May. Allegedly they wanted to conduct a suicidal attack on the house of Siirt Governor Murat Yıldırım. Reportedly they had been stopped at 9.40pm. One of the militants detonated his bomb, while the other escaped. This person reportedly died in a clash shortly afterwards. The police officer Ali Aslan was injured. The names of the HPG militants were given as **Abdülaziz Ürün** (Kendal Midyat) and **Doğan Haseke**.

On 17 May two alleged HPG militants refused to surrender in Serindere village, Yüksekova district (Hakkari) and detonated hand grenades on them instead. The names of the militants were given as **Ahmet Yusuf** and **Kawa Teyyar**.

On 17 May a bomb attack with a remote control was carried out on a military vehicle on Gabar Mountain near Siirt. The soldiers **Mehmet Koçin**, **Selim Karabul**, **Necdet Demirel** and **Ali Çakmakçı** died. For the same day a clash on Gabar mountain was reported resulted in the death of two soldiers, one of them named **Ramazan Orçan**.

Sergeant **Mesut Kahraman Çam** was killed in a clash near Bayarambaşı village in Silvan district (Diyarbakır) on 17 May.

During a clash near Mertekli village in Üzümlü district (Erzincan) on 17 May two HPG militants were killed, one of them named **Erkan Karakaya**.

On 9 May military operations started in Mardin. They lasted for two weeks. During one of the clashes near Dibek village in Nusaybin district the HPG militant **Ciwan Bilomurat** was killed.

On 22 May Staff Sergeant **Hakan Taşkı**r died when he stepped on a mine near Çukurca district (Hakkari)

On 23 May clashes broke out on Mava Mountain in Gerçüş district (Batman). The officer **Mustafa Hakan Aydoğmuş**, the soldier **Erdem Demir** and the village guards **Süleyman Kaya** and **Hüseyin Yalvaç** died and 7 soldiers were injured. Officially this was a bomb attack with remote control.

On the same day a clash occurred near Dicle district (Diyarbakır) resulting in the death of the HPG militant **Kendal Amud**. The HPG announced that a member of JITEM had been killed.

On 28 May the freight train between Tatvan and Elazığ derailed between Kurt and Kale stations in Muş province because of a bomb that had been planted at the rails. The HPG claimed that five soldiers had been killed in clashes after the incident.

Tunceli Governor Mustafa Erkal stated that the HPG militant **Sami Çomak** had died because a snail had bitten him near Çıralı village.

An attack was carried out on a pipeline near Batman on 30 May. No casualties were reported.

In an announcement of the HPG it was stated that an attack was carried out on a vehicle carrying soldiers in Pertek district (Tunceli) on 2 June. Allegedly four soldiers were killed and seven injured. The official announcement stated that the soldiers Ayhan Boztaş, Engin Saatçi, Coşkun Demir, Zafer Konak, Ahmet Duyiz and Mahmut Kılıç had been injured. **Zafer Konak** died in hospital on 17 June.

On 4 June a clash broke out near Esenyurt hamlet, Çiçekli village (Tunceli) resulting in the death of the soldiers **Halil Öner**, **Sinan Çolak**, **Faruk Aydoğdu** and **İsmet Esen**. The HPG claimed that they had taken the IDs of soldiers named **Murat Tosun**, **Faruk Aydoğdu** and someone with the first name of **Bayram**.

The village guard Şemsettin Kılıç was seriously injured when on 10 June he stepped on a mine near Komtik Mountain in Beytüşşebap district (Şırnak). Reporter Emin Bal from the news agency DHA was beaten by village guards when he wanted to take pictures from the victim in hospital.

During a clash on 14 June near Lice district (Diyarbakır) the soldiers Mehmet Duman and Dursun Ali Yılmaz and an unnamed "confessor" were wounded.

On 15 June clashes broke out between Pamuklu and Golek villages in Mazgirt district (Tunceli). The HPG militant **Şahap Durmaz** was killed. His uncle Bekir Atabey said, "When I saw him in the morgue his body was all in pieces. He had no right eye and on his right arm and left leg he had fractures".

On 16 June a military vehicle drove on a mine near Çukurca district (Hakkari). The officers **Adnan Bahat** and **Erhan Taştımur** died and 6 soldiers were injured.

During a clash on 16 June between Gürpınar and Başkale district (Van) the HPG militants **Mehmet Bozan Şahin** and **Cevher İşnas** were killed.

Their funerals resulted in incidents. First they were buried in Seyrantepe Cemetery (Van) without informing the families. The families requested to hand the corpses over to them and Abdurrahman Doğan, DEHAP chair for Van province, acted for them at the prosecutor's office. The prosecutor decided positive on the request and preparations were made to bury the militants in Bostaniçi town.

On 21 June a crowd of 300 people had gathered in front of the DEHAP office to accompany the catafalque. Later the crowd reached the number of 3,000 and clashes broke out between the crowd and the police that did not allow the crowd to march. During the clashes **Fahrettin İnanç** (19) was killed by shots. One police officer, five demonstrators and three journalists were injured.

Bahattin Aslan who was injured during the funeral of Fahrettin İnanç stated that police officers had tried to force him into false testimony when he was lying in hospital. He had been taken to the cellar and told that he should say that soldiers did not shoot. However, the soldiers had shot when the crowd was about to disperse.

Lawyer Zeki Yüksel, chair of the HRA in Van stated that they had received complaints that people had been put under pressure to give false testimony. The autopsy on Fahrettin İnanç had stated that he was killed by a bullet that entered his body at the shoulder from the back. Menaf İpek and Rahmi Aslan who had been wounded during the incident, but were released from hospital on 24 June, were arrested on the grounds of having made propaganda for an illegal organization.

The governor's office in Tunceli announced that on 21 June a military operation had been conducted towards militants of the Maoist Communist Party (MKP) that had gathered in the Mercan Valley in Ovacık district (Tunceli). Many militants had been killed; one soldier had been wounded and three persons had been detained. The statement mentioned the Secretary General of the MKP, **Zeynel Durmaz**, **Hüseyin Balkır**, **Cengiz Korkmaz**, **Mustafa Erkan** and **Handan Yeşil**, but their situation remained unclear in the days to follow.

The names of the persons that were killed were given as **Ali Rıza Savur** (Sabur), **Aydın Hambayat**, **Caner Cangöz** and **Alaattin Ateş** (they belonged to the Central Committee), **Çağdaş Can**, **Gülnaz Yıldız**, **Ökkeş Karaoğlu**, **Binali Güler**, **Okan Ünsal**, **Berna Ünsal**, **İbrahim Akdeniz**, **Cemal Çakmak**, **Taylan Yıldız**, **Ahmet Tektaş** (Bektaş-Perktaş), **Dursun Turgut**, **Kenan Çakıcı** and **Ersin Kantar**.

Among the victims some were of poor health because of their participation in the death fast action. They were said to be too weak to carry arms.

Cafer Cangöz, the brother of Hıdır Cangöz (48) stated that his brother had participated in the death fast action after the operation against the prisons that started on 19 December 2000. He alleged that his brother had been killed while being unarmed. During the death fast action he (Cafer Cangöz) had also met Aydın Hambayat, Berna Ünsal, Ökkeş Karaoğlu, and Cemal Çakmak. Many prisoners had been unable to walk. He remembered Berna Ünsal in particular. She could only walk a few steps and had to rest in between. Cemal Çakmak had lost one eye during the prison operation.

After the military operation a delegation carried out research in the area. During a press conference at the office of the HRA in İstanbul lawyer Roland Meister declared in the name of the delegation:

"Had the operation aimed at apprehending these people alive they would not have been killed. From our talks and documents it is understood that they were not in a position to enter an armed clash. The corpses were destroyed to a degree that made their identification almost impossible. It is likely that they were killed with rockets and bombs. The Turkish authorities did not allow the families or their lawyers to visit the scene of the incident or inspect the file. The area is still closed to the public."

On 22 June a military vehicle drove on a mine near Toklu village in Taşlıçay district (Ağrı). The soldiers **İdris Candan** and **Mehmet Ali Arslan** were killed and five soldiers including one officer were injured.

Around the same date one military vehicle drove on a mine near Şırnak. The soldiers **Mevzat Arçil** was killed and two soldiers were injured. During a similar incident in Pervari district (Siirt) two officers and one soldier were injured.

The HPG announced that during a clash between Midyat district (Mardin) and İdil district (Şırnak) on 24 June the HPG militants **Zahide Kurt**, **M. Maşuk Atuk** and **Kemal İsmailoğulları** were killed. Allegedly seven soldiers died in the clash. The organization had carried out an attack on a military vehicle between İncesu and Kömürcük villages in Doğubeyazıt district (Ağrı) on 26 June. One officer and two soldiers had been killed and two officers and 11 soldiers had been injured.

In a separate announcement the HPG stated that in a clash between Ortaçanak and Dallıtepe village in Bingöl district on 23 and 24 June the militants **Mehmet Bayar**, **Tekin Şaybak**, **Ahmet Okur** and **Senar Gülükanlı** had died. Allegedly 22 soldiers died in the clash.

During the funeral of Ahmet Okur in Diyarbakır on 27 June the police used tear gas and fired in the air to disperse the marching crowd. The crowd responded with throwing stones. Ten people were injured and 15 people were detained.

On 27 June one soldier was injured when a military vehicle drove on a mine near Doğubeyazıt district (Ağrı). Four soldiers were injured when on 28 June a military vehicle drove on a mine near Kesertepe village (Kiği district, Bingöl).

On 2 July a train derailed near Genç district (Bingöl) when a bomb planted by the HPG exploded. In the incident the railroad workers **Celal Korkmaz** (40), **Özcan Türker** (31), **Mehmet Aygöl** (32), **Saffet Albaş** (32) and **Mehmet Şimşek** were killed and 13 people were injured. Among the injured persons **Gürhan Bilgiç** died in hospital on 5 July.

The train that went to rescue the passengers also derailed and reportedly several people were injured. During the funeral of the victims unidentified person entered the offices of the HRA in Bingöl and destroyed the furniture. At the time the office was not occupied.

Also on 2 July three police officers were injured when they tried to defuse a bomb in the Üçyol quarter of Kulp district (Diyarbakır).

On 6 July two soldiers were injured during an attack on a control post between Ziyaret town and Kozluk district.

During a clash near Dargeçit district (Mardin) one HPG militant was killed on 5 July. The militants Revzete Ay and Kemal Hüseyin (Iraq) were reportedly detained alive.

During a clash near Harman village of Çiçekli town (Tunceli) the MKP militant **Özlem Ekder** was killed on 6 July.

The HPG announced that **Necati Yurdakul** was killed in Hakkari at the beginning of July. He was said to be an agent of JITEM.

On 7 July an attack was launched on the freight train from Erzincan to Erzurum. The train derailed but there were no casualties.

On 9 July a military vehicle drove on a mine near Dereceik town in Şemdinli district (Hakkari). The soldiers **Mehmet Çamcı**, **Ender Alber** and **İbrahim Boybey** died and the sergeant Adem Şahan and the soldiers Cengiz Aydın, Hüseyin Torun, Nefi Yetitiren, Abdülaziz Çalışkan, Cem Öztürk, Abdullah Gezgin,

Barış Gökbaşlar, Bestavi Veziroğlu, Cemal Şahin, Mehmet Engin, Zeynel Özdemir and another three soldiers were injured- Two soldiers were injured when they stepped on a mine on Çukurca district.

In the night of 9 July an attack was carried out on a control post in front of the governor's office in Hozat district (Tunceli). The police officers Niyazi Karanfil, Mehmet Cibooğlu and Mehmet Kılıç were injured.

The HPG militant **Murat Yavuz** was killed in a clash that occurred near Kemak district (Erzincan) on 11 July.

On 11 July HPG militants blockaded the road between Tunceli and Erzincan and kidnapped the soldier Coşkun Kırandı who was on his way home. Gökhan Güzel who allegedly hugged the militants and spoke in favor of them was arrested on 13 July.

On 4 August Coşkun Kırandı was released. A delegation went to Güleç village to meet him at 6.30pm. Once the soldier and the delegation arrived in Tunceli they were detained. On 6 August the members of the delegation Selahattin Demirtaş (HRA Diyarbakır), Mihdi Perinçek (HRA), swinger Ferhat Tunç, Alaaddin Erdoğan (deputy chair of DEHAP), Özgür Söylemez (from Tunceli Provincial Parliament) and the journalists Ferit Demir, Haydar Toprak, Ladir Özbek and Rüştü Demirkaya were released and the soldier was sent to his family. An investigation was launched against the members of the delegation on the grounds that they supported an illegal organization.

During operations for the rescue of Coşkun Kırandı a clash occurred in the region of Pülümür Valley (Tunceli) on 20 July. Five soldiers were injured.

On 13 July Sergeant Osman Topuz was injured during an attack on a military vehicle near Genç district (Bingöl).

The HPG announced that operations had been carried out in the Hakkari region between 14 and 16 July. Allegedly the security forces had used chemical weapons during the operation and caused the death of the HPG militant **Hacer Benek, Vahit Bilir, Rifat Baysal, Mehmet Emin Sincar** and **Hasan Esmer**.

In a separate announcement the HPG stated that three police officers, two of them named Harun Çamlıca and Rasime Tipi, had been injured during an attack on a control post near Alucra district (Giresun) on 15 July.

In mid-July a military vehicle drove on a mine near Çeltikli village (Bitlis). The soldiers Muzaffer Ürgen, Ahmet Ergül, Muharrem Kayaoğlu and Mehmet Pehlivan were injured.

On 19 July a clash occurred on the road between Pülümür district and the provincial capital of Tunceli. Reportedly one HPG was killed and five soldiers were injured. The HPG denied the news and stated that an attack had been carried out on a military unit on Gabar

mountain near Şırnak resulting in the death of eight soldiers.

On 19 July a military vehicle drove on a mine near Çığlı village in Çukurca district (Hakkari). The officers **Haluk Denli** (Haluk Beydili), **Tuna Kara** and the soldiers **Erkut Yılmaz** and **Bülent Yılmaz** died. Three soldiers including Fırat Aluş and İsmail Temel were injured. During an ensuing clash another four soldiers were reportedly injured.

During a clash near Akıncöy in Erciş district (Van) the officer **Kenan Taşan** was killed on 20 July. Allegedly two HPG militants were killed, too. They were later named as **Yücel Yorgun** and **Mehmet Karakuş**. After the clash raids were carried out on Akıncöy, Extê and Kilise villages and some 20 persons were detained; 13 of them were later arrested.

The HPG maintained that no militant was killed. The security forces had fired at peasants on their fields and killed two civilians.

Allegedly the HPG hit a military helicopter near Çukurca district (Hakkari) on 22 July. Reportedly 16 soldiers died and 10 soldiers were injured. The General Staff stated that the helicopter had hit a mine during landing and four soldiers had been injured. The press reported the death of the soldier **Mehmet Kaşıray** near Çukurca district (Hakkari) on 24 July. The governor's office in Şırnak announced that five PKK militants had been killed on 21 July.

During clashes in the Anılış Valley of Cudi Mountain near Şırnak the HPG militants **Ahmet Bilal** and **Azad Tahiri** were killed on 22 July.

The postal train running between Elazığ and Muş derailed near Kale-Kurt station on 26 July. There were no casualties during the incident of 26 July.

On the same day four HPG militants were killed in a clash near Büyükciftlik village in Yüksekova district (Hakkari). Allegedly eight soldiers were killed in the same clash.

The HPG announced that the radio link near Şebinkarahisar district (Giresun) was destroyed on 27 July. During the ensuing operations they had killed eight soldiers on 29 July.

During an attack on the military registration office in Torul district (Gümüşhane) on 29 July the soldier **Doğan Kef** was killed.

The officer **Kemal Etiler** died on 3 August when he stepped on a mine near Uludere district (Şırnak).

During a clash near Bulakbaşı village in Doğubeyazıt district (Ağrı) the HPG militant **Mehmet Birgül** was killed on 4 August.

During the night of 4 August the officers **Dursun Çetin**, **Durmuş Ali Uzun** and **Evren Ayyarkın** and the soldiers **Ramazan Çakar** and **Halil Kaan Kayabaş** died and the

soldier İnan Hakan was injured in an attack on a gendarmerie station in Şemdinli district (Hakkari).

During a clash near Ovacık district (Tunceli) the officer **Zafer Sabancı** was killed on 4 August and one soldier was injured.

On 8 August the HPG militant **Muhammet Mustafa Kayapınar** died in a clash near İliç district (Erzincan).

During a clash near Dereli district (Giresun) on 9 July one HPG militant and four soldiers reportedly died and one militant was injured.

During a clash near Anafatına village in Ovacık district (Tunceli) two soldiers died and four were injured in 10 August.

On 11 August a clash broke out in the Geyiksuyu region near Tunceli. The soldiers **İdris Güler** and **Veli Altın** died and four soldiers were injured. Among them **Hüseyin Yanık** died on hospital on 12 August.

During a clash in Maçka district (Trabzon) deputy commissioner Tolga Doğruel and the police officer Ekrem Çakmak were injured on 20 August. On the following day another clash broke out, when the attacking militants were discovered in a garden. The HPG militant **Mesut İsa** (Syria) died and the militant Sinan Gencer was captured injured.

Later it was reported that the militants had been denounced when they went shopping in a market. On 22 August several people tried to lynch Sinan Gencer when he was taken for an inspection of the scene. Sinan Gencer was arrested on 25 August.

The HPG alleged that Mesut İsa had been killed after having been apprehended alive. One HPG militant with the code name "Çektar" who reportedly had escaped was captured on 27 August.

Mesut İsa was buried in Quamishlo on 30 August. His father alleged that his son had been unarmed and captured with wounds and had been executed. Hüso İsa stated that he had gone to the Forensic Institute to identify his son. He had seen many bullet wounds and a large wound on the back.

In Nusaybin DEHAP chair Nazım Kök and the members Azize Yağız, Hülya Kök, Seyithan Kaya, Ahmet Çağın, Murat Bal and the journalists Süleyman Tekin and Engin Tokay were arrested on 31 August. Reportedly they had called Mesut İsa "our martyr". The arrest warrants were based on charges of conducting an illegal demonstration.

The governor's office in Tunceli announced that on 21 August the HPG militants **Mehmet Emin Barcadurmuş** and **Süleyman Tekin** had been killed near Bozağakaraderbent village in Pülümür

On 18 August Sergeant **Onur Yeşil** died in hospital. He had been injured by a mine that exploded near Çukurca district (Hakkari). During the same operation

Sergeant **Bülent Karataş** died when his hand grenade exploded.

On 19 August a bomb exploded close to the railroad in İslahiye district (Antep). There were no casualties.

Near Tepecik village in Beşiri district (Batman) clashes broke out on 25 August and lasted for three days. During the clashes the HPG militants **Cennet Dirlik**, **Fuat Becene**, **Ali Ekber Kalsen**, **Yusuf Avdoyan**, **Rıdvan Karakuş**, **Abbas Emami** and **Kawa Kobani** were killed. On 26 August the journalists Orhan Turan, Medeni Akbaş and Reşat Yiğit were detained when they went to the scene of the clashes. On 27 August some 2,000 people tried to walk to the scene of the clashes, but were hindered by the security forces. When on 28 August a crowd of people wanted to go to the hospital where the corpses were kept the police and gendarmerie intervened. In the incident **Hasan İş** was killed with a gun (See the chapter on Freedom of Assembly).

The HPG claimed that during the clashes 12 soldiers including one officer had been killed. The female HPG militant Ruken Maraş and one militant with the first name of Ramazan had been apprehended alive.

The daily *Özgür Politika* claimed on 30 August that the female militant who had lost one hand and both feet in the clash had been killed by an officer after apprehension. Another militant had been wounded and burned to death by setting fire to the bushes in which he hid. The article mentioned a third militant from Iran who had been interrogated for one day and killed afterwards.

One village guard was injured in a clash that broke out near Kavakgölü village in Erüh district (Siirt). The HPG stated that military operations had started in Başkale district (Van) on 27 August. On 28 August soldiers and militants had clashed and the militant Salih Doğan Yıldırım had died.

One officer and one soldier were injured when on 1 September they stepped on a mine near Çanakçı village in Alacakaya district (Elazığ).

The militants **Ayhan Seven** and **Ziver Demirbağ** died in a clash in the Bilgili region near Tunceli. Ayhan Seven was buried in Yüksekova district (Hakkari) on 9 September. The group accompanying the coffin clashed with the police. Many shops and vehicles were damaged.

On 5 September the soldiers **Ahmet Delen** and **Cengiz Aktaş** died when they stepped on a mine near Işıklı village in Çukurca district (Hakkari). The HPG maintained that three soldiers had been killed in a clash and six soldiers had been wounded.

The HPG militants **Emrullah Işık** and **Önder Yeter** died near Yaylakonak village in Hınıs district (Erzurum) on 8

September. The governor's office in Erzincan announced the death of one HPG militant, while the HPG claimed that nine soldiers including one officer had been killed between Erzincan and Erzurum and five soldiers had been injured.

The governor's office in Tunceli stated that seven HPG militants had been killed during a clash on Munzur Mountain near Tunceli.

On 9 September clashes were reported from Çiçekli village. The names of the killed HPG militants were given as **Mahmut Demir**, **Nazmi Abdurrahman** (Syria), **Mizgin Hadi** and **Osman Cengiz**. Osman Cengiz was buried in Doğubeyazıt district (Ağrı) on 14 September. After the funeral some demonstrators threw stones at the homes of soldiers and police station.

On 10 September a clash broke out in the Seslice and Alkım region near Şırnak. The officer **Mustafa Bayıklı** and the soldiers **Süleyman Aydın**, **İbrahim Ceylan** and **Yüksel Kutla** died and one officer was wounded.

On the same day Sergeant **Suat Ocak** died in a clash that broke out near Yazkonağı village in Genç district (Bingöl).

On 14 September the military estate in the center of Tokat was attacked with fire-arms. The soldier Aydoğan Şen was wounded. N.M., H.O. and M.H. were detained in connection with the attack.

The officer **Emrah Akman** and the soldier **Kadir Kasa** died as a result of an attack on a military vehicle in Hakkari on 15 September. Emrah Akman was buried in Saruhanlı district (Manisa) on 16 September. The participants of the funeral later attacked the offices of DEHAP in the town causing material damage.

On 15 September a military vehicle drove on a mine during the transport of soldiers from Yüksekova to Şemdinli district (Hakkari). One soldier was injured. In the same region Sergeant **Murat Karabulut** and the HPG militants **Mehmet Şahin** and **Aydın Çiliger** died in a clash.

Aydın Çiliger was buried in Bulanık district (Muş) on 20 September. Lawyer Mensur Işık, chair of the HRA in Muş, acting on behalf of the family stated that traces on the corpse indicated that it had been pulled with an armored or similar vehicle over the ground. Abrasion of the skin had been observed at the hip and arms and cigarettes had been subbed out on various parts of the body.

On 17 September the HPG militant **Tamer Uysal** died in a clash near Uzuntarla village (Tunceli).

On 19 September the HPG militant **Halit Bulut** died in a clash on Gabar Mountain near Şırnak.

On 21 September the HPG militants **Hilmi Borak** and **Cengiz Rasat** (Iran) died in a clash near Yayladere district (Erzurum).

The HPG announced that one militant died in an operation in the Mıhtepe region on Doğubeyazıt district (Ağrı). On 23 September a clash had occurred between Güleç and Uzuntarla villages (Tunceli) resulting in the death of one militant. Another militant had been killed in the İncebel mountain region near Şırnak.

On 23 September a military vehicle drove on a mine near Kuyucak village in Pervari district (Siirt). The soldier **Zeki Yenil Gülseren** died and Şaban Kadioğlu and Erkan Küçükfırat were injured.

One soldier was injured when on 23 September he stepped on a mine near Beytüşşebap district (Şırnak).

One the same day a bomb exploded near the command of the gendarmerie in Kulp district (Diyarbakır) resulting in injuries of two soldiers.

On 25 September a military vehicle drove on a mine near Sason district (Batman). The soldiers Ersin Çelik and Mehmet Kürkü were injured.

During a clash on the road between Şırnak and Hakkari on 26 September the village guards **Salih Çapan** and **Osman Sarı** died.

The HPG announced that during clashes at the end of September the militants **Mehmet Alaç**, **M. Zeki Afşin**, **Şerif Kaya** and **Naide Kadir** had been killed.

The governor's office in Diyarbakır reported that a clash had occurred on the road between Batman and Bismil when a vehicle with militants had refused to stop. Two HPG militants had been killed. Police chief Erdoğan Abacıoğlu, Chief Commissioner Aydın Ayhan and the police officer İbrahim Döner had been wounded.

The HPG announced that during clashes near Şırnak on 28 September the militants **Mehmet Süphan Boztaş** and **Enes Yıldız** had been killed. During military operations that started near Başkale district (Van) on 30 September one soldier had been killed and three soldiers had been injured.

During a clash in the Badabi Tepe region near Güçlükonak district (Şırnak) on 6 October the soldiers **Halil Aktaş** died.

The sergeants **Hayrettin Doğan** and **Murat Öztürk** died in a clash that occurred near Nusaybin district (Mardin) on 7 October.

On 9 October HPG militants blocked the road between İdil district (Şırnak) and Midyat district (Mardin) and kidnapped the police officer Hakan (Hasan) Açıl.

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On the website of the HPG the following interview with the police officer can be found under: [http://www.hpg-online.com/eng/news/news\\_9.html](http://www.hpg-online.com/eng/news/news_9.html).

**Captured Turkish police officer: I see them as armed resistance fighters.**

The Kurdish news agency ANF spoke to the Turkish police officer Hasan Ail who is the prisoner of HPG guerrillas in an undisclosed location in the Kurdish mountains. Hasan Ail was captured on Oct. 9 by Kurdish HPG guerrillas on the Midyat-Idil Freeway in northern Kurdistan.

ANF: How did the guerrillas capture you?

Hasan Ail: We were on our way to Cizre. The road had been blocked by some I mistook were Village Guards. I thought there had been a traffic accident and I wanted to help, so I presented myself as a police officer. They aimed their weapons at me and asked me to step out of the vehicle. 'Are you armed, hand over your weapon' they said. I told them that I wasn't. My girlfriend was with me and I didn't want her to be harmed. I had to go with the guerrillas.

ANF: Were you ever maltreated or beaten?

Hasan Ail: No, they didn't hit me when they pulled me out of the vehicle, nor did they hit me during my capture.

ANF: What did you think when they took you? What did you think would happen to you?

Hasan Ail: I thought I was going to be killed because I was a police officer.

ANF: What did they tell you when they captured you?

Hasan Ail: They told me that I would soon be released. That NGOs would come and get me.

ANF: You have now spent months in guerrilla captive. Have you ever been maltreated during this period?

Hasan Ail: My health and physical conditions are good right now. I want the Human Rights Association to take me to my family. My health condition is good, but my mental condition is a bit strained.

ANF: How are your daily needs, such as food and hygiene, being met?

Hasan Ail: They treat me as if I was one of them. Whatever they eat, they give to me. Hygiene is not a problem either.

ANF: You are able to witness the daily life of the guerrillas, you see the female guerrillas, how would you describe them, what do you think about them?

Hasan Ail: I see them as armed resistance fighters. There is no difference between men and women among them.

ANF: You were able to talk to your family once before, but you haven't been able to contact them since. Is there anything you want to tell them?

Hasan Ail: I would like to reunite with them as soon as possible. I would appreciate if the Human Rights Association could reunite me with them.

ANF: Do you have any calls to the Turkish state, the institutions you represent and the NGOs? What do you want them to do?

Hasan Ail: I would like to be released just like Coskun Kirandi. I want them to set the conditions for a release.

ANF: Do you expect anything from the Turkish state or its institutions?

Hasan Ail: I want the Human Rights Association to be the mediator.

ANF: Do you have anything else to say to the ones who miss you, your family, the media or the NGOs?

Hasan Ail: I want to be reunited with my family, I've missed them very much. I don't have anything else to say.

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Hakan (Hasan) Ail was released in January 2006.

On 10 October a military vehicle drove on a mine near Yayladere district (Bingöl) resulting in injuries to three soldiers. The HPG claimed that it had been an attack on a military vehicle and two soldiers had died, while eight had been wounded.

On 10 October a clash broke out near ıralı village between Ovacık and Hozat district (Tunceli). The HPG militants **Cezmi elik**, **Nevzat Aslan** and **Erdener Dođan** died. In the same region another clash occurred on 11 October resulting in the death of the soldiers **Ođuz Balıkı**, **Melih Tuncer**, **Şener Karadede**, **Erhan Öz** and **Halil Toparlı**. The officers Ahmet Şentürk, Hüseyin Durmuş and the soldiers Hilmi Kılı and Orhan eki were wounded.

The HPG militants **Nevzat Baykara** and **Gökhan Gürcan** died in a clash near Oymaklı village in Eruh district (Siirt) on 13 October.

On 13 October a clash broke out near Armutlu hamlet, Kavaklı village (Hakkari). The soldier **Osman Demir** died.

On 14 October Sergeant **Erbu Serpan** died when he stepped on a mine near Ziyaret village in Lice district (Diyarbakır). In the same region the soldier **Maas Ediş** died in a clash.

The MKP militants **Murat Güzel**, **Ayten Gülmez** and **Yusuf Dal** died in a clash that broke out near Gözeler village in Ovacık district (Tunceli) on 17 October.

One day before that a clash had broken out near Geyiksuyu village (Tunceli). The HPG militant **Resul İsmail Kereni** died and one security officer was injured.

The soldier **Mehmet Özdemir** died when on 26 October he stepped on a mine in Şırnak province.

On 29 October the gendarmerie station in Erenkaya village in Eruh district (Siirt) was attacked resulting in the death of village guard **İrfan Katmış** and the HPG militant **Aydın Altın**. Four soldiers were injured. The HPG claimed that soldiers had shot the village guard.

Sergeant **Ali Turan** died in a clash near Yolaçtı village (Bingöl) on 30 October. Allegedly three HPG died in the clash, too.

On 31 October a clash broke out near Uzungeçit town in Uludere district (Şırnak). The village guard **Reşit Aydemir** died. Allegedly three soldiers were killed, too and five soldiers were wounded. In a separate report the clash was dated 1 November. The names of killed soldiers were given as **Ümit Özcan**, **Oğuz Palpaloğlu**, the village guard **Reşit Aydemir** and the killed HPG militant was named **Şakir İtah**. Officially four soldiers were wounded. The HPG claimed that 13 soldiers had been killed.

The HPG announced that on 31 October a clash had broken out between Bingöl and Elazığ and the HPG militants **Selami Ünal**, **Savaş Güneş** and **Cemal Çelik** had been killed. In the clash two officers and one soldier had also been killed.

The HPG announced that on 2 November a military vehicle had driven on a mine near Kurşunlu hamlet, Dicle district (Diyarbakır). Two soldiers had died. In an official statement one officer and one soldier were reportedly wounded.

One soldier was injured when on 13 November a military vehicle drove on a mine in Güçlükönak district (Şırnak).

On 14 November a military vehicle drove on a mine near Koçdağı village in Başkale district (Van). Sergeant **Ramazan Kurumeydan** and the soldiers **Mustafa Demir** and **Ferhat Ekici** died.

On 15 November the police center at the industrial compound of Erciş district (Van) was attacked. No casualties were reported.

On 17 November the train between Van and Özalp derailed in the Çeken region when a bomb exploded. No casualties were reported.

The governor's office in Şırnak announced that during a clash on 19 November one female militant had been killed.

On 20 November the police headquarters in Silopi (Şırnak) and on 25 November the police headquarters in İdil (Şırnak) were attacked. No casualties were reported.

During a clash in the İkizce region (Şırnak) the HPG militant **Şarvan Salih** was killed on 22 November. The HPG claimed that 15 soldiers including two officers had also been killed in the clash.

On 26 November a military vehicle drove on a mine in Maden district (Şırnak) resulting in injuries to four soldiers.

On 21 November Iranian soldiers clashed with HPG militants resulting in the death of the HPG militants **Yusuf Karabağ** and **Ferhat Daniş**.

Two soldiers were injured when on 6 December they stepped on a mine near Bükardı town in Arıcak district (Elazığ). The HPG claimed that one officer was killed and the soldiers Mustafa Aslan and Metin Başer had been wounded.

On 8 December clashes broke out on Gabar Mountain between Fındık town and Güçlükönak district (Şırnak). Sergeant **Ömer Fidan** and the soldiers **Mehmet Duru**, **Cihan Olhan** and **Mehmet Ali Erçetin** died and the soldiers Tuncay Arslan and Feridun Özcan were wounded. The HPG announced that the militants **Dara Reşit** and **Münir Yüksekdağ** and more than 30 soldiers had been killed.

## 4 - ATTACKS OF ARMED ORGANIZATIONS

### *Incidents resulting in death*

#### **Yaşar Aykaç** (police officer)

On 30 April the bomb expert Yaşar Aykaç inspected a packet that had been left at a toilet in Kuşadası (Aydın). He died when the bomb exploded. Commissioner Yahya Murat Yavuz and the police officers Murat Bilgi, İsmail Doğan Atlı and İsa Soydan were wounded. The Freedom Falcons of Kurdistan (TAK) took responsibility for the attack.

#### **Fevzi Doğan**

Mayor Fevzi Doğan (DYP) in Atakent town, Silifke district (Mersin) died when a bomb planted in his car

exploded on 26 May. The reason for the attack remained unknown.

#### **Atilla Kanda**

The PKK announced that Atilla Kanda had been killed, because of "his role in the killing of the militants Ahmet Yusuf and Kawa Teyyar in Serindere village in Yüksekova district (Hakkari) on 17 May. He was accused of being a member of JİTEM. The announcement was made on 22 June but the exact date and place of the killing was not mentioned.

On other websites Atilla Kanda was named as a former PKK member who had left the organization and was

close to the Patriotic Democratic Party (PWD) under the leadership of Osman Öcalan.

#### **Hikmet Fidan**

Hikmet Fidan, assistant secretary of the now closed pro-Kurdish People's Democracy Party (HADEP) was assassinated by a shot to the head in Bağlar quarter (Diyarbakır) on 6 July.

Reportedly Mr. Fidan was the main PWD (Partiya Welatparezan Demokraten Kurdistan) contact and organizer in Turkey. The PWD linked the assault to decisions taken at the Kongra-Gel/PKK's conference in May 2005 and an 11-page instruction speech made by the PKK's senior official, Cemil Bayık (code named Cuma), to the PKK's European congress early in June.

In November the public prosecutor in Diyarbakır indicted three people in connection with the attack. The indictment that Hikmet Fidan had been at a meeting with PWD members in Northern Iraq. He had been accompanied by Veysi Akgönül and Mustafa Kemal Ok who had been given the task to establish a print office in Diyarbakır with the aim to finance the PWD. Under threats Veysi Akgönül had accepted to kill Hikmet Fidan. He had asked Fırat Karahan for help. In the end Veysi Akgönül had been too afraid to carry out the murder so that the PKK member Serkan Şitilay had pulled the trigger. He had not been apprehended (also see the Chapter on the Kurdish question).

#### **Eda Okyay, Deniz Tutum, Ufuk Yücedemir, Helen Pallhall, Tana Whalen**

On 16 July a bomb exploded in a minibus in Kuşadası district (Aydın). Five people were killed: Eda Okyay, Deniz Tutum, Ufuk Yücedemir (30), Helen Pallhall and Tana Whalen and 13 people were injured: Cemal Uçar, his son İbrahim Uçar, Toli Pulshol, Steven Stables, Michael, Adam Brown, Nilgün Yüksel Bozyaka, Muhlis Yaşa, Sen Pucher, Akif Çallı, Sedat Özçelik, Doğan İkikil and Serkan Tetik.

The HPG announced that they had not carried out the attack and had no relation to the Freedom Falcons of Kurdistan, the group that claimed responsibility for the attack.

#### **Şevket Kaygusuz (soldier), Burhan Baykal (soldier)**

On 29 July a car bomb exploded in Hakkari, killing the sergeants Şevket Kaygusuz and Burhan Baykal. Three people were injured. Following the explosion the staff members of Avaşın Culture Center, Faik Baş, İskan Kazandıoğlu and Hamit Kazandıoğlu were detained. They were released on 31 July.

#### **Eda Muslu, Hatice Muslu**

In the night of 3 August at 11.30pm a bomb exploded in a waste bin in İstanbul-Pendik. Eda Muslu and her mother Hatice Muslu, passing in a car, lost their lives; Can Muslu, Umut Müftahi, Seyit Ekşi and Emine Ekşi were injured. Other cars and buildings close to the

scene were damaged. İstanbul Police HQ announced that the explosive was of C-4 type that the PKK used. İstanbul Governor Muammer Güler, however, said that it was too early to attribute the attack to terrorists. The HPG denied any responsibility.

#### **Erhan Türk, Ziyaettin Yalvaç**

On 8 August an explosion occurred in a flat in İstanbul-Zeytinburnu, killing Erhan Türk and Ziyaettin Yalvaç. İstanbul Chief of Police Celalettin Cerrah stated that the explosion was not cause by liquid gas. He suspected that people tried to make a bomb, when it exploded. As a result of the explosion Beşir Baysu (53), Zeynep Baysu (46), Medine Baysu (3), Avniye Kaya (27) and Fadime Terzi were injured.

#### **Şehmus Sarı**

On 12 August a car bomb exploded in Mersin close to the Police House. Şehmus Sarı died and his relative Cihan Sarı was seriously injured. Officially it was alleged that the people in the car tried to perform a bomb attack. Cihan Sarı was arrested on 18 August.

#### **Bülent Akçiçek**

During an explosion in Bursa on 1 September Bülent Akçiçek died. Officially he was accused of having planned a bomb attack, when the bomb exploded early. It was also alleged that Akçiçek was a member of the Selef group within al Quaida.

#### **Korhan Ekiz, Mehmet Tamis**

On 17 September an attack was launched on the Police Center in Van. The police officer Korhan Ekiz died and the police officers Mehmet Tamis, Yücel Açıkkapı and Abdurrahman Demir were injured. Mehmet Tamis died in hospital on 18 September.

#### **Osman Kaya**

On 4 October a bomb exploded in the shopping center Çawani (Kurdish for How are you?) in İstanbul-Çağlayan. One person was killed. The name was given as Osman Kaya. The owner of the shop, Mehmet Başçı lost one arm. Gülbeyaz Gümüş, Selim Eren, Osman Özoğul and Ali Yalçınkaya had to be taken to hospital. İstanbul Chief of Police, Celalettin Cerrah, alleged that the explosion happened during preparation.

#### **Şeymus Erden, Ahmet Koçhan**

The HPG announced that during a clash between Derik and Kızıltepe districts (Mardin) on 5 November the JİTEM members Şeymus Erden and Ahmet Koçhan and one soldier were killed. Erden and Koçhan reportedly participated in the operation in November 2004 during which Ahmet Kaymaz and his son Uğur Kaymaz had been killed in Kızıltepe (Mardin).

However, NTV reported that Erden had been chair of the pro-Kurdish ÖTP in Şenyurt and Koçhan had served 45 months in prison for support of the PKK. The killings were said to be internal murders in the organization.

#### **Mustafa Sayar, Ömer Akçura**

On 18 November a bomb exploded in a waste container in İstanbul-Beylikdüzü near a leisure park. Mustafa Sayar (45) died. Among the injured persons Ömer Akçura died in hospital on 22 November. The names of further injured people were given as Berkay Doğan, Candemir Apaydın, Aslan Çağlayan, Gülay Tan, Gülay Güz, Tanju Şirin, Mecit Şirin, Faruk Arslan, Büşra Oto and two others. İstanbul Governor Muammer Güler stated that the explosive had been an A-4 bomb and was detonated by a mobile phone.

Hüseyin Akçura, father of Ömer Akçura alleged that his son was not properly treated because they could not pay the costs. His son had been working but since he had not fulfilled 120 days the assurance company did not pay. Even when the family wanted to get the corpse the officials in hospital had asked for money.

#### **Further Incidents**

On 24 January an armed attack was launched on a patrolling police car in Samsun. None of the police officers was injured.

On 26 January a Molotov cocktail was thrown at the branch of İş Bankası in İstanbul-Kadıköy.

On 27 January a bomb exploded in front of the leisure center "Regata" in İstanbul- Bakırköy. Fehim Kurtulmuş (25), Erdal Tankış (25) and Hakan Kum (37) were injured.

On 17 February a Molotov cocktail was thrown at the AKP office in Kocaeli. Nobody was injured. In connection with the incident B.Ç., B.K., H.T. and Z.P. were detained. Among them B.Ç. and B.K. were arrested on 17 March.

A bomb that was planted in the parking space of Arkas Holding in İstanbul-Zincirlikuyu resulted in material damage on 23 February.

A person trying to plant a bomb in a vehicle in front of the municipality in Yenişehir-Diyarbakır on 8 March was injured, when the bomb exploded. S/he managed to escape. In the incident Berat Özbudak, Savaş Özbudak and Seyithan Dönüş were injured.

On 28 March a Molotov cocktail was thrown into the garden of the İmam Hatip Lyceum in Mersin. Aydın H. was detained in connection with the incident.

Medeni Ayhan, lawyer in Ankara was injured to his chest in an armed attack on 6 April. The attack came late in the evening. Medeni Ayhan had for some time acted as defense lawyer of Abdullah Öcalan.

In the night of 16 April bomb attacks were carried out on the offices of the MHP in Kadıköy and Sakarya and the office of the CHP in Sakarya. In Kadıköy the passer-by Pakize İbrahimoglu (90) was slightly injured.

On 16 April a hand grenade was thrown at a civilian police car in İzmir-Konak. There were no casualties.

On 17 April a bomb exploded in front of the Trade and Consumer's Court in İstanbul-Beşiktaş.

On 21 April a Molotov cocktail was thrown at the International Protestant Church in Ankara. There were no casualties. Earlier the church had received threatening letters signed by the "Turkish Revenge Brigade" (TİT).

On 27 April experts defused one bomb at the Golden Horn Bridge in İstanbul and one close to the public transport (İETT) garage in İkitelli.

No casualties were reported when a bomb was thrown into the offices of the Idealists' Union in Kağıthane (İstanbul).

In the night of 27 May a bomb was thrown into the Oyakbank in Çağlayan-İstanbul.

On 28 May a bomb was thrown into the courthouse in Bağcılar-İstanbul. A vehicle parked in front of the building was damaged.

On 30 May a bomb attack was carried out on the offices of the AKP in Seydişehir-Konya. There were no casualties.

No casualties were reported from bomb attacks at the courthouse in İstanbul Bakırköy and the governor's building in Ankara-Keçiören on 6 June.

Unidentified persons opened fire on a minibus near Geçitli village (Hakkari) on 8 June. The woman Firuze Özbek (46) was injured.

On 16 June a hand grenade was thrown at a sport's club in Beyoğlu-İstanbul. It did not explode.

The bomb left at the entrance to the HQ of Pensioned Officers in Kızılay-Ankara resulted in material damage. An organization with the initials FESK (Armed Forces of the Poor and Oppressed) claimed responsibility.

On 10 July a bomb exploded in a waste contained in Çeşme-İzmir resulted in serious injuries to Ali Çelikli and injuries of another 21 persons, three of them foreigners. Yavuz Demirkıran, İbrahim Demirkıran and Halil Akçı were arrested in connection with the event.

On 14 July a car bomb exploded in Hakkari and injured Tamer Akarsu and Kemal Gezer. Deputy Governor Sezgin Üçüncü could give no reason for the explosion.

Allegations were raised that HPG militants kidnapped the shepherds Sinan Gürbüz (16) and Hakan Abi (18) near Ortayol village in Başkale district (Van) on 23 July.

On 23 July a bomb exploded in a restaurant under the Galata Bridge in İstanbul. Ethem Yılmaz and Theodorus Bartholemeus van Kompen (Netherlands) were injured. In connection with the incident Necat Öztekin, Mehmet Abay and Hanefi Kuzu were charged with membership of an illegal organization in August.

On 25 July an armed attack was conducted on a police vehicle in Gümüşhane. The police officer Eyüp Şahin and the passer-by Çetin Ergün were injured.

Unknown people set the offices of the MHP in Mamak-Ankara on fire in the night of 26 July. Previously unknown "Anti-fascist Forces (AFAK) claimed responsibility.

HPG militants kidnapped Haşim Akyürek, Mayor for the AKP of Yayladere district (Bingöl) on 27 July. Together with his friend Zülfü Çoban he had gone to the Sündüs Plateau. They were kidnapped on their way back. Zülfü Çoban was released near Çalikağız village (10 kilometers from the district center).

He reported that it had been 4 kidnapers speaking Turkish and Kurdish well. They had said that the control was with the organization at that time of day. In the village they had asked for food and had taken the Mayor with them.

Haşim Akyürek was released near Sündüs Plateau on 1 August.

On 1 August unknown people attacked the offices of the ÖDP in Yenimahalle and Eğitim-Sen in Batıkent (Ankara). The attackers sprayed the doors and wrote slogans of "Turkey belongs to the Turks" and "How happy who can say to be a Turk" on the walls.

On 2 August unknown people kidnapped Hasan Baturay from Karakaş village in Arıcak district (Elazığ). Allegedly the kidnapers were HPG militants. He was released on 16 August.

Bombs that were planted in waste bins in Kalekapısı and the spice bazaar in Antalya resulted in material damage on 2 August. In the explosions three persons including one foreign tourist were injured.

On 5 August bombs exploded near Servi town in Genç district (Bingöl), when a convoy with Bingöl Governor Vehbi Avuç, the deputies Feyzi Berdibek, Mahfuz Güler, Abdurrahman Anık and Bingöl Chief of Police, Mehmet Gülnaz passed. There were no casualties.

On 7 August a bomb exploded in the boot of a taxi at Atatürk Airport (İstanbul). The driver Muammer Kaynak and, sitting in a different car, Zeynep Soyutürk and her son Umut Soyutürk (3) were injured. In connection with the incident Hüsamettin G., Turhan Günaha, Hakan Sevipteğin and Coşkun G. were detained at the beginning of September.

In 12 August a bomb exploded in a waste bin in Alanya district (Antalya). One person was injured.

On 13 August a bomb exploded when Elazığ Governor Kadir Koçdemir returned from Alacakaya district. The car was damaged but there were no casualties.

As a result of a bomb explosion in front of a shopping center in Bakırköy-İstanbul in August the woman Nursen Çınar was slightly injured.

On 14 August a bomb exploded in the cellar of the governor's office in Beytüşşebap district (Şırnak) causing material damage around but no casualties.

The HPG announced that the organization was not responsible for the kidnapping of Ali Rıza Zenbur from Pertek district (Tunceli) in mid-August.

On 15 August a bomb exploded in the cash point situated in the garden of the governor's office in Ömerli district (Mardin). School director Şükrü Özgür, Sergeant Levent Yücedağ, teacher Menderes Şakir and Nedim Dağ were injured.

On 17 August a Molotov cocktail was thrown into the directorate of the post office PTT in Buca-İzmir. In connection with the incident H.K. (19), Ş.Ç. (16) and F.U. were detained, but released by the prosecutor.

On 24 August a bomb exploded in a street in Dikili district (Antalya) resulting in injuries of Abdurrahman Tayfur. Reportedly he lost three fingers at his right hand.

FESK claimed responsibility for a bomb attack on the right-wing newspaper *Ortadoğu* in Ankara on 8 September. The organization also claimed to have bombed the offices of the MHP in Ümraniye-İstanbul on 9 September.

The MLKP announced that the meeting place of the MHP in Göksu town, Buca district (İzmir) had been bombed on 16 September.

On 11 September a bomb was thrown into the house of Hasan Öztunç, the brother of AKP deputy for Hakkari, Fehmi Öztunç. The bomb caused material damage.

On 18 September Abdülkerim Kılıç, headman of Çatalca village in Şemdinli district (Hakkari) was kidnapped by unknown men. The mainstream press attributed the kidnapping to the PKK.

On 19 September a bomb was thrown into the office of the AKP in Malazgirt district (Muş). The fire caused material damage.

The garbage collector Mehmet Yıldız was injured, when on 19 September a bomb exploded in a park at İstanbul-Taksim Square.

The minibus driver Sait Karadeniz was injured when on 24 September a hand grenade thrown on the road in Cizre district (Şırnak) exploded.

On 28 September a bomb exploded at the entrance to the municipality in Şahinbey district (Antep). Some shops were damaged.

On 4 October a group of demonstrators set a public bus on fire with a Molotov cocktail.

On 9 October a group of right-wingers attacked members of the ESP and the Independent Revolutionary Class Platform (BDSP) when they held a press conference against the draft Anti-Terror Law in Kayseri. Muharrem Demirkıran was slightly injured. The police detained him and four other demonstrators.

On 15 October an explosion occurred at a petrol station in Maslak (İstanbul). Durmuş Özkan (30), Osman Topal, Tolga Kayabaşlı, Ersin Aslan and Sezai Çetin were injured. After an inspection the official announcement stated that A-4 type explosion had been used and the detonation had been initiated with a remote control. In connection with the incident Enver Akçay, Levent Döndü, Veysel Dereli, Nusret İnce, Kenan Avcı and Lütfü Yoldaş were detained in İstanbul and Diyarbakır. Kenan Avcı, Nusret İnce, Lütfü Yoldaş and Veysel Dereli were arrested on 31 October. Enver Akçay and Levent Döndü were released.

On 19 October a bomb exploded in the toilet of the courthouse in Batman. There were not casualties. In connection with the incident the executives of DTP, Kenan Demir, Bahar Yeşilyurt, Hamit Arslan and Fahrettin Seven were arrested on 3 November.

On 26 October a bomb was thrown into the garden of the administration in Viranşehir district (Urfa). The bomb cause material damage, but no casualties were reported.

Unknown people set a public on fire in İstanbul-Küçükçekmece on 27 October. They used Molotov cocktails.

Material damage was caused, when on 27 October a bomb exploded in the AKP office in Çiğli district (İzmir).

The bomb that exploded in the Ziraat Bank in Beytüşşebap district (Şırnak) on 6 November caused material damage. After the incident the police raided many houses. After a raid on his house Sabri Ataman said: "They came early in the morning, broke the door and started to swear at us." M.Yiğit (13), son of Mehmet Yiğit was detained, but released on 7 November.

The bomb that exploded in the center of Van on 10 November caused material damage.

A bomb was planted into the car of prosecutor Talip Demirezen at a parking space near the administration in Silopi district (Şırnak) on 11 November. The explosion caused material damage.

On 20 November a bomb attack was launched against Silopi Police HQ in Şırnak district. The attack caused material damage. The village guards Cevher Bodur and Sabri Binzat and the villagers Murat Kumak, Ata Kaçar and Osman Arslan were detained in connection with this incident. They were arrested on 24 November and

also accused of having planted the bomb in the car of prosecutor Talip Demirezen (see above). The file was sent to Diyarbakır since the charges of actions for an armed organization have to be tried at a heavy penal court that replaced the state security courts.

Further to these suspects Reşit Çoban, Abdulaziz Çoban, Hizni Özmen and Şahin Özmen were detained on 5 December and accused of an involvement in the bomb attack. Süleyman Çoban, the father of Reşit Çoban later alleged that the police had left a bomb at the flat of his son. Further detentions and arrests were reported on 7 December. H.I., R.I., İ.I., Ş.İ., W.H., E.A, İ.K, N.A. and O.K. were arrested on 9 December.

On the same day another two bombs exploded near the governor's office and in Dörtöyl quarter of Silopi. In Dörtöyl quarter damage was caused at 15 shops. Because of an explosion near the State Hospital Vehbi Yıldız was injured. The HPG announced not to be related to the attacks.

On 10 November two separate bomb attacks were carried out in Fatih and Büyükçekmece quarters of İstanbul. At 8pm Çarşamba Police Station was attacked in Fatih. The bomb caused material damage. At 9pm a bomb exploded at Esenkent Gendarmerie Station in Büyükçekmece. No casualties were reported from there.

On 12 November Molotov cocktails were thrown at banks in Bornova, Karşıyaka and Kemeraltı quarters of İzmir. The bombs caused material damage. In connection with the incidents Abdülbekir Yakıcı, Abdürrahim Marol and Mehmet Yeni were detained.

On 12 November a Molotov cocktail was thrown at the office of the TKP in Samsun. There were no casualties.

On 14 November a bomb exploded in a pharmacy shop in Erciş district (Van). There were no casualties.

On 16 November a bomb attack was launched against the office of the AKP in Gaziosmanpaşa district (İstanbul). The bomb caused material damage.

On 19 November the local newspaper *Odak* in Afyon was the target of a bomb attack that caused material damage.

On 21 November a bomb attack was carried out on the car of Sergeant Hüseyin Akbulut in Derik district (Mardin). The car and buildings around were slightly damaged.

The MLKP claimed responsibility for a bomb attack on the office of the MHP in İstanbul-Çekmeköy on 21 November.

FESK claimed responsibility for a bomb attack on the police center in İstanbul-Küçükçekmece on 23 November, while the MLPK claimed responsibility for a bomb attack on the MHP office in İstanbul-Kartal on 7 December.

On 9 December a bomb that was planted in the center of Batman caused material damage.

In Turhal district (Tokat) bombs that were planted in the building of the governor were defused before they exploded.

The MLKP claimed responsibility for bombs attacks on the MHP office in Gebze-Kocaeli on 4 December; on the residential area of police officers in Konak district (Antep) on 7 December and the MHP office in İstanbul-Bağcılar on 10 December.

Yunus İsen and Maşuk İsen, nephews of former ANAP deputy for Batman, Burhan İsen, were kidnapped in Örensu village, Kozluk district (Batman) on 13 December. Reportedly the kidnapper wore masks. On the following day some 200 people gathered in front of İkköprü Gendarmerie Station claiming the İsen brothers had been detained.

On 15 December Yunus and Maşuk İsen were released. At 11.40pm they came to Ünsaldı Gendarmerie Station and stated that HPG militants had kidnapped them.

FESK claimed responsibility for a bomb attack on a building with offices of right-wing trade unions, DSP and MHP in Muğla on 22 December. The bomb caused material damage.

The MLKP claimed responsibility for a bomb attack on the office of the AKP in Çayırova town, Gebze district (Kocaeli) on 24 December. The bomb caused material damage.

At 4am on 26 December an armed attack was launched at a police car in Bağcılar-İstanbul. Police officer Yalçın Tunç was injured to his leg. Later many people were detained in the area.

The FESK claimed responsibility for bomb attacks at the governor's office in Bahçelievler quarter (İstanbul) on 26 December; at Altındağ Police HQ in Ankara; at the AKP office in Bursa and at Altındağ Police Station in İzmir on 28 December. The attacks caused material damage and said to be a protest at the prison operation of 19 December 2000.

**Cevat Yurdakul:** The annuity insurance (Emekli Sandığı) asked for TL 14 billion of compensation paid for the family of Adana Chief of Police Cevat Yurdakul who fascists had killed on 28 September 1979 to be paid back arguing that his death had no relation to the fight against terrorism.

In 2000 Ankara Heavy Penal Court had convicted the alleged assailants not under Article 146 (violent overthrow of the Constitutional order), but for murder under Article 450 TPC. The annuity insurance maintained that these charges had no "terrorist" (political) background. The wife of Yurdakul appealed to Ankara Administrative Court 11 stating that the killing had no personal but a political background.

**Yasin Hayal:** On 13 September Trabzon Heavy Penal Court released Yasin Hayal. He was charged with having planted a bomb in the McDonald's restaurant in Trabzon on 24 October 2004. The bomb had resulted in injuries of six people. The trial continued and did not end in 2005.

### Political Trials

**Bomb Attacks in İstanbul:** During 2005 İstanbul Heavy Penal Court No. 10 heard the case of 69 defendants charged in connection with the bomb attack on 15 and 20 November 2003. After the hearing of 14 February Cemile Akdaş, Mediha Yıldırım, Mehmet Helvacı, Abdullah Demir, Yusuf Dural, Ahmet Selami Demir, Hüseyin Suat Öz and Muhammed ül Emin Bastın were released.

In February the opinion of the General Directorate for Security on the question of whether or not the defendants might benefit from the Repentance Law reached the Court. The Directorate concluded that the applying 22 defendants were not entitled to benefit from Law 4959 on Re-Integration into Society. The opinion stated that Adnan Ersöz, Seyit Ertul and Seçkin Mandacı could not benefit because they were leading members. For 7 applicants it was stated that the information they gave was correct, but their action happened after the law had entered into forces. In the case of 11 defendants it was stated that the information they gave was not sufficient to dissolve or disclose the organization.

During the hearing of 11 April the defendant Harun İlhan stated that he had been tortured in custody. Because of the pressure at the police and the prosecutor's office he had applied to benefit from the Repentance Law, but during the hearings he had realized that he had done wrong.

Meanwhile it turned out that the defendants Sadettin Akdaş and Burhan Kuş were imprisoned in Abu Ghraib Prison in Iraq. In January they had sent letters to their families via the Red Cross. After the bomb attacks in İstanbul several suspects had gone to Iraq. Habib Akdaş had died in a clash and Azad Ekinçi and Gürcan Baç died in suicidal attacks.

On 27 June the public prosecutor summed up the case. He asked for life imprisonment for the defendants Harun İlhan, Fevzi Yitiz, Adnan Ersöz and Yusuf Polat according to Article 146 old TPC that was in favor of the defendants. The prosecutor demanded various prison terms for 36 defendants and wanted 31 defendants to be acquitted.

In July it turned out that Sadettin Akdağ, Burhan Kuş, Abdülkadir Karakuş and Muhammet Tokaç had been apprehended in Iraq. The daily *Milliyet* reported that the news that they were at the hands of the US-forces had been confirmed semi-officially.

During the hearing of 25 August defense lawyer Kazım Ayaydın acting for the defendant Yusuf Polat

maintained that Al Quaida was indeed an information system established against the Soviet occupation of Afghanistan. Usame bin Laden had been given the task to keep the information and now it was handled as if the system was an organization.

In April Abdurrahman Sarıoğlu, defense lawyer in the trial was indicted by the prosecutor in Beyoğlu because he insisted on standing, while the presiding judge had ordered him to sit down. On 6 June 2004 he had told the weekly *Nokta* that he preferred to stand rather to stand up and sit down in front of a secular system. The prosecutor wanted the lawyer to be convicted under Article 312 old TPC.

Hilmi Tuğluoğlu and his wife Leyla launched a case for compensation after their acquittal had been confirmed. As suspects of the attacks they had been brought from Syria to Turkey. In September Ankara Heavy Penal Court No. 3 awarded Hilmi Tuğluoğlu 2,700 YTL and his wife Leyla Tuğluoğlu 1,550 YTL as compensation.

**Attack on the Free Mason Association:** On 15 February İstanbul Heavy Penal Court No. 9 continued to hear the case in connection with the attack on the Association of Free Masons in İstanbul-Kartal on 9 March 2004. The file of Hakan Çalışkan on trial for the bomb attacks in November 2003 was combined with this trial. During the hearing the witnesses Ömer Aksu and Abdülkadir Dabbahoğlu identified the defendant Engin Vural. The defendant Birol Kayaalp was released. After the hearing of 13 May the defendants Murat Sözkese and Mehmet Peçen were released. The trial did not conclude in 2005.

**The Sivas Massacre:** Several defendants in the trial on the incidents in Sivas on 2 July 1993 that resulted in the death of 36 people applied to benefit from the Re-Integration Law. Ankara Heavy Penal Court No. 11 dealt with the applications, but did not reach a decision in 2005. On 8 February presiding judge Mehmet Orhan Karadeniz stated that Özkan Doğan had applied from France but had not forwarded his comments. For the defendants Tufan Caymaz, Ramazan Önder and Halis Duran, against whom arrest warrants existed, no further information had been received. The number of applicants from this trial was given as 56.

Sadettin Temiz and his brother Ali Temiz, defendants in the trial, were caught in Sivas on 12 February. Sadettin Temiz had been in pre-trial for four months and his brother Ali Temiz for 9 months. At the end of the trial Sadettin Temiz had been sentenced to 12 years and Ali Temiz life imprisonment. İbrahim Duran who had also been sentenced to life and Zekeriya Tekin who had been sentenced to 7.5 years' imprisonment were apprehended in Sivas in March. Tufan Caymaz was detained at the international terminal of Atatürk Airport in İstanbul in April.

Besides Tufan Caymaz the defendant Halis Duran was "discovered" in Tekirdağ F-type Prison No. 1 in

September. In August the daily *Hürriyet* reported that the defendant Muhammed Nuh Kılıç who had been sentenced to 7.5 years' imprisonment was living in Germany. Turkey was looking for him with a red bulletin of Interpol. *Hürriyet* added that among 26 defendants against whom arrest warrants had been issued six were wanted with a red bulletin.

Later it was reported that Germany had rejected the demand for extradition because of insufficient documents. The prosecutor Christine Hügel stated that she had found the demand from Turkey sufficient for an arrest, but the county court had a different opinion. Apparently the extradition demand had simply mentioned that Kılıç was wanted for participation in an illegal demonstration.

On 5 September *Hürriyet* reported that the defendant Mehmet Yılmaz who had been sentenced to life imprisonment had been arrested in 2004 on the demand from Turkey. However, Turkey had not fulfilled the procedure and he had been released again. Klaus Böhm, spokesperson for Karlsruhe County Court said: "If Muhammed Nuh Kılıç is wanted for having participated in an illegal demonstration he will not be extradited. Last year we arrested Mehmet Yılmaz to be extradited to Turkey. The only offence shown in the papers was his participation in an illegal demonstration. We released him and no further demand came from Turkey. Turkey has to inform us on the concrete charges and the offences for which someone was convicted at which court and when. We also have to know how much time someone spent in prison."

**The trial on the Umut Operation:** On 28 July Ankara Heavy Penal Court No. 11 concluded the trial against nine defendants charged with 22 actions including the killings of Uğur Mumcu, Ahmet Taner Kışlalı, Bahriye Üçok and Muammer Aksoy. The Court sentenced Ferhan Özmen to life imprisonment according to Article 146/1 old TPC. Hasan Kılıç and Mehmet Ali Tekin were sentenced to 11.5 years' imprisonment as leading members of an armed gang. However, the Court responded positively to their demand to benefit from the Repentance Law and reduced the sentences to 6 years, 3 months' imprisonment. Mehmet Şahin, Fatih Aydın, Muzaffer Dağdeviren and Abdulhamit Çelik were sentenced to 3 years and 45 days' imprisonment for membership of an armed gang. The defendant Yusuf Karakuş was sentenced to 45 months' imprisonment, while Ekrem Baytap was sentenced to 15 years' imprisonment.

Muzaffer Dağdeviren who had been released on 5 August was killed in İstanbul on 21 September. Reportedly people he wanted to blackmail killed him. Besides the Umut case Muzaffer Dağdeviren had also been accused in connection with the gang founded by Kürşat Yılmaz and Haluk Kırıcı in Eskişehir Prison.

**The trial of Metin Kaplan:** On 20 June İstanbul Heavy Penal Court No. 14 concluded the case against Metin Kaplan the leader of the radical Islamic organization "Union of Islamic Associations and Parishes" who had

been extradited from Germany. The Court sentenced him to aggravated life imprisonment for the violent attempt to change the Constitutional order. The sentence was passed under Article 146 old TPC.

On 30 November 2005 the 9<sup>th</sup> Chamber of the Court of Cassation quashed the verdict on formal grounds. It criticized that one judge had not signed one page of the verdict and asked for the complete file (or authenticated copies) of the trial in 1998. Finally, it ordered the lower court to compare old and new legislation, not only to find the provision with the more positive sentence for the defendant, but also to compare the provisions of further sanctions such as losing civil rights.

**One Hizbullah Trial:** On 13 January Diyarbakır Heavy Penal Court No. 6 concluded the cases against Mehmet Fidancı charged for his alleged involvement in the killing of Diyarbakır Chief of Police, Gaffar Okkan, 5 police officers and 14 other persons at different dates. The Court sentenced him to life imprisonment. In June the 9<sup>th</sup> Chamber of the Court of Cassation quashed the verdict on grounds of insufficiency of documents.

**Another Hizbullah Trial:** On 1 April Diyarbakır Heavy Penal Court No. 6 sentenced Kaan Aktaş, Mehmet Salih Aslan, Abdurrahim Haşimi Güneş, Hayrettin Demir, Abdurrahim Orhan, Şeyhmus Uğur, Sait Özbey, Adnan Aktaş, Mehmet Kadri Can, İbrahim Güler, Mehmet Şerif Bayındır, Zeki Şinego, Selami Sevim, Seyfettin Ağırman, Mehmet Ziya Gümüş, Hayrettin Şayık, Selman Dil, Ömer Saruhan, Mehmet Mahsun Demir, Mehmet Beşir Demir, Mahmut Avcı and Asım Şinego to imprisonment under Article 146 old TPC for their involvement in violent acts for the radical Islamic organization Hizbullah in Mardin, Batman and Şırnak including the killing of 91 persons. The Court separated the files of five defendants who had been minors at the time of the offences and sent the files to the juveniles' court. In the case of 18 defendants who were charged with supporting the organization the Court decided on the statute of limitation.

**Another Hizbullah Trial:** In June the 9<sup>th</sup> Chamber of the Court of Cassation confirmed the life sentence for Zübeyir Timur passed at Konya SSC. Here Zübeyir Timur had been charged with the kidnapping of Konca Kuriş, the killing of Uğur Gökdemir, Erhan Terzioğlu, Mehmet Şerif Uprak, Bayram Ali Uprak, Hüseyin Bayburt, Ahmet Ekinci, Faik Oyunlu and Bülent Doğan in 1998 and 1999.

**Another Hizbullah Trial:** On 24 November Ankara Heavy Penal Court No. 11 concluded a case against alleged members and supporters of the radical Islamic organization Hizbullah. The Court acquitted 32 defendants who had been charged with support of the organization. Among them 26 had asked to benefit from the Re-Integration Law. The defendants Şeyhmus Alpsoy and Mehmet Emin Alpsoy who in

the first round had been sentenced to life imprisonment were sentenced to aggravated life imprisonment. Mustafa Gürlüer was sentenced to 9 years' imprisonment for membership of the organization. He was released considering the time he had spent in prison. Sadullah Arpa and Abdülsamet Yıldız were sentenced to 7.5 years' imprisonment (also for membership). The file of Abdurrahman Alpsoy who had not been apprehended was separated.

**Trial for Assassination of Jak Kamhi:** On 14 October İstanbul Heavy Penal Court No. 11 concluded the case against Yaşar Polat and Kamil Aşkın charged for their involvement in the assassination attempt on businessman Jak Kamhi, chair of a foundation established by Jews. The Court sentenced the defendants to life imprisonment. For the same offence of 28 January 1993 Can Özbilen, Osman Erdemir and Ali Rıza Bayramçavuş had received the same sentence earlier.

**The Hizb-ut Tahrir Trial:** On 9 March Ankara Heavy Penal Court No. 11 started to hear the case of Serdar Kaya who had been detained when he gave a leaflet of the Islamic organization Hizb-ut Tahrir to Prime Minister Recep Tayyip Erdoğan. On question of the presiding judge Orhan Karadeniz the defendant stated to be a member of Hizb-ut Tahrir and that he distributed leaflets for the organization. The next answer he started with quoting the formula of Allah and the judge ordered him to leave the courtroom. Now spectators in the courtroom started to quote the formula. The judge ordered the women and elderly men to leave the room. The remaining 42 persons were detained in the court room. The prosecutor released 34 of them. Bilal Çolak, Zeki Çolak, Serdar Halıcı, İsa Çınar, Hüseyin Şahin, İsmail Şen, Murat Özbin and the defendant Serdar Kaya were taken to the anti-terror department at Ankara Police HQ for questioning.

**Another Hizb-ut Tahrir Trial:** On 30 December İstanbul Heavy Penal Court No. 10 heard the case of 26 defendants, 20 of them in pre-trial detention, charged with membership of the Islamic organization Hizb-ut Tahrir. The alleged leader of the organization in Turkey, Yılmaz Çelik said that their action should be regarded as "crimes of thought". He stated that Abdülmelik Fırat, chair of the political party Hak-Par had asked for a federal Kurdish State and that had been interpreted within freedom of expression. Likewise the demand of a Khalif State should also be regarded as the expression of an opinion. The Court rejected the demand for release of 19 defendants and adjourned the hearing to a later date.

**The Trial of the Egyptian Bazaar:** The case at İstanbul Heavy Penal Court No. 12 against 15 people charged in connection with the explosion in the Egyptian Bazaar in Eminönü-İstanbul on 9 July 1998

that had resulted in the death of 7 and injuries of 120 people did not conclude in 2005. After the hearing of 25 May the defendant Kadriye Kübra Sevgi who had asked to benefit from the Re-Integration Law was released.

In April İstanbul Administrative Court No. 6 awarded Levent Sevil who had been injured during the incident 90,000 YTL.

**The Blue Bazaar Trial:** The trial against Ergin Atabay, Abdullah Günay, Azime Işık and Metin Yamalak charged in connection with the throwing of Molotov cocktails into the Blue Bazaar in İstanbul-Göztepe on 13 March 1999 that had resulted in the death of 13 people did also not conclude in 2005.

In July Kadıköy Judicial Court No. 6 awarded the family of Ümit Ayyürek who had been killed in the incident compensation of 101,304 YTL. The administration of the Blue Bazaar appealed against the decision, while the family of the owner İbrahim Taşlı who had been killed in the incident asked for compensation under the Law to Compensate Damages as a result of Terror.

**Assassination of Sabancı:** The Supreme Administrative Court (Danıştay) decided on compensation to be paid to the family of Nilgün Hasefe who had been killed in 1996 during the assassination of Özdemir Sabancı and Haluk Görgün. Meanwhile the court case against the alleged leader of the DHKP/C, Ercan Kartal charged with having ordered the assassination continued throughout 2005.

**One DHKP-C Trial:** On 25 February İstanbul Heavy Penal Court No. 11 continued to hear the case of İnan Gök, Nadir Akgül, Bülent Kemal Yıldırım and Muharrem Cengiz charged with a bomb attack on a car with prosecutor at İstanbul SSC in the name of the DHKP-C. The attack was conducted on 3 June 2003. After the hearing Nadir Akgül and Muharrem Cengiz were released. The trial did not conclude in 2005.

**Another DHKP-C trial:** Throughout the year İstanbul Heavy Penal Court No. 12 continued to hear the case of meanwhile 73 defendants most of which had been detained in April 2004 in offices of journals and legal associations alleged to be affiliated to DHKP/C. On 16 May the defendants Mustafa Erol, Münevver Köz, Orhan Eski, Sema Koç, Tigin Öztürk, Aynur Karaaslan, Nihat Özcan, Mehmet Doğan, Kudret Sarıgül and Ali Aracı were released.

During the hearing of 7 October the defense presented its views in a PowerPoint presentation of 2 hours. The lawyers alleged that most of the evidence had been "produced" by the police, for instance, the tapped mobile telephone had been in the hands of the police at the time in question. They asked for the

release of the defendants in pre-trial detention. The Court ordered the release of Ali Kaya and Ali Uludağ, but prolonged the detention of Sadi Naci Özpolat, Gülizar Kesici, Metin Yavuz, Perihan Demirkıran, Zeliha Koyupınar and Mehmet Yayla. The hearing was adjourned to 6 February 2006.

**Devrimci Sol Trial:** On 11 April Üsküdar Heavy Penal Court No. 1 started to hear against the case of 1243 defendants whose trial on charges of actions for "Devrimci Sol" (Revolutionary Left) had started at İstanbul Military Court No. 2 in 1981. The prosecutor asked for life imprisonment for 163 defendants including Dursun Karataş, Hüseyin Solgun and Murat Karabulut for the violent attempt to overthrow the Constitutional order. For the other defendants the prosecutor pleaded for lapse of time.

Defense lawyer Nebi Barlas felt surprised that a civilian prosecutor asked for heavier sentences than the military prosecutor. Lawyer Taylan Tanay said that the indictment was not serious since life imprisonment had been demanded for defendants who were not alive any more.

Another hearing was held on 21 September. Defendant Burhan Kızılgedik stated that he had heard that many files had been lost and burned in an operation on Ümraniye Prison. On the other hand, sack 19 filled with documents which the Court of Cassation had claimed to be lost was said to have been found. The trial did not conclude in 2005.

In 1991 the military court had sentenced many defendants to terms ranging from 33 months to life imprisonment. After Üsküdar Heavy Penal Court No. 1 had taken over the case some 100 of 400 folders were reported to be "lost". Accordingly the Court of Cassation had quashed the verdict. Allegedly the "lost" folders were found in December 2004 so that the case started again.

**Another Devrimci Sol Trial:** The 9th Chamber of the Court of Cassation quashed the sentences of Erkan Koç, Abdurrahman Kaykan, İbrahim Doğuş, Özden Bilgin, Erol Çam, Dursun Bütüner, İsmail Yiğit, Yeşim Taciroğlu, Perihan Sürücü, Alişan Yalçın, Rıza Demirel and Caferi Sadık Gökçe on the grounds of insufficient investigation. For the remaining defendants the Court of Cassation voted for approval either of acquittal or decisions on lapse of time.

On 18 December 2003 İstanbul SSC had concluded the case against 31 persons charged with "membership of Devrimci Sol, killing 16 persons, 13 of them police officers, and conducting various actions between 1991 and 1993".

The court had sentenced Erkan Koç to aggravated life imprisonment according to Article 146/1 TPC, Özden Bilgin, Erol Çam, Dursun Bütüner, İsmail Yiğit and Yeşim Taciroğlu to life imprisonment according to the same article. The latter may benefit from the Law on

Execution of Sentences. Abdurrahman Kayhan and Perihan Sürücü were sentenced to 20 years' and 6 months' imprisonment under Article 168/1 TPC and İbrahim Döğüş, Alişan Yalçın, Cemalettin Erdemli, Rıza Demirel and Cafer Sadık Gökçen were sentenced to 12 years' and 4 months' imprisonment under Article 168/2 TPC. Ali Ekber Pamuk was sentenced to 8 years' and 4 months' imprisonment under the same provision. Kemal Mete Sözen, Talat Ünlü and Emrah Pamuk were acquitted whereas the cases against Fethiye Yalçın, İsmail Kulak, Mehmet Emin Yıldırım, Ercan Yeşil, Hacı Güler, Zeki Tanrıverdi, Erdoğan Aktaş, Mehmet Kulak, Kasım Kulak and Yusuf Büyükdag were dropped because of lapse of time. The files of Hasan Dinler and Harun Kartal were separated on the grounds that their testimonies were not recorded during the trial.

**Another Devrimci Sol Trial:** On 29 December İstanbul Heavy Penal Court No. 9 continued to hear the case of Yasemin Okuyucu, Metin Dikme and Bayram Kaya charged with activities for Devrimci Sol (DHKP-C) including the killing of Yaşar Günaydın (prosecutor at İstanbul SSC), the police officer Şaban Ceylan protecting him and the driver Halis Balta on 6 February 1992 and the retired general Adnan Ersöz on 13 October 1991. The Court ordered the release of the defendants.

On 26 September 2003 İstanbul SSC had sentenced the defendants to life imprisonment under Article 146/1 TPC. The Court of Cassation had quashed the verdict in 2004.

**The Devrimci Yol Trial:** On 23 June Ankara Heavy Penal Court No. 6 continued to hear the Devrimci Yol (Revolutionary Path) case that had started at Ankara Military Court No. 1 in 1982. The dispute on "lost" folders continued. Reportedly 740 folders should exist but at the Court of Cassation only 460 folders were available for inspection. The trial did not conclude in 2005.

**Sarp Kuray's Trial:** On 29 December İstanbul Heavy Penal Court No. 9 concluded the trial against Sarp Kuray, one of the leading figures of the "68 generation". He had been charged with founding the "16 June Movement". The Court ruled that Sarp Kuray had ordered some 30 actions of killing and bombing between 1986 and 1990 and sentenced him to life imprisonment. In the first round İstanbul SSC had argued that he surrendered and since he provided information on the organization should not be punished under Article 170 TPC. The 9th Chamber of the Court of Cassation had quashed the verdict and in the second round Sarp Kuray had been sentenced to 12 years' imprisonment. This verdict, too, had been quashed and after the last trial Sarp Kuray had been sentenced to 12.5 years' imprisonment. The 9th Chamber of the Court of Cassation had argued that he had to be sentenced according to Article 146 and not 168 TPC and, accordingly, the verdict of December sentenced him to life imprisonment. Sarp Kuray had returned to Turkey in 1993 and had been released after two months in prison.

**The Kemal Türkler Trial:** In May the Court of Cassation quashed the acquittal of Ünal Osmanağaoğlu charged for the killing of DİSK chairman Kemal Türkler in İstanbul-Merter on 22 July 1980. On 20 June the retrial started at Bakırköy Heavy Penal Court No. 2. Rasim Öz, the lawyer of the Türkler family demanded to follow the verdict of the Court of Cassation while the defense argued that the court should stick to the original verdict of acquittal because of "lack of evidence".

The Court of Cassation had argued that the situation of other suspects in the killing, Abdülsamet Karakuş, Aydın Eryılmaz, Celal Adan, İsmet Koçak and İsmail Aydın Esi had not been taken into account. The trial did not conclude in 2005.

## 5 - CIVILIAN CLASHES

**Esat Atmaca:** Unknown person knifed Esat Atmaca (22) to death in Gazi quarter (İstanbul) on 8 April. In the incident Cemal Baykıran and Mustafa Doğan were injured. Esat Atmaca was known for being close to the leftist "Front of Rights and Freedoms".

The elder brother Esat Atmaca stated that they had been on their way home when a group of people had approached them and seemingly to be drunk they had immediately knifed his brother without saying anything. He added that the same people, presumably members of the MHP protected by the police, had tried to stop him and take possession of his car.

The father Bayram Atmaca added that the same group had attacked him as well. He said that these people were living in the same quarter and he could identify them.

In the night of the incident Molotov cocktails were thrown into the café of Yaşar Güler, father of Kabil Güler said to have been involved in the killing. Kabil Güler reportedly had a criminal record of unauthorized possession of arms, kidnapping and robbery. Abuzer Cihan, living in the quarters, stated that the family of Esat Atmaca had not attacked the café. There were groups who tried to bring back the days of an old conflict.

Kabil Güler (35), Ali Subaşı (23), Sinan Yavuz (23) and Adem Yılmaz were arrested on 12 April in connection with the killing.

**Levent Çenbeli (Soldier):** The gendarmerie intervened when on 6 May students at Kocaeli University wanted to commemorate the death of student leaders Deniz Gezmiş, Hüseyin İnan and Yusuf Aslan. The students

had shown posters of Gezmiş, Aslan and İnan during a concert of the spring festival and on a construction site opposite the concert banners with İbrahim Kaypakkaya, Mahir Çayan and Deniz Gezmiş had been put up. Here the gendarmerie detained four people.

Students blocked the construction site and demanded the release of their fellow students. When the soldiers beat the detainees some students started to throw stones at them. The soldiers responded by shooting into the air. One bullet hit Çağlayan Bozacı and another bullet wounded the soldier Levent Çenbeli. The detained students were named as: Nazım Oklar, Haydar Yıldırım, Çağlayan Bozacı, Doğan Göç, Mehmet Kızılkurt, Özcan İliter, Özer Şenver Kalafat and Kuzey Boy.

Levent Çenbeli died in Gülhane Military Hospital on 10 May. Subsequently arrest warrants were issued for Çağlayan Bozacı, Özcan İliter and Kuzey Boy who had been released earlier. In connection with the incident 32 students and one soldier were indicted. On 22 June Kocaeli Penal Court started to hear the case. The arrest warrants were lifted. The students are charged with resistance against officials and the soldier O.K. is charged with causing the death of Levent Çenbeli because of carelessness.

**Abdulrezak Özdemir:** On 6 September seasonal workers in Kartavuk village of Akçakoca district (Düzce) had a fight during which Abdulrezak Özdemir died. Village headman İdris Post stated that the fight broke out when some workers from east and southeastern Turkey shouted slogans in favor of the PKK.

The daily *Özgür Gündem* claimed that right-wingers attacked the workers and one of them fired at them killing A. Özdemir who was registered in Beytüşşebap district (Şırnak). The women Şükran Yiğit was injured (also see the chapter on the Kurdish question).

**Ömer Gürsoy:** The police officer Ömer Gürsoy died during an armed attack on a police car in Bağlarbaşı quarter (Urfa) on 17 September. Two police officers including Murat Celen were injured. The police officers in question had been on duty to protect the Akdağ family in a quarrel about landownership with the Akkuş family.

**Yusuf Bayır, Yemlihan Bayır, Abuzer Mollaoğlu, Resul Çavuş, Serhat Mollaoğlu:** In Solhan district (Bingöl) two families clashed in the night of 12 October resulting in the death of five people. The dispute had started during the local elections on 28 March 2004. In the fight Yusuf Bayır, Yemlihan Bayır, Abuzer Mollaoğlu, Resul Çavuş and Serhat Mollaoğlu died. Mayor Niyazi Çavuşoğlu (DYP) and 12 people were injured. Behçet Karadağ, Nihat Karadağ and Mahmut Karadağ were detained in connection with the incident.

**The Trabzon Event:** On 6 April Zeynep Ertuğrul, Nurgül Acar, Emre Batur and İhsan Özdil distributed

leaflets in Trabzon. They were attacked by a crowd. Reportedly police officers first tried to prevent the distribution of leaflets. When Zeynep Ertuğrul, local representative of the journal "Labor and Justice" refused to hand over the leaflets the crowd attacked them. The four persons tried to run away. At the same times rumors emerged that the four had set a flag on fire. Therefore, the crowd beat them up. Finally the police put them in an armored vehicle and took them to Trabzon Police HQ.

The attacked persons were arrested on 7 April on charges of having resisted officials, distributed leaflets without permission and having provoked the people. On objection of their lawyers they were released on 13 April. On that day Nurgül Acar, İhsan Özdil, Zeynep Ertuğrul, Emrah Bakır and Çetin Güven held a press conference at the HRA in Trabzon. Zeynep Ertuğrul alleged that police officers had beaten them in detention and in prison the guardians had incited fellow prisoners against them.

On 8 April a press conference was held at the headquarters of the HRA in Ankara. Besides the chair Yusuf Alataş, SG of the HRFT, Sedat Aslantaş, Mazlum Der chair Ayhan Bilgen, Levent Korkut, representative of Amnesty International in Turkey, Bülent Atamer from the Helsinki Citizens' Assembly and the trade unionist Sami Evren were present.

Yusuf Alataş criticized that none of the aggressors had been detained. He also criticized the Prime Minister who had called the action of the people "their sensitivity" and thus encouraged similar acts. In Trabzon itself ÖDP chair Ali Külüğ accused the local TV station "Trabzon TV" of provocation. The station had broadcasted live for 2 to 3 hours and presented subtitles of "PKK flags have been put up".

On 10 April members of TAYAD, Eğitim-Sen and KESK (HRA as observers) wanted to hold a public press conference to protest the situation. The group was attacked again and had to flee in the side streets. Some hid in the offices of KESK and HRA. Although Trabzon Chief of Police, Ramazan Akyürek, tried to calm the crowd it did not disperse for some time.

Fahrettin Keskin alleged that police officers had conversed with the attackers. Trade unionist Osman Sungur said that a pensioned teacher provoked the crowd and that the police came after the incident.

On 12 April a group distributed leaflets in Adapazarı in protest at the attack on TAYAD members in Trabzon. The group was attacked and took refuges in the post office. Later the police brought them away.

The Human Rights Research Commission in the GNAT sent three deputies and one expert to Trabzon to investigate the incident. Still in April the High Council for Radio and TV warned several TV stations in Trabzon not to incite to violence in their programs.

In May the public prosecutor in Trabzon finished his investigation of the lynch attempt of some 2,000 people. He indicted 15 people separately. In the first case at Trabzon Penal Court No. 2 Fatih Koç, Fatih Usta, Hakkı Usta, İlyas Aktaş, İsmail Danışmaz, Muhsin Tokmak, Seykan Gülen, Erkan Kayan, Metin Kazancı, Evren Uğur and Gökhan Karagöz were charged with slight bodily harm and resistance to officials.

The second trial in connection with the incident on 10 April Ali Ulusal (provocateur), Suat Çebi, Alper Bekar and Yusuf Oskay are on trial.

The trial against the victims started at Trabzon Penal Court No. 1 on 23 June. The defendants accused the police of having provoked the incident. Zeynep Ertuğrul stated that she had been at the scene as a journalist and the co-defendants had distributed the special edition of "Labor and Justice". They had done this at different places so that there had been no demonstration. Police officers had come and their words "How can we know that you are not from the PKK?" had provoked the people around. A person named Ergün Kara had pointed at her and accused her of belonging to the PKK. He also had hit her twice into her face. There had been civilian dressed police officers, but they had not intervened. The intervention had come from the traffic police.

The hearing was adjourned to 9 September. On 21 July Trabzon Penal Court No. 2 started to hear the case of 11 people charged in connection with the first attack. Defendant İlyas Aktaş stated that he had been among the crowd, but had not attacked anyone. The other defendants made similar statement. The Court decided to combine the two trials on the attacks of 7 and 10 April. The case did not conclude in 2005.

**Lynch Attempt in Rize:** On 2 November 15 TAYAD members went from Hopa district (Artvin) to Rize to commemorate the death of the sisters who had died during the death fast action in İstanbul-Küçükarmutlu Canan Kulaksız (on 15 April 2001) and Zehra Kulaksız (on 29 June 2001) with a visit to their graves were attacked by a group of right-wingers.

During the first attack the police did not intervene. In Atmeydanı quarter a second attack followed and the group could hardly escape before police officers took them to the city center. While the police maintained that they would be taken out of town a third attack followed at Cumhuriyet Square where a group of 300 people stopped the minibus. The crowd broke the window and beat the TAYAD members. The police dispersed the crowd by shooting in the air. Finally the attacked person could be taken out of town.

Zeynep Ertuğrul who had been among the attacked TAYAD members stated that there had been no other intentions than the visit of the graves. No banners had been unfolded and no press conference had been held.

Civilian dressed police officers had demanded that they leave the town; otherwise they would arrange that the people beat them up. On return from the graves the police had tried to provoke the people claiming that they were members of the PKK. But except for an organized group no person from the population had followed the provocation. The police had stopped them at 8 different places and at each place stones had been thrown at them.

Rize Governor Enver Salihoglu maintained that the TAYAD members had provoked the people, but the intervention of the police had prevented more serious incidents.

Later a group of members of the Front for Rights and Freedoms filed an official complaint against Rize Mayor Halil Bakırcı and several police officers. Allegedly the mayor had said that had he known who the people were he had hit them himself. Abdülkadir Kart, deputy for the AKP in Rize reportedly said that the group had learned its lesson and would not come back to Rize.

A similar incident happened in Samsun on 13 December. Four people distributing the journal of the Federation of Association for Basic Rights and Freedoms were attacked. The group said that a minibus with 15 people had come and had beaten them.

#### **Further Incidents**

In August Interior Minister Abdülkadir Aksu answered a question tabled by CHP Ankara deputy Zekeriya Akıncı stating that in the educational year 2004-2005 a total of 460 incidents had happened. In the incidents 30 civilians and 45 security officers had been injured and a total of 668 people had been detained.

On 5 January Sedat Erol, student at Konya Selçuklu University was attacked by right-wingers. Some 10 people attacked him and injured him with a knife. Sedat Erol had to be taken to hospital. In connection with the incident Savaş Karaca and a person with the first name of Kürşad were detained. Sedat Erol had named Üzeyir Taha İşcam as the aggressor.

On 10 March a huge crowd of right-wingers attacked left-wing students at Çukurova University (Adana). The student Davut Adlı was injured.

Nedim Değirmenci, former ÇHD chair and board member of İzmir Bar Association as attacked by right-wingers on 24 March. Allegedly Değirmenci had torn down a poster with a Turkish flag in an Internet-Café and, therefore, 10 to 15 people beat him with iron sticks. Değirmenci had a broken chin and teeth and had to be taken to hospital.

On 24 March a fight broke out between students of the TKP and right-wingers at Marmara University. Four students including one from the TKP were injured.

Reports from Bursa indicated that the DEHAP member Uğur Öğredik was tortured by members of the Nizam-ı Alem Union because he had participated in activities of DEHAP. His father Mehmet Öğredik complained to the HRA and complained that first seven people from the Nizam-ı Alem Union had beaten his son in a café. Later their boss Sait Ali Uğar had come and they had taken his son to the offices of the union. Uğur Öğredik said: "They were 15 people. They grabbed my arms and hit me on my eyes. I was not allowed to speak. They beat and when they had washed away the blood they beat me again." The aggressor had taken him to Orhangazi State Hospital after three hours. At the hospital he was given a report certifying 10 days' inability to work.

Lawyer Deniz Büyük later stated that in connection with the incident İ.E., İ.Ç. and B.B. had been indicted for causing bodily harm.

On 11 April a group of right-wingers attacked left-wing students who were distributing leaflets at Sivas Cumhuriyet University. The security forces intervened and detained 48 students including 13 right-wingers. Among them 18 students were later arrested.

The EMEP members Erhan Batga and Hüseyin Kiyak alleged that they had been tortured in the offices of Güneşli Idealists' Union in İstanbul on 16 April. A group of MHP members had taken them there and beaten them. The police had come and rescued them. In connection with the incident six people were detained. Among the detainees Serhat Alkaç was arrested on 18 April. Bayram Yıldırım, Ümit Sevindik and Tahir Çimen were released.

On 23 April right-wingers beat the student Mehmet Emin Özyalçın from Gazi University. He reported: "When I left school I saw some people at the door and became suspicious. I went upstairs to the İhsan Küreli from the teachers' staff. I asked him to accompany me, otherwise I would not be safe. Just when I wanted to leave the room the 15 people stormed in and beat me up. When the teacher intervened they ran away." Özyalçın received a medical report certifying three days' sick leave and filed an official complaint.

On 24 April students from the 9 September University wanted to put up posters for the 1st of May. They were attacked by right-wingers. Later plain clothes detectives and finally a growing crowd also attacked them. One of the victims, Atilla Sultan said:

"The tension because of the posters was going down when at the entrance to the campus the police and special security forces gathered. We wanted to know whether the friends inside needed anything, when six to seven officers moved towards. Stones were thrown at them and they drew their arms. But when they saw the crowd they retreated. Inside the campus the attacks of fascists continued for a while. When we left school we were followed by a civilian car. We saw that right-wingers

beat our friend Emre Zencir in a side street and went to rescue him. At this moment a police officer pointed a gun to my temple and forced me to lie down. Four police officers beat me with belts and sticks. They dragged me by my hair over the ground for some 50 meters. Close to the union of idealists' the police officers tried to provoke the people around saying that I had burned a flag and they should kill me. I was beaten for half an hour. Uniformed police officers came but did not intervene. Later I was taken to Buca State Hospital and was given a medical report."

The woman Nurhan Gıram (47) became blind when a gas bomb thrown by police officers during a quarrel in İstanbul-Sarıyer in April hit her eyes. She said: "There were some fights between the destruction team and the inhabitants of the slums (gecekondu) whose houses they wanted to tear down. I went to get the cows that I had left outside. I was hit by a gas bomb and fell to the ground. Friends took me to İstinye State Hospital. Now I'm blind on my left eye and have difficulties to see with my right eye."

At the beginning of May right-wingers attacked left-wing and Kurdish students in Manisa. According to a report in the daily *Özgür Gündem* the student with the first name of Ali Rıza was taken to the building of the Idealists' Union and threatened on 6 May. On 2 May the students Cenk Başkurt and Osman Sezer had been attacked by a group of 20 to 25 persons. On 4 May Hamza Sin and Hüseyin Şahinkoç had been beaten heavily. The fights continued and later the police raided a café where the students were. Hüseyin Siyahkoç, Hamza Sin, Cenk Başkurt, Osman Sezer and the right-wingers İlyas Çelik and Serkan Mert were detained. On 5 May right-wingers beat the student Yusuf Solmaz. In the evening the right-wingers entered two flats with Kurdish students and beat five of them up.

On 6 May right-wingers beat the students Naif Şahin and Murat Ekmen from the Technical University in Giresun. Reportedly three right-wingers were detained.

The gendarmerie intervened when students at the 100 Year University in Van wanted to hold the Spring Festival. The students resisted when the gendarmerie wanted to detain some of them at Van Lake. Some 60 students were detained and the reporter Sıddık Güler (DHA) was beaten.

On 10 May fights arose between students from the TKP and the Independent Youth Movement (BAGEH). The BAGEH students protested that the TKP wanted to use the word patriotic in a new form of organization. The gendarmerie intervened but did not act when the students left the campus. Many of the students were injured until the Anti-Riot Squad arrived.

During the spring festival at the Pamukkale University in Denizli right-wingers attacked students from the Socialist Democracy Party (SDP) on 20 May. During

the fight five left-wing students, one security officer and three right-wingers were injured. Eight people were detained. On 23 May right-wingers attacked left-wingers again resulting in injuries to 10 students. One of them was named as İlkey Şimşek.

On 24 May right-wingers attacked Kurdish students at the Industrial Profession Lyceum in Denizli. A student with the first name of Ender was injured with a knife. Three other students were injured, too. Reportedly the police detained two people among the attackers. On 25 May eight people were attacked by right-wingers, when they left the office of the SDP. The student Gürkan Çelik and the right-winger Muhammet Tekin were injured. The police detained 12 people, most of them members of the SDP. On 27 May one right-wing student and the student Umut Göllü<sup>5</sup> were arrested.

On 25 May right-wingers attacked left-wing students in a students' hostel in İstanbul-Altunizade. They injured Hamdullah Bayram with a hatchet.

On 1 June right-wingers attacked left-wing students at Atatürk University in Erzinçan. Five students were injured with sticks and hatchets.

In the evening of 2 June the police separated two quarreling groups in front of the faculty. Left-wing students staged a demonstration and the police used pepper gas and beat them in order to disperse the crowd. Allegedly the police did not intervene in group of right-winger strolling around with sticks.

On 14 June a fight broke out at Ankara University when three right-wing students threatened left-wingers with knives. Kamil Ortakçı was injured with a knife and Mehmet Baran was hit at his head with a stone. Reportedly one student was detained.

Two days later right-wingers attacked left wing-students. In the fight the left-wing students Göçmen Us, Bahtiyar Tuncer and Kiper Birol were injured. Reportedly Mehmet Çetin had been among the attackers. He had been detained after injuring Kamil Ortakçı but had been released shortly afterwards.

Members of the Beautification Association (BA) in 1 May (Mustafa Kemal) quarter in Ümraniye district (İstanbul) were attacked by right-wingers in the nights of 13 July. Ali Haydar Saygılı (ESP), Yoldaş Akat (BA) and Ümit Aslan (BA) were injured with firearms. The journal *Atılım* claimed that the attackers had been organized by dealers of hashish.

On 15 July fights broke out when 44 houses in the slum of Kurtköy quarter in Pendik district should be destroyed. Five people were injured and 20 people were detained. The gendarmerie used tear gas to

break the resistance. The names of the injured persons were given as Hüsnüye Yıldız, Celal Tekin, Şefika Tekin, and two with the first names of Ali and Ferhat.

On 22 July protest meetings were held against the destruction of houses in İstanbul Alibeyköy-Güzeltepe. The police tried to disperse a crowd of 150 people who had erected a barricade in Yenibayır Street. A similar incident happened on 28 July. A crowd had gathered because the municipality had not provided accommodation for the tenants in the buildings to be destroyed. The police used gas bombs and detained five people. Two of them were named as Leyla Güzel and Telli Yön (65). A person with the first name of İsmail suffered a heart attack and had to be taken to hospital.

FESK announced that bombs had been thrown into the municipalities of Pendik and Kağıthane on 29 July in protest at the destructions.

On 2 August fights broke out during the attempt to destroy houses in a military compound and the forests in Tokatköy quarter (İstanbul-Beykoz). The police dispersed the crowd that had blocked the road with lorries and detained 20 people. Reportedly the police beat the reporter Bülent Aydoğdu (*Vatan*) and Gökhan Karakaş (*Milliyet*).

On 11 July an armed attack was conducted on the headquarters of the BBP in Ankara. Some 20 to 25 people broke the windows and shot. They fled when the police officers and security personnel in the building shot into the air.

On 24 July the families Aslan and Yıldırım clashed in Tepeüstü village in Nusaybin district (Mardin) because of the local elections. Reportedly the fight started among the children and later the adults got involved. In the fight Hüseyin Aykut, Veysi Aykut (18), Muzaffer Çelik (18), Kübra Dağ (18), Tarık Yıldız (17), Şükrü Karagün (69), İshak Demir (17), Şeymus Akal (12), Emine Yıldırım (64), Süleyman Yıldırım and Ecevit Yıldırım were injured with firearms.

Member of the Idealists' Union in Sarıyer attacked people waiting in front of the courthouse in İstanbul to observe a trial against DHKP/C on 26 July. Musa Keser, journalist of *Milliyet*, was beaten by the right-wingers. Dursun Karabacak, chair of Sarıyer Idealists' Union, was detained but released shortly afterwards.

Following the funeral of Sergeant Kemal Etiler in Bursa on 4 August the DEHAP offices and Kurdish street vendors were attacked. Kemal Etiler had been killed in a clash near Uludere district (Şırnak) on 3 August.

On 5 August an armed attack was carried out on the house of DEHAP member Ubeydullah Sayılğan in Fevzi Dere quarter in Bursa. He said that a crowd of some 50 people had gathered in front of his house and had

<sup>5</sup> Umut Göllü, student at Pamukkale University in Denizli, died on 24 October. Reportedly he died of a heart attack after having drunk at the flat of a friend.

fired five shots to frighten them. They had called the police but nobody came although the aggression continued until 2am.

Some 20 MHP member attacked Yusuf Ocak (18), Murat Keskin (19) and İlhan Doğan (23) in Sultançiftliği quarter (İstanbul-Gaziosmanpaşa) on 7 August. In reaction a huge crowd gathered in front of the MHP building and demanded that the attackers were handed over to them. The crowd threw stones at the building but the police dispersed them with gas bombs.

In Gönen district (Balıkesir) workers who had been sacked because of joining the trade union Deri-İş were attacked. About 34 workers had been waiting in front of the factory for 50 days. On 31 August the employer threatened them and the workers filed an official complaint against him. Later the "men" of the employer and the workers clashed. In the evening the employer's men shot at the workers and injured Hamit Kökçü to his head.

On 6 September right-wingers attacked the exhibition of "50 Years – The events of 6 and 7 September" organized by the History Foundation, the Helsinki Citizens' Assembly and the Helsinki Foundation of Human Settlements. They destroyed various photographs and threw eggs. The police detained the attackers. Three of them were released the same day. The Foundation of Education and Culture of the Idealists' Union declared that the Idealists' Union was not responsible for the attack.

On 9 September protesters of a building of the municipality in Abdullah Baştürk Democracy Park in Esenyurt quarter (İstanbul) and AKP members clashed. Some 500 people protested the initiative. Deputy Mayor Gürbüz Süleymanoğlu hit a woman and kicked at those who tried to prevent him. After the gendarmerie controlled the situation Esenyurt Mayor Necmi Kadioğlu reportedly said that women should stay at home and not protest. He was the mayor and could do whatever he wanted to do. During the fight some 15 people were injured. Fahri Atabay from the Cooperative in Esenyurt had a broken arm.

During fight of two right-wing groups at Ankara Gazi University on 24 October seven people were injured. Their names were given as: Kaan Y., Mükremin K., Utku Y., Muhammet O., Yılmaz E., Bahri K. and Çağdaş G. İsmail G. was detained in connection with the incident.

On 26 October right-wingers attacked students at Ankara Gazi University who did not fast. Seven students were injured.

The following day some 500 students gathered to protest the Law on Higher Education. The police dispersed them under force while students threw stones at them. No detentions were made.

On 1 November İzmir HRA conducted a press conference for the student Cüneyt Bıyüksüz from the 9

September University. He stated that 12 members of Buca Idealists' Union had attacked him on 27 October. He was able to run away. Kamil Ağaoglu, executive of the HRA, said that they identified the attackers and filed an official complaint.

On 13 November students of Muğla University protested the Şemdinli events (see the Kurdish Question). They were attacked by a group of right-wingers. The police intervened and prevented further fights. The following day right and left-wing students clashed outside university. About 20 students were injured. The police detained 45 people. On the same day left-wing students held a press conference in town in protest at the attack of right-wingers. The police detained eight students.

On 30 November workers from a leather factory in Tuzla (İstanbul) who staged a protest at the entrance of the factory that had dismissed them were attacked. Some 40 people attacked them with sticks and stones and injured five people. After the incident the gendarmerie detained 19 workers from the trade union Deri-İş.

On 1 December a crowd attempted to lynch three juveniles in Selçuklu district (Konya). The incident happened when a bag was found in front of a PC shop and the owner suspected that a bomb might be in it. He called experts and over security cameras three juveniles had been identified claimed to be the attackers. While the police tried to detain Orhan Veli Özdemir (18), Sadık Kabal (25) and Ercan Uytucu (21) the crowd tried to lynch them. The expert detonated the bag that only contained paper. The juveniles were detained but released by the prosecutor.

On 8 December right-wing students attacked an unnamed student from a students' hostel in Tekirdağ. The student was injured with a knife.

On 11 December MHP members attacked O.T. from Muğla University. They suspected him of speaking Kurdish although he had spoken Arabic with his friends. After the incident some students threw stones at the office of the Idealists' Union. The police detained 13 students. They were released the next day.

At Thrace University right-winger attacked the students Emin Uysal, Gökhan Bilmez and Erdal Ateş Sönmez because they listened to Kurdish music. Uysal and Bilmez were slightly injured. Nobody was detained.

On 13 December right-wingers attacked left-wing students at Euphrates University in Elazığ when they distributed leaflets. The students Kürşat Taşkın and Serkan Öz were injured with knives.

On 14 December students at İstanbul University struggled with police officers who made an ID check at the entrance. Fourteen students were detained.

On 20 December right-winger attacked students at Kocatepe University in Uşak because they sang Kurdish songs. Mehmet Ali Eren, Ferhat Akkaya and the right-wing student Metin Göl were injured. The police detained 15 people. Eleven of them were released the next day.

On 21 December right-wingers attacked left-wing students at İstanbul University. The right-wingers reportedly carried arms. The police detained seven left-wing students.

#### **Developments in "Old" Cases**

Kenan Güneş: The trial against Serdar Baş, known as the leader of right-winger at Kırıkkale University, charged in connection with the killing of Kenan Güneş on 27 September 2004 continued in 2005. The defense complained that the witnesses Resul Erođlu, Süleyman Akyıldırım and Hacı Murat Tok had given false testimony. The court instructed the prosecution to investigate this claim.

The public prosecutor in İstanbul indicted 47 left-wing students, seven of them in pre-trial detention and 14 right-wing students, one of them in pre-trial detention in connection with fights in November and December 2004. The students were accused of hindering the lessons, causing damage to public property and resisting officials. Defense lawyer Olcay Yanar stated that the indictment was copied from the minutes of the police. The prosecutor had not investigated the incident. The first hearing was held at İstanbul Heavy Penal Court No. 1 on 4 February. The arrest warrants were lifted and the hearing was adjourned to 13 May. No further development was reported in 2005.

On complaint of the right-wing students İsmail Oğuz Başağa and Abdurrahman Özkümüş 12 left-wing students from Ankara University who had been attacked on 4 December 2004 because they did not fast were indicted. The trial started at Ankara Penal Court No. 6 on 1 February. The defendants Cihan Baykal, Berkan Kayacan, Fırat Belen, Kamil Ortakçı, Önder Keleş, Özgü Dinler, Şevket Murat Dünşen, Kubilay Han, Cemal Keskin, Hasan Yapıcı, Ömür Demirel and İnan Kaya stated that they had not participated in the fight. The hearing was adjourned to 17 March. No further developments were reported in 2005.

# PERSONAL SECURITY

## Legal and Administrative Measures

Following the summit at the UN on 14 September Foreign Minister Abdullah Gül signed for Turkey the Optional Protocol to the Convention against Torture. The Protocol had been opened for signature on 4 February 2003. The number of signatory countries reached 12 with Turkey. However, the Protocol will only enter into force after 20 countries have ratified it. Turkey had ratified the UN Convention against Torture (CAT) in 1988.

## The Turkish Penal Code (TPC) and the Criminal Procedures Code (TCPC)

In January the General Directorate for Security conducted a seminar for all chiefs of police presenting information on the new penal code and the code for criminal procedures. Dr. Cumhur Şahin and Dr. M. Bedri Yılmaz from the Police Academy said that under new legislation it was necessary to inform the prosecutor immediately of any detention. During the seminar the following amendments were stressed:

- public places cannot be searched at night; during searches the owner of the premises has to be present; confiscations can only be made on a judge's order;
- if the court demands, confidential information (State secrets) will be handed over; only the court will inspect the documents;
- witnesses can be called to testify via summons, telephone, telegram, facsimile, e-mail;
- measures will be taken to keep the identity of witnesses secret and care will be taken for their security;
- the examination of female prisoners will (as far as possible) be done by a female physician;
- in cases requiring heavy imprisonment the period for remand will be restricted to 2 years; in cases that have an upper sentence of 3 years' imprisonment the defendant can be held under control instead of being remanded;
- the defendant is obliged to answer question on identity correctly;

- the defendant is informed of their right to choose a lawyer, benefit from legal aid and to have the right of a lawyer being present during interrogation;

- if a defendant is not able to choose their lawyer, the bar association will appoint one; relatives will be informed immediately of a detention; the defendant is reminded of the right not to make a statement on the offence;

- the defendant can demand that concrete evidence is gathered to be disburdened of the suspicion;

- information on the personal and economic situation of the testifying or interrogated person is gathered;

- interventions that prevent the free will of the defendant such as ill-treatment, torture, medication, tiring, deception, force or threats are forbidden;

- the defendant will not be promised an illegal advantage; statements that are not signed in the presence of a lawyer do not count as evidence unless they are repeated in front of a judge or in court;

- under Article 256 of the new TPC the authority to use force is restricted to being attacked; force will only be used to disperse a demonstration; anything beyond this aim will be tried as causing bodily harm; force will be used to the effect to take a suspect to the prosecutor or the court;

For the implementation of the new code of criminal procedures seven regulations entered into force on 1 June. After the date for the entry into force of new legislation (1 June instead of 1 April) many positive provision concerning the rights of defendants and witnesses were withdrawn under criticism of the police.

## Regulation on Judicial Uniformed Forces

This Regulation introduced the judicial police for the first time. Judicial uniformed forces have to be established within the General Directorate for Security, the General Command of the Gendarmerie, the Command of Coastguard and the General Directory for Customs. The judicial uniformed forces are to be the first institution to deal with orders from the prosecution. To get expertise the personnel at the judicial uniformed forces should work at the same place, if possible.

### Regulation on Judicial and Preventive Searches

The new provisions had envisaged that a judge's order was necessary for searches, but the "exception" of "in case of danger in delay the prosecutor or leading police officer can allow searches" was added. The leading officer may not allow searches of flat, shops and other closed areas.

According to the Regulation are entitled to body search persons that have been apprehended on a judge's or prosecutor's decision. The uniformed forces are entitled to control, hotels, pensions, places of entertainment and coffee shops with the aim to secure law and order. Places that show films and videos against the constitutional order or general moral will constantly be observed.

In line with criticism of the police the uniformed forces can conduct preventive searches on areas of demonstrations and meetings, before gathering of political parties and trade unions, in educational institutions, youth hostels, and public means of transport or stadiums. Houses and shops will not be searched at night. Offices of lawyers can only be searched in the presence of a prosecutor.

### Regulation to Apprehend, Detain and Take Testimony

The Regulation details the conditions for detention of up to 24 hours for people who cannot identify themselves.

The apprehended person is informed about the reason of apprehension, the charges and the right to remain silent, ask for a lawyer and object to the apprehension.

Interventions that prevent the free will of the suspect such as ill-treatment, torture, medication, tiring and other forms of physical or mental interventions are not allowed. Statements that are obtained in forbidden ways cannot be counted as evidence even if there was acceptance.

As long as the physician does not ask for it members of the uniformed forces may not be present during examination.

In accordance with the principle of innocence until found guilty the uniformed forces are not allowed to present detainees to the press.

The maximum length of detention is 24 hours, plus a maximum of 12 hours that it may take to bring the suspect to the closest judge or court. According to Article 250(1) of the TCPC the maximum length of detention in organized crimes is 48 hours.

If offences are committed by many people or because of difficulties in gathering the evidence the prosecutor is allowed to prolong the detention for a maximum of three times, one day each. The order is given in writing and the detainee is informed immediately. Nobody can be held for longer periods without an order of a judge.

In connection with the offences described under Article 250(1) TCPC and in areas in which emergency legislation has been announced according to Article 120 of the Constitution the periods of 4 days may be prolonged to 7 days on demand of the prosecutor and decision of a judge. The apprehended or detained person is heard before the judge makes a decision.

In January the Supreme Administrative Court cancelled the provision of waiting "for an adequate period of time" for a lawyer before the interrogation starts. The 10th Chamber of the Court replaced this provision with establishing the time according to the distance of the lawyer to the detention place the possibilities of transport and other elements.

The Supreme Administrative Court also annulled the provision that one out of four copies of the medical report is kept at the detention center.

In December the Supreme Administrative Court cancelled the provision in Article 22 (1) of the Regulation that demanded permission of the prosecutor of lawyers wanted to inspect the investigation file.

Besides these regulations the Regulation on Lists of Experts to the Provincial Justice Commission established according to the Code of Criminal Procedures, the Regulation on Criminal Tools, the Regulation on Offices of Public Chief Prosecutors and the Regulation on Physical Examination, Genetic Inspected and the Establishment of Physical Identity entered into force on 1 June.

### Torture Prevention Group

Following the decision to cancel the Project on the Role of Jurists in Preventing Torture and the stop of activities of the Torture Prevention Group which İzmir Bar Association had taken on 7 December 2004 the room of the group was emptied in the night of 9 January and 535 files on torture were confiscated. Bahattin Özdemir, chair of the İzmir branch of the Association of Contemporary Jurists (ÇHD) and member of the Torture Prevention Group, criticized the action during the night. He said that they had not been able to enter their room through the door and only got in over the balcony. They had no knowledge about what happened to the 535 files. He added:

"There is an obligation to stick to the confidentiality between the lawyer and their clients. These files should not be given to anyone else. In 120 of the cases trials have been initiated and are continuing."

The human rights organizations Mazlum Der and HRA also criticized the act. Yusuf Alataş, chair of the HRA said:

"We were disappointed when the Torture Prevention Group that had conducted activities that might have been an example to other bar associations and NGOs and expected that the decision would be taken back.

Now we learned from the press that the locks of the door were broken and files on torture were confiscated. We want anyone to know that we are very disappointed and protest the decision and behavior that creates the impression of opposition to efforts of observing, detecting and preventing torture in our country."

In January Amnesty International sent a letter to Nevzat Erdemir, chair of İzmir Bar Association expressing its concern about the closure of the Group to Prevent Torture. It called the measure a backward step in the attempt to secure justice for torture victims and demanded that the decision should be reviewed.

The lawyers from the group held a press conference on 28 February and alleged that the February edition of İzmir Bar Association bulletin had insulted them. Speaking at the conference lawyer Ercan Demir said:

"The report on the project "The Role of Jurists in Preventing Torture" was finally printed but included some faults and falsification. The cover of the February edition of the bulletin report said "Hurting facts in the document of surrender to the EU" and "Euros shared under the cover of preventing torture" were an insult to the 250 lawyers that participated in the project." Lawyer Mehdi Akdöl said:

"Looking at the bulletin it appears that lawyers working on decision of the bar association carried out activities of an illegal gang and looted the money for their private benefit. We have launched an official complaint and asked for material and moral compensation."

Mehdi Akdöl reminded that Nevzat Erdemir, chair of İzmir Bar Association, had rejected the demand of 1,146 lawyers to hold an extraordinary general assembly (without election) and argued that this was a violation of Article 83 of the Law on Lawyers. We shall launch an official complaint against the chair of the bar association on the allegation that he did not carry out his duty properly.

İzmir Administrative Court No. 4 decided in August to stop the rejection to hold an extraordinary general assembly from being implemented. The board of İzmir Bar Association appealed against this decision. Until the end of 2005 this case had not been determined.

### **The Torture Seminar**

The Seminar for Physicians and Jurists on Ill-treatment and Torture to be held by the Forensic Institute with support from the European Commission was cancelled without any reason. The Turkish Medical Association (TTB), the Medical Foundation for the Care of Victims of Torture, the Association of Forensic Experts and the Human Rights Foundation of Turkey (HRFT) as organizers and trainers during the seminar waited for an explanation from the Justice Ministry. Metin Bakkalçı, deputy chair of TTB stated that they had been informed in the evening of 24 May that the seminar was cancelled but official institutions had not

provided further information. Therefore, they had gathered at the Euro Plaza Hotel in the morning of 25 May. Sherman Carrol from the Medical Foundation for the Care of Victims of Torture, too, was disappointed at the decision to cancel the seminar for which many people had prepared themselves and hoped to get an explanation from the Justice Ministry.

The Justice Ministry denied to have been among the organizers of the seminar and stated that details on the place of the seminar and accommodation for the participants had not been provided.

### **Human Rights' Presidency and the Prime Ministry**

On 3 March Vahit Bıçak, Human Rights President at the Prime Ministry, held a press conference and provided details on application they had received in 2004. He stated that 354 people had directly approached the Presidency, 466 people had applied to the councils in the provinces and 27 persons had applied to the councils in the districts. He added that among 1,634 allegations complaints about torture and ill-treatment had been leading. In 2003 the number of torture and ill-treatment complaints had been 158.

Vahit Bıçak added that most complaints had been directed at the police (15.6%) and 10% had been directed against the ministries. 5.5% of the complaints had come from the prisons and 5.8% had been directed against the gendarmerie.

At the end of the year the Human Rights' Presidency at the Prime Ministry issued figures for the first 9 months of 2005. Most of the 1.105 complaints had come from the working life to be followed by problems of property and health. Ill-treatment had ranged at the 9th place and torture at place 17.

On 1 February the daily *Radikal* published an article referring to data of the General Directorate of Security. It said that there had been an increase of trial related to torture and ill-treatment between 2003 and 2004. There had been 3.3% cases more in 2004 while internal investigations against police officers had gone down by 39.66%.

In 2003 three police officers had been convicted on ill-treatment and in 2004 there had been one conviction. There had been no conviction for torture. In 2004 a total of 243 police officers had been indicted for ill-treatment and 13 police officers for torture. In 2003 a total of 218 police officers had been indicted for ill-treatment and 21 for torture. The cases on ill-treatment from 2004 had included 6 acquittals and 72 decisions to drop the case. The other cases were still continuing.

Within the Law to be Informed the coordinator of torture prevention within the project of "Justice for Everyone", run by Diyarbakır Bar Association had asked the Ministry of the Interior on trial against torturers. The reply stated that between 1 January 2001 and 31 December 2004 there had been 10

trials against 36 alleged torturers. The Ministry had appointed 10 lawyers and paid 18.992 YTL for them. The Ministry did not provide information on allegations of torture and ill-treatment by the gendarmerie or village guards.

Sezgin Tanrikulu, chair of Diyarbakır Bar Association, criticized the payment of lawyer by the Interior Ministry and argued that police officers should use the same means as all other citizens. If they had no money to pay for a lawyer they could apply to the bar association and ask for legal aid. He accused the government to have announced a policy of zero tolerance on torture but did not take the necessary steps. Tanrikulu added that allegations of torture were frequently met with counter-allegations of resistance against officials. There had been an increase of such cases in Diyarbakır of 200% during the last two years.

### **The Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)**

The Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 16 to 29 March 2004 was published on 8 December. The visit had focused on the İzmir, Aydın and Gaziantep region. Some of the findings can be summarized as follows

"The situation found by the CPT's delegation in the İzmir region would suggest that matters are broadly moving in a positive direction. The information gathered indicates that resort to severe methods of ill-treatment, such as suspension by the arms and electric shocks, is now a rare occurrence in that part of Turkey...

However, some allegations were received of recent physical ill-treatment during custody in local police stations or headquarters' departments, in particular of blows to the body, and in certain cases the delegation gathered medical evidence consistent with those allegations. Further, from the information gathered, it would appear that resort can still be had in the İzmir region to methods such as sleep deprivation and prolonged standing, in particular in Anti-Terror departments.

Reference should also be made to the initiative taken in 2001 at the İzmir Bar Association to set up a "torture prevention group", which has received EU support. The group provides training and support to lawyers, in particular to those assisting persons in custody or whose clients allege to have been ill-treated by law enforcement officials. The delegation was favourably impressed by the commitment and professionalism displayed by the members of the group met in the course of the visit. **The CPT invites the Turkish authorities to encourage such initiatives in other parts of the country (e.g. in Gaziantep).**

The picture which emerges from the information gathered by the delegation in the Gaziantep region is less encouraging. Admittedly, very few allegations of ill-treatment were received from persons held by law enforcement agencies during the two to three weeks preceding the delegation's arrival in the city. Further, a number of detained persons interviewed indicated that the manner in which they had been treated when most recently detained in the Gaziantep region was better than what they had experienced during periods of custody in previous years. Nevertheless, a considerable number of allegations of recent ill-treatment were received from both detained persons and other interlocutors, some of them concerning severe ill-treatment.

Allegations were also heard in the Gaziantep region of blindfolding, sleep deprivation and prolonged standing, as well as of threats to harm the detainee and/or members of his family. Further, as in İzmir, allegations were received of the use of excessive force at the time of apprehension.

The situation found by the delegation during its two-day visit to the Aydın region corresponds very much to that observed in İzmir. The allegations of ill-treatment that were received concerned both local police stations and headquarters' departments and, to a lesser extent, gendarmerie establishments.

### **Procedural safeguards against ill-treatment**

From the information gathered during the visit, it would appear that, with certain exceptions, the obligation to notify without delay a relative of the detained person was being complied with, at least in the months prior to the visit.

The examination of custody registers and case files during the March 2004 visit continued to give the impression that only a small minority of detained persons had had access to a lawyer during police/gendarmerie custody, in many cases less than 10%.

The CPT recommends that the Turkish authorities continue to actively promote access to a lawyer during police/gendarmerie custody; cooperation between the law enforcement agencies and local Bar Associations in order to increase knowledge among the general public about the right of access to a lawyer for detained persons should form part of the strategy adopted in this regard.

### **Medical examination of persons in police/gendarmerie custody**

The existing system for the medical examination of persons in police/gendarmerie custody was addressed once again in depth in the report on the CPT's September 2003 visit, both in the light of the facts found during that visit and the subsequent Ministry of Health circular of 10 October 2003 (cf. CPT (2004) 21, paragraphs 28 to 34). The 10 October circular

stressed that such medical examinations must be carried out without law enforcement officials being present; it also set out the precise modalities of such examinations (e.g. the person to be examined entirely unclothed) and of the forwarding of the report on the examination to the relevant authorities (in particular, transmission in a sealed envelope).

If it functions satisfactorily, the system for the medical examination of persons in police/gendarmerie custody will constitute a significant safeguard against ill-treatment. The March 2004 visit offered an opportunity to review the operation of that system; for this purpose, the CPT's delegation heard the accounts of a large number of persons who were or had been in custody and of police/gendarmerie officers, interviewed a significant number of doctors called upon to examine detained persons, and examined many medical reports drawn up following such examinations.

The most alarming situation was found in Gaziantep. Practically all detained persons interviewed affirmed that they had been examined in the presence of law enforcement officials when taken to the State Hospital in the city. Further, the examination performed was, in most cases, apparently very superficial, many persons alleging that it had consisted of nothing more than the doctor asking whether they had any "marks". Numerous persons who alleged to the delegation that they had been ill-treated stated that the presence of law enforcement officials had dissuaded them from informing the doctor of that fact. A few persons stated that they had told the doctor that they had been ill-treated, but that this had not led the doctor to physically examine them.

This blatant disregard in Gaziantep of the rules governing the medical examination of persons in police/gendarmerie custody was compounded by the fact that newly-arrived prisoners at Gaziantep E-type Prison were not being systematically examined by the prison doctor (cf. paragraph 81). This situation can only have the perverse effect of obscuring rather than revealing torture and ill-treatment.

The CPT's delegation examined the situation in four establishments (prisons): the E-type Prisons in Aydın and Gaziantep, Izmir F-type Prison No. 1 and Izmir (Buca) Closed Prison. Only the last-mentioned establishment had previously been visited by the Committee (in 1997).

Aside from the core issue of the manner in which inmates were treated by staff, the CPT's delegation wished to examine the quality of conditions of detention following the introduction of smaller living units for prisoners. Other issues explored in some depth were the situation of juveniles held in the above-mentioned establishments and the quality of health-care for prisoners.

F-type prisons are high security establishments intended primarily for persons held under the Law to

Fight Terrorism or under Law No. 4422 (organised crime). As in other establishments of this type, most of the inmate accommodation at Izmir F-type Prison No. 1 consists of duplex units for 3 prisoners. At the time of the March 2004 visit, the prison was operating well within its official capacity of 368; there were 245 prisoners, all adult males. The bulk of the inmate population (some 150) was made of prisoners held under Law No. 4422; the number of persons held under the Law to Fight Terrorism stood at 87.

Aydın and Gaziantep E-type Prisons are essentially pre-trial establishments, though they also accommodate some sentenced prisoners. Each of the establishments was accommodating, in addition to adult males, a considerable number of juveniles (43 at Aydın and 86 at Gaziantep) as well as some adult female prisoners (32 at Aydın and 33 at Gaziantep).

Many of the original large-capacity dormitories at Aydın and Gaziantep had been converted to smaller living units. However, the favourable effects of this conversion were being vitiated by overcrowding. At the time of the visit, both prisons were operating well in excess of their official capacities: at Aydın, 593 prisoners for an official capacity of 334; at Gaziantep, 925 prisoners for an official capacity of 560.

With an official capacity of 1600, Izmir (Buca) Closed Prison is one of the largest penitentiary establishments in Turkey. At the time of the March 2004 visit, it was accommodating 1937 inmates, approximately 85% of whom were pre-trial prisoners. The inmate population included 143 juveniles as well as 78 adult women.

In its report on the 1997 visit, the CPT severely criticised conditions of detention at Buca Prison. More than six years later, the establishment seemed to be frozen in time. No significant improvements were apparent as compared to the situation found in 1997. As regards, more particularly, the establishment's large capacity dormitories, they remained intact.

The CPT was pleased to note that its delegation heard no allegations of the *physical ill-treatment* of prisoners by staff in Izmir F-type Prison No.1. More specifically, it would appear that the headcount procedure is currently not a source of friction between inmates and staff in this F-type establishment.

As regards Izmir (Buca) Closed Prison and the E-type establishments in Aydın and Gaziantep, most of the prisoners interviewed indicated that staff behaved correctly towards them. However, there were also clear indications that breaches of discipline or other behaviour considered as inappropriate could meet with a violent reaction.

Some allegations of beatings of prisoners (including on occasion of *falaka*) were heard in each of the three establishments. They mostly concerned juveniles, though certain allegations of the physical ill-treatment of adult prisoners were received in Buca and Gaziantep

Prisons. It should also be noted that in those two establishments, the allegations of the beating of juveniles were confirmed by adult prisoners.

More generally, the information gathered by the CPT's delegation highlights once again the pressing need to find an alternative to placing juveniles on remand in pre-trial prisons for adults. Such establishments have neither the staff nor the facilities required to assume responsibility for this category of inmate; this augments the risk of incidents of the kind described in the preceding paragraphs. This matter will be pursued further in a later section of the report."

#### **Report of Amnesty International (AI)**

The Annual Report for the year 2004 was published in May. On torture and ill-treatment the report stated:

"Detention regulations that provided better protection for detainees led to an apparent reduction in the use of some torture techniques, such as suspension by the arms and *falaka* (beatings on the soles of the feet). However, the regulations were often not fully implemented. Torture and ill-treatment in police and gendarmerie custody continued to be a serious concern with cases of beatings, electric shock, stripping naked and death threats being reported.

Torture methods which did not leave lasting marks on the detainee's body were also widely reported. Deprivation of food, water and sleep and making detainees stand in uncomfortable positions continued to be reported, despite a circular from the Minister of the Interior prohibiting the use of such techniques. In addition, people were beaten during arrest, while being driven around or after being taken to a deserted place for questioning."

#### **Report of Human Rights Watch (HRW)**

The Annual Report of HRW was published in January. Relating to torture and ill-treatment in Turkey the report stated.

"There were fewer cases of torture and ill-treatment in 2004, largely due to safeguards imposed in recent years, and by the government's frequent assertions of zero-tolerance for such abuses. Nevertheless, detainees from all parts of the country report that police and gendarmes beat them in police custody. In some cases, detainees still complain that they have been subjected to electric shocks, sexual assault, hosing with cold water, and death threats. The persistence of these violations is a consequence of poor supervision of police stations, which permits security forces to ignore

detainees' rights – and most importantly, the right to legal counsel. Human Rights Watch has urged the government to impose measures to improve internal monitoring of police stations by provincial governors and prosecutors, to permit independent monitoring by members of bar and medical associations, and to launch ministry-level investigations of all allegations of torture."

#### **The Wire-Tapping Scandal**

On 1 June the daily *Vatan* published an article under the headline of "A Document that will shake Turkey". It referred to a verdict of Diyarbakır Heavy Penal Court No. 6 that stated that between 8 April and 30 May all telephones, mobiles, short messages, e-mails and facsimiles had been tapped. The prosecutor had forwarded a demand of the Regional Office of the National Intelligence Agency (MİT) of 6 April to tap all telephones in order to establish the international connection of terror organizations.

On 6 April Diyarbakır Heavy Penal Court No. 6 had decided on allowing the request "since the aim of preventing terrorist acts could not be achieved by other means". It was established that shortly afterwards MİT started to collect data on persons from the water company, the electricity company and other places. On 2 June *Hürriyet* reported that in 2002 the police had tapped 7,080 mobile and 7,794 normal phones on courts' orders. In 2003 the figures had been: 9,926 mobiles and 6,092 normal phones. In 2004 the figures had been: 19,628 mobiles and 3,310 normal phones.

Law No. 4422 on Organized Crime provides in Article 2 that phones can be tapped on suspicion that a crime is being committed or somebody will participate in a crime. Article 4 provides that all kinds of official registrations may be inspected to the end of identifying criminals. Law No. 5190 that renamed the state security court to heavy penal courts provided that persons that had to be tried at the Constitutional Court, the Court of Cassation and military courts were exempted as persons whose phone could be tapped.

On 3 June *Milliyet* reported that the secret service MİT had earlier applied to a court in Ankara and asked for permission to tap all kind of phones, but the court in Ankara had rejected the demand. On 2 June an official statement was made by MİT. It stated: "MİT is carrying out its duty according to the law on its foundation and duties. As lately reported in the press activities to identify and follow persons are carried out on a legal basis. In this context the public benefit is always respected."

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#### **During the last 10 years only in March phones were not tapped -NurBatur (Hürriyet/2 June 2005)**

A high official of the secret service said that during the last 10 years they received some 90 orders of courts to tap phone. The decisions were mainly taken in İstanbul, İzmir, Ankara and Diyarbakır. Only in March demands for wire-tapping stopped since the new legislation was about to enter into force. But when a commissioner lost his life in Kuşadası Diyarbakır Heavy Penal Court No. 6 was asked for permission to tap phones.

An expert of the police Diyarbakır said that they had received information on a planned assassination. The observed person was about to leave Diyarbakır and, therefore, a demand was made to listen to phones in all places of Turkey. The expert added that because of these wire-tapping a bomb in Antalya had been defused. In İstanbul 10 kilograms of explosives, in İzmir 5 kilograms and in Diyarbakır 1.4 kilograms of explosives had been found.

Following these developments CHP Konya deputy Atilla Kart posed written questions to Prime Minister Recep Tayyip Erdoğan. No information on the reply were available.

On 3 June the board members of DEHAP, Hatice Çoban, Ali Rıza Yurtsever, Hüseyin Yılmaz and Muammer Değer launched an official complaint against the general order of wire-tapping. On 23 June the public prosecutor in Ankara decided not to forward the complaint "since there was nothing wrong with the decision of Diyarbakır Heavy Penal Court No. 6.

Diyarbakır Bar Association filed an official complaint against Sami Tetik, presiding judge of Diyarbakır Heavy Penal Court No. 6, the prosecutor and the officials of MIT. Sezgin Tanrıkulu, chair of Diyarbakır Bar Association stated that the court's decision was a violation of law.

Emin Şirin, independent deputy from İstanbul asked MIT whether his mobile phone and e-mail account had been among the bugged objects. He was told that MIT had not tapped all phones, but only those that could be related to terror. Şehmus Ülek, deputy chair of Mazlum Der also wanted to file a complaint with the Prime Minister and went to the governor's office in Urfa on 7 June to have his application being forwarded. The officials there refused to accept his application.

AKP Yalova deputy Şükrü Önder prepared a draft law on the authority of the secret service, the police and the gendarmerie to bug phones. On 27 June the Commission for Internal Affairs in the GNAT accepted the draft that would restrict the right to wire-tapping to organized crimes such as terrorism and drugs, but only for the police and gendarmerie. No restriction were envisaged for MIT.

## 1 - "DISAPPEARANCES"

### Mursal Zeyrek

Reports in June published in *Evrensel* and *Özgür Gündem* indicated that Mursal Zeyrek had "disappeared" in May 1992 having last been held at the gendarmerie station at the border station Habur (next to Iraq). İslam Zeyrek, the brother of Mursal Zeyrek gave the following information:

"My brother had been called to the army and was about to go after two days. The *agah* of our village, Süleyman Gündüz, came and said that the commander at the gendarmerie station in Habur, Lieutenant Kenan, wanted to speak to Mursal. The next I walked with my brother over 6 kilometers to get to the station. We were taken into the room of the lieutenant. He said that he wanted to take Mursal to Zaho (in Iraq) to get information about PKK camps. My brother said that he could not do that because he was about to start his military service. The commander said that he would bring my brother back in two days. We were taken to separate rooms. After a while I left my room and saw the room where my brother had been taken empty. I asked the commander about my brother and he said that they had taken him to Iraq. He ordered me to leave the compound."

İslam Zeyrek further stated that he inquired about his brother over 2 weeks and after that the commander said, "It is no longer in my hands. I don't know what happened." On the question of whether or not his

brother was in the hands of JİTEM İslam Zeyrek did not get an answer. Reportedly lawyer Tahir Elçi appealed to the European Court of Human Rights. No information on Mursal Zeyrek was found in the archives of the HRFT.

### Bahri Budak, Metin Budak

The HRA in Diyarbakır announced in May that the bones of Bahri Budak (61) and his grandson Metin Budak (14) had been found. Both persons had "disappeared" in Yalımlı (Xosor) village in Lice district (Diyarbakır) on 28 May 1994. Selahattin Demirtaş, chair of the Diyarbakır branch of the HRA, said that the village had been evacuated before and Bahri and Metin Budak had gone there to look after their garden. Demirtaş added:

"They had agreed with the driver of the minibus that took them there that he would come in a few days to pick them up. Soldiers stopped the minibus when the driver wanted to go there after several days. The driver was not allowed into the village and nothing was heard from Bahri and Metin Budak since then, although the family inquired at the governor's office, the GNAT, the prosecutor in Lice, the Minister of the Interior and the governor's office in Lice."

On the discovery of the bones Demirtaş said: "Abdülbaki Budak, a relative of the Bahri and Metin Budak was grazing sheep on 1 May when he discovered some bones close to a riverbed. Digging

the earth he also discovered clothes and other belongings. The comb and the medicine he identified as belonging to Bahri Budak. The family also identified the clothes."

Once the HRA had been informed the case was raised with the prosecutor in Lice (9 May) but the prosecutor did not give a date for an inspection claiming that the region was not safe. With the knowledge of the prosecutor a delegation of the HRA went to the village on that day and took photographs of the place.

Kadri Budak, the son of Bahri Budak, said that 11 years ago soldiers from a commando unit from Bolu had set their houses on fire and had forced them to leave the village. When he tried to look for his father and son the soldiers had threatened to kill him, if he did. On 26 May CHP Diyarbakır deputy Mesut Değer spoke to Lice Governor İsmail Koşum and the prosecutor Tamer Can. He, too, was told that it was too risky to go to the village.

On 28 May the prosecutor Tamer Can, the governor İsmail Koşum and İrfan Eser, lawyer and board member of the HRA in Diyarbakır gathered in the village. They found 11 bullet casings. The bones for sent to the Forensic Institute for a DNA test. In April 2006 the result of the test was announced. It was stated that the bones belonged to Bahri Budak and Metin Budak with a probability of 99,9%.

In earlier years no information on this case had been available.

**Abdullah İnan, Hayrullah (Hayrettin) Öztürk Aşur Seçkin, Kemal İzci, Yusuf Çelik, Reşit Sevlı, Mirhaç Çelik, Seddik Şengül, Naci Şengül, Casım Çelik, Hurşit Taşkın, Cemal (Cebbar) Sevlı, Salih Şengül**

The book of the PKK "confessor" Kahraman Bilgiç revealed that on 24 July 1994 13 people "disappeared" and one person was killed in Ortaklar village in Şemdinli district (Hakkari). According to Bilgiç soldiers raided the village on that day and detained Abdullah İnan, Hayrullah (Hayrettin) Öztürk, Aşur Seçkin, Kemal İzci, Yusuf Çelik, Reşit Sevlı, Mirhaç Çelik, Seddik Şengül, Naci Şengül, Casım Çelik, Hurşit Taşkın, Cemal (Cebbar) Sevlı and Salih Şengül. They "disappeared" while Kerem İnan was killed.

Kuli İnan, the wife of Kerem İnan, said: "There was a clash in the mountains. Our village was raided the following day. We had to gather in the village square. The men were stripped stark naked. All inhabitants were tortured. They took six people with them and gathered another 7 people on their way to the village. We wanted to go after them, but were prevented under death threats. We never heard of them again. We have been unable to prove that they were killed."

Sefer İnan, the son of Kerem İnan, said: "On the Xebert plateau near Ormanca village there was a clash and on the second day soldiers entered our

village. There were thousands of them. They gathered the inhabitants and separated them in groups of men, women and children. I was among the men who were taken to another place. Here they tortured us over 6 hours. Later they read out the names of 14 men including the name of my father. They shot my father in front of our eyes. Of the 13 men we never heard anything again."

Meyrem Çelik, the wife of the "disappeared" Casım Çelik, stated that there were rumors that the men were buried in the garden of Ortaklar Gendarmerie Station. She added: "Two days before the incident my husband took me to the doctor in the district. The headman told us that the village was raided while we were in town. Together with another six villagers my husband wanted to drive to the village but they were detained on their way. We never heard of them again."

It was reported that the public prosecutor in Şemdinli wanted to investigate against the major Ali Çamurcu, commander of Ortaklar Gendarmerie Station and the officer Fatih Akçay on charges of intentional killing, causing a miscarriage and setting a car on fire. According to the Law on Prosecution of Civil Servants the Administrative Council in Şemdinli had to be asked for permission. In June 2000 the Council ruled against permission.

After the national remedies had been exhausted the villagers appealed to the European Court of Human Rights in 2003. Lawyer Levent Kanat stated that the rapporteur had inspected the file in October 2004. The application had alleged that Emine Çelik and Zübeyde Uysal (Seçkin) had been pregnant and had had a miscarriage because of the beatings. Kerem İnan had been ill and not able to follow an order of gathering in the village square. He had been shot at the well. 13 inhabitants of the village supposedly had been killed and thrown into a riverbed.

No information on this case was found in the archives of the HRFT.

#### **Serdar Tanış, Ebubekir Deniz**

On 26 January *Özgür Politika* published in Germany presented an article under the headline of "The Disappeared from Silopi were executed". The reported alleged that PKK militants had seen that close to Aşınme village, Silopi district five people had been executed in January 2001. Two of them had been the HADEP officials Serdar Tanış and Ebubekir Deniz, reportedly missing since 25 January 2001. The militants had gone to the village the next day and seen the corpses covered with stones. One of them had been a person who deserted the PKK.

Following the publication of this article HPG made a statement that was published on 1 February. It said that a group of militants wanted to shoot a documentary in the summer of 2004. The group had been informed about the victims in Aşınme village. Having gone to Aşınme village the bones and clothes

under stones had been filmed. Besides empty bullet casings and the explanations of a guerilla active in that region at the time had also been recorded. In 2001 a force of some 400 soldiers had killed five people that they had taken there. The noise raised the attention of guerillas in the area who watched it with long-glasses. They had been unable to get close. Since the incident happened a few days after the HADEP officials disappeared there was a suspicion that they might be among the victims, but that was not a proven fact."

On 2 August the European Court of Human Rights announced the judgment on this case (application No. 65899/01). The Court held, unanimously, that there had been:

- a **violation of Article 2** (right to life) of the European Convention on Human Rights concerning the disappearance of Serdar Tanış and Ebubekir Deniz;

- a **violation of Article 2** concerning the inadequate nature of the investigation into the circumstances surrounding the disappearance of Serdar Tanış and Ebubekir Deniz;

- a **violation of Article 3** (prohibition of inhuman or degrading treatment) on account of the distress that the applicants had experienced and continue to experience with regard to the fate of their relatives;

- a **violation of Article 5** (right to liberty and security);

- a **violation of Article 13** (right to an effective remedy);

- a **violation of Article 38** on account of Turkey's failure to furnish all necessary facilities to the Court to enable it to examine the application.

- and awarded the families compensation of € 240,000.

## 2 - DEATH IN CUSTODY

### (1) Gökhan Belgüzar (20)

On 21 January Gökhan Belgüzar was detained in İstanbul-Bakırköy. He died in Osmaniye Police Center on 23 January. Officially it was stated that he had been detained on charges of robbers and was identified by the victims. In custody he reportedly made a rope from the edges of a blanket and hanged himself at the hooks behind the door.

During the investigation it turned out that the camera system in the cell had not recorded anything and the guard on duty had not been in his place. It was said that Gökhan Belgüzar was 1.80 meters tall and that the hooks were 88 centimeters from the ground. The cell mate Kadir Olcay Helvacı reportedly said that he slept and had not seen Gökhan Belgüzar committing suicide. The Forensic Institute issued a report stating that the body of Belgüzar had not shown signs of blows or wounds.

The father İrfan Belgüzar stated that his son had been detained three years ago because of pick-pocketing. He had been tortured at the time and one arm and one leg had been broken. His son had been sentenced to three years' imprisonment and he had been released two months ago. İrfan Belgüzar added that during a control in Merter (İstanbul) on 17 January the IDs of his son and two friends had been confiscated. One of the friends had been detained the next day when he wanted to get his ID back. In the same manner his son had been detained on 21 January. İrfan Belgüzar said: "I saw him when he came from the medical examination back to custody. The handcuffs had cut his arms and he was bleeding. He could hardly stand on his feet and said that he had been beaten and would be beaten again. In front of my eyes they took my son away and killed him."

The mother Sevim Belgüzar said: "I went to see my son, but they did not let me and asked me to look via

the camera. I could see my son lying there. How can it be that they don't see if my son committed suicide. They killed him."

The elderly brother Orhan Belgüzar stated that the officials had told them that they look underneath the shoulder. The same official stated that Belgüzar hanged himself from the height of 88 centimeters.

On 25 January a delegation from the HRA went to Osmaniye Police Center but was not let inside. The delegation was stopped in 100 meters' distance. Eren Keskin, chair of the İstanbul branch of the HRA said that this meant that there was something to hide. On 26 January the Presidency of Human Rights at the Prime Ministry ordered the human rights council for İstanbul province to inspect the incident.

The Commission to Observe Unlawful Acts as part of İstanbul Bar Association filed an official complaint on 1 February. The Commission drew attention to the allegation that Gökhan Belgüzar had been in need for medicine but had not been given any. The Commission stated that there were suspicions that Belgüzar was killed under torture. The family filed an official complaint on 2 February.

On 23 September Bakırköy Penal Court No. 3 started to hear the case of the police officer Ali Osman T. charged in connection with the death. Makbule Doğan, lawyer of the Belgüzar family demanded that the defendant charged with misconduct of duty should be put in pre-trial detention. The Court rejected the demand and adjourned the hearing to a later date. Ali Osman T. pleaded not guilty.

### 2) Latif Okay

Latif Okay was detained in Nazilli district (Aydın) on 10 February on allegations of making illegal deals with antiques. He died in custody. The official statement

said that he fell ill and was taken to Nazilli State Hospital where he died.

### 3) Güven Karakuş (21)

It was alleged that the deserter Güven Karakuş hanged himself at the window of his cell at Çaycuma (Zonguldak) Gendarmerie Station in mid-March. He had deserted from his unit and had come to his home town Karapınar (near Çaycuma). His father had informed the gendarmerie and soldiers had detained him.

### 4) Murat Yavuzer

Murat Yavuzer (24) was detained in Diyarbakır on 1 June on charges of theft. At Sağlık Police Center he allegedly made a rope from his trousers and hanged himself at the irons of his cell. Officially he was detained at 6pm and hanged himself in the late hours of the evening.

### 5) Rabia Asan (31)

On 23 December Rabia Asan was detained in İzmir on charges of having disturbed the neighborhood while being drunk. She died at Hatay Police Station. Officially she put one arm of her pullover round the irons of the cell and the other arm round her neck and committed suicide by kneeling. It was said that Rabia Asan was 1.75 meters tall and the irons were at 1.65 meters. The weight of the woman was given as 60 kilograms.

### Trials on Death in Custody

**Birtan Altınbaş:** The trial in connection with the death of Birtan Altınbaş in custody (on 16 January 1991) started again at Ankara Heavy Penal Court No. 2 on 18 March. On 26 March 2004 Ankara Heavy Penal Court No. 2 had convicted the police officers İbrahim Dedeoğlu, Sadi Çaylı, Hasan Cavit Orhan and Süleyman Sinkil and sentenced them to 4 years', 5 months' and 10 days' imprisonment. The police officers Tansel Kayhan, Talip Taştan, Mehmet Kırpıcı and Muammer Ekin were acquitted because of lack of evidence. The 1<sup>st</sup> Chamber of the Court of Cassation confirmed the acquittals but quashed the convictions. Earlier the case of the police officers Ahmet Baştan and Naip Kılıç had been separated, because these defendants could not be found.

During the hearing of 29 April lawyer Oya Aydın Gökteş, acting for the sub-plaintiffs, demanded to remand the defendants or at least issue a ban for them to leave the country. The court rejected both demands. At the hearing of 1 July lawyer Özgür Yılmaz stated that Hasan Cavit Orhan had also tortured him. He presented an article of the details *Hürriyet* that had quoted the then Prime Minister Süleyman Demirel as saying "They tortured everybody".

During the hearing of 29 July the presiding judge asked the lawyer of Süleyman Sinkil, Mehmet Ener, why his client did not testify. The lawyer said that he

had met his client but had been unable to enter a dialogue. The lawyers of the sub-plaintiffs asked once again to remand the defendants but the court rejected it.

During the hearing of 7 October written statements of the police officers Süleyman Sinkil and Ahmet Baştan were read out. They accepted to have killed Birtan Altınbaş and claimed that the other police officers were not guilty. They also asked to hear Nuh Mete Yüksel, at the time chief prosecutor at Ankara SSC, Hasan Özdemir, the then Chief of Ankara Police, his deputy Ali Kalkan and Burhan Tansu, at the time leading the department to fight terrorism, as witnesses.

During the hearing of 10 November lawyer Oya Aydın Gökteş stated that the statements of two defendants who suddenly pleaded guilty and argued that their colleagues were not guilty did not reflect the truth. She called it an attempt to fool the court. The defendant Süleyman Sinkil appeared in court for the first time on 23 December, although the trial had been continuing since 1998. He stated that he and Ahmet Baştan had taken the suspect downstairs to the cells. The suspect had adopted an organizational behaviour when they started to interrogate them. He had not only refused to answer but also had attacked them. He had beaten them and they had beaten him. The hearing was adjourned to 27 January.

**Salih Karaaslan:** The relatives of Salih Karaaslan who had died in detention in Silopi district (Şırnak) in March 1999 launched a case asking for compensation. The case to be heard at Şırnak Judicial Court had to decide on the demanded sum of 490,000 YTL.

In connection with the death of Salih Karaaslan seven soldiers had been tried. On 24 June 2003 Şırnak Heavy Penal Court sentenced the sergeants Ahmet Candan Yıldız, Ali Metin and Kayhan Yaşar to five years', 4 months' imprisonment each and acquitted the soldiers Sami Türker, Süleyman Yıldır, Hamit Peri and Yusuf Köksal. In 2004 the Court of Cassation confirmed the verdict. Sergeant Ali Metin was dismissed from duty after the verdict was confirmed, but Ahmet Candan Yıldız and Kayhan Yaşar had been pensioned when the verdict was confirmed.

In June 2005 the three sergeants appealed to the European Court of Cassation on the claim that other soldiers were responsible for the killing and they had not been tried fairly. Reportedly the PKK confessor Arzu Tururkor who had been in detention with Salih Karaaslan and the sergeant Murat Bektaş had testified that the sergeant Haluk A. and Mustafa D. were responsible for the killing.

The statement of Arzu Tururkor of 9 March 2004 sent to Şırnak Heavy Penal Court and the 1<sup>st</sup> Chamber of the Court of Cassation read: "In March 1999 I applied to benefit from the repentance law and visited the command of the gendarmerie in Şırnak. When I came back to the interrogation department I heard that Salih

Karaaslan who had been detained on charges of providing shelter and food had died one day before (19 March 1999). From other confessors and the personnel in the interrogation department I heard that Salih Karaaslan had died because of the torture and violence sergeant Haluk A. had inflicted on him. Haluk A. himself said that this was the way they killed people and did not have to account for it. In the trial on torture I was listed as witness but since they could not find me I did not testify."

The sergeant Murat Bektaş alleged that the minutes taken on the incident had been forged and the signatures had been faked. A major had commented that an officer could not be sentenced for having killed a terrorist. The lawyer of Ali Metin and Kayhan Yaşar asked for a re-trial since new evidence had been found but Sırnak Heavy Penal Court and the Court of Cassation rejected the demand.

**Metin Yurtsever:** On 9 May Kocaeli Heavy Penal Court No. 2 concluded the trial against 16 police officers charged in connection with the death of Metin Yurtsever in Kocaeli on 23 November 1998. According to the information provided by the lawyer Ali Haydar Gonca the police officers Şih Ömer Ediz, Şaban Kurnaz, İsmail Türkdemir, Sadettin Topal, Bülent Oral Tunar, Bekir Şahin and Temel Çakmak were sentenced each to 20 months' imprisonment. The police officers Şinasi Yılmaz, Süleyman Başkal, Kadir Cenk, Onur Düzcan, Cemil Çetin, Nihal Yücesoy, Mehmet Gürcan, Mustafa Atik and Recai Ergün were acquitted. Metin Yurtsever had been detained during a raid on the offices of HADEP in Kocaeli on 20 November 1998. He died three days later as a result of torture.

**Şaban Cadiroğlu:** Lawyer Menaf Kıran said that a hearing in connection with the death of Şaban Cadiroğlu (14) in Van on 16 August 1999 was held on 22 July and adjourned to 18 October. In this trial the police officers Seyit Demir and Sabri Sivacı are the defendants.

#### Ahmet Fenkli

On 12 December a hearing was held in connection with the death under beatings of the soldier Ahmet Fenkli serving in a unit in Kırklareli on 4 July 2001. During the hearing an expert opinion was read out. It stated that Ahmet Fenkli had been buried without an autopsy. The expert Prof. Dr. Cem Tayfun with the rank of a major stated that the corpse of Ahmet Fenkli had shown a bleeding wound behind his left ear and around this wound a large edema had been detected. The injuries could be the result of blows but also occur of a person suffering from high tension suffered bleeding of the brain. The trial did not conclude in 2005.

The indictment alleged that Ahmet Fenkli had been detained on suspicion of irregularities with phone cards. NCO İlhan Ünal and Captain İsmail Yetkin had beaten him and he had died in hospital because of a cerebral hemorrhage. In the trial General Emin Ünal, commander of the brigade, Major Recai Elmaz, Captain Nahit Balcı and NOC İlhan Ünal are charged under Article 117 of the Military Penal Code (bodily harm in exceeding the purpose). Captain İsmail Yetkin who stayed in pre-trial detention for three months was charged with intentional killing and has to expect a sentence of 10 years' imprisonment.

### 3 - INCIDENTS OF TORTURE AND ILL-TREATMENT

In July reports from Tunceli indicated that during house raids and controls on the street dubious search warrants were used. On 6 July Murat Polat, chair of DEHAP in Tunceli told *Özgür Gündem* that during a search of his house the police had acted as if a militant was hiding there and they expected a clash at any time.

Alican Önlü from the executive committee of DEHAP stated that the controls on the street had become "tradition". He said: "On the way to Ovacık there are two controls. They open the door of your car and say that they have to search it. But there is no information on the person they might be looking for or the car under suspicion. In many places the police or gendarmerie will conduct a traffic control and the identities of persons that pass there are taken."

Bülent Taş, chair of Tunceli Bar Association, said that the searches were unlawful. Article 5 and 6 of the Regulation on Apprehension, Detention and the Taking of Testimony and Articles 116 and following of the

TPC provided that searches had to be based on a reasonable suspicion, concrete evidence and were only valid for certain periods of time." Taş added that anonymous information over the phone could not be the ground for general searches.

**Kaze Özlü:** On 3 January Kaze Özlü who had been detained and tortured several times before was arrested in Adana together with Naciye Yeter. Both women were accused of having provided false papers for Hakan Bazo. Mehmet Şerif Kakakurt who had been detained with the women was released.

Tevfik Özlü, the son of Kaze Özlü, stated that the police had forcibly entered their flat in Adana in the morning of 3 January and not shown the search warrant the prosecutor allegedly had issued. They had been cursing and swearing and not given any reason for the detention of his mother. He had asked to accompany her because she did not know Turkish, but had been insulted. His mother was illiterate and unable to prepare false papers.

Lawyer Beyhan Günyeli Karadeniz stated that Kaze Özlü had testified with the help of an interpreter. He had been able to talk to her and remain there during interrogation. She had said that she did not know a person called Hakan and had not produced an ID.

On 7 March Adana Heavy Penal Court No. 7 started to hear the case of Kaze Özlü and Naciye Yeter. Defense lawyer Fatma Karakaş said that Kaze Özlü was illiterate and unable to prepare false papers. The Court ordered the release of both defendants.

**Ali Karaçalı, Nazime Karaçalı, Nurcan Aktaş:** In January Ali Karaçalı and his wife Nazime Karaçalı complained to the HRA in Van stating that they had been threatened by the police.

Their son, the student İskender Karaçalı had been arrested on 24 December 2004 on charges of supporting an illegal organization. Later the police officers with the first name of Serdar and Ömer had come and told them that Erzincan Police HQ wanted their son. The police officers had threatened them. Nazime Karaçalı said that earlier their daughter had been wanted in Erzincan. In the night of the arrest of her son police officers had called them and said that they should go and see their son in Van. All of them would end up like this.

For the same reasons Nurcan Aktaş who had been arrested on charges of being a member of the PKK in 1993 and had been released in 2002 filed an official complaint with the prosecutor's office in Van. She said in her application that after her release she had been called to the gendarmerie station in Gevaş and had been asked how she was making a living. Allegedly this question had to be asked on orders of the Justice Ministry. On 19 August 2004 she had been called to Gevaş Police HQ and had been taken to the department to fight terrorism at the Police HQ in Van. She had been asked whether she would take to the mountains again, had contact to DEHAP or illegal contacts.

She had been released after one day but in December she had realized that she was being followed. One evening one of these police officers had come up to her and asked her whether she was interested in getting to know him.

**Ahmet Göçücü, Hakan Göçücü, Abdullah Gözkaman, İbrahim Gündüz:** The police in Bingöl reportedly beat Hakan Göçücü, Abdullah Gözkaman and İbrahim Gündüz. Ahmet Göçücü was injured with a weapon. Hakan Göçücü said about the incident of 2 January:

"In front of the Police House I mistakenly thought that one of the people there was a friend of mine. I called him and when I realized that it was not my friend I apologized. One police officer started to beat us. Another police officer shot at the foot of my cousin Ahmet Göçücü. I hit that police officer with my first. The number of police officers had reached 5 or 6."

Hakan Göçücü added that the beating had continued at Bingöl Police HQ. They had been threatened not to talk to anyone about the incident. Having been wounded Ahmet Göçücü was taken to hospital. İbrahim Gündüz wanted to see him there and was beaten by police officers.

**Alaattin Bozkurt, Fahri Kazkurt:** On 6 January the police officer Erkan Kaymaz (Kaymak) was arrested in Kars because on the day before he had beaten Alaattin Bozkurt and Fahri Kazkurt with whom he had had a dispute on traffic. Reportedly Alaattin Bozkurt was in a dangerous state of health.

**Engin Ertik:** Engin Ertik, student in Tunceli alleged that the police kidnapped and threatened him on 6 and 7 January and 4 February. He said:

"On 6 January I went to school. Close to the school I saw a car waiting. I stepped aside. Soon after that someone tried to grab me from behind. He hit me with his fist on my eye. Two people grabbed my arms and dragged me into the car. In the car they beat me. They asked me 'When did you come from Ovacık?' I told them that I had never been in Ovacık and that I was a student. They drove me around and dropped in Cumhuriyet quarter."

Thinking that he had been mistakenly kidnapped Engin Ertik was again kidnapped in front of his school on 7 January when someone out a plastic bag over his head. He was beaten in the car and driven out of town. The beatings were worse than before and this time he was asked to become a police informer. He had been dropped close to the city center and about a medical report on one week's inability to work.

On 4 February Engin Ertik was forced into a minibus. He said: "In the car they blindfolded me. I was taken to a building and taken one floor downstairs. I had to sit on a chair and my arms were tied. Someone told me that this was the third they tried to talk to me. I was forced to sit on the chair in the wrong manner. They took off my clothes and put something heavy on my back. Then they beat me through this thing and the pain spread over the whole body. After that a hot tool was moved over my body. Later they dropped me at a bridge."

Engin Ertik contacted the HRA and HRFT and filed an official complaint with the prosecutor.

**Erkan İnan:** Lawyer Cemal Demir stated that his client Erkan İnan was detained in Erciş district (Van) on 12 January, held over three days and tortured. His eyes had been blindfolded and he had been examined in the presence of police officers. Out of fear he had not mentioned torture and, therefore, was certified to be in good health. After three days' detention Erkan İnan was remanded on charges of supporting an illegal organization.

**A.A. (17):** Because of bad marks in his certificate A.A., pupil at a lyceum in Diyarbakır, tried to commit suicide

on 14 January. He was taken to the hospital of the medical faculty at Dicle University. In intensive care two police officers tried to take his testimony. He objected stating that he did not feel well. Later a blond police officer had come in and shouted at him, why he refused to testify. Although he had been serum from his arm and a hose in his nose the police officer whose name later was given as Murat Bağrıç kicked at the stretcher so that A.A. fell to the ground.

Three police officers had come in and one had held his mouth shut. The other two handcuffed him. He had bitten into the hand of Murat Bağrıç who held his mouth shut and then had started to shout. Only then a physician had entered and ordered the police officers to leave. Having identified the other police officers Abdülkadir Aydın, uncle of A.A. filed an official complaint against the police officers Murat Bağrıç, Hakan Gütmen and Gürkan Atay.

**Mehmet Ali Toprak, X.X:** On 3 February Mehmet Ali Toprak was detained in Gemlik district (Bursa) on accusations of being a member of an organized crime gang. Reportedly he and an unnamed person were tortured. Nalan Erkmen, lawyer in İzmir stated that the Forensic Institute in Bursa had issued reports for both men certifying traces on their body.

Melek Toprak, the wife of Mehmet Ali Toprak appealed to the district's human rights council. In reply of 8 March she was told that her husband had acted like a psychopath and the police had had difficulties to calm him down. Her husband had been held at Gemlik Police HQ between 11.30pm and 2.30am and had not been interrogated. The letter further alleged that there were no video recordings of his detentions and no medical report certifying traces of torture existed.

Melek Toprak appealed to the HRA and the lawyer Nalan Erkmen opened a case at the administrative court for the Bursa region stating that it was not the duty of the human rights council to verify torture. She asked for an administrative case against the police officer and stated that Bursa Forensic Institute had certified traces of handcuffs of in the right hand and bruises on both shoulders and the back. Nalan Erkmen also alleged that another person had been dressed like a belly dancer and had been video taped.

**Mukaddes Çağlar:** Mukaddes Çağlar, member of the youth wing of DEHAP, alleged that police officers kicked her in Yüksekova district (Hakkari) on 5 February. The minibus in which she had been traveling had been stopped at the exit of town and the police officers had asked to look into her bag. She had answered that there were personal belongings in the bag and she wanted a female officer to conduct the search. At that moment police officers had pulled her hair, dragged her out of the minibus and kicked her. They had ordered dogs to attack her. The dogs had dragged her over the ground and she had been threatened to be killed and thrown to the side. Later travelers had interfered. The police officers had taken

her into their car and brought her to police headquarters. Here she had been asked to forget about the incident since the colleagues had made a mistake. She had not accepted this. At Yüksekova State Hospital she was given a report on one day's sick leave. Having filed an official complaint Mukaddes Çağlar identified the police officer with the first name of Suat and İsmail.

**27 persons:** On 23 January the police detained participants of a funeral in Siirt. On that day Nergis Özer and Sibel Sartık were to be buried. They had been killed in a clash near Toptepe village in Kumçatı district (Şırnak) on 19 January.

Metin Beydoğan stated that they had not testified at Siirt Police HQ because they had been ill-treated. The public prosecutor Dursun Yüzer had threatened them that they would be imprisoned if they did not testify. Therefore they had been taken back to the police center and had been forced to testify. Complaining to the HRA Metin Beydoğan said that all detainees had been tortured psychologically. The names of the detainees were:

İbrahim Kılıçarslan, Emine Oğuz, Mustafa Gündüz, Tevfik Kaçar, Yusuf Kaplan, Teymen Yılmaz, Tahir Çetin, Ata Taşçı, Musa Kaçar, Süleyman Taş, Sibel Ete, Fadıl Taşçı, Yusuf Akın, Ahmet İlhan, Hayrettin Akcan, Hakan Can, Adil Ceyhan, Fehmi Elçin, Abdullah İnan, Abdülkerim Ekinci, Murat Yıldırım, Emin Aksu, Ömer Ete, Muhlis Ete, Ali Kaçar, Mehmet Beyan and Adil Esen.

**Initiative of Peace Mothers:** On 6 February the "Peace Mothers" were stopped at a gendarmerie station on their way from Diyarbakır to Siirt and allegedly beaten by soldiers. They held a press conference at the Diyarbakır branch of the HRA on 10 February. Rahime Fidan said that they had been stopped at Başur Gendarmerie Station some 20 kilometers away from Siirt. Four of their members had to be taken to hospital. They had filed an official complaint against the commander of and soldiers at the gendarmerie station.

**Seyithan Akkaya:** In the night of 12 September the police in Bulanık district (Muş) raided three houses including the flat of Seyithan Akkaya, chair of DEHAP for the district. The police detained Hamdullah Çiftçi. Seyithan Akkaya said: "First members of a special team came. We protested since there was no regular police. They broke the door and then they called one police officer. They forced me and my children to stand in cold weather outside for four hours."

**Ferhat Taşdemir, Ferdi Taşdemir, Mülazim Yıldırım, Burhan Tayfur, Fırat Taşdemir:** The vendors Ferhat Taşdemir, Ferdi Taşdemir, Müazim Yıldırım, Burhan Tayfur and Fırat Taşdemir were detained at Gürbulak border station in Doğubeyazıt district (Ağrı) on 16 February on the accusation that they had brought more goods from Iran than allowed. Before the detainees

were taken to the prosecutor they were examined at Doğubeyazıt State Hospital and certified 20 days' inability to work. On 17 February Ferhat Taşdemir, Ferdi Taşdemir and Mülazım Yıldırım were remanded on charges of having torn down a wall of the detention center.

**28 Persons:** During raids on Yukarı Turgay, Aşağı Turgay, Damlacık, Eğribilen, Yukarı Koçkiran, Aşağı Koçkiran and Oynaklı villages in Özalp district (Van) on 1 March 28 people were detained. Among them Nevzat Genç, Seydi Olgun, Şevket Egriboy, Kasım Egriboy and Nurettin Altınok were released on 2 March. After release Nevzat Genç said that soldiers had beaten them.

**Sadık Aydoğmuş, X.X., X.X.:** Sadık Aydoğmuş, distributor of *Özgür Halk* and *Özgür Gündem* in Van, stated that on 5 March he and two friends had been detained and beaten at İstasyon Police Station. He said:

"In the evening while we were distributing the journal and the newspaper three police cars stopped in front of us. The officers asked what we were doing. We told them that we were distributing publications. Then two police officers I know under the names of Fatih and Tayfun pushed me against a wall and beat and kicked me. They cursed at us heavily. I was beaten most. Then they took us to İstasyon Police Station. One of the officers there said that they should treat us as enemies and they started to beat us again." Sadık Aydoğmuş alleged that the physician did not give them reports and police officers threatened them not to talk about the incident.

**D.Y., N.K.:** D.Y. and N.K. were detained in İstanbul-Kağıthane district on charges of having thrown Molotov cocktails into a bank. Their lawyer Suat Eren stated that D.Y. was certified 7 days' sick leave because of a bullet wound on his arm. N.K. was given a report of 15 days' inability to work. The lawyer said that in the night of 27 February his clients had been short at without a warning. D.Y. had been wounded to his arms and the arm of N.K. had been broken because a police car drove at him. One police officer had looked at him whether he was still alive and another police officer had put a gun into his mouth.

Although his clients had been wounded they had been handcuffed on their backs. At the police station D.Y. had been dragged over the ground. He had been kicked at his back, knees and his wounded arm. As a result of the torture he had fainted. A physician had said that the handcuffs should be removed but a police officer had replied that he better died. Suat Eren added that the testicles of N.K. had been squeezed and a needle had been pushed into the flesh of his teeth.

**Cihat Özçelik:** Student Cihat Özçelik (21) alleged that unknown people had kidnapped and beaten him in Ankara on 13 March. He had come to Sıhhiye Bridge where someone asked him in Kurdish where he came

from. He had answered that he did not know Kurdish and the person had told him that he resembled the person from his home town which was Diyarbakır. He answered that he was from Ankara.

"Having walked for about 100 meter two persons pushed me from behind and forced me into a car. They blindfolded me. I asked them who they were but was told not to worry, since I would get an answer to this later. There were five people in the car, who hit me fists into my face. They asked me about connections to illegal organizations and I said that I had none. They replied that they had not been sure, otherwise they would have detained me officially. They warned me that bad things might happen to me, if I continued like this."

Cihat Özçelik was later set free at the same place where he had been kidnapped.

**C.S. (17):** On 18 March C.S. spoke at a press conference of the HRA İstanbul and stated that he had been threatened to become a police informer. On 11 March he had been forced into a car with an İstanbul plate number and first taken to Kağıthane Police HQ, later to the department to fight terrorism at İstanbul Police HQ. He had been offered money in return to work for them. The police officers had asked for information on activities in the People's Culture Center in Kağıthane.

**G.Ç., A.S., G.K., O.A., M.D., V.Y., E.Ö., R.S., O.S., M.K.:** After a fight among pupils at a lyceum in İzmir-Menemen district on 24 March the pupils G.Ç., A.S., G.K., O.A., M.D., V.Y., E.Ö., R.S., O.S. and M.K. were detained. They alleged to have been tortured at Menemen Police Station. According to the daily *Özgür Gündem* G.Ç., A.S., G.K., O.A., M.D., V.Y., E.Ö., R.S. and O.S. were beaten by police officers. When M.K. tried to set himself on fire in protest at the detentions he was detained and a police officer with the first name of Ramazan reportedly threatened him with a gun.

**Detained Students:** On 25 March students protested in Beyoğlu at the dismissal of 14 fellow students from İstanbul University with a press statement. They were detained and later alleged that they were tortured. Speaking for them, Aygün Kumru said: "They detained us according to EU standards since the press was present, but inside they tortured us. The female students were assaulted."

**T.U. (16):** T.U. from the lyceum in Bingöl stated that police officers forced him to become an informer. He was under constant observations and disturbed. On 23 March three plain clothed police officers had detained him and taken him to Düzağaç Police Station. They had offered him to become an informer. He had been told that there were plans to publish a journal with the name of *Asmin* and that he was making contributions. He had been asked to provide information on the contribution of trade unions and was offered 150 to

2000 YTL for it. He had also been told to get help in entering a university and out of fear he had accepted 20 YTL as an initial fee. After one hour he had been released.

**Veysel Atay, Orhan Dağdagül:** Veysel Atay and Orhan Dağdagül complained to the HRA in İstanbul stating that police officers had beaten them on 1 April. They had asked why the officers wanted to see their IDs and, therefore, had been beaten on the street and at Kumkapı Police Station.

**Hüsna Yakut, 9 Persons:** On 9 April the Independent Youth Movement (BAGEH) held a press conference in Van. The police detained many of them. On 11 April 10 detainees were put in pre-trial detention. Hüsna Yakut from the journal *Genç Bakış* alleged that she had been sexually harassed in detention and added that the others had been ill-treated in custody.

**Derya Orman, Gülselin Orman, Seyhan Geylani Sondaş:** On 18 April the sisters Derya Orman (23) and Gülselin Orman (21) spoke at a press conference of the HRA in İstanbul. Derya Orman said that they had been detained in Bostancı because her sister had not been in possession of her ID. Chief Commissioner Hüseyin Tanrıku had offered her to release her sister if she agreed to sleep with him once. At the police station a female officer had sexually assaulted her. She had been forced to lie down and all her clothes had been taken off and put in a dustbin. Her breasts had been squeezed and she had been beaten. The police officers had not given back the 500 dollar found on her sister.

Gülselin Orman stated that she had been stripped naked and police officers had asked her for sexual intercourse. This had changed into threats of rape. In the morning they had been asked to sign a statement but they had waited until a lawyer arrived. The lawyer had made sure that the complaints of ill-treatment were added to the statement.

Lawyer Eren Keskin stated that she had gone to see the sister at the police station. Chief commissioner Hüseyin Tanrıku had told her that the girls might be ill since they were throwing themselves against the walls. The prosecutor in Kadıköy had insulted the sister charged with wrongfully accusing police officers. Only after Eren Keskin told him that he might soon get the best known prosecutor in Turkey he changed his attitude.

On 30 April Derya Orman spoke again at a press conference of the HRA in İstanbul and said that police officers had been following her since the last press conference. This time Seyhan Geylani Sondaş participated in the press conference. She said that she had gone to the police station to inquire about the sisters and had herself been detained. "They beat me and asked for my address. I gave the address of the restaurant where I am working as a waitress. I don't know what they said to my employer, but three days ago I was sacked."

**Sara Aktaş:** The student Sara Aktaş from Hacettepe University alleged that on 24 April three armed men had kidnapped her in front of her flat in Ankara-Eryaman. She told the HRA in Ankara that she had been imprisoned as a PKK member for 10 years. She had been released in 2004 and had registered at the university. The three armed men had told her that she was wrong thinking that she was "back to normal". Everything would start all over again. The men had driven her around for 1.5 hours and had beaten her before she was dropped on the road.

**Cemile Kaya:** On 28 April the police in Hakkari raided a house on the pretext that a wounded militant was hiding there. During the raid the owner Şükrü Kaya and his wife Cemile Kaya were detained. Their nephew Kadir Tan stated the police officers had beaten Cemile Kaya and had broken the windows and the entrance door..

**Fatma Akaltun:** The nurse Fatma Akaltun, board member of the trade union SES in Aksaray (İstanbul), alleged that the police officer Remzi Murat had beaten her at Eyüp State Hospital, where she was working. On 27 April she had been distributing leaflets on a strike action. The police officer Remzi Murat had taken away the leaflet, deprived her of her liberty for one hour and kicked and beaten her.

**Members of the Platform of the Union of Fight:** On 3 May members of the Platform of the Union of Fight who had been detained in İstanbul on Taksim Square held a press conference at the HRA in İstanbul. Dilek Gül spoke for the 56 detainees and said that they had been kept waiting in the bus for 24 hours. They had been insulted heavily and had been exposed to pressure. Several of them had been wounded, but in the hospitals in Bakırköy and Baryampaşa they had not been given medical reports.

**Mir Zeydin Özcan, İbrahim Özcan:** Mir Zeydin Özcan and his brother İbrahim Özcan were detained in Salihli district (Manisa) on 13 May. They complained to the HRA in İzmir stating that they had been tortured. Having been dismissed from work Mir Zeydin Özcan had launched a case against his employer Hüseyin Kocağa. The employer had accused him and his brother of having fired at his car. In detention they had been tortured. Afterwards İbrahim Özcan had to stay in hospital for one week because of the torture. Mir Zeydin Özcan added that he remained in pre-trial detention for 93 days. Meanwhile he had been informed that the police officer Süleyman O. who had tortured them was on trial at Akhisar Penal Court on charges of ill-treatment.

**Mehmet Ali Tosun:** Mehmet Ali Tosun, member of the HRA in Ankara alleged that people who introduced themselves as police officers had threatened him and exerted pressure on him to become a police informer. On 20 May he held a press conference together with Salih Karaaslan, chair of the Ankara branch of the HRA, and said about the incident on 13 May: "The

people demanded that I tell them what is done in the ESP. They knew all names of the members of my family and departed saying that we would meet again. On 17 May the same people stopped me on my way home and threatened me to become a police informer."

**Musa Aşkara:** Musa Aşkara, distributor of the daily *Ülkede Özgür Gündem* in Siirt, stated that on 18 May police officers had beaten and insulted him. He told the HRA in Siirt: "When I was distributing the paper in Evren quarter a police officer that I would recognize if I saw him came up to me and slammed me in the face three times saying that I should be a man and not an animal." Musa Aşkara added that he had been threatened over the phone and, when he went to file an official complaint, a police officer had prevented him from entering the prosecutor's office.

**Remzi Temel, Fatma Kurt:** In the night of 18 May the flats of DEHAP board members in Ankara, Şirin Altay and Remzi Temel were raided. Remzi Temel was held for 36 hours on the pretext that he was planning a bomb attack for the national celebrations on 19 May.

Remzi Temel stated that he and his relative Fatma Kurt had been detained on their way home. They had been forced to lie down and had been handcuffed, although Fatma Kurt was a minor. In addition, she had been searched by a male officer.

"Some 70 officers entered our flat not saying anything on the reasons for the search. They woke up my children. They took away the telephone from my wife who is suffering from asthma and may need the phone for urgent calls. They even looked into the cans for tomato puree. At 2am I was taken to Ankara Police HQ. During interrogation I was insulted and beaten. When I asked for a lawyer they cursed at the lawyer, too. Having testified in the presence of a lawyer I was interrogated again."

The lawyer Halil İbrahim Özdemir stated that the detentions were made on notice of an informer but the police did not say. He called it an arbitrary measure.

**Kıymet Bakır, Süleyman Kızıldaş, Celal Kurt:** On 22 May members of a special team in Yüksekova district (Hakkari) raided several houses in Kışla quarter. The woman Kıymet Bakır told:

"At 7pm when my husband was not at home the police surrounded the house with armored vehicles. They said they would search the house and I asked for a search warrant. When I opened the door they jumped on me and pressed against my shoulder that had been operated. While they beat me they searched the house. Later they came again twice."

Süleyman Kızıldaş said: "When they entered the flat they forced us to lie down and threatened us with arms. They broke several things. When I asked what

they were looking for they squeezed my throat and threw me out of the flat."

Celal Kurt said: "During the search I came home. I had to lie on the ground and they shouted and jumped on me. My brother had to stay outside until 10pm and had difficulties to get him out of their hands. They did not ask anything."

**Hacı Çetin, Ziro Koç:** On 26 May Hacı Çetin was detained in Hakkari-Çukurca district. He said about torture in detention:

"At the beginning four police officers interrogated me after they had stripped me naked. Later the district governor Ünal Coşkun came. He demanded that I say everything and I said that I had nothing to do with the incident. Then one police officer and the governor started to beat me. I was beaten for hours. The governor was cursing at me and one police officer showed me a truncheon threatening that they would rape me with it. He also threatened to kill me, throw me somewhere and nobody would know about it. I repeated that I had nothing to do with it and only were under suspicion because I was a member of DEHAP. Later I was taken to the prosecutor. He released me after testifying."

Meanwhile Ziro Koç filed an official complaint against the governor Ünal Coşkun. In the application he stated: "I had gone to apply for a loan in the agricultural sector. The governor saw me in the corridor and asked me to come to his office. He immediately insulted me and slammed me into the face. He demanded that I should leave the district town. There are many witnesses for the incident including Nebi Erdal, Mehdi Sökmez and Sabri Koç." Being asked for the reason of such a treatment Ziro Koç said that he had gone to get the corpse of a PKK militant who had been killed in Çukurca district about one month ago.

**Uğur Akdal, Murat X.:** Uğur Akdal (14) complained to the HRA in Diyarbakır about beatings of police officers. He said that he was collecting plastic bottles and selling in the street when police officers came to him in front of Fatih Lyceum and beat him and his friend Murat (11). Now he had a broken finger. Uğur Akdal added that he had been beaten before by police officers.

**Davut Evin:** On 4 June soldiers of the gendarmerie raided the house of Davut Evin in Çatalca village in Şemdinli district (Hakkari). Davut Evin stated that the commander had insulted him when he asked for a search warrant. Davut Evin had participated in a protest at frequent street controls of taxis in Yüksekova and Şemdinli district. The protest had been conducted in front of Durak Gendarmerie Station.

**Aziz Biçer, Celalettin Mert, Nebahat Mert, Naima Sayek, Songül Mert, Belkise Biçer, Zübeyde Mert, Aziz Mert, Atik Mert, Yakup Mert, Özal Sayek, İsmet**

**Sayek:** On 9 June soldiers and village protectors raided Burmataş hamlet, close to Hasanova district in Karlıova district (Bingöl). They allegedly beat the villagers and fired shots into the air.

Villager Aziz Biçer said that some 200 soldiers and village guard from Çırık village raided their village saying that seven militants were hiding in their houses. "When we denied it they started to beat us with the butts of their rifles. They cursed particularly at the women and dragged them over the ground by their hair. The village protectors with the first names of Hacı, Kadri, Siddık and Kado killed many sheep. The soldiers beat in particular Celalettin Mert (70), Nebahat Mert, Naima Sayek, Songül Mert, Belkise Biçer, Zübeyde Mert, Aziz Mert, Atik Mert, Yakup Mert, Özal Sayek and İsmet Sayek.

Celalettin Mert stated that they complained to the governor in Karlıova district, Erkan Çapar, but he ripped the paper into pieces and accused them of feeding and hiding PKK militants. The governor praised the soldiers for what they had done. Together with Abdülkerim Mert Celalettin Mert had gone to the Commander of the Gendarmerie Station in Karlıova and he allegedly had threatened them with burning down the village.

**Müzahit Karakuş:** Müzahit Karakuş, Secretary of the Teachers' Union Eğitim-Sen in Van said on a press conference on 10 June that someone from JİTEM had threatened him over the phone to kill him. Karakuş added:

"At 11pm my mobile rang. The person on the other side that he was from JİTEM and gave a name like Cevat or Cahit. I was not fully awake and, therefore, I do not remember the name exactly. Later the phone rang again and the person called himself a major from JİTEM. He accused me of making politics and having contacts to illegal organizations. I should take care otherwise I would be the victim of an extra-judicial killing."

**Ferdi Taşpınar, Mehmet Ali Dülger:** On 13 June the police in Konya beat Ferdi Taşpınar (29) and Mehmet Ali Dülger (19) after having detained them wrongfully. After a reported fight around 11pm the two fighting persons ran away from the police towards the hospital. At this time Ferdi Taşpınar and his nephew Mehmet Ali Dülger came running to hospital to donate blood for a relative. The police stopped them. When they objected the police took them to a post nearby and beat them. When the police officers could not find a knife they realized that they had stopped the wrong person. Reportedly Dülger had a dislocated shoulder from the beatings.

**Mustafa Uduncu:** Mustafa Uduncu (21) complained to the HRA in Diyarbakır stating that police officers had beaten him on 19 June. He said:

"I was sitting in the shop of a friend in Seyrantepe. Suddenly 10 uniformed police officers stormed in. They did not say anything but took us outside beating us with truncheons and the butts of their rifles. My friend was able to run away. I fell down and was kicked into my stomach. They hit me in my face and on my back. From the beatings with truncheons on my head I was dizzy. Later the police officers went away. The next day I went to Sanayi Police Station to complain, but was sent to the police station in Huzurevleri. Here I fainted. My elderly brother took me to hospital and was given a medical report."

**Sait Milas, Erol X., Abidin X., Bülent X.:** On 20 June soldiers conducted an operation near Yüksekova district (Hakkari). Allegedly they beat six villagers on accusations of having supported PKK militants. The shepherd Sait Milas said: "We woke up with noise of arms. The unit had surrounded us. They fired at our feet saying that we were supporting the PKK. They stopped ill-treating Erol, Abidin and Bülent and started to torture me. They said that eight militants were in the area and I was their leader. They broke my nose. The physician at the gendarmerie station did not issue medical reports."

**Rıza Tanış:** During a demonstration for Abdullah Öcalan in İstanbul-Küçükçekmece on 25 June an armored vehicle hit Rıza Tanış (15). Although he had broken ribs and a broken arm the police officers allegedly beat him. Rıza Tanış said:

"On my way home I watched the demonstration. Suddenly an armored vehicle came and drove into the crowd. I tried to run away but it drove over me. For a long time I could not breathe. When I opened my eyes I saw that the police officers had taken me into the vehicle. Although I was injured they beat me. They took me to Kanarya Police Station and continued to beat me there. They insulted me and cursed at me saying that I was a terrorist. One police officer saw that I could not breathe and suggested to take me to hospital. With a car they took me to Bakırköy State Hospital. They simply put a bandage in my bleeding arm. The physicians did not believe that I had been hit by an armored car. They did not give me a report saying that this was the matter for a court."

Lawyer Asiye Ülker said that without treatment Rıza Tanış was taken to the Juveniles' Department in Halkalı. Only on her intervention had he been taken to hospital again. Here he underwent an operation and was certified 3 months' sick leave. Ahmet Tanış, the father of Rıza Tanış, said that the police officers had told him that his son had died. He had gone to the police station and had asked for the corpse if his son was dead or that he was released, if he was alive. "Immediately the police officers insulted and kicked me and threw me out of the police station. I could see my

son only after a lawyer had arrived. At the department for juveniles they insulted us calling us traitors and terrorists."

**Haydar Kapu:** Haydar Kapu (60) alleged that he had been threatened with death in order to leave his village Pınar in Tunceli province. On 28 June his son had been taken to the gendarmerie station. "I went to see my son at the headquarters in Tunceli. The commander Namık Dursun insulted the sergeant who had taken me to his office. There were other people in the room including civilians. The commander turned to me saying 'son of a bitch, I know what you have been doing. Leave your village. If anything happens there I'll set you on fire'. He accused me of providing shelter for militants. In the end he pointed at someone with a beard and said 'he will take care of you'."

**Yunus Demir:** Yunus Demir (67) alleged that he had been beaten at the gendarmerie station in his village Bezirhane (Ağrı province). On 27 June he had been called to the station and the commander with the first name of İsmail had accused him of occupying the land of other people. "I said that I had not done anything like that and that everything was settled in official papers. Thereupon the commander hit me with his fist on my left eye shouting that the others, too, should beat me (the son of a b...). Zeki Kaya, Mustafa Kaya, Abdullah Kaya and M. Emin Kaya from Karışeyh village with whom I had a dispute over land later beat me, too."

**Ali Haydar Çatakçin, İbrahim Çatakçin:** On 30 June various organizations including the political parties DEHAP and EMEP held a press conference in Tunceli stating that the Eğitim-Sen member Ali Haydar Çatakçin and İbrahim Çatakçin had been beaten by members of a special team. They had been stopped after a visit to a grave.

**Abdullah Özgenç, Cüneyt Tışkaya, Halit Çelik, Oruç G., Ergün Kaymaz, Mehmet Keban:** On 4 July Abdullah Özgenç, Cüneyt Tışkaya, Halit Çelik, Oruç G. (17), Ergün Kaymaz and Mehmet Keban were detained in Antep after a press conference related to the killing of 17 MKP militants in Tunceli. They alleged to have been tortured. Speaking for the ESP in Antep Özgür Devrim Köse said that Oruç G. had temporarily lost his memory because of the beatings and two friends had been forced to become informers.

**Bülent Yılmaz:** Bülent Yılmaz (30), living in Ovacık district (Tunceli) alleged to have been kidnapped and tortured on 10 July. He suspected the kidnappers to either be police officers or members of JITEM and said:

"At the entrance to Ovacık a white car stopped me and the occupants said that I should enter their car. One was blond, the other one had a beard and the third one was bold. In the car they immediately started to curse and beat me. They accused me having friends and if I did not tell them their places they and I would be killed and thrown into the river. I told them that I

did not know anything and they beat me with the butts of their rifles. At the place where the rivers Munzur and Mercan meet they put a snow mask over my head and left me to others. I suppose they were 4 or 5 people. I was beaten again. Close to the Uzunçayır Barrage I was beaten until 4am. In the car one called another one 'commissioner'. When they dropped me they said that I should not move for 1.5 hours or soldiers would shoot me. I stayed without a movement and later went to Puğluçayır village. I called friends who came with a car." Bülent Yılmaz alleged that police officers at the hospital took away the medical report when they heard that he wanted to launch an official complaint.

**Selçuk Ulavur:** Selçuk Ulavur, member of the Association for Basic Rights and Freedoms in Ankara, alleged that police officers threatened him. On 18 July at 11pm two persons claiming to be from the intelligence of the police had stopped him on his way home. They said that they did not belong to the police but he should stop to be against the State or they would smash him. They asked him to accept his contact to Eyüp Beyaz who had been killed in front of the Justice Ministry.

**Cemil Bilgili, Cem Bilgili:** On a press conference of the solidarity association with prisoners on 25 July Cemil Bilgili stated that he and his nephew Cem Bilgili had been tortured. On 14 July his nephew had had a fight with someone on Çağlayan quarter (İstanbul). He had separated them, but the police had taken them to the station. "We were exposed to insults and beatings. On various parts of the body we received heavy blows. In Şişli Eftal Hospital our wounds were detected. When we said that we would file a complaint we were beaten again." Cem Bilgili was arrested on charges of insulting the flag and resisting officials.

**Reşat Bozkurt, Mustafa Taşkiran:** On 20 July soldiers allegedly beat the shepherds Reşat Bozkurt and Mustafa Taşkiran near Yılanlı village in Doğubeyazıt district (Ağrı). The shepherds had been detained because they had too many blankets and food with them. Both were held for two days and reportedly their requests for a lawyer were not met. On 21 July Hacı Mustafa Bozkurt, his son Mehmet Bozkurt and Burhan Bozkurt were detained in Yılanlı village. Together with the two shepherds there were remanded on charges of supporting an illegal organization.

**"Hülya", "Eda", "Ezgi":** On 21 July the police in İstanbul reportedly beat the transvestites with the nicknames of "Hülya", "Eda" and "Ezgi" in Çapa quarter. According to an article in *Özgür Gündem* the three persons entered a taxi and when it stopped at the traffic lights some 30 police officers forced them out of the car and beat them. Reportedly medical reports were issued on the three victims but they did not get a copy. The prosecutor released them on charges of having resisted officials. The victims allegedly did not file official complaints since they did not see a chance of getting justice.

**Abdulkadir Akgül, Ergin Demir, Cigerhun Erişen, Zübeyit Keserci, Muzaffer Keserci:** Abdulkadir Akgül, Ergin Demir, Cigerhun Erişen, Zübeyit Keserci and Muzaffer Keserci were detained in Erciş district (Van) on 21 July. Their lawyer Cemal Demir said that in hospital they were shown as healthy although they had been tortured. On objection Abdulkadir Akgül had been examined again and was certified blows and bruises. For the other victims the examinations came too late since 8 days had passed since the incident. The lawyer complained that the physicians were under pressure because the police officers would not leave the room during examination.

**Bayram Taşdelen:** On 29 July Bayram Taşdelen was beaten by four people in Kars. Kars State Hospital issued a report certifying 25 days' sick leave. Bayram Taşdelen said that he knew 3 of the four men and one of them was definitely a police officer. Bayram Taşdelen had been in prison as PKK member for 10 years.

**Mehmet Ali Satır:** At the beginning of August Mehmet Ali Satır (20) was beaten by plain clothed detectives, while waiting at a bus stop in Tarsus district (Adana). He alleged that four officers continued with the beating at police headquarters. Tarsus State Hospital certified him as healthy. After release Mehmet Ali Satır went to hospital again but was hindered by police officers. Only after the third examination he was certified a wound to his head, bleeding from the ear and danger of a brain trauma.

**Mahmut Kavak:** Reports from Savur district (Mardin) stated that Mahmut Kavak. DEHAP member living in Çınarönü (Cilin) village was threatened with death by the commander of Sürgücü Gendarmerie Station. Mahmut Kavak had gone to Beytüşşebap district (Şırnak) to get the corpse of his relative Mehmet Emin Sincar who had been killed in a clash. On 7 August he returned home. At 11pm the commander called him over the phone and asked him to come to the station. At the station he asked about the trip to Beytüşşebap and in reply said that he wished there would be an incident like the one with the lieutenant. In that case he would know what to do with him.

Mahmut Kavak stated that in 1997 a lieutenant had been killed close to his village (Coşkun Telci). Four villagers had been tried in connection with the incident. He had been imprisoned until last year and since then had been threatened repeatedly. Mahmut Kavak informed the HRA in Mardin and filed an official complaint with the prosecutor in Savur.

**M. Reşit Teke:** The taxi driver M. Reşit Teke filed an official complaint with the prosecutor in Gaziosmanpaşa (İstanbul) stating that plain clothed officers had beaten him. He said in his complaint:

"When I left home on 13 August five civilian dressed people cut my way. They left their car and came over to me asking whether I knew 'Mehmet from Mus'.

When I said 'yes' they started to curse. I should tell him to move his house from here. I asked them to stop cursing and one of them beat with a walkie-talkie. Then they dragged me out of the car and all of them started to hit me. All of them were armed and later I was informed that they are police officers."

M. Reşit Teke later went to the health center in Arnavutköy but reportedly did not receive attention. He suspected that the police officers employed close to the health center had instructed the personnel.

**Yusuf Demir:** Yusuf Demir (16) selling water at Taksim Square (İstanbul) alleged that plain clothed detectives beat him in mid-August. They had come in a minibus and all kids selling water had started to run away. He had stopped when one police officer drew a gun. The tall and heavy weighted police officer had come up to him and immediately hit him with the gun. Then he had taken him to the minibus constantly beating and cursing at him. He had been taken to the car park in Dolapdere and been kicked at and beaten. Then he had been set free. Yusuf Demir complained to the HRA in İstanbul and the public prosecutor.

**Mehmet Tunç:** On 21 August Mehmet Tunç and another three persons were detained in Konya on allegations of selling smuggled cigarettes. They had been taken to the department for smuggling. The keeper Ö.E. had cursed at him and when he objected had cut his face with a broken glass. Although the police put him under pressure Mehmet Tunç filed an official complaint.

**Servet Alçinkaya, Ahmet Biberöglü:** *Cumhuriyet* reporter Servet Alçinkaya alleged that police officers beat him on 23 August. With his friend Ahmet Biberöglü he had been walking on İstiklal Street at 9.30pm when four uniformed police officers stopped them and asked for their IDs. He had asked for their IDs to be sure that they were police officers. Therefore he had been forced into the police car. His friend had stepped in front of the car to prevent it from moving and was beaten. Servet Alçinkaya stated that he was beaten in the police car and at Taksim Police Station. He was held at the station until the next morning but requests to inform his family were not met. The next morning a prosecutor ordered his release.

**Ayhan Özgür:** Reportedly the guards of Prime Minister Recep Tayyip Erdoğan beat Ayhan Özgür on 29 August after a discussion about traffic. The guards had stopped him on the motorway E-5 and asked him to step out of the car. He had refused to do so because he would have been beaten more severely as in the car. Ayhan Özgür said that he would not file an official complaint but wanted the Prime Minister to see what his staff was doing.

**Ahmet Sarıtaş, Fahrettin Işık:** On 31 August M. Salih Ataç, Ramazan Boğadır, Hüseyin Andıç and Ömer

Faruk Akyüz were put in pre-trial detention. They had been detained at a funeral for HPG militants who had been killed in clash near Gercüş district (Batman). They were charged with staging an unauthorized demonstration, praising a crime and attacking officials. Among the detainees M. Salih Ekinci, Ahmet Sarıtaş, Abdulkuduz Garzan and Fahrettin Işık were released by the prosecutor. Fahrettin Işık said that he had been detained although he did not participate in the demonstration. He had been wounded to his head and traces of blows at his back and face. Ahmet Sarıtaş said that he had been detained under beatings at the coffee shop where he was working. In the ambulance the police officers had continued beating him.

**Nasip Kurt:** In mid-August security officers at the central bus station in Antalya interfered when Nasip Kurt had an argument with his lover Emine Yılmaz. According to an article in the daily *Milliyet* the security officers handcuffed him and took him to an area with trees where he was severely beaten. For two days Nasip Kurt stayed in intensive care at Antalya State Hospital. He lost sight on his right eye. The security officers were detained on complaint of Nasip Kurt but released after testifying.

**Fikret Korkmaz, Süleyman Korkmaz, İsmail Korkmaz, Mehmet Korkmaz, Taha Korkmaz:** On 1 September the village guards Fikret Korkmaz, Süleyman Korkmaz, İsmail Korkmaz, Mehmet Korkmaz and Taha Korkmaz refused to participate in a military operation between Çukurca and Uzundere district (Hakkari). They alleged that sergeant Muzaffer B. from the central gendarmerie station beat them because of their refusal.

**Cemal Coşkun:** On 2 September Cemal Coşkun, member of the parliament of DEHAP, spoke at a press conference at the HRA in İstanbul. He said that he and his family were under constant threats of the police. He said: "If I am wanted the police can easily find me but in the last two weeks the police officers came four times always at hours when my 14-year-old daughter was at home. Under threats and insults and with guns and walkie-talkies in their hands they asked for me. My family insisted on giving my phone number but they did not take it or tell them their place of duty. My family and I are disturbed by this behavior."

**Yılmaz Pişkin, M.K.:** Yılmaz Pişkin and M.K. (14) were detained after a demonstration for Abdullah Öcalan in Mersin in 5 September. After release on the same day M.K. stated that the police officers had taken them to an empty space and beaten them up. He said: "With a stick in his hand a police officer called us from inside the DEHAP office. When I came out a plain clothed officer hit me on my chest with a stick. Then Yılmaz and I were taken to an empty space close to the office. I was hit several times with a stick, but they laid Yılmaz down and kicked and beat him on the ground. Later they took us to the department to fight terrorism at Mersin Police HQ. Beatings continued here and they asked questions about religion. Out of fear I

had to sign a paper that I did not read. Only the last page I wanted to read but they said 'sign quickly, or you'll get a broken nose'.

Lawyer Serhat Ölmez who visited Yılmaz Pişkin in prison said that he saw wounds at the left hip, bruises at his left knee and behind his ears of him. Pişkin had told him that officers from the special force had beaten him. He had asked to be taken to hospital because of difficulties in breathing. He had been taken there and kept waiting for hours. In the end he had only been given serum. He had been forced to sign a statement although he was illiterate.

**Beaten Demonstrators:** On 11 September several people protested the decision of the governor in İstanbul to postpone the protest of the military coup on 12 September for one month with a press conference in Kadıköy (İstanbul). The police threw gas bombs at the participants of the press conference and detained 54 people under beatings. When the detainees shouted slogans on their way to the police buses the police used pepper gas. Among the victims Özgür Karakaya had a broken arm and the President of the trade union Limter-İş, Cem Dinç was wounded to his head.

**Beaten Demonstrators:** During a demonstration for Abdullah Öcalan in Siirt on 6 September the police detained 20 people. They later complained to have been beaten and insulted in custody. Metin Beydoğan said: "After the action we went to the office of DEHAP. The police officers entered breaking the door and attacked us with sticks and truncheons. They laid us on the ground and beat us. In the car and detention center we were exposed to rough beatings, cursing and insult. In custody they extinguished a cigarette on my arm."

**İsmail Perkteş, Dursun Yıldırım:** İsmail Perkteş and Dursun Yıldırım were detained in İstanbul on 17 September on accusations of being members of an illegal organization in preparation of suicidal attacks. During a press conference at the HRA in İstanbul İsmail Perkteş stated that he was badly treated because he was born in Tunceli. At Beyoğlu Police Station they had been beaten and insulted. Dursun Yıldırım said that after release the police had taken him to a side street of İstiklal Street and had beaten him there. He said: "They wanted me to run. Eyüp Beyaz came to my mind and I thought that I might be killed like him. I did not run but walk and, therefore, they beat me again." Lawyer Sevim Akat said that the detention had not been registered and that they would complain about the police officers.

**Beaten Demonstrators:** On 19 September the Association for Basic Rights and Freedoms held a press conference in Tunceli. The police detained several people. Among the detainees Özcan Dutağacı and Ali Demir were remanded on 25 September. In protest at their imprisonment another press conference was held on 28 September. Murat Kaymaz, Ziya

Kulbak, Ali Ekber Kaya, Hüsniye Mavi, Eylem Vural, Onur Munzur, Özgür Demir, Timuçin Kılınç, Oğuz Bulat and Duygu Kalanç were detained under beatings. Seven of the detainees were remanded on 29 September on charges of resisting official and disturbing public peace. The Association stated that in particular Özcan Dutağacı was severely beaten in custody.

**E.B., N.Ç., M. Kılıç, Ç.Ş., İ.Z.:** On 2 October the children E.B., N.Ç., M. Kılıç, Ç.Ş. and İ.Z. were detained in Ordu and held at Ordu Central Police Station. Their families filed an official complaint stating that their children had been tortured. They were detained after an accident during a concert. At the police station they were allegedly beaten and threatened with rape or having photographs taken while they were naked. The families also alleged that their children had not been taken to hospital and at the end of detention threatened not to get reports and file complaints.

E.B. said that a motorcycle had hit him, but instead of the driver he and his friends had been detained. In the police car the bearings had started. "One grabbed my by my hair and hit my head against the window of the car. At the police station 7 to 8 officers attacked me and my friends. Later I was taken to a separate room and stripped naked. They threatened to take my photograph. They also squeezed my testicles. In the end I was taken away in car and threatened with death before they threw me out of the car."

N.Ç. said: "In a separate room they squeezed my testicles. I would recognize them if I see them. At one stage I became dizzy and fell down. They warned us not to go to hospital and not to file complaints."

M. Kılıç said: "They took me to the second floor and stripped me naked. Saying that they would make me queer they started to beat me. One officer squeezed my testicles. The beatings continued before I was taken to another room. I heard sounds from one room 'stop, uncle' and someone was weeping.

On complaint Ç.Ş. testified to the prosecutor. He said that he had been beaten in the police car. He had been undressed in one room at the police station. He had heard the screams of his detained friends. At the hospital he had said that he had been tortured and he had been given a medical report.

İ.Z. said that he tried to get closer to the singer at the concert when special security officers had prevented him, taken him away and handed him over to police officers. Under beatings he had been taken to the police station where he saw his friends N.Ç., M.Kılıç, Ç.Ş. and E.B. Shortly afterwards they had been taken out of the common room and he had heard the screams of them. At the health center he had said that he had been tortured. The physician had looked at his wounds and had issued a report. He had been taken back to the police station and only on the next day

been presented to a prosecutor. He had complained to the prosecutor about the special security and the police officers. A judge had ordered his release.

**Gürser Eser:** On 7 October during the Friday prayers of Prime Minister Recep Tayyip Erdoğan in a mosque in İstanbul-Eyüp members of the anti-riot squad beat Gürser Eser, reporter for the Anatolian News Agency.

**Musa Çağlayan:** During a press conference of the HRA in Ankara on 12 October the student Musa Çağlayan said that the police had forced him to become an informer. They had looked for him at home and since he had not been there had called him over the phone and said that they wanted to ask some questions. The officers had introduced themselves as Metin and Şahin and has asked him to get information from university.

"In case that I refused they threatened that bad things would happen to me and my family. If I agreed I would 500 YTL each month and grants that I applied for. On 10 October the police officer Şahin again insisted on a meeting. When I refused he threatened me so that I met him on 11 October. He took me to some side streets but I insisted to speak to him close to traffic police officers. He did not agree and I went away saying that I would never work for them. Talking behind my back he again said that bad things would happen to me.

**Ali Erol:** Ali Erol, village protector in Geçitli (Peyanıs) village (Hakkari) alleged that police officers had kidnapped and tortured him on 12 October. He added that the intervention of DEHAP and lawyers saved him.

In the evening he had left the village to go to Hakkari. At the control post in Merzan quarter he was stopped. Plain clothed detectives put him into a minibus saying that he would have to testify. He was taken to an unknown place. Other passengers informed DEHAP and the lawyer Zeydin Kaya. They inquired but Hakkari Police HQ and the gendarmerie both stated that such a person had not been detained. Hakkari deputy Fehmi Öztunç and the Mayor Metin Tekçe inquired again at Hakkari Police HQ and the governor's office. Late at night Ali Erol was set free close to Merzan quarter. After release Ali Erol stated:

"First I thought I would be taken to Hakkari Police HQ. But as soon as I had entered the minibus of the police someone forced me to the ground and blindfolded me. We drove for about 20 minutes. I could not see anything but from the smell I guess that it was the place for waste. They asked me about many names from the village and wanted me to accept that I was either a member or supporter of the PKK. I denied and was constantly beaten. They hit me on my head with a heavy tool. Twice I heard shots at my back. They were about to kill me. The phone calls rescued me. When they left me they said that I should not say anything wrong."

At the hospital Ali Erol was given a medical report certifying two fractures at the head and signs of blows on the body requiring 22 days' sick leave.

**Fatma Özbey, Habip Akkaya, X.X., X.X., X.X., X.X.:** On 12 October members of the ESP chained themselves to traffic light in Kadıköy (İstanbul) in protest at the draft Law to Fight Terrorism. The police detained six ESP members. They later stated that they were tortured at İskele Police Station. They filed an official complaint on 17 October stating that the women had been body searched in complete nakedness. All had to leave their shoes before they were put in cells. They stayed there barefooted for the whole day. Reportedly Fatma Özbey had a fracture at her head and Habip Akkaya had fainted in the police car. During the medical examination at Haydarpaşa Numune Hospital the handcuffs were reportedly not taken off.

**Erol Sert:** Erol Şişli, working as private security officer in a shop in İstanbul-Şişli alleged that police officers beat him in mid-October. He told the HRA in İstanbul that he had been beaten by officers from Feriköy Police Station because he refused to give them money. Earlier he had given them 30 YTL out of fear and the last time they had asked for 40 YTL. He had asked them for the reason and they had stated that they needed some fuel. "When I refused they issued a ticket for illegally collecting money for parking. But all I do is showing the customers a place where they can park their cars. In the middle of the street the police officers started to beat me."

Erol Sert complained that the people around did not intervene. One of the police had said 'I am İzzet from Çanakkale. I have put you on my black list. I know you are from the East (Kurd). This officer had hit his head against the window of a car and about 10 police officers had attacked him at the same time. Lying on the ground he had been kicked at and handcuffed. "I opened my eyes in hospital. The police officers did not permit that I was given a report. Therefore, I don't know what was written there. The police officers were swearing the whole time."

**Sabri Varol, Cihangir Kılıç:** Reports from Ordu stated that on 14 October police officers beat Sabri Varol and Cihangir Kılıç. Sabri Varol said that police officers came up to them when they said good bye to each other. Without any notice the officers had started to beat them. The beatings had continued in the police car. "I told them that I had a weak heart, but they did not listen. My friend repeated it and shortly afterwards I fainted. At Ordu Police HQ they poured water over me, took us downstairs and beat us again." Cihangir Kılıç said that Sabri Varol fell ill at night and the police officers panicked and took him to hospital. The physician was amazed about the state the patients were in. Nevertheless both persons were fined 50 YTL for having made noise at night.

**Oğuz Korkmaz:** The bus driver Oğuz Korkmaz alleged that police officers beat him near Ulaş district (Sivas)

on 21 October. He had started the journey in Kangal district to go to İstanbul. In Ulaş he stopped to get more passengers. Ulaş Chief of Police Nurettin Çolak asked the driver for his papers. Oğuz Korkmaz wanted to know who he was. A discussion arose and the police chief called two police officers from the close by station. The officers took the driver into a shop and beat him there. The shop owner Remzi Erdoğan alleged that the police officers were responsible for the fact that windows of the shop broke.

Oğuz Korkmaz later said: "The police chief was not uniformed. He asked for my papers saying that he would fine me for wrongful parking. I asked for his ID. First he slammed me and then he called police officers who beat me in the shop. The police officers complained about the driver and the co-driver Bekir Halver and, therefore, both were detained by the gendarmerie.

**Zeki Öztürk:** Former HADEP executive Zeki Öztürk alleged that police officers beat him in İstanbul-Silivri on 22 October when he had a discussion about a traffic accident. Zeki Öztürk said that the attitude of the police officers changed when they heard that he had been involved with the HADEP. He added that beatings continued at the police station. He was remanded on charges of resisting police officers and insulting them. He was released on objection of his lawyers.

**Nurettin Martı:** Nurettin Martı complained that he was tortured in Başkale district (Van). In his complaint to the prosecutor he stated: "On 24 October I was on my way home when the police officers K. and S. forced me into their car and took me to an empty space. They asked me to become an informer. When I refused they took me to the police center for traffic. Although they tortured me I did not accept to become an informer. Both officers took off my trousers and threatened to rape me. They refrained from doing so. They constantly hit me with their pistols. They threatened that I was living the last hours of my life if I did not agree to work with them. I should think of my children who would experience the same thing. All they wanted to know was on movement in the area since PKK militants came there."

Nurettin Martı added that the police officers threw the bread and meat he had bought away and did not give back the 200 YTL he had on him. He was threatened not to tell anyone about it, otherwise his children would be killed.

**Okay Kınık, X.X., X.X., X.X., X.X.:** Following a demonstration in Mersin on 26 October during which students protested the attack of right-wingers against students who did not fast the police detained five students. They alleged to have been tortured. Okay Kınık said:

"In the police car we were beaten when they took us to the police station in the center. They had no cells

and took us to Mersin Police HQ. We spent the night there. In the morning a team from the central station came. They handcuffed us and took us to the hospital. The wounds of the beating and the traces of the handcuffs were noted. When the physician left the room the police officers attacked us. They laid us on the ground and put the handcuffs on. We were put in a car and brought to the central station. Here the police officers attacked us again and dragged us to another car. We testified to the prosecutor and on order of the prosecutor we were taken to the Forensic Institute. We received medical reports. We identified two of the police officers and provided names and descriptions for the others to the prosecutor." Okay Kınık added that he had pain in his left foot and chest and traces of blows under his shoulder, his throat and his head.

**Villagers tortured:** On 29 October the gendarmerie station in Erenkaya village, Eruh district (Siirt) was attacked. Afterwards the soldiers raided the village, beat the inhabitants and threatened that they would have to leave their homes.

A delegation of the HRA spoke to the villagers afterwards. One of the victims told them that all male inhabitants had been taken to the gendarmerie station. "We had to hold our hands behind our heads and kneel down in one row. In this position we had to wait for one and a half hour. It took them until the evening to put down our particulars and take photographs. 45 people were taken there but they only took the testimony of 15 of us." The villagers said that their headman Nurettin Yıldız had been taken to Eruh. He had been beaten. The commander at Eruh Gendarmerie Station had said that the villagers should be content. If it had been up to him he would have fired at the villagers.

The villagers also complained that they were not allowed to graze their cattle after the attack on the gendarmerie station. For two days their phone and electricity had been cut. Each time they left the village they had sign a paper. The houses of those living close to the station had been destroyed and they had been forced to sign papers that they did not out of their own free will.

**Sadık Öncel:** On 2 November police officers in Diyarbakır stopped a minibus in the Kuruçeşme region and beat the driver Sadık Öncel severely. One of the passengers, Tahsin Akdağ said: "We stopped on demand and were asked where the prostitutes were that had been brought to us. They did not believe us when we said that we had no clue. After a discussion with the driver they beat him up with sticks." Some 200 people protested the beating of Sadık Önel by closing the road for traffic.

**F.D.:** After a demonstration for a democratic and peaceful solution of the Kurdish question in Diyarbakır on 13 November the girl F.D. (17) was

detained under beatings. She told the HRA in Diyarbakır that she had been held for eight hours at the department to fight terrorism. She had been taken to the juveniles' department. Here she was body searched stark naked and held for 40 hours. Together with other minors she had been held in a cold cell without fresh air and, although they asked for it, had not been given anything to eat or drink on the second day.

**X.X.:** At the end of November an unidentified young man was beaten by police officers on Sadrı Alışık Street (Beyoğlu-Istanbul). The incident was accidentally filmed by a cameraman from Samanyolu TV. The beating police officers reportedly worked at Beyoğlu Police Station. The young man was detained and charged with theft. He was released on a judge's order. Beyoğlu Chief of Police Ali Gedik alleged that the persons who had beaten the young man were construction workers.

**Members of the Music Group Yorum:** The members of the music group Yorum were detained in İstanbul on 1 December. During a press conference on 5 December they alleged to have been tortured. Selam Kıl said that plain clothed detectives had detained them on the pretext of a tip-off. "They beat us with wooden sticks. Even at the First Aid Hospital in Taksim the beatings continued. One police officer bent my arm and shouted 'I am torturing you'. Nobody interfered.

**İsmet Öztürk:** The lorry driver İsmet Öztürk alleged that police officers at the border station in Silopi (Şırnak) beat him on 4 December. He had been waiting there for two weeks to cross into Iraq. He had asked patrolling police officers when he would be allowed to continue his journey and they had beaten him with sticks and truncheons. When other drivers tried to interfere the police officers shot into the air. Eye witness Mahmut Koç stated: "The colleague only asked a question, but the police officers started to beat him. When we interfered they fired four shots into the air and then they escape in a police car. The only reason for their action that we do not bribe them. If anyone jumps the queue they take 100 dollar from him."

**Çağrı Yağar:** On 4 December the Democracy Platform in Antalya held a press conference in protest at the incident in Şemdinli. *Evrensef* reporter Çağrı Yağar was reportedly beaten by a civilian dressed police officers. The officer also broke his camera.

**Orhan Kara, Vedat Hacı Ali, İdban Kaplan, Şeref İnanç, Nezir Ayan:** Orhan Kara, Vedat Hacı Ali, İdban Kaplan, Şeref İnanç and Nezir Ayan were detained in Şırnak on 5 December and remanded on 9 December. They alleged to have been tortured at Silopi Police HQ. Lawyer Erdal Kuzu spoke to them in Mardin Prison and said that they had been beaten, given electric shocks and while being naked they had

been hosed with cold water. At an empty space guns had been held to their heads and they had been threatened with death.

Erdal Kuzu stated that he filed official complaints with the prosecutor in Mardin and his clients had been sent to the Forensic Institute on 20 December. The lawyer accused the prosecutor not to have noted the complaints of his clients. Vedat Hacı Ali had been heavily beaten over two days and now had difficulties in hearing. Şeref İnanç had a wound between his eye brows and the wound had been stitched.

**Gıyasettin Demir, Nedim Demir:** On 8 December soldiers detained Gıyasettin Demir and Nedim Demir in Geçitli town (Hakkari). Ali Demir had complained about the officials at Geçitli Gendarmerie Station because they had occupied his land. The soldiers did not find him at home and detained his sons, Gıyasettin Demir and Nedim Demir, instead. The brothers were taken outside town, a gun was held to their head and they were asked how they dared to complain about the State. A lieutenant had asked them whether they knew sergeant Ali Kaya who had been involved in the Şemdinli incident and told that they would revenge him. After three hours the brothers were released after testifying. They complained to the HRA in Hakkari and the public prosecutor.

**Mehmet Mamuk:** Mehmet Mamuk living in Dost hamlet, Baldan village (Tunceli) said that he had been threatened by armed people he believed to be intelligence officers. On 11 December he had been driven home when three armed men stopped him and asked him questions about his daughter living abroad. Mamuk added that earlier armed men had threatened and accused him of supporting an illegal organization.

**Sevda Aydın:** Sevda Aydın working at the Ekin Art Center in İstanbul-İkitelli alleged that on 12 December plain clothed detectives kidnapped and raped her. Speaking at a press conference of the HRA in İstanbul Fatma Yıldırım, member of the Association of Families of Revolutionary Prisoners (DETAD) said that two days before the incident Sevda Aydın had moderated an activity in Bayramtepe quarter in solidarity with the Kurdish people. She had been kidnapped by three men when she was waiting for a bus. The men had pulled a sack over her head and had used medicine to make her faint. Sevda Aydın had realized that she had been raped when she awoke. The persons at her side had said 'continue your revolutionary arts' work, if you can'. They had not removed the sack and dropped her around 9pm in Çobançeşme quarters. Fatma Yıldırım added that Sevda Aydın had seen the kidnappers in the beginning and could identify them.

**Eight Persons:** The kidnapping and rape of Sevda Aydın was protested in İstiklal Street (İstanbul) on 14 December. The police detained eight persons. They were released on 16 December. The following day the demonstrators spoke at a press conference at the HRA in İstanbul and said that from the first moment of detention they had been exposed to violence. One of them had a broken hand, another one broken ribs and one of them had been hit on the head.

#### Development on Cases from earlier years

*İkutlu Gönülal, Sedrettin Dinçer, Mehmet İnce, Fethi Soydan, Sedat Aban:* On 31 May Ankara Heavy Penal Court No. 1 continued to hear the case of former Minister in ANAP-MHP-DSP government (28 May 1999 to 5 September 2001) Koray Aydın charged with fraud. Former staff member of the Ministry *İkutlu Gönülal* was heard as witness. He said that he had been held in custody for one week before he testified and had been exposed to psychological torture. His statement had not been the result of his free will. *Sedrettin Dinçer*, former advisor to the Minister said that the prosecutor at İstanbul SSC had called him in September 2001. He continued:

"Without talking to me the prosecutor sent me to the police station. Here I was confronted with the event. I stayed at the police station for seven days and I am thankful that I came out there alive. I was tortured and tantalized. There was no food, no water. I was exhausted. I was stripped naked and then interrogated. There are other things I do not mention here. When I testified to the prosecutor my feet were bad. I showed them but he said that this was not of his interest."

*Mehmet İnce* said that he had been blindfolded, forced to sit on his knees. He had been forced to listen to loud music and to sign a statement. He had been insulted at the prosecutor's office. *Fethi Soydan* said that he had been tortured over seven days. He had been hosed with water, had been beaten, left without food and water and had been forced to sign a statement. Former inspector *Sedat Aban* said that he had been beaten and insulted.

*Ebubekir Temur* (police officer): On 28 December İstanbul Heavy Penal Court No. 6 continued to hear the case of Ebubekir Temur, chief of the department for law and order and Güngören Police HQ. He was charged with causing the death of a person during a traffic accident on the Bosphorous Bridge on 22 January 2005. When the judge asked him about contradiction with this statement to the police and in court he said that the statement taking at the police station was not his own. He had told the interrogators that he was 'beside himself', but they said that they had received instructions and had forced him to sign the statement although he had almost been unconscious.

## 4 - TRIALS AND INVESTIGATIONS INTO INCIDENTS OF TORTURE AND ILL-TREATMENT

In June Justice Minister Cemil Çiçek answered a question tabled by CHP deputy from İzmir, Kemal Anadol. He stated that compensation that had to be paid after judgments of the European Court of Human Rights were not reclaimed from the responsible persons. The second package of the Harmonization Laws for the entry to the EU (Law No. 4748 passed in 2002) had introduced the provision to claim compensation that had to be paid on judgment of the European Court of Human Rights back from the civil servant responsible for the human rights violation.

The Minister stated that since this law was passed the provision had not been implemented in any of the files that existed. Cemil Çiçek further stated that as of end the year 2004 the total of petitions against Turkey raised with the Court in Strasbourg had reached 9.591. About 3,000 petitions had been brought to the attention of the government. Among the applications that had been found admissible 47 had ended in favor and 511 against Turkey. In 225 cases friendly settlements had been reached.

The Minister added that in the cases where Turkey had been found to have violated a human right the government had been ordered to pay 16 million Euros and in the cases that ended in a friendly settlement Turkey had agreed to pay 14 million Euros in compensation. Most of the cases that ended in judgments against Turkey had been related to the fact that a military judge was part of the state security court, restrictions of the freedom of expression, the length of custody, late payment in cases of nationalization and trials not ending in adequate time. In these cases no personal fault could be detected.

On torture, ill-treatment, violation of the right to life and the personal responsibility of officials Cemil Çiçek said: "The ministries or administration were unable to identify the perpetrator or there were decisions not to prosecute or acquit the suspects. There was no opportunity to open a case of claw back if there was a notice that no room for opening a case of claw back for the above stated reasons."

On 1 February lawyer Murat Dincer, member of the Torture Prevention Group which İzmir Bar Association had dissolved, spoke at a press conference. He said that during the last years the trial in İzmir in connection with torture and ill-treatment had gone up five times but there had not been any conviction. Murat Demir stated that the group had compared the years 1996 to 2002 with the last 2.5 years. Between 1996 and 2002 a total of 93 trials on torture or ill-treatment had been initiated and during the last 2.5 years 232 such trials had been opened.

He argued that the figures might suggest that there was an increase in sensitivity against torture, but in

practice not the torturers but the victims were punished for having raised allegations.

### Sample cases

On 9 February Diyarbakır Heavy Penal Court No. 3 acquitted the lawyer Mehmet Zülfü Dündar from charges of misconduct of duty. He had claimed that B. Dokuz (15) and M. Okçu who had been detained in Hani district (Diyarbakır) on 23 April 2003 had been tortured and that police officers had smeared excrements on the faces of the boys.

*Asiye Güzel Zeybek*: The case against the alleged torturers of 14 persons including Asiye Güzel Zeybek and the trade unionist Süleyman Yeter who had died as a result of torture at İstanbul Police HQ on 7 March 1999 had been dropped on 11 November 2004 for having reached the statute of limitation. Only in 2005 it turned out that there was a report of the General Directorate for Security in the file.

Lawyer Gülizar Tuncer saw this report dated 19 February 2003. The chief inspectors Nejdet Kondolot and Alaattin Yılmaz had signed the report which called the lawyers Gülizar Tuncer, Mihriban Kırdök, Ercan Kanar, Eren Keskin and Professor Şahika Yüksel from İstanbul Medical Association "sympathizers of the MLKP and the HRA, the Turkish Medical Association TTB and the HRFT legal side organizations of the MLKP. In a joint effort the lawyers from the HRA and the Association of Contemporary Jurists (ÇHD) had been appointed for the torture trial and together with a report of the TTB the aim was to harm the image of Turkey abroad.

The report claimed that Asiye Güzel Zeybek had chosen to be a confessor. In order not to be punished by the organization she had lied about torture and rape in detention. Subsequently the organization had started a campaign about her being a torture victim. The report also commented on Zeybek's book "Rape under Torture" and the psychological analysis and claimed that she had written the book according to books on torture and rape and the bulletins of TTB and HRFT on the psychology of a raped woman.

The report particularly accused lawyer Gülizar Tuncer of having been subjected to judicial steps for being a member of the MLKP and alleged that she had used expressions close to threats to influence Asiye Güzel Zeybek, at the time in Kırklareli E-type Prison to refrain from being a confessor. The report also accused the İstanbul branch of the HRA to have one member of the board, two members of the substitute board and one member of the control council each year be chosen among MLKP members.

Lawyer Gülizar Tuncer commented: "I was called to testify on a letter that neither we as lawyers nor our client is able to write. Such a letter can only have been written by the police. Earlier documents that were unrelated to the case had been put in the file and we never thought that this might turn into accusations against us. This time I looked at the file again and found the report. We shall file an official complaint about the report."

Lawyer Ercan Kanar stated that the report had been included in the file after they had forwarded the case to the European Court of Human Rights.

**Mustafa Birol Kalyoncu:** Ahmet İhtiyaroğlu, former deputy director of the department to fight organized crime at İstanbul Police HQ, who had been dismissed from duty in 2003, was arrested on 15 August because of a sentence he had got for ill-treatment. İstanbul Heavy Penal Court No. 1 had sentenced him to 10 months' imprisonment for ill-treatment of Mustafa Birol Kalyoncu in October 2000. The Court of Cassation had confirmed the sentence. The dismissal from duty together with director of the department to fight organized crime at İstanbul Police HQ, Adil Serdar Saçan, had been connected to another case of torture. (Further cases against Adil Serdar Saçan include the torture of members of the Science Research Foundation in 1999; see below.)

**İ.K.:** The governor's office in Ankara did not allow an investigation against police officers who on 28 October 2004 had beaten the student İ.K. Lawyer Mahmut Nedim Eldem said that the decision was taken in March on the grounds that the medical report had not been finalized, the victim had not filed a complaint, the witnesses had given contradictory testimony and that there were no concrete evidence that the police officers had beaten the students.

The lawyer further stated that İ.K. had been given a report certifying 7 days' sick leave. On objection of the lawyer Ankara Administrative Court cancelled the decision of the governor's office stating that the allegations were clear and concrete.

**Metin Kaçar, Fadime Kaçar, Engin Kaçar:** The traffic police officers Aziz Kılıçtekin and Recep Can were indicted for having beaten Metin Kaçar, his wife Fadime Kaçar and their son Engin Kaçar when they had stopped their car near Kızılcahaman district (Ankara) on 19 September 2004. The prosecutor decided against charges for the police officer Özden Aşçı.

According to the complaint of Metin Kaçar the following happened on 19 September 2004: "I had been to the springs for treatment and was on my way home. When the officers stopped us on the hill called Karasekmez they said 'Hello my cash cow, drive to the side'. They said that I had run into a speed trap and had to pay 240 YTL and added if I dropped 100 YTL they would let me go. I told them that I did not have

that much money and asked for a ticket to pay when I got my pension. They said 'bastard, you don't have 100 YTL?' and hit me. They beat me, my wife and my son who intervened. They squeezed his throat and fined me 169 YTL. Other cars stopped and we were rescued. The passengers took us aside, gave us water to drink and washed our faces".

Meanwhile Metin Kaçar and Fadime Kaçar were indicted with insulting police officers. Their trial started at Kızılcahamam Penal Court on 13 January.

**S.S., A.U, Y.G., S.T., Ö.Ö., C.A.:** The prosecutor in Fatih (İstanbul) indicted seven police officers in connection with the detention of the students S.S., A.U, Y.G., S.T., Ö.Ö. and C.A. in May 2002. They had been detained in connection with the murder of Yasemin Durgu in March 2001. The police officers were charged with torture while three physicians at Haseki Hospital were charged with issuing false reports

**Aydın Ay:** In Trabzon the police officers İlyas Sarı, Seyfi İstar and Ruat Çalışkan were charged with having tortured Aydın Ay at the central police station in Trabzon on 28 December 2004. The case was to be heard at Trabzon Heavy Penal Court.

**A. Vurucu, D. Vurucu:** Two lieutenants, one soldiers and the headman of Değirmenkaya village in Kalecik district (Ankara) were charged with having beaten A. Vurucu (16) and D. Vurucu (14) in October 2004. They had been detained on charges of theft and in front of the prosecutor accused the soldiers and the headman of having beaten them.

**10 People:** In Diyarbakır two police officers were indicted on charges of having ill-treated 10 persons who had been detained on 16 July 2004 in connection with petitions asking for the release of Abdullah Öcalan. The indictment stated that the detainees had to listen to loud music and wanted the police officers Ramazan Aslantaş and Yüksel Pasenli to be convicted under Article 245 TPC: The trial started at Diyarbakır Penal Court No. 3 on 7 September. Mihdi Perinçek stated that no charges had been brought against 17 police officers who had torn the petitions into pieces and added that they would appeal against this decision to Siverek Heavy Penal Court.

**Sunay Yeşildağ, Naciye Coğaltay:** Six police officers, one of them female, were indicted with having tortured Sunay Yeşildağ and Naciye Coğaltay who had been detained on 23 September 2002 on charges of being member of KADEK. The indictment stated that in connection with this incident the police officers Ömer Özüyılmaz, Ömer Faruk Albayrak, Feyzullah İlker Serdar and Özkan Ekinci were on trial at İstanbul Heavy Penal Court No. 4 and wanted commissioner Çetin Erdemir and the police officers Mustafa Kara, Erol Dinçel, Serap Tola, Nuh Aracı and

Ali Özel, too to be convicted under Article 243 TPC. The trial started at İstanbul Heavy Penal Court No. 7 on 3 March.

**K.K. (16):** On 13 June Beyoğlu Penal Court No. 10 started to hear the case of the police officers Zeki Ağca and Nuri Açıkgöz charged with having beaten K.K. at Taksim Police Center on 11 February. During the hearing K.K. said that an unknown person had injured him with a knife and he had gone to Taksim Police Center to complain. At the police center his knife had fallen out of his pocket and one police officer had kicked. In the center he had been attacked by a dog. The dog bit him in his left arm.

**Sezai Karakuş:** The prosecutor in İstanbul indicted the police officers M.K. and M.B. for having tortured Sezai Karakuş. He had been detained on 28 September 2004 on charges of being a member of Kongra-Gel (he committed suicide in Tekirdağ F-type Prison on 22 November 2004). The first hearing was conducted at İstanbul Heavy Penal Court No. 5 on 22 March. The defendants had not appeared. On 22 June the defendants testified to the effect that the suspect had scratched himself and caused the wounds. The prosecutor asked for a second report of the Forensic Institute since the image of the Turkish Republic was at stake. The court case did not conclude in 2005.

Fatma Deniz Polattaş, Nazime Ceren Samanoğlu: On 22 June İskenderunn Heavy Penal Court acquitted the police officers Murat Çıkar, Halil Özkan, Aysun Yüksel and Gürkan İlhan in connection with torture allegations of the then young girls Deniz Polattaş and Nazime Ceren Samanoğlu who had been detained in March 1999. The Court announced that the acquittal had been given on the grounds of a medical report from the General Assembly of the Forensic Institute dated 13 January. The defendants had to be acquitted for lack of evidence. The victims had rejected to undergo a test of virginity and had obstructed the collection of evidence.

In March Nazime Ceren Samanoğlu was released from prison. Sivas Heavy Penal Court ruled that the expected reduction in the sentence under the provision of Article 168 TPC made the release necessary. Similar demands for Fatma Deniz Polattaş were rejected by Adana Heavy Penal Court. Both girls had been convicted by Adana SSC under Article 168/2 TPC.

**Kemal Yararılımış, H. Yararılımış, Emre Camcı:** In the trial of the police officers Sahir Uzun, Mehmet Özcan, Kenan Aydın, Ümmet Doğan, Uğur Şen and Yusuf Akbaş charged with having beaten Kemal Yararılımış, H. Yararılımış and Emre Camcı at Anafartalar Police Station (Ankara) Ankara Penal Court No. 6 conducted several hearings. On 9 March the police officer Ümmet Doğan testified. He stated that the victims had attacked him with a knife and another 70 or 80 people had walked towards him. He had retreated and fired three warning shots into the air. He had not beaten anyone and had not seen that his colleagues had beaten them either.

The witness Dilber Tatlıbal said that she had seen many police officers with shafts of shovels in their hands. She had asked the commissioner Sahir Uzun to let the young people go but he had said that he would lose his job if he did so.

H. Yararılımış testified on 5 May. He said that he had heard four or five shots and had stepped in front of his shop. At that moment three police officers had beaten him with sticks. H. Yararılımış said that they mistook him for his brother because someone said "Kemal is here". He added that he had run away and had heard three shots being fired behind him.

On 4 May 2006 the trial ended in acquittal.

Hıdır Ataş: On 2 March Gaziosmanpaşa Penal Court started to hear the case of five police officers charges with having beaten Hıdır Ataş at İstanbul-Sultançiftliği Police Station. At the hearing Hıdır Ataş said that he had had an argument with a taxi driver about the fee and they had gone to the police station. When the officers saw that he was from Tunceli they had beaten him. His lawyer Eren Keskin said that the allegation of the police officers that her client wounded himself by falling was not correct. The police officers on trial are: Ali Özkan, Mustafa Ergen, Sezai Kılıç, Gürbüz Gökkaya and Mehmet Karameşe. The trial did not conclude in 2005.

**Şükran Esen:** On 15 March Mardin Heavy Penal Court No. 1 announced that the trial against 40 soldiers charged with having raped Şükran Esen during her detentions in 1993 and 1994 had been transferred to Çorum. The 5<sup>th</sup> Chamber of the Court of Cassation had made such a decision on 7 February. Acting for the sub-plaintiffs lawyer Eren Keskin said that the trial at Mardin Heavy Penal Court No. 2 with 405 soldiers on trial for the same grounds had been transferred to Sungurlu district in Çorum province. She added that there were no concerns of security and called the transfer of the trial an attempt to encourage torturers. Both trials did not conclude in 2005.

**Recep Köksal, K.A., Gökmen Emir:** In April the police officers Orhan Yüksel, Recep Arslan, Cevat Işıl, Erdinç Zengin, Mehmet Görgülü, Fikret Küçük and Muhammet Zeki Geçgel were indicted for having tortured Recep Köksal (19), K.A. (17) and Gökmen Emir (18) in Karasu district (Adapazarı) two years ago.

Murat Gezici: On 24 June the trial against the police officer Ramazan Arslan started at Ceyhan Penal Court No. 2. He was charged with having beaten Murat Gezici at a police station in Ceyhan on 28 July 2004. Speaking for the victim the lawyer Beyhan Günyeli stated that after a traffic accident during which the civilian dressed police officer Sebat Baş had hit the car of relatives he had taken the papers of them to the police station because the relatives had been seriously injured. The lawyer criticized that they had identified eight police officers who beat Murat Gezici but only one police officer had been indicted. The trial did not conclude in 2005.

**Tekin Demir, Bahar Güler, Jale Kirman, Serdar Aslan:**

On 29 June Ankara Heavy Penal Court No. 1 continued to hear the case of 19 police officers charged with having tortured Tekin Demir, Bahar Güler, Jale Kirman and Serdar Aslan who had been detained in Ankara in 2002. During the hearing Bahar Güler said that she had been beaten, insulted and threatened with rape. She had seen Tekin Demir in detention and he had had difficulties to walk and had had blood on his feet. Bahar Güler identified Necdet Algül, Deniz Bacaksız, Mustafa Kızıldaş and Abdi Şahin among the defendants. Tekin Demir identified Mustafa Kızıldaş and Necdet Algül stating that he had been blindfolded.

The defendants Halil İbrahim Y., Osman Koçak and Deniz Bacaksız pleaded not guilty. The hearing was adjourned in order to hear the defendants Hanefi Karal, Beyza Kızılkaya, Halil Kara, Behçet Naçar and Serkan Say in court. The trial had started at a penal court but was later sent to a heavy penal court when the charges changed from Article 245 TPC (ill-treatment) to Article 243 TPC (torture).

**Erol Evcil:** The 1st Chamber of the Court of Cassation rejected the revision of the acquittal of 10 police officers charged in connection with having torture businessman Erol Evcil at Bursa Police HQ. The Court ruled that the application had not been made in time. The fines for the physicians Feridun Abdullah Karadağ and Gündüz Sümeyye Döl who had issued reports that there had not been traces of torture on Erol Evcil's body were sent back to the court to review the fines in the light of the new penal code.

The Court of Cassation also quashed the verdict against Erol Evcil (as the planner) and Burhanettin Türkeş and Şükrü Elverdi who had been convicted for having killed Nesim Malki on 28 November 1995. The Court ruled that their conviction had again to be evaluated in the light of the new penal code.

**Fırat Develioğlu, Emre Nil, Ayşegül Hüma, Tuğba Babuna:** The prosecutor in İstanbul indicted eight police officers in connection with the detention of 27 people on 12 November 1999. The defendants were accused of having tortured the detainees Fırat Develioğlu, Emre Nil, Ayşegül Hüma and Tuğba Babuna. The indictment stated that the suspects had been held for six days, the testicles of male detainees

had been squeezed, all detainees had been beaten and insulted. The defendants in this case are: Ahmet Erdoğan, currently employed in Kırşehir, Adil Serdar Saçan, who had earlier been dismissed from duty (see above), commissioner Serdal Akça and the police officers Metin Rakipoğlu, Semir Günaydın, Vedat Mercan, Necati Kurt and Osman Köprü. The prosecutor asked for a conviction under Article 243 TPC.

**Zafer Koluman, Şehmus Mete, Heybet Mete, Nofa**

**Koluman:** On 14 October Diyarbakır Heavy Penal Court No. 2 acquitted the police officers Bekir İlker Uyan, Haluk Bayram Deniz, Hüseyin Demir, Lütfi Aydoğdu and Musa Güven. They had been charged for having tortured the shop owners Zafer Koluman, Şehmus Mete, Heybet Mete and Nofa Koluman because they closed their shops on 23 February 1999 in protest at the transfer of Abdullah Öcalan to Turkey.

**Melek Serin:** Seven soldiers were indicted for having tortured Melek Serin in Çorum in 2002. Melek Serin had been detained by police officers, but they handed her over to the lieutenants Bayram İlkbahar and Selahattin Köse at Seydim Gendarmerie Station. Having received a medical report certifying traces of torture Melek Serin filed an official complaint. At the prosecutor's office lieutenant Selahattin Köse said that the interrogation had been carried out by specialized staff that kept their identities secret. He had signed the testimony as a matter of duty. Following this statement the seven soldiers were indicted.

**Beaten Demonstrators:** The prosecutor in İstanbul indicted 54 police officers who had intervened in a demonstration on Beyazıt Square on 6 March as part of 8 March World Women's Day. The officers were charged with having exceeded their authority and injured demonstrators. The prosecutor wanted the police officers to be convicted separately for each demonstrator they beat. Therefore seven police officers have to await sentences between 44 months and 33 years' imprisonment; three police officers might get sentences of between 18 and 54 months' imprisonment; 15 police officers between one and 3 years' imprisonment and 29 police officers are expecting sentences between 6 and 18 months' imprisonment. On 15 June the trial against the demonstrators ended in acquittal at İstanbul Penal Court No. 14.

# PRISONS AND HUMAN RIGHTS

The problems in prisons continued in 2005. Deaths in prisons had different reasons. Pressure in particular on political prisoners continued and necessary medical treatment was not provided. In December the independent prison watch group in İzmir stated that the new Law on Execution of Sentences had not lifted the deficiencies and inequality, positive provision were not applied and in many areas backward steps had been observed. The Law on Councils for Correctional Institutions and Prisons that entered into force in 2001 had not secured a serious supervision or transparency of prisons.

The death fasts continued in 2005. On 9 May the 12th team started its action. Prisons of type L started to operate despite discussions that prisoners would be forced to work for small wages in these prisons. The first L-type prison opened in Ferizli district of Sakarya

province. Another point of discussion was the admission that the amount of money allocated to food for prisoners had been cut down by one half. In the budget for 2005 each prisoner was allocated 4.82 YTL per day, but because of a lack of money the amount was cut to 2.50 YTL per day. In November Justice Minister Cemil Çiçek stated that it was impossible to provide three meals a day for that money. He argued that the amount had to be increased in order to prevent the provision of food from outside prison.

In November Ankara Administrative Court No. 3 took an important decision on the treatment of prisoners. It decided that the money that had been taken from prisoners in F-type prisons for their medication had to be paid back with legal interest. The decision was taken on an application from Bülent Barmaksız imprisoned in Bolu F-type Prison.

## 1 - LEGAL AND ADMINISTRATIVE MEASURES, OFFICIAL STATEMENTS

In February Justice Minister Cemil Çiçek answered a question of CHP Konya deputy Atilla Kart and stated that 17,678 civil servants for execution and protection were employed in the prison. During the last four years 22 new prisons, 11 of them of type F had been opened. In answer to a question tabled by AKP Adiyaman deputy Mahmut Göksu the Minister said that between 16 May 2000 and 12 November 2004 the State President Ahmet Necdet Sezer had pardoned 252 prisoners under his authority provided in Article 104 of the Constitution. Two of them had later been re-imprisoned on charges of creating panic by throwing explosives.

In March Cemil Çiçek answered a question tabled by DYP Denizli deputy Ümmet Kandoğan stating that 26,010 convicts and 31,920 remanded prisoners were in the prisons as of 31 December 2004. As of 30 October 2004 there had been 2,881 convicts and 1,638 remanded prisoners charged with offences against the personality of the State; 5,213 convicts and 9,023 remanded prisoners charged with offences against persons; 7,170 convicts and 10,186 remanded prisoners charged with offences against objects and 2,479 convicts and 1,694 remanded prisoners charged under special legislation. For the same date the number of prisoners aged 11 to 15 had

been 90 convicts and 209 remanded prisoners; prisoners aged 15 to 18 had been 199 convicts and 1,808 remanded prisoners. The figures for prisoners over 65 years of age had been 354 convicts and 155 remanded prisoners.

On 11 March Ankara Heavy Penal Court No. 11 started to hear the case of 46 defendants from the Socialist Platform of the Oppressed (ESP) who had staged a demonstration against the Law on Execution of Sentences in Ankara on 7 December 2004. Defense lawyer Selçuk Kozağaçlı asked that the Court declared itself not responsible. The defendants had been charged with membership of an armed gang (Article 168 TPC), but actually might only be charged with a violation of Law 2911 on Demonstrations and Meetings. The Court adjourned the hearing to 27 April to decide on the demand. After the hearing 28 defendants were released.

The action on 7 December 2004 had been staged when the draft Law on Execution of Sentences was debated in the Grand National Assembly (GNAT). The police detained 46 people including 12 women. The reporters Ufuk Han and Selver Orman from the journal *Atılım* had been among the detainees that were remanded on 10 December.

After the second hearing on 27 April seven defendants were released. 11 defendants remained in pre-trial detention. The hearing was adjourned to 22 June. Another hearing was held on 17 August. After the hearing the last remanded defendants Yusuf Bayraktar, Deniz Bakır, Gülcan Taşkiran and Dursun Armutlu were released. The next hearing was scheduled for 26 October.

In Denizli 10 people were indicted for a similar demonstration. Denizli Heavy Penal Court No. 3 started to hear their case on 11 January. The remanded defendants Umut Göllü, Olcay Bayraktar and Ercan Bulut (SDP members) were released. In this trial the defendants are charged with hindrance of the freedom of education and resistance against officials.

On 17 June three regulations on the distribution of prisoners according to the correctional centers, on material allowed in correctional centers and visits of prisoners entered into force. The regulations had been passed in order to comply with new legislation. Some of the new provisions were:

- Prisoners sentenced to aggravated life imprisonment can only be visited by relatives of the first degree;
- The conversations have to be conducted in Turkish. If the prisoner and/or the visitor does not know Turkish talks will be allowed but recorded;
- Offences are divided into international felonies, against persons, against sexual inviolability; against society and against the nation and the State. People with different sexual orientation will get a separate evaluation. As far as organizations are concerned the prisoners will be divided into leaders, active member, those who left the organization and impartial;
- In order to be categorized prisoners will be held under observation in cells for one person for up to two months. During this time they will have no contact to other prisoners;
- On demand prisoner get education in religion and moral;
- Prisoners pay for electricity apart from the costs for lightning. They can buy electronic equipment such as refrigerators from the canteen;
- The prosecutor can ban visits for the "sake of investigation".

In June Kenan İpek, General Director for Prison stated that 10 different institutions and formations carried out a strict inspection of the prisons. Besides inspectors of the Justice Ministry and controllers of the general directorate supervising councils, judges on execution of sentences, the Human Rights Investigation Commission of the GNAT, the Human Rights Presidency in the Prime Ministry, the State Minister for Human Rights, the General Directorate for Prison, the European Committee for the Prevention of Torture (CPT) and the prosecutors all had the duty to examine the situation in the prisons. İpek reminded that 53,331 persons were imprisoned and 24,307 personnel were on duty in the prisons. Another 6,638 persons should be employed in addition.

On 12 July the circular on libraries in correctional centers entered into force. It restricted the publications allowed in prisons. The circular stated that publications which the educational council had found to contain news, articles, photographs or comments that might endanger public security or be pornographic would not be allowed in prison even of these publications had not been banned. The publications allowed in prisons were listed in Article 12 of the circular as increasing the love of humans to their home country and nation and developing the moral value of prisoners. In addition the publications had to be in line with the nationalism, principles and attitudes of Atatürk.

On 13 July the Statute for the Use of Personal Money taken from Prisoners was published in the Official Gazette. According to the Statute the Ministry will determine how much money prisoners may spend during one week. The Ministry will also determine the upper limit for expenses of prisoners in the canteen and for communication. The Statute provides that prisoners are not allowed to carry money on them. Only for prisoners in semi-open prisons and in educational institutions exceptions will be made with a certain amount of money that the prisoners may take with them.

At the end of December Justice Minister Cemil Çiçek announced that all decrees that had been published earlier had been cancelled and that fresh circulars would be issued as of 1 January 2006. The step came parallel to amendments of several laws including the penal code and the code of criminal procedures.

## 2 - DEATH FAST AND PARDONED PRISONERS

The DHKP/C announced that on 9 May the 12<sup>th</sup> group of death fast activists had started its action. As members of the group the following prisoners were named: in Gebze Prison, Fatma Koyupınar, in Sincan F-type Prison, Serdar Demirel and in Tekirdağ F-type Prison, Faruk Kadioğlu.

The Committees of Families of Revolutionary Prisoners (DETAK) declared during an action on Taksim Square on 26 June that Senpil Cabadan had started a death fast

action in Gebze Prison. She had done so since at the fourth anniversary of the death of Aysun Bozdoğan on 26 June 2001 the isolation on prison was still continuing.

The Solidarity Association of Families of Prisoners (TAYAD) declared that on 24 June Fatma Koyupınar on death fast in Gebze Prison had been forcibly taken to Gebze State Hospital. Reports from Sincan stated that Serdar Demirel, on death fast in Sincan F-type Prison had tried to set himself on fire on 18 December.

Reportedly he had refused to be taken to hospital and be medically treated. On 28 December Serdar Demirel was forcibly taken to Ankara Numune Hospital. After a visit his mother Mesude Demirel said: "Before I entered a psychologist had been in the room. He was over 50 years old and kept saying 'what can you do for someone like him?' I was allowed to stay with my son for 10 minutes, but he did not recognize me. He is not himself."

On 1 November relatives of prisoners held a press conference at the office of the HRA in İstanbul. They stated that Remzi Aydın, on death fast in Tekirdağ F-type Prison had been treated harshly when he was transferred to Kandıra F-type Prison No. 2.

In October it was reported that Mahir Ertuğrul Zevkliler and Tahsin Mert imprisoned in Kırıklar F-type Prison for membership of the Union of Islamic Associations and Parishes were on death fast since three months.

In Malatya E-type Prison Nevzat İçen, Suat Daştan, Ö. Haydar Konar, Çetin İlkhan, Yahya Figan, Hüseyin Yeter and Mehmet Yoldaş staged a hunger strike between 14 and 16 May demanding that military operations be stopped and Abdullah Öcalan be released.

TAYAD announced that some 150 prisoners in 15 prisons had gone on hunger strike in protest at the forcible transfer of some prisoners to Tekirdağ F-type Prison on 30 July. The statement of TAYAD also pointed at a similar action in Gebze Prison on 3 August and named the prisons of hunger strikers as: Edirne F-type, Kandıra F-type (1 and 2), Tekirdağ F-type (1 and 2), İzmir Kırıklar F-type, Sincan F-type, Bolu F-type, Elbistan, Gebze, Sivas, Ulucanlar, Kürkçüler, Uşak and Bayrampaşa Prison.

In Kürkçüler Prison (Adana) female prisoners on hunger strike against the prison conditions in particular of Abdullah Öcalan were reportedly attacked by guardians. Lawyer Vedat Özkan said that the prisoners Esmer Yaman, Şehnaz Tümer, Kıymet Toprak, Gülten Toprak, Gülistan Arslan, Yeşim Ekinci and Hatice Yaman had gone on hunger strike each for 3 days. On 22 July 15 guardians had attacked them. He added that the prisoners Gülistan Arslan and Esmer Yaman were at risk of cancer.

The health situation of the prisoners reportedly deteriorated in August. Lawyer Osman Çelik stated that besides his client Yeşim Ekici the health of Gülten Poyraz, Şahcan Tünel, Esmer Yaman, Hürriyet Doğan, Kıymet Toprak and Hatice Yaman was poor. He added that Esmer Yaman was suffering from cancer of her chest and Şahcan Tünel had had an eye operation. "During the counts they are forced to stand up. On 3 square meters 2 to 3 prisoners are staying. Because the places are damp their blankets are on the ground. Personal belongings are not handed over to them and they do not get newspapers they want to read. Some

guardians apply physical force. F.Ş. was sexually assaulted."

State President Ahmet Necdet Sezer pardoned İbrahim Ethem Yalvaç because of permanent illness according to Article 104 of the Constitution. The decision was published in the Official Gazette on 18 March. On 12 September the Official Gazette included the amnesty of İbrahim Ayhan Özgül, in prison as a member of the DHKP/C.

In Mersin the teacher Hacer Koçak was dismissed in January because she had participated in an action for the victims of the death fast action on 21 July 2004.

#### **Reports on the Wernicke-Korsakoff Syndrome**

In January the Honor Council of the Turkish Medical Association confirmed the ban on conducting professional activities for one month for the physicians Nur Birgen, Oktan Aktürk, Ömer Can Gökdoğan, Erbil Gözükırmızı, Cemal Yalçın Ergezer and Esin Öztürk, because of false reports relating to the prisoner Bekir Balyemez suffering from the Wernicke-Korsakoff syndrome. İstanbul Medical Association had issued the ban on application of the lawyers of Bekir Balyemez.

On 10 July and 9 December 2002 Bekir Balyemez had been given reports that under his health condition the execution of his sentence should be suspended for six months. However, on 8 October 2003 he had been given a report that he had recovered.

#### **The judgment of the European Court of Human Rights**

On 10 November the ECoHR passed a judgment on a number of applicants suffering from the Wernicke-Korsakoff syndrome. Parts of the judgment read as follows:

The applicants, all Turkish nationals, were sentenced to prison terms on account of their membership of terrorist organisations. Their prison sentences were suspended on medical grounds, as they were suffering from Wernicke-Korsakoff Syndrome as a result of going on prolonged hunger strike while in prison... These nine applications (with some details on each case, HRFT) are part of a group of 53 similar cases.

From 24 June 2004 onwards, the Court indicated various interim measures to the Turkish Government under Rule 39 of the Rules of Court (interim measures) to ensure the proper conduct of the proceedings. On 23 August 2004, in connection with its fact-finding mission and in accordance with Rule 39, the Court advised the Turkish Government that during the period from 6 to 13 September 2004, when the panel of experts was due to examine the applicants, the authorities should refrain from arresting or re-imprisoning them.

From 6 to 11 September 2004 a delegation of judges from the Court travelled to Turkey on a mission to a visit various institutions, including certain prisons.

They were accompanied by a panel of experts whose task was to assess the medical fitness of the 53 applicants to serve their prison sentences.

#### Decision of the Court

...In those circumstances, the Court found that a decision to return the applicants to prison despite the lack of change in their condition would be sufficiently serious as to come within the scope of Article 3. The situation was solely attributable to the malfunctioning of the protective machinery that had been put in place in Turkey and which, in practice, had proved to be ill-adapted to cope. The Turkish authorities should have taken swift action to remedy the applicants' situation. The fact that the applicants had inflicted harm upon

themselves by going on a prolonged hunger strike did not release Turkey from any of its obligations towards them under Article 3.

The Court therefore held that Turkey would violate Article 3 if the Turkish authorities decided to deprive the applicants of their freedom without there being any significant improvement in their medical fitness to withstand such a measure.

After a large number of prisoners had been released since 2001 on the basis that they were suffering from the Wernicke-Korsakoff syndrome the reports of the Forensic Institute changed after 2003 and 254 prisoners were issued reports that their health condition allowed for imprisonment.

### 3 - DEATHS AND INCIDENTS IN PRISONS

**Bilal Çoşelav** (17) died in Erzurum E-type Prison on 17 December 2004. The family was informed on 30 December 2004. His father Bekir Çoşelav filed a complaint with the public prosecutor in Kars alleging that guardians had killed his son. He named the guardians Atilla Ovat and Fuat Yavuz as guardians who had had a dispute with his son.

On 6 January Seyfettin Çağmen, member of Kongra-Gel, who had been extradited from Iran in January 2004, died in Ankara Numune Hospital where he was under treatment of cancer of his intestine. He had been in hospital for three months.

According to an official statement the remanded prisoner **Firat Turgut** committed suicide in İstanbul-Bayrampaşa Prison on 3 February.

On 26 May **Faruk Kadioğlu** set himself on fire in Tekirdağ F-type Prison. He died the same day. On 9 May he had started a death fast action against the Law on Execution of Sentences and the Code of Criminal Procedures. Reportedly he would have been released in four months.

On 15 July **Mehmet Kaderci** (40) committed suicide in Muğla Prison. Reportedly he helped the police in cracking down gangs collecting protection money and did not stand the pressure when he was put in one prison with another 64 suspects.

On 27 July Murat Polat died in hospital after he had been beaten in the military prison of Adana on 27 June. He had been detained on that day as deserter from military service and the guardians in prison had beaten him. The prosecutor in Adana investigated against 29 persons, but did not conclude the investigation in 2005.

**Savaş Uzun**, remanded in İzmit on 1 September on charges of murder was killed by fellow prisoners (names not revealed).

Reports from Kırklklar F-type Prison (İzmir) stated that the political prisoner **Serdar Arı** set himself on fire on 24 October. The autopsy report stated that he died because of smoke. Lawyer Bahattin Özdemir stated that the corpse of Serdar Arı had not shown any traces

of burning. HRA official Necla Şengül asked why the prison administration had not extinguished the fire if Serdar Arı had set his cell on fire.

On 13 November **Enver Arpalı**, SG of the 100 Year University in Van, committed suicide in Van M-type Prison. He had been remanded on 11 July on charges of fraud and not been taken to court. The dean Prof. Yücel Aşkın, who had been remanded in 14 October and held in the same cell, had a heart attack when he was questioned on the death of Enver Arpalı.

On 27 November **Ömer Uzun** committed suicide in a prison in Merzifon district (Amasya). In an attempt to rob a car used for transport of money from banks he reportedly had shot two security officers.

On 14 December **Mehmet Sayan** committed suicide in Diyarbakır E-type Prison. Mehmet Sayan was in prison for having killed his wife.

In May prisoners in Ümraniye Prison (İstanbul) protested against disciplinary punishment of a friend by setting fire to the beds in their ward. On intervention of the prosecutor for prisons, Zihni Doğan, they stopped their action.

In June Ali Gönül (28) and Turan Doğan (25) had a fight for an unknown reason in Kırklklar F-type Prison (İzmir). Ali Gönül was seriously wounded with a spit and Turan Doğan had slight injuries to his face and his hip.

Asya Ülker, lawyer in İstanbul, stated that her client Bilal Önen, imprisoned in Tekirdağ F-type Prison on charges of membership of the PKK cut his throat and both wrists in July in order to protest the situation of Abdullah Öcalan and the operations in Southeast Anatolia.

On 1 November some 60 prisoners in ward 4 of Alanya B-type Prison (Antalya) rioted when the demand of fellow prisoners to be transferred to their ward was not met. Soldiers entered the ward with gas bombs and broke the doors. In connection with the incident Cafer Eren, Zekeriye Eren, Nevzat Özdemir, Ayhan Nazik, Mustafa Gültekin, Faruk Demir, İsmail

Hakkı Daş, Mustafa Varol and Metin Şener were transferred to Karaman Closed Prison.

### Prison Conditions

The Human Rights Investigation Commission in the GNAT issued declarations on the prisons in February and March. They had inspected F-type prisons in Tekirdağ, Kocaeli and Adana and stated that the prisoners there had serious mental problems. The deputies warned that the prisoners might return to society as problematic persons if no serious measures were taken.

The deputies suggested that common spaces and time should be increased. The law that had been passed in recent years had not been implemented on a sufficient level. The Commission criticized that the administration in the prisons issued penalties although there was no authority to sentence persons.

Further points of criticism were: bureaucratic obstacles, hindrance of social activities, bad nutrition, unhealthy fresh air areas and pressure of guardians. The guardians in return had complained that the prisoners did not follow the rules in prison.

On 9 July the Union of Prisoners' Relatives (TUYAB) issued a statement on the penal code that had increased problems with communication, health and the right to life in prison. In particular prisoners in F-type prisons were not granted the necessary treatment, visits were banned and from time to time they were beaten.

Hanzye Göldoğan, sister of Aysel Göldoğan imprisoned in Gebze F-type Prison, stated at the same press conference that her sister had shown marks of beatings during a hearing at İstanbul Heavy Penal Court No. 3 and had filed an official complaint. The prisoner Filiz Gölköker was suffering from blood cancer but was not taken for treatment because she refused a body search.

Seza Mis Horoz from TUYAB said that prisoners with life imprisonment were put in isolation. Menderes Leyla and Ali Baba Arı had been beaten when they were taken to cells in Tekirdağ F-type Prison. Zeynel Firik and Ali Şahin had been told to pay for their medication, although they had shown a letter from the Justice Ministry that the medication should be provided for them.

Hüseyin Eser, father of Murat Eser, stated that 121 letters of his son written during the last three years had not been sent to their destination. When he went to see his son in Elbistan Closed Prison on 17 May he had been given the letters.

### Batman M-type Prison

In May political prisoners in Batman M-type Prison were punished with a ban on letters and phone conversations for one month because of a hunger strike they had conducted earlier. İzzettin Onar, father of the

prisoner Sabiha Onar said that the pressure in that prison increased after Ali İhsan Çetindere had been appointed the director of this prison.

### Bitlis M-type Prison

In January Bahattin Boz wrote a letter to the Justice Minister complaining that his son, held in Bitlis M-type Prison as a member of the PKK was kept waiting in the snow for one hour. He said: "My son has been sentenced to 36 years' imprisonment and has been in prison for the last 10 years. In Muş E-type Prison the first director and the chief guardian beat him. In November he was transferred to Bitlis E-type Prison and here he had to wait naked in the snow for one hour. He was punished with isolation for 3 months and 1 month's ban on visits. When I wanted to see my son on 24 December 2004 I was not allowed inside. The prosecutor said that my son was a terrorist and even the State President would not be able to give me permission."

At the end of May Gülşen Çağan said about her daughter Pınar Çağan, imprisoned in Bitlis E-type Prison that she had been put under pressure to become a confessor. She narrated what her daughter had told her: "She received a phone call from the confessor Giyasettin Çağan staying in the same prison. He threatened that if she did not what she was told something would happen to the people on trial with her. My daughter also told me that soldiers insulted her on her way to hospital, although she had not shouted the slogan in Kurdish 'Long live Apo'."

### Bolu F-type Prison

In January the İstanbul branch of the human rights organization Mazlum Der announced its report on Bolu F-type Prison. The report stated that isolation had resulted in psychological force and even physical problems. There were problems with visits and phone conversations were restricted to 10 minutes a week.

In September the number of books was restricted on the pretext that the living space for prisoners became too narrow. The cells are built for one or three prisoners and in each cell there is a wardrobe and a table.

### Diyarbakır E-type Prison

In March the prisoners İlnur Özden, Güzel Becerikli, Sohbet Yıldız, Yıldız Dündar, Gülümser Yuca and Güler Çelik were punished with a ban on visits for one month. They had asked for wood to burn on Newroz (21 March) and, since this wish had been rejected, they had set old clothes on fire.

In mid-August eight prisoners in Diyarbakır Closed Prison and 10 prisoners in Antep Closed Prison went on hunger strike in protest at the prison situation of Abdullah Öcalan, the Law on Execution of Sentences and the penal code.

Prisoners in Antep Closed Prison who had conducted a hunger strike between 2 July and 15 August with the same demand received bans on visits, letters and phone calls.

#### **Erzurum Closed Prison**

In March prisoners in Erzurum Closed Prison issued a statement on living conditions getting worse in prison. The administration had confiscated many blankets arguing that many blankets had "disappeared". The prisoners also complained that medical treatment was either not granted or stopped in the middle of it. Some prisoners had sent a letter to the administration on the penalty of bans on visits and in July they had been punished a second time with bans on visits.

#### **Gebze Prison**

At the beginning of July the Committees of Families of Revolutionary Prisoners (DETAK) declared that on 24 June the cells of female prisoners had been raided under supervision of the prosecutor. The prisoners had been beaten and their belongings had been damaged. The prisoners on hunger strike against the new Law on Execution of Sentences had been punished with bans on letters and visits for 6 months. Serpil Cabadan had started a death fast action in protest at the pressure.

#### **Kahramanmaraş E-type Prison**

Six convicts in this prison were indicted with membership of an illegal organization after they signed petitions that they agreed to "the leadership Abdullah Öcalan as being their political will". Reportedly the disciplinary council in that prison issued a ban on phone conversations for one year and visits for three months in November. In return the prisoners started a hunger strike for two days each.

#### **Kandıra F-type Prison**

On 3 June the Commission on Letters in the Execution of Sentences Institution prohibited that the journal *Masala* that the prisoners in Kandıra F-type Prison published be sent outside prison. The political content and incitement to death fast actions was given as a reason and Article 68/3 of the Law on Execution of Sentences was cited as the basis for the decision.

The political prisoner Sami Özbil staying in Kandıra F-type Prison No. 1 was not given appendices of the August-September edition of the journal *Art and Life (Sanat ve Hayat)*. Muharrem Demircioğlu, editor of the journal stated that the book "Announcements, Statements of Intellectuals from 1950 to 2005" had been distributed with the journal and although no legal action had been taken against the book it had not been given to the prisoner since it allegedly endangered security.

The 9th Chamber of the Court of Cassation rejected the demand to lift the decision that restricted conversation among prisoners from five to two hours per week. The circular of the Justice Minister of 18 January 2002 and the Law to Fight Terrorism had set the time for

conversations among prisoners to five hours, but the director of Kandıra F-type Prison had lowered the time to two hours in January. The Court of Cassation argued that the specific situation and the security had to be observed when programs were prepared for each prison.

#### **Kocaeli F-type Prison**

A letter that the prisoner Ümit İltter in Kocaeli F-type Prison received from Turan Tüysüz, deputy from Urfa and member of the Commission for Inspection of Human Rights in the GNAT, was reportedly censored. First the letter had been given to the prisoner who wanted to include a copy to a letter he wanted to send to a friend abroad. This time, the Commission on Letters in the Execution of Sentences Institution did not forward the letter. The commission objected to expressions such as "constant isolation leads to heavy problems of human psychology... harsh rule and arbitrary measure can give reason that prisoners feel hatred against the State, the institutions and the persons in these institutions."

#### **Kürkçüler F-type Prison**

In January the social and cultural rights of prisoners in Kürkçüler F-type Prison (Adana) were restricted. The weekly 5 hours for conversation and sports were restricted to 3 hours, the visits were restricted to one hour and soldiers were present during the visits. The prisoners also complained that they could not use the library and that the prices in the canteen were too high.

Lawyer Sedat Özkan stated that in July 65 prisoners had been deprived of all their social rights for one month because they sent an appeal to the prison administration asking for an improvement of the prison conditions of Abdullah Öcalan and an end to military operations. He added that three persons who had been remanded in June had been punished with unlimited isolation because they had sung Kurdish songs.

In September the prisoner Hüseyin Tiryaki sent a letter to the HRA in Adana and complained that he had been forced to stand until all prisoners had been counted. Prisoners who rejected to be counted were beaten in the corridor and punished with isolation.

#### **Malatya Closed Prison**

In August the prisoners Hamili Yıldırım, Bülent Atmaca, Ömer Hayri Konar, Hüseyin Sürgeç, Nevzat Üçen, Suat Daştan, Ali Çabuk, Mehmet Yoldaş, Ramazan Demir, Çetin İlkan, İsmail Tüzün, Kahraman Güvenç, Yahya Figan, Mustafa Hıdırî and Hüseyin Yeter were banned from visits for three months. They had issued a press statement on the situation of Abdullah Öcalan.

#### **Mardin E-type Prison**

23 prisoners who had protested the situation of Abdullah Öcalan and asked for an end to military

operations with a hunger strike between 15 August and 7 September were banned from visits for one month. During the times they were not allowed to use common areas. The names of the prisoners were given as: Ramazan İldem, Mehmet İldem, Ferhan Ay, Salih Atlı, Cuma Tanırğan, Fırat Arzu, İsmet Çandak, Ayhan Bayar, Leşker Acar, Levent Cin, Mehmet Savur, Muhittin Piriçioğlu, Ramazan Özalp, Ahmet İzer, İsmet Aydın, Kamuran Yusuf, Ramazan Çetendir, Halis Geçger, Seyfettin Aydemir, Kenan Erdemir, Sabri Ürek, İsmail Sayır and M. Ali Yaşa. For the same reason Abdullah Oral, Kemal Zengir, Cafer Gül, İkrım Gören and M. Nezir Gümüş received the same punishment and were transferred to Bolu F-type Prison.

### **Sincan F-type Prison**

According to a report of the lawyer Mahmut Eldem, the prisoner Mahir Akkaya objected to taking off his shoes during a body search on 13 December 2004. Guardians dragged him over the ground. When his cellmate Deniz Bakır, suffering from the Wernicke-Korsakoff syndrome, objected he was reportedly beaten.

The disciplinary council in Sincan F-type Prison decided to "destroy" the comic journal "Take it easy" (*Viz Gelir*) published by prisoners in Sincan F-type Prison. The prisoners Kaan Ünsal and Kamil Karataş wanted to send it to relatives when the council objected to it since it belittled officials and supported death fast actions. The decision was taken on 23 March and included previous editions as well.

On 8 August prisoners' relatives declared that the prisoners from the PKK in Sincan F-type Prison had received a ban of letters for 10 day and for phone calls and visits for 3 months. Lawyer Yekbun Geylani Arslan stated that six prisoners who had been sentenced to life imprisonment had been held in single cells for many days without a special reason.

### **Sincan F-type Prison No. 2**

The prisoners Sabri Yakut, İdris Çalışkan, Teyfik Yaşlı, Hikmet Çalağan, Nidayi Tezel, Çetin Arkaş, Musa Altun, Mehmet Durak and Ali Dalo were transferred from Sincan F-type to Bolu F-type Prison in mid-August after they had refused to receive visitors in protest at the situation of Abdullah Öcalan.

### **Sivas E-type Closed Prison**

Female prisoners in Sivas E-type Prison who had staged a 2-days' hunger strike in protest at the situation of Abdullah Öcalan were given disciplinary punishment of four months. During this time they cannot receive visitors (without supervision), make phone calls, send and receive letter and participate in social and sportive activities.

### **Tekirdağ F-type Prison**

In March the Human Rights Investigation Commission in the GNAT published its report on Tekirdağ F-type

Prison- The deputies who prepared the report were: Faruk Ünsal, Hakan Taşçı, Ahmet Koca and Özlem Çerçioğlu. The report suggested that health personnel should be in prison at all times. The working conditions of guardians were described as heavy to the effect that the "mood" of the guardians had a direct effect on the prisoners.

Prisoners from the Democratic Liberation Party (PRD) staged a hunger strike in Tekirdağ F-type Prison No. 2 for three days and were punished with bans on visits and phone calls for six months. The complaint was raised in May. The prisoners added that social activities should be held for five hours a week, but measures of the administration had restricted them to one to two hours per month. The prisoners also demanded a solution to their health problems and asked that the restriction on publications and visits should be lifted.

The poster of Deniz Gezmiş, Yusuf Aslan and Hüseyin İnan, a supplement to the daily *Evrensel* of 7 May was not given to the prisoners in Tekirdağ F-type Prison. It was stated that the persons on the poster had in the past tried to split the country and the poster could be used for separatist propaganda.

On 30 July 30 prisoners in Tekirdağ F-type Prison started an unlimited hunger strike in protest at the new penal code and the Law on Execution of Sentences. On 31 July their cells were raided and they were taken to Bolu F-type and Tekirdağ F-type Prison No. 2. Memik Horoz, chief editor of the newspaper *İşçi-Köylü*, was among the prisoners transferred to Bolu.

According to an announcement of TAYAD the prisoners were handcuffed on their backs before transfer. They were not allowed to take their personal belongings with them. The prisoners Sinan Yıldırım, Cemal Ağırman and Ali Ercan Gökoğlu were injured. In Tekirdağ F-type Prison No. 2 the prisoners were held in single cells. They had been beaten when they shouted slogans on 31 July. The prisoners taken to Bolu F-type Prison were: Mehmet Kulaksız, Nurettin Erenler, Erdal Koç, Aslan Bahar, Hüseyin Özen and Taylan Aydoğdu. The prisoners taken to Tekirdağ F-type No. 2 were: Kenan Günyel, Ali Ercan Gökoğlu, Serdar Karaçelik, Tekin Tangün, Mustafa Tosun, Cemal Ağırman, Kaan Kurtuluş, Bülent Kemal Yıldırım, İnan Gök, Barış Ateş, Celal Yayla, Ercan Kutlu, Sinan Yıldırım, Osman Nuri Ocaklı, Ali Koca and Baysal Demirkan.

Tekin Tangün, Ercan Büyüктаş and Taner Korkmaz made a statement on the incident after they had been released from Tekirdağ F-type Prison No. 2 on 3 August- Tekin Tangün said that the guardians had dragged the prisoners out of their cells and put into prison vehicles under beatings. He had only worn underwear and a pajama. Taner Korkmaz said that 30 to 40 guardians had come to his cell and threatened

him. The prisoner Kemal Ayhan who had a bad leg had been tortured.

The Association for Support of Prisoners' Families (TUHAD) issued a statement on 9 October to the effect that the prisoners in Tekirdağ F-type Prison No. 2 who had protested the situation of Abdullah Öcalan with a hunger streaks had been banned from free visits for

one year and from phone, newspaper and communication for three months. Mehmet Sadık Ekinci who had been released from that prison some time ago said that they had not got hot water for four months. He complained that the prisoners could not communicate with each other. Medical treatment was a great problem and even people with heart problems came back without treatment.

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#### Four years in F-type prisons (Evrensel/ Serpil Savumlu - on 18 and 19 January 2005)

Prisoners describe the time after the 19 December (2000) operation when they were taken to the isolation cells of the F-type prisons (summarized translation)

Eyüp Baş (Sincan F-type Prison)

Various institutions were founded in the F-type prison and isolation was institutionalized. You have the disciplinary council, the letter reading council, the council for publications, experts for social services, psychological advice and so force. Letters are not forwarded not for any legal reasons but rather on religious grounds. Letters that we sent to friends in hospital were not sent stating that we tried to manipulate them on their death fast action and in writing we were told that it is up to the creator to give and take life.

Only in our prison there are 24 folders with complaints but there is not a single case in which we received a positive response. It is hard or impossible to change the room. First the person you want to be together with is inspected. Is s/he from an organization, or independent? And then they say that the criteria to change a room were not met, but they don't tell you what the criteria are.

If there is an inspection of the prison the food is good. Of course the director will take the inspecting people only to certain places in prison. On that day the common spaces are crowded and the workshops are busy. We have elected representatives, but the council does not listen to our representatives. Once Ali Suat Ertoşun came with a delegation from abroad and asked to speak to our representative. He was told that this was the murderer of a minister and not worth talking to.

One day everybody in prison was poisoned with food. We protested and were told that we have to apply in writing for treatment. At midnight we were taken to the infirmary. Soldiers were lying there and given serum. We only got pills against pain and were sent back. Halil Yiğit committed suicide because he was left on his own.

Gamze Ünal (Gebze Prison)

Communication is one of the greatest problems. According to circulars letters to our lawyers are private. But they are always opened and not sent. Letters we sent to the press are also prevented. If you have received one letter we have certainly sent 10. We started to write by name, but once the council found out who the person was the letters were not forwarded.

We got a letter from a friend in another prison and she mentioned that they had been able to obtain a certain book. The administration of our prison wrote to the other prison that they were wrong in allowing such a book. It is up to them to determine what kind of book may be of "harm" for us, because we do not get books even if there is no ban on it.

Elif Akkurt (Elbistan Prison)

When they show the F-type prisons on TV you can see tables with cloth and flowers, but we are not allowed to grow our own flowers. For a long time we were able to get newspapers such as *Evrensel* or *Özgür Gündem*. Reports about hunger strikes were either cut out or the whole page was missing.

One day we were taken to court. At the end of the hearing we made the victory sign while we were handcuffed. Soldiers attacked us, but we were put on trial for having attacked the soldiers; 5 women attacked 20 soldiers. Male soldiers participate in the searches although this is forbidden.

Hakkı Akça (Tekirdağ F-type Prison)

Isolation has to be taken as a whole. You lose your personality, move away from your ideas and are not able to decide on your own life. Through the windows of the cells the guardians will look inside and give you the impression that you are under constant control. They even installed cameras in the vehicles for transportation. Although three people are in one cell it is forbidden to take joint photographs.

If there was an urgent health problem we used to send facsimiles. Later we found out that it lasted 10 to 12 days until the letters reached their destination. We had problems in changing our places. The applications were rejected stating that for cultural, religious or economic reasons it was not possible to get together (with friends). A friend called Orhan set himself on fire because of problems related to isolation. In the wing where Osman was staying a phone was found on a person imprisoned on charges relating to the mafia. Therefore all the prisoners in that wing were beaten. Afterwards Orhan set himself on fire.

Yasemin Kardağ (Uşak Prison)

After 19 December we were first taken to Manisa Prison. Many of us were injured. For a long time we did not get any newspaper. *Evrensel* and *Gündem* are not among the papers and when we asked we were told that these newspapers had not been delivered. We had to read the journals in 10 days. If we had not finished reading in 10 days the next edition would not be given to us. Yıldız Türkoğlu was diagnosed schizophrenic, but she got a report that she can stay in prison under constant observation of a

physician. But there is no physician in the infirmary. Even the healthiest person can suffer psychological problems. That can show itself as buzzing in one ear, problems with sight or sensitivity against sounds.

Sadık Çelik (Edirne F-type Prison)

For six months I stayed completely on my own in a cell for one person. The radios in these cells are controlled from outside. This disturbed my sleep and affected my psychos. We built archives to develop ourselves and protect us politically. In the larger cells we used six batteries a week for listening to the radio but we were only allowed to buy four batteries from the canteen. We appealed to the Justice Minister but the application was ripped to pieces because we had signed it jointly. We filed an official complaint but the prosecutor said that there was no case to answer. He said that it was forbidden that prisoners formed groups with the aim to destroy the public order.

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### (Evrensel-30 November 2005) F-type letters

Özer Akdemir

"I am writing to you since the friend who wanted to tell you about the incidents in Tekirdağ F-type Prison during the last month has a ban on writing." The person who wrote this letter and wanted to send it via lawyers visiting us was banned from communication for five months. His name is Hasan Rüzgar.

From the letter of Hasan Rüzgar:

When the ban was announced on 14 September 2005, prisoners protested by shouting slogans and banging the doors. Therefore, the area for getting fresh air was closed. On 31 August the prisoner Erdal Süsem wanted to give one of his budgerigars to another prisoner via visitors. He was not allowed to do so under the pretext that the bird might secure a political contact among prisoners.

The Prison Watch Commission of the HRA in İzmir gathered information from letters sent by prisoners. One of the changes with the introduction of F-type prisons is the fact that the prisoners have to pay for electricity, medicine and other expenses. If there is no common canteen the prisoners are forced to buy TV, refrigerator and heaters.

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### Human Rights Association / 1 November – Bans on Prisons

Letters from relatives, the prisoners and their lawyers provide examples for needless bans in prison. (Summarized translation)

In Bolu F-type Prison the prisoner Taylan Balataca was not given the underwear relatives had provided because it was in green color said to be the color of the military. Only white and grey underwear is allowed.

In Tekirdağ F-type Prison many publications are not handed over to the prisoners although no legal action had been taken against the journals. In September the journal *İşçi-Köylü* was not given to the prisoners Bayram Kama, Doğan Akçiçek, Erdiñç Yücel, Erkan Altun, Hasan Polat, Hasan Rüzgar, Hasan Şahingöz, Hüseyin Uzundağ, İsmail Yılmaz, Muhamet Akyol, Murat Karayel, Muzaffer Öztürk, F. Oğuz Arslan, Özgür Kabadayı, Resul Kocatürk and Şükrü Duman. The journal *Kızıl Bayrak* was not given to the prisoners Serdar Serbülent Sürücü, Bayram Kama, Hasan Polat, Ayhan Güngör, Erkan Altun, Şeraffettin Yer, Cemil Erdem, Şükrü Duman, Alaattin Öget and Hüseyin Akın. The journal *Yeni Demokrat Gençlik* was not given to the prisoners Bayram Kama, Erkan Altun, Erdiñç Yücel, Hasan Polat, Hüseyin Uzundağ, Hasan Rüzgar, Hasan Şahingöz, İsmail Yılmaz, Muhamet Akyol, Muzaffer Öztürk, Murat Karayel, Resul Kocatürk, Serdar Serbülent Sürücü, Süleyman Şahin, Şükrü Duman, Özgür Kabadayı, Onur Öztanrıverdi and Veli Özdemir in August. Editin 71 of the journal *Devrimci Demokrasi* was not given to the prisoners Aydın

Bulgucu, Nihat Konak, Süleyman Yılmaz Bulduruç and Veli Özdemir. The same happened to edition 70 of the journal *Atılım*, edition 17 of the journal *Yürüyüş*, edition 18 of the journal *Azadı* and edition 53 of the journal *Özgür Gençlik*.

- the long list of letters from and to prisoners that were censored or destroyed is not included in the translation -

On 18 August the prisoner Nihat Konak should be taken to court, but since he refused to loudly announce his military degree he was not taken to court. The same happened to Şükrü Duman on 13 September.

Muzaffer Öztürk is held in a single cell because he was sentenced to aggravated life imprisonment. Objections against this decision were rejected on all levels, up to Tekirdağ Heavy Penal Court. The objection to this decision of 18 August has not been ended in a verdict yet.

Already in July many journals were not handed over to the prisoners in Tekirdağ F-type Prison and many letters were censored or destroyed.

From Tekirdağ F-type Prison No. 2 the prisoners Baysal Demirhan wrote that he has spent two of his three years in prison in a cell for one person. Every fortnight he would send appeals against this situation but each time his applications were rejected without a reason. In order to listen to the radio Baysal Demirhan had built an antenna from the paper of cigarette boxes but each time the guardians find it they destroy it.

On 14 September the prisoner Memduh Kılıç wrote from Kırıklar F-type Prison No. 1. He stated that he has been imprisoned since 1992. In 1997, while staying in Çankırı Prison, he suffered from tuberculosis. For nine months he was treated with medicine, but when this treatment had no success he underwent an operation by taking away 2/3 of this left lung. A second operation was deemed too risky and Memduh Kılıç was transferred to Kırıklar F-type Prison. His complaints increased and he was taken to hospital again. In Tepecik Chest Hospital he was diagnosed to have mushrooms in his lung. Despite this fact Tepecik Chest Hospital concluded that his illness was not endangering his life.

In June the problems in Tekirdağ F-type Prison 1 had already been the same as in July, August and September. According to the provisions of the Law on Execution of Sentences that entered into force on 1 June the administration wanted to transfer Ali Baba Arı and Hasan Şahingöz to single cells. On the way they were subjected to "physical torture". The same happened to Menderes Leyla. He was given reports by the infirmary and Tekirdağ State Hospital certifying traces of blows.

The prisoners who protested the treatment of Menderes Leyla, Ali Baba Arı and Hasan Şahingöz were banned from communication for one or two months. This includes

a ban on "free visits". The prisoners punished this way were Hasan Rüzgar, Şerafettin Yer, Ayhan Güngör, Selahattin Gedik, Ramazan Aydın, Erdal Süsem, Aydın Bulgucu, Özgür Eker, Murat Karayel, Cihat Özdemir, Süleyman Yılmaz Bulduruç, Ali Rıza Kaplan, Aligül Alkaya, Ahmet Doğan, Ongun Yücel, Habib Akkaya, Hasan Ergin, Murtaza Şahin, Muzaffer Öztürk, Bayram Kama, Yaşar Eriş, Süleyman Şahin, Memik Horoz, Nihat Konak, İsmail Yılmaz, Coşkun Akdeniz, Doğan Akçiçek, Hüseyin Uzundağ, Cihan Kahraman, Gökhan Oruç, Caner Uluç, Sinan Gülüm, Fatih Ergin Arpaç, Taylan Baltacı and Muhamet Akyol. (Decision of 15.06.2005 numbered 2005/25)

On 9 April the daily *Radikal* reported that Mustafa Gök was still imprisoned despite the fact that he had been diagnosed as suffering from the Wernicke-Korsakoff syndrome. He had participated in a death fast action in 1996 for 69 days and after the 19 December (2000) operation he had been released under the provision of Article 399/2 of the TCPC. On 14 February 2004 he had been detained again and in his trial (hearing at İstanbul Heavy Penal Court No. 11 on 8 April) the Court had now decided to get another medical report of the Forensic Institute.

- The report of the HRA made reference to this case but unfortunately without exact dates –

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Instead of the remarks of the HRA on conscientious objector **Mehmet Tarhan** the report on his situation of Amnesty International of 9 December 2005 "*Turkey: Conscientious objector Mehmet Tarhan is a Prisoner of Conscience and must be released now!*" (AI Index: EUR 44/036/2005) is quoted:

Amnesty International is gravely concerned for the health and safety of conscientious objector Mehmet Tarhan, 27, who is currently serving a four-year sentence in Sivas military prison on two charges of insubordination after refusing to do his military service. During his imprisonment, Mehmet Tarhan has allegedly undergone severe ill-treatment. Furthermore, he is now facing a possible forced physical examination which would amount to cruel, inhuman and degrading treatment, as well as a breach of his right to privacy. Amnesty International considers Mehmet Tarhan to be a prisoner of conscience and calls for his immediate and unconditional release.

Mehmet Tarhan first expressed his conscientious objection to military service on 27 October 2001, when he stated at a press conference in Ankara, "I condemn every kind of violence and believe that joining or condoning violence will only result in new violence and everyone will be responsible for the consequences. I think that wars caused by power-mongering states are first and foremost a violation of the right to life. The violation of the right to life is a crime against humanity and no international convention or law can justify this crime, regardless of any rationale. I therefore declare that I won't be an agent of such crime under any circumstances. I will not serve any military apparatus." Following this declaration, he remained active in his anti-militarist activities. On 27 October 2004 he again publicly declared his conscientious objection. He was first detained in Izmir on 8 April 2005 and brought to a military unit in Tokat after he refused to cooperate with military orders. As a result he was held in the military prison in Sivas from 11 April until 10 June. He was allegedly subjected to severe beatings and death threats by other prisoners during his detention there. When Mehmet Tarhan informed prison authorities of the abuse, no immediate action was taken to ensure his safety and the abuse reportedly continued. After his lawyer learned about the abuse, she raised her concerns for his safety with the prison administration, eventually prompting their intervention.

Conscientious objection is not recognized in Turkish law. A case was opened against Mehmet Tarhan under Article 88 of the Turkish Military Penal Code (TACK) on charges of insubordination. This charge carries a penalty of between three months' and five years' imprisonment. At the hearing on 26 May 2005 observers noted that there were signs of bruising on Mehmet Tarhan's body and that he was unable to walk properly. The case was adjourned and the last hearing took place on 9 June. Observers noted that Mehmet Tarhan appeared physically weak. He had been on hunger strike since 26 May. The military prosecutor agreed to release Mehmet Tarhan on the grounds that he had already spent two months in prison, which is the period of time he would be required to serve if sentenced. However, upon his release, Mehmet Tarhan was called up to serve again, and again refused. He was arrested and held in the Military Prison of Sivas until his trial on 10 August, when he was given a prison sentence of two years for each charge of insubordination (totaling four years).

Amnesty International received reports that on 30 September 2005, a prison officer accompanied by at least three guards forcibly cut Mehmet Tarhan's hair and shaved his beard against his will while he was held down by at least seven people. The incident reportedly left Mehmet Tarhan in great pain in his neck, hands, left arm and left foot, and unable to turn his head fully. Furthermore observers reported that he had bruises on his limbs. On 1 October 2005, Mehmet Tarhan was reportedly transferred to a military hospital against his will and examined by two military doctors. However, following the examination, which appears

to have been cursory (allegedly lasting 10 minutes), he was apparently given a medical report stating that there were no signs of beating on his body and sent back to the military prison. Such an examination would be in clear contravention of the Istanbul Protocol, which stipulates that medical examinations should be thorough and carried out by civilian doctors. Following this incident, Mehmet Tarhan initiated a second hunger strike in protest at the prison authorities' ill-treatment of him, and against the cramped, unhygienic conditions in which he was allegedly being held. According to reports, he was held in a small, dirty cell without windows, and was sometimes held in solitary confinement and denied his rights to make phone calls, receive reading materials and letters or see visitors for up to 15 consecutive days.

Amnesty International believes that the fact that Mehmet Tarhan has been tried and convicted twice for insubordination contravenes Article 14, paragraph 7 of the International Covenant on Civil and Political Rights (ICCPR), to which Turkey is a signatory, which states "No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure". The United Nation's Working Group on Arbitrary Detention, in its Opinion 36/1999 on a similar case of a Turkish conscientious objector, Osman Murat Ülke, found that his repeated objection to military service was "one and the same action entailing the same consequences and, therefore, the offence is the same and not a new one".

In the most recent development in Mehmet Tarhan's case, the Military Court of Appeal overturned on 2 November 2005 the four-year prison sentence imposed on Mehmet Tarhan on 10 August 2005 on two counts of insubordination, and returned the case to the Military Court of Sivas. The initial reasoning for this decision was the fact that the sentence was disproportionately high and therefore unfair. However, in the Court of Appeal's final written decision, the overrule was attributed to the fact that Mehmet Tarhan's homosexuality (the reason he may be regarded as "unfit for military service") had not been established via "proper physical examination procedures".

Amnesty International is seriously concerned at the implications of the court's decision, which may lead to Mehmet Tarhan undergoing an intrusive physical examination amounting to cruel, inhuman or degrading treatment. Homosexuality is not the grounds on which he stated his objection to military service. Instead, his objection is on grounds of conscience; he stated at his trial in August 2004, "Because I find it important to lead a humane life and as an indispensable precondition of this I feel that all humans should lead a humane life, I declare once again that I will never take orders and I will never give orders. I believe that discrimination and violence are crimes of humanity and in the name of avoiding committing this crime, I am determined not to be a part of the military which is an apparatus of violence based on hierarchy that imposes such hierarchical constructions over society, I am determined to disobey, and refuse to be transformed into a murder machine by taking a course in dying and killing."

Amnesty International is concerned that the Turkish authorities are focusing on Mehmet Tarhan's sexual orientation as a means of avoiding the wider issue of conscientious objection to military service which is not recognized in Turkey. In effect, if Mehmet Tarhan were to "prove" his homosexuality either by providing the Turkish authorities with photographic evidence of himself engaged in sexual activity or by undergoing an anal examination, he would be confirmed as "unfit for military service" and his case dropped. However he remains in prison and Amnesty International continues to regard him as a prisoner of conscience.

Following the decision of the Military Court of Appeal, the case has been returned to the Military Court of Sivas, which will decide what action to take. Should it choose to follow the suggestion of the Military Court of Appeal, Mehmet Tarhan may be taken to military hospital for a physical examination. This hearing is scheduled to take place on 15 December 2005. Given the injuries that Mehmet Tarhan reportedly received whilst being forcibly shaved of his hair and beard, Amnesty International is extremely concerned for his physical and mental integrity should he undergo a forced anal examination. The Turkish military uses the Diagnostic and Statistical Manual of Mental Disorders dating from 1968 (DSM II), which defines homosexuality as a psychosexual disorder, and considers that those who have this "condition" are "unfit to serve". In contrast, the medical community uses DSM IV, which dates from 2000 and does not list homosexuality. Amnesty International considers that sexual orientation cannot be determined by physical examination or by viewing photographic evidence of sexual activity. The organization further considers it unethical for a doctor to give an internal examination without the consent of the patient without a compelling reason (e.g. grave danger to the patient or others). Amnesty International would consider any such examination to constitute cruel, inhuman or degrading treatment. In addition, the organization considers that such an examination would constitute a violation of Mehmet Tarhan's right to privacy as guaranteed by Article 17 of the International Covenant on Civil and Political Rights, to which Turkey is a state party.

Mehmet Tarhan reportedly ended his 34-day hunger strike on 2 November 2005 after the meeting of his demands for legal action to be taken against those who forcibly held him down and shaved him, and for equal treatment to that of other prisoners. Following an investigation into the events reported by Mehmet Tarhan at Sivas military prison between 11 May and 10 June 2005, two prison officers have been indicted on charges of misconduct, and two of Mehmet Tarhan's fellow inmates have been indicted on charges of robbery linked to extortion. The case will be heard on 29 December 2005 at Sivas Military Court.

Additional remark: On 15 December Sivas Military Court insisted on its original verdict. Mehmet Tarhan was temporarily released from prison on 9 March 2006 when the Military Court of Cassation dealt again with his case.

### Medical Neglect of Prisoners

On 4 January families of TAYAD held a press conference at the office of İstanbul Medical Association and presented the following information on the health of prisoners:

"In Tekirdağ F-type Prison the treatment of Orhan Eski suffering from paralysis of his face was delayed. In Kandıra F-type Prison the tools to measure the

diabetes were not bought. The psychological treatment for Tahsin Akgün staying in Tekirdağ F-type Prison was not finished when he was transferred to Bayrampaşa. In Kırklar Prison Sebahattin Filazoğlu does not receive the necessary care after an operation."

On 2 January members of the Union of Opponents to Isolation and the Law on Execution of Sentences stated that Filiz Gülköker (Gebze M-type), Mesut Deniz (Sincan F-type), Savaş Kör (Bayrampaşa) and Ersin

Eroğlu (Kırşehir Prison) were so ill that they should not be imprisoned. The members of the Union pointed at Erol Zavar, former editor-in-chief of the journal *Odak*, who had to be under constant control in Edirne F-type Prison because he was suffering from cancer of his bladder.

On 27 February the daily *Özgür Politika* reported on Şemsettin Kurt in Bayrampaşa Prison on charges of being a member of KADEK. Because he was not treated his cancer of the lung reportedly got worse. Şemsettin Kurt had been imprisoned between 1992 and 1997 on similar charges and on 10 October 2003 he had been imprisoned again. During a hearing of 14 February İstanbul Heavy Penal Court No. 14 had decided to continue the proceedings without pre-trial detention.

In April Şafak Yıldız, lawyer of Erol Zavar, filed an official complaint against physicians and the administration of the hospital of the medical faculty in Edirne. The lawyer said that besides suffering from cancer of the bladder her client had got platinum in a broken leg and the piece had not been removed. Only when they appealed for treatment in Ankara the physicians had agreed to remove the piece of platinum.

In June the lawyer Yasemin Dora Şeker drew attention to the critical health of Mehmet Emin Özkan (66) in Kürkçüler Prison (Adana). He had been imprisoned since 1996 and was suffering from prostate, heavy breathing, insufficiency of his heart and high tension. She had applied to the State President and the Justice Minister, but had had no success and, therefore, had presented the case to the European Court of Human Rights.

In Adana the political prisoner in Kürkçüler Prison, Adem Aşan, was reportedly chained to his bed during

treatment in Adana State Hospital. His mother Caziye Aşan stated that her son had to be treated with a dialysis machine. He had been detained on 24 March when he visited a private hospital and later had been remanded. Now he had to be taken to Adana State Hospital three times a week. "Earlier they only handcuffed one arm. Now both arms are handcuffed. In addition they tie his legs to the bed. During the treatment it may happen that he gets a cramp, but the commander refused to loosen the legs. When my son said that he better kill him instead of making him suffer such pain the commander said that he should because he was ill anyhow."

Güler Bilen, imprisoned in Sivas E-type Prison on charges of membership of the PKK, was not treated for problems with her heart valve for four years. In August the doctors in prison stopped the treatment stating that recovery was impossible under prison conditions. Her uncle Şehmus Şimşek applied to the State President, the Justice Minister and the HRA in Adana.

In October female prisoners in Sivas E-type Prison complained that ill prisoners were not treated. Aynur Epli had to undergo an operation and Hatice Çakmak was not treated although she had been ill for a long time.

Also in October Mehmet Kino and Deniz Yüksel who had been remanded in Mardin E-type Prison for two months complained that the prisoners were not treated and the physician in the infirmary did not examine the patients but distributed pills that had strong side effects. The former prisoners also complained about bad food.

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#### (Cumhuriyet-19 October) Oral Çalışlar/Column "Point Zero" /Prisons and humans

This time I present a letter from Bolu F-type Prison, written by Cemal Ağırman.

"Earlier I told you that our letters of complaint were destroyed. We managed to overcome this obstacle in getting a decision of the judge on execution of sentences. On 30 July we were forcibly transferred and since then we are held in single cells.

I told you about the marks on our bodies. We assume that they were noted in the infirmary. The prosecutor is still investigating and in an interim decision "marks of holding and bumps" were mentioned. However, many of us had marks such as heavy bruises, open wounds, abrasions and clots. The names of the injured prisoners are (no translation of the detailed injuries):

Ali Koca, Kaan Kurtuluş, Serdar Karaçelik, İnan Gök, Ali Ercan Gökoğlu, Celal Yayla, Kenan Günyel, Cemal Ağırman, Bülent Kemal Yıldırım, Ercan Kutlu, Mustafa Tosun, Baysal Demirhan, Osman Nuri Ocaklı.

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#### Relatives of Prisoners

On 6 April Trabzon Penal Court No. 1 started to hear the case of TAYAD members who had been attacked in a lynch attempt when the distributed leaflets about Trabzon Prison. Zeynep Ertuğrul, Nurgül Acar, Emre Batur and İhsan Özdiil were charged with insulting officials on duty and staging an illegal demonstration. On 23 June the defendants testified and stated that the incident had been provoked by the police.

Zeynep Ertuğrul said that she had been there as a journalist of *Ekmek ve Adalet*. There had been no demonstration because the others had only distributed a special bulletin of TAYAD.

"They distributed the bulletin at different places. Two police officers asked whether the action was legal and that they were not sure whether this might be an action of the PKK. These words provoked the people around. While the friends tried to explain that it was a legal action some 15 to 20 people beat them. A person with the name of Ergün Kara pointed at me and accused me of being a member of the PKK. He hit me twice and the others hit me too. There were many plain clothed detectives around, but they did not interfere, the traffic police did."

Another hearing was held on 9 September. The trial did not conclude in 2005.

On 15 April TAYAD members protested the incidents in Trabzon and Adapazarı by chaining themselves to the GNAT. The police detained them. On 16 April Deniz Arık, Nurşen Toksoy and Didem Akman were remanded.

Ali Akpınar, father of Hüseyin Akpınar in Tekirdağ F-type Prison and suffering from the Wernicke-Korsakoff syndrome, complained that he could not visit his son, because he could not pass the x-ray because of a battery to his heart. On 31 March he had shown the medical report and asked the persons on duty to search him with their hands but they had refused him entry to prison.

On 4 June the police in Adıyaman intervened when a group of members of the Association of Basic Rights and Freedoms wanted to hold a press conference in front of the office of AKP in protest at the pressure in the prisons. The police detained Yılmaz Kaya, Erhan Yücel, Servet Yücel, Nevzat Bozkurt, Nihal Çalışkan, Ali Yasaci, Ali Kaçak and Adnan Demirhan.

In Batman İslam Koyuncu and Mehmet Gidici, officials of the prisoners' support association TUHAY-DER were released from prison on 3 May. They had been remanded after having participated in a protest at the measures against Abdullah Öcalan.

On 28 June 11 members of two prisoners' support associations (TUHAY-DER and TUAD) were detained after a press conference in front of Tekirdağ F-type Prison.

The Socialist Platform of the Oppressed (ESP) staged an action on the Bosphorous Bridge on 1 November to draw attention to the situation in the prisons. The police intervened and detained Emine Güngör, Ağca Kaplan, Tuğba Gümüş, Arzu Baysungur, Güneş Şenyüz, İbrahim Uçar, Fırat Çağla, Cengiz Özgül, Hüseyin Güneş, Emrullah Avcı and Abbas Duman.

On 27 November members of the ESP visited the grave of Tuncay Yıldırım in Çanakkale. He had died in a death fast action on 21 March 2002. The police detained 25 persons including the İzmir representative of the journal *Atılım*, İsmınaz Ergün under beatings.

## 4 - COURT CASES ON INCIDENTS IN PRISON

### Çanakkale E-type Prison

On 5 January the trial against 154 prisoners and 563 security officers charged in connection with the 19 December 2000 operation in Çanakkale E-type Prison continued at Çanakkale Heavy Penal Court No. 1.

During the hearing 15 members of the fire squad were heard as witnesses. One of them, Necat Yılmaz said: "It should have been the last day of the operation. The governor, the chief prosecutor and the general on duty went inside towards the coal room. One police officer who was filming said that someone inside had a weapon. At this moment one window was broken and I heard shots. One police officer who changed his place was hit. After that two more shots were fired."

During the hearing lawyer Behiç Aşçı said that the images on the CD they had received during an earlier hearing did not show everything. The witnesses had made clear that the police headquarters also filmed the scene. Aşçı demanded that the films be ordered as evidence and asked that Hikmet Sami Türk, at the time Minister of Justice, be heard as witness. This demand was rejected.

During the hearing of 2 February the defendant Yıldız Bağuç (not remanded) said: "The operation started at 4am. We barricaded the doors with beds and wardrobes. On the first day the wards were hosed with water and foam. On the second day they used heavy machines to break down the walls and roofs. I heard Fidan Kalşen saying that she would burn herself if the security forces entered. Then she set herself on fire. On

the third day I was hit with a bomb thrown from the roof and was temporarily paralyzed."

Lawyer Behiç Aşçı demanded that an on-site inspection should be held and further evidence such as phone or walkie-talkie conversations should be obtained and Hikmet Sami Türk be heard as witness. The demands were rejected. The Court ordered the release of Muharrem Güzel, Ali Osman Köse, Ali Rıza Seçik, Hülya Aydoğan, Günay Eren, Mehmet Karaman and Veysel Şahin so that no defendant remained in pre-trial detention related to this trial.

Further hearings were held on 22 September and 29 November. The last hearing was adjourned to 7 February 2006.

### Diyarbakır E-type Prison

On 26 January Diyarbakır Heavy Penal Court No. 3 continued to hear the case of 72 defendants (1 physician, 6 guardians, 36 police officers and 29 soldiers) charged in connection with the attack on prisoners on 24 September 1996 that had resulted in the death of 10 of them.

In summing up the case the prosecutor stated that the defendants had exceeded the limits of self defense and caused the death of 10 people. Under Article 452/1 TPC he demanded sentences of 8 years' imprisonment for 54 defendants for having caused the death of the prisoners, but he also asked to reduce the sentences by half because the offence had been committed under heavy provocation. The prosecutor asked for acquittal of two security officers and for the other defendants including the physician he argued that the statute of

limitation had been reached. They were accused of no direct involvement in the killing.

Acting for the sub-plaintiffs lawyer Sezgin Tanrıkulu said during 47 hearings so far the panel had changed 20 times and that it was time to reach a verdict. The hearing of 20 April was adjourned to 6 June to wait for new legislation entering into force.

After a further hearing in January 2006 Diyarbakır Heavy Penal Court No. 3 announced its verdict on 27 February 2006. The Court acquitted three defendants and decided on the statute of limitation for seven defendants. A total of 62 defendants were sentenced to five years' imprisonment, but since the offence was committed before 1999 none of them will have to serve that sentence.

### **Bayrampaşa Prison**

On 28 January Eyüp (İstanbul) Penal Court No. 3 held a hearing on 167 prisoners, 31 of them women, charged with rioting during the 19 December 2000 operation. During the hearing of 17 June the Court decided to hold an on-site inspection. The inspection was carried out on 23 September. At the pipe of the heating system and the door to ward C traces of shots were detected. During the inspection defendants Münire Demirel stated that the operation began at 4.45am when they heard shots and heavy machines. From the roof soldiers had been firing at them and thrown gas bombs. The defendant Fazıl Ahmet Taner said that after the call to surrender they had not been given any time. The other defendants confirmed that no warning had been made before the shots had been fired. They added that two weeks before the operation there had been a search in the prison and there had been no arms inside.

During the hearing on 28 October the defendants Mehmet Güvel, Sevgi Tağaç, Yıldırım Alanbay, Erkan Erdem and Fatma Güzel testified. Sevgi Tağaç said that she could not have surrendered since she already was in a prison and the door to the outside had been closed. They had rescued themselves by moving downstairs since shots and bombs had come from the roof.

On 4 October Eyüp Heavy Penal Court No. 3 continued to hear the case of 1,615 officers on duty, 1,440 of them soldiers of the gendarmerie. They had participated in the 19 December 2000 operation in Bayrampaşa Prison. The Court issued orders for apprehension on 155 guardians who had not yet testified.

### **Ankara Central Closed Prison**

On 17 March Ankara Heavy Penal Court No. 6 continued to hear the case of 161 soldiers charged in connection with the attack of 26 September 1996. Cenker Aslan who had been in that prison at the time was heard as witness. The charges in this case that did not conclude in 2005 are related to 5 of the 10

killed prisoners being the victim of the soldiers and the other five prisoners having allegedly been killed by other prisoners.

### **Ümraniye Prison**

On 27 January Üsküdar Heavy Penal Court No. 2 continued to hear the case against 276 security officers charged in connection with the 19 December 2000 operation in Ümraniye Prison. Members of TAYAD were not allowed to attend the hearing as observers. During the hearing the defendants Sadık Düzgün, Mehmet Çamcı, Gazi Duran and Erol Vuran were heard. Sadık Düzgün stated that they had followed orders given to them over walkie-talkie. They had not been armed and not used arms.

During the hearing of 29 April the witness Muhlise Güneş said that they had been subjected to assault and violence when they were taken out of the prison and in the vehicle.

On 12 December Üsküdar Heavy Penal Court No. 1 continued to hear the case of 399 former prisoners in connection with the incidents in Ümraniye Prison on 19 December 2000. The Court issued order for apprehension of those defendants whose testimony had not been taken.

### **Burdur Prison**

On 30 March the prosecutor's office in Burdur decided against charges on 415 soldiers of the gendarmerie who had participated in the operation in Burdur Prison on 5 July 2000. In the decision not to prosecute anyone it was said that the soldiers entered the prison because the prisoners refused to leave their wards when they were asked to testify on charges originating from İzmir State Security Court. The prisoners had refused because they had not been able to talk to their lawyers. The prosecutor further argued that the passive resistance had changed to active resistance when the soldiers entered the prison. In order to prevent casualties the security forces had only opened one hole in the wall. The arm of Veli Saçılık had been torn off because of his aggressiveness, according to the prosecutor's decision. On the allegation of rape of Azime Arzu Torun the report of the prosecutor stated that there was no evidence in the file to support this allegation.

### **Veli Saçılık**

In February the expert opinion on the request of Veli Saçılık for compensation from the Justice Ministry, the Ministry for the Interior and the Health Ministry for losing his right arm during the operation in Burdur Prison was announced. The report concluded that Veli Saçılık had lost two thirds of his ability to work and should be compensated with 121,240 YTL. The report also stated that Veli Saçılık was not responsible for losing one arm. In June Antalya Administrative Court decided that the Justice and the Ministry for the

Interior have to pay compensation of 100,000 YTL in material and 50,000 YTL in moral damage.

### **The Küçükarmutlu Trial**

In February the Court of Cassation quashed the verdict against 16 defendants charged in connection with a police operation against a house in Küçükarmutlu where several people conducted a death fast action. The police operation of 5 November 2001 had resulted in the death of four people (Arzu Güler, Sultan Yıldız, Bülent Durga and Barış Kaş). The Court of Cassation ruled that the defendants could not be sentenced as members but only as supporters of an illegal organization.

On 25 February 2004 İstanbul State Security Court had sentenced Zeki Doğan, Sinan Tökü, Güzin Tolga, Eylem Gökteş, Ahmet Güzel, Gamze Turan, Vedat Çelik, Selma Kubat, Dursun Ali Pekin, Halil Aksu, Haydar Bozkurt, Hakkı Şimşek, Hüseyin Akpınar, Madımak Özen and Serap Boyoğlu to 12 years' and 6 months' imprisonment for membership of an illegal organization. The files of Serhat Ertürk, Özkan Güzel, Halil Acar and Engin Karagöz had been separated.

On 10 June İstanbul Heavy Penal Court No. 14 started the re-trial of (now) 19 defendants. The trial did not conclude in 2005.

# FREEDOM OF EXPRESSION

Violations of Freedom of Expression continued on an increased level in 2005. Discussions on the new penal code that entered into force on 1 June continued over the whole year. The Turkish Penal Code (TPC) of 1 June 2005 includes restrictions to freedom of expression as well as freedom of assembly and association. Individuals may be punished (including deprivation of liberty) for expressing peaceful opinions. Many court cases were initiated under provisions of the new TPC.

During the period the "Union of Jurists" filed a large number of official complaints against intellectuals, writers, journalists and even the co-chair of the joint commission of Turkey and the EU, Joost Lagendijk, accusing them of insulting Turkishness, the Turkish Army, the State President and Atatürk. Members of the Union of Jurists and so-called nationalists entered court rooms when such cases were heard and attacked defendants verbally. Outside the court rooms they resorted to physical violence. The Documentation Center of the HRFT runs an Active Project for Observing Democracy and documented many violations in this area.

Prime Minister Recep Tayyip Erdoğan filed many cases against journalists and cartoonists asking for compensation in cases of alleged insults. In May Justice Minister Cemil Çiçek answered a question of CHP deputy Haluk Koç on such cases. Cemil Çiçek stated that the Prime Minister had launched 57 cases for compensation. Of them 31 had been concluded and 26 were continuing. In the concluded cases the Prime Minister had been awarded compensation of YTL 111,500.

On 15 May Mustafa Altınpınar, governor of Sütçüler district (Isparta) wrote a letter to all official institutions in the district and asked for confiscation and destruction of all books written by Orhan Pamuk. The letter mentioned the words that Orhan Pamuk reportedly used during an interview abroad when he said that the Turks killed 1 million Armenians and 30,000 Kurds.

The Interior Ministry conducted an investigation into the act of the governor and in April decided to punish him with a warning. Interior Minister Abdülkadir Aksu said that he personally was not satisfied with such a disciplinary measure, but that was the limit in law. Mustafa Altınpınar was appointed governor of Dicle (Diyarbakır) in September.

## **Legal Amendments**

The new penal code (Law 5237) passed the Grand National Assembly of Turkey (GNAT) on 26 September 2004. It was envisaged to enter into force on 1 April 2005. However, the discussions on additional amendments continued during the first five months of 2005 and with additional changes Law 5237 entered into force on 1 June 2005.

Many initiatives criticized the new TPC. The Association of Turkish Journalists (TGC) sent a letter to Prime Minister Recep Tayyip Erdoğan and stated that many provisions were not in line with the European Convention of Human Rights regarding freedom of expression. TGC suspected that the number of journalists under threat of imprisonment would be doubled. Many provisions contained increased sentences, if the offence was "committed via the press". TGC had found 26 Articles in the new TPC that needed revision.

On 6 April a delegation chaired by the President of the Press Council, Oktay Ekşi, met Prime Minister Erdoğan to raise the Council's concern about the new TPC. The Press Council asked for a change of Articles 5, 84, 125 (insult), 132 (confidentiality of communication), 134, 267, 288, 301 (insult and denigration of State institutions), 305 (protection of national interests) and 304 TPC.

A delegation of representatives of various organizations of journalists met representatives of the Justice Ministry on 13 and 16 April. They later stated that the meetings had not been very helpful.

On 27 May the GNAT accepted Law 5357 that amended Law 5237. State President Ahmet Necdet Sezer objected to some provisions so that the GNAT had to deal with them again. On 29 June the GNAT passed Law 5377 with 40 Articles. They entered into force on 8 July by promulgation in the Official Gazette.

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**Some Articles of the new TPC concerning Freedom of Expression are as follows:**

**Praising offences and offenders**

ARTICLE 215 - (1) Anyone who openly praises an offence or praises an offender because of their offence shall be sentenced to imprisonment for up to two years.

**Inciting the population to enmity or hatred and denigration**

ARTICLE 216- (1) Anyone who openly incites sections of the population to enmity or hatred towards another group on the basis of social class, race, religion, or sectarian or regional difference, in a manner which may present a clear and imminent danger in terms of public safety shall be sentenced to imprisonment of from one to three years.

(2) Anyone who openly denigrates a section of the population on grounds of their social class, race, religion, sectarian, gender or regional differences shall be sentenced to imprisonment of from six months to one year.

(3) Anyone who openly denigrates the religious values of a part of the population shall be sentenced to imprisonment of from six months to one year, where the act is sufficient to breach public peace.

**Incitement to disobey the law**

ARTICLE 217 - (1) Anyone who openly incites the population to disobey the laws shall be sentenced to imprisonment of from six months to two years or a judicial fine, where the incitement is sufficient to breach public peace.

**Common provision**

ARTICLE 218 - (1) (Amended by Law No. 5377 of 29 June 2005 Article 25) If the offences defined in the Articles above are committed through the media and press, the penalty shall be increased by one half. However, expressions of thought made with the intention of criticism, and which do not exceed the limits of providing information shall not constitute an offence.

**Insulting the President of the Republic**

ARTICLE 299- (1) Anyone who insults the President of the Republic shall be imprisoned for a term of from one to four years.

(2) (Amended by Law 5377 dated 29 June 2005/Article 35) Where the offence is committed in public, the sentence shall be increased by one sixth.

(3) Initiation of a prosecution for this offence shall be subject to authorization by the Minister of Justice.

**Insulting the symbols of the sovereignty of the State**

ARTICLE 300 - (1) Anyone who publicly tears, burns or otherwise denigrates the Turkish flag shall be sentenced to imprisonment of from one to three years. This provision shall apply to all manner of signs bearing the white crescent and star on a red ground described in the Constitution as a symbol of the sovereignty of the State of the Republic of Turkey.

(2) Anyone publicly denigrating the National Anthem shall be sentenced to imprisonment of from six months to two years.

(3) If the crime defined in the present paragraph is committed by a Turkish citizen in a foreign country, the penalty shall be increased by one third.

**Insulting Turkishness, the Republic, the organs and institutions of the State**

ARTICLE 301- (1) Anyone who publicly denigrates Turkishness, the Republic or the Grand National Assembly of Turkey shall be punished with imprisonment of from six months to three years.

(2) Anyone who publicly insults the Government of the Republic of Turkey, the judicial bodies of the state, the military or police shall be punished with imprisonment of from six months to two years.

(3) Where a Turkish citizen denigrates Turkishness in a foreign country, the penalty shall be increased by one third.

(4) Expressions of opinion with the intention of criticism shall not incur punishment.

**Obtaining material advantage for activities contrary to the fundamental national interests**

Article 305 - (1) (Amended by Article 38 of Law 5377 of 29 June 2005) Any citizen or foreigner resident in Turkey who gains material advantage for themselves or for others, directly or indirectly, from foreigners or foreign organizations in exchange for committing acts contrary to fundamental national interests shall be sentenced to imprisonment of from three to ten years and a judicial fine of up to ten thousand days. The same sentence shall be given to those who provide or promise such advantage.

(2) (Amended by Article 38 of Law 5377 of 29 June 2005) Where the act is committed during time of war, the sentence shall be increased by one half.

(3) If the offence is committed other than in time of war, the prosecution of the offence shall be subject to authorization by the Minister of Justice.

(4) The term "fundamental national interests" shall mean independence, territorial integrity, national security and the fundamental characteristics defined in the Constitution of the Republic.

**Discouraging people from performing military service**

ARTICLE 318 - (1) Anyone who instigates, recommends or spreads propaganda which results in discouraging people from performing military service shall be sentenced to imprisonment of from six months to two years.

(2) If the act is committed through press and publications, the penalty shall be increased by one half.

## 1 - COURT CASES ON FREEDOM OF EXPRESSION

### The case against Orhan Pamuk

In September a court case was initiated against the writer Orhan Pamuk in connection with an interview with a Swiss newspaper in which he reportedly said "In this land 1 million Armenians and 30,000 Kurds were killed". The public prosecutor in Şişli charged Orhan Pamuk with an offence under Article 301 new TPC (denigration of Turkishness). Earlier the public prosecutor in İstanbul had decided that the interview did not contain such an offence.

In December the file was sent to the Justice Ministry. Lawyer Haluk İnanıcı stated that the date of the alleged offence was 9 February and, therefore, previous Article 159 old TPC might be applied. For such a trial permission had to be given by the Justice Ministry.

Nevertheless, the trial started on 16 December. Outside the court a group that called itself "Patriotic Movement" attacked Orhan Pamuk, his lawyers and members of the European Parliament. In front of the court room and inside the court room verbal attacks continued. Defense lawyer Eren Keskin talked to the prosecutor Metin Fadıllıoğlu who stated that it would be problematic to remove the aggressors and suggested to increase the number of police officers.

After the hearing the MEPs including Cem Özdemir and journalists were attacked again. Stones and eggs were thrown at the car in which Orhan Pamuk was driven away. Two people were detained in connection with the incident. During the hearing the possible charges were discussed, but without a decision on that point the hearing was adjourned to 7 February 2006.

Form the Amnesty international report: **Turkey: Article 301 is a threat to freedom of expression and must be repealed now!** (AI Index: EUR 44/035/2005 of 1 December 2005)

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**Orhan Pamuk** is an internationally-known Turkish author whose novels, including *Snow* and *My Name is Red*, have been translated into many languages and have received wide critical acclaim. He is facing charges under Article 301 for comments he made during an interview he gave to a Swiss newspaper (Tages Anzeiger) on 5 February 2005. In the interview, Orhan Pamuk stated, "30,000 Kurds and a million Armenians were murdered. Hardly anyone dares mention it, so I do. And that's why I'm hated". The first hearing of his case will take place in the Sisli Court of First Instance No. 2 in İstanbul on 16 December 2005.

### Case against the members of the Human Rights Advisory Council (İHDK)

In November the public prosecutor in Ankara indicted Prof. Dr. İbrahim Kaboğlu, former chair of the Human Rights Advisory Council (İHDK) and Prof. Dr. Baskın Oran in connection with their "Minority Report" of October 2004. The indictment claimed that instead of using the term of "being a Turk" using the term "being from Turkey" was an offence. The prosecutor maintained that the report showed parallels to the Treaty of Sevres that had "put our country under occupation". The indictment claimed that the report had incited the people to separatism and belittled the judicial organs. The prosecutor sought a conviction according to Article 301 and 216 of the news TPC. The first hearing was to be held on 15 February 2006.

### Further Court Cases and Investigations

#### Selahattin Demirtaş

On 24 January Diyarbakır Penal Court No. 2 started to hear the case of the chair of the Diyarbakır branch of the HRA, Selahattin Demirtaş in connection with an interview he had given to the daily *Gün*. The Court

acquitted him from charges under Article 312 old TPC.

#### Sait Bıçakçı

On 16 February Bingöl Penal Court acquitted Sait Bıçakçı, member of the DEHAP parliament, from charges that had been brought against him in connection with a speech he had held on a congress of the party in Bingöl on 29 April 2003. In this speech he had allegedly advocated to legalize KADEK. In the verdict the court pointed at the judgment of the Court of Cassation on the author Selahattin Aydar and an article in the *Milli Gazete*.

#### Erdal Özakçil

On 22 February Erzurum Heavy Penal Court No. 2 sentenced Erdal Özakçil, former chair of DEHAP for Erzurum province, to three months' imprisonment in connection with a press statement in which he allegedly disseminated propaganda for an illegal organization.

#### Necmettin Erbakan

In March the Court of Cassation agreed that former chair of the Welfare Party (RP) Necmettin Erbakan, should get a re-trial in connection with a speech he

had held in Bingöl in 1994. He had been sentenced to one year's imprisonment under Article 312/2 old TPC. The decision was based on the fact that Article 312 TPC had been amended.

#### **Mehmet Salih Yıldız, İrfan Dündar, Mahmut Şakar**

On 31 March Ankara Heavy Penal Court No. 11 acquitted İrfan Dündar, Mahmut Şakar and Mehmet Salih Yıldız, Mayor of Yüksekova, from charges of supporting an illegal organization with speeches they made on Med TV in 1999. On 5 April the same court acquitted İrfan Dündar and Mahmut Şakar from the same charges for another speech they had made on Med TV.

#### **Sabri Ejder Öziç**

In April the chief prosecutor at the Court of Cassation asked to quash the verdict against Sabri Ejder Öziç, executive of the ÖDP and former editing director of the radio station *Dünya*. He argued that the incriminated words should be taken as a whole and not only based on half a sentence. The Court of Cassation followed the arguments, but the re-trial at Adana Penal Court No. 5 did not conclude in 2005. Sabri Ejder Öziç had been tried at this court for a speech he made on 23 February 2003 and on 5 January 2005 Adana Penal Court No. 5 had sentenced him to one year's imprisonment under Article 159 TPC.

#### **Mehmet Kayik**

On 12 April Nusaybin Penal Court fined Mehmet Kayik, executive of DEHAP in Nusaybin district (Mardin), YTL 500 under Article 312 old TPC for having called Abdullah Öcalan "honorable" and demanded to lift his isolation in a press statement of March in connection with the anniversary of the massacre in Halebeje.

#### **Eren Keskin**

On 26 April Tunceli Penal Court sentenced Eren Keskin, chair of the İstanbul branch of the HRA, to five months' imprisonment under Article 159 old TPC. On a panel on "Women in Social Life" she had spoken about women who had been sexually assaulted in custody. The sentence was commuted to a fine of YTL 1,000.

#### **Mesut Beştaş**

In June Siirt Penal Court sentenced Mesut Beştaş, who had been a candidate for the position of mayor in Siirt during the elections of 28 March 2004, to six months' imprisonment because he had spoken Kurdish in the election campaign. The sentence was commuted to a fine of YTL 1,980. Together with earlier fines Mesut Beştaş was to pay YTL 2,420.

#### **Yusuf Uğur, Abdülaziz Bilgi**

On 27 April the 8th Chamber of the Court of Cassation quashed the sentences for Yusuf Uğur and

Abdülaziz Bilgi who had been convicted for having sung Kurdish songs at a meeting in Şırnak in 2003. The Court decided that the singing of songs was not covered with the Law on Elections that prohibited the use of languages other than Turkish. The Court of Cassation ruled that the defendants had to be acquitted.

#### **Tuncer Bakırhan, Bedri Fırat**

In July Erzurum Heavy Penal Court No. 2 acquitted DEHAP chair Tuncer Bakırhan and DEHAP chair for Erzurum province, Bedri Fırat from charges under Article 312 old TPC in connection with speeches they had held in Tekman district (Erzurum) on 28 October 2002. In 2003 Erzurum SSG had convicted the defendants and sentenced them to 10 months' imprisonment.

#### **Zehra Çomaklı**

On 25 November İstanbul Penal Court No. 2 acquitted Zehra Çomaklı, chair of Özgür-Der from charges under the Law to Protect Atatürk. She had been charged for a speech she had held on 4 July 2003 at a gathering of the Coordination of "No to the War in Iraq". The Court ruled that the material elements of the offence had not been fulfilled.

#### **Şefika Gürbüz**

In November the 8th Chamber of the Court of Cassation confirmed the sentence passed by İstanbul SSC on Şefika Gürbüz, chair of Göç-Der. In January 2004 İstanbul SSC had fined her under Article 312 TPC with TL 2.2 billion for the "Research Report on Forced Migration". The sociologist Mehmet Barut from Mersin University who had prepared the report had been acquitted.

#### **Hülya Şekerci, Hamza Türkmen, Ahmet Ağırakça, Mustafa Karahasanoğlu**

On 25 November Fatih Penal Court No. 2 acquitted Özgür-Der chair Hülya Şekerci, writer Hamza Türkmen, Prof. Dr. Ahmet Ağırakça and the journalist with the daily *Vakit* Mustafa Karahasanoğlu from charges under Article 312 TPC. They had been charged in connection with their press statement on 1 March 2003 against the participation of Turkish soldiers in the war in Iraq.

#### **Şükrü Oğuz**

On 27 November Siirt Penal Court fined Şükrü Oğuz, DEHAP chair in Siirt for the central district in connection with a speech he had held on Roj TV. The fine of YTL 740 was passed under Articles 215 and 218 new TPC. The incriminated words had been that he did not wish the mothers of soldiers and guerrillas to shed tears.

#### **Şükran Aydın**

In December the 8th Chamber of the Court of Cassation confirmed the fine against Şükran Aydın,

mayor in Bismil district (Diyarbakır). During a meeting in 2002 in Kulp district she had spoken in Kurdish and Kulp Penal Court had fined her YTL 1,526. Similar charges and convictions against Şükran Aydın exist for her speeches in Hani, Lice, Çermik and Hazro districts (Diyarbakır).

#### **Ferhat Kaya**

On 6 December Erzurum Heavy Penal Court No. 2 sentenced Ferhat Kaya, chair of DEHAP for the central district in Ardahan to six months' imprisonment. On a congress of the party on 28 April 2003 he had spoken of Abdullah Öcalan as "honorable Mr. Öcalan". Ferhat Kaya first had been convicted by Erzurum SSC under Article 312 TPC and following the amendments the latest conviction was based on Article 215 new TPC.

**Osman Çolakoğlu, Ali Çakır, Bülent Yıldırım, Orhan Koray Ergun, Erol Demiröz, Murat Ergenlioğlu, Cengiz Uzun, Ayhan Önem, Hürol Ertaş, Tarık Güvenç, Hakan Savunmuş**

On 13 December Kocaeli Penal Court acquitted the theater players from Ankara and the trade unionist Osman Çolakoğlu (teachers' union Eğitim-Sen) from charges brought in connection with the play "how to found a secret organization". Çolakoğlu and the theater artists Ali Çakır, Bülent Yıldırım, Orhan Koray Ergun, Erol Demiröz, Murat Ergenlioğlu, Cengiz Uzun, Ayhan Önem, Hürol Ertaş, Tarık Güvenç and Hakan Savunmuş had been charged with insulting the security forces.

#### **Şehmuz Ülek, Hrant Dink**

On 28 April Urfa Penal Court No. 3 started to hear the case of Şehmuz Ülek, deputy chair of Mazlum-Der and the editing director of the newspaper Agos, Hrant Dink in connection with speeches they held on a conference of the Urfa branch of Mazlum-Der on 14 December 2002 on security, terrorism, human rights and minority rights. Having held another hearing on 7 July the Court adjourned the case to 9 February 2006- Ülek and Dink are charged under Article 215 new TPC with praising a criminal and a crime.

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Form the Amnesty international report: **Turkey: Article 301 is a threat to freedom of expression and must be repealed now!** (AI Index: EUR 44/035/2005 of 1 December 2005)

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**Sehms Ulek** is the Vice-President of the Turkish human rights NGO Mazlum Der. On 28 April 2005 the Sanliurfa Court of First Instance No. 3 started hearing a case against him and **Hrant Dink**, under Article 159 of the old TPC (now Article 301) for speeches they made during a conference organized by Mazlum Der's Urfa branch on 14 December 2002 entitled "Global Security, Terror and Human Rights, Multi-culturalism, Minorities and Human Rights". Sehms Ulek referred in his speech to the nation-building project of the Turkish Republic as it had affected, in particular, the southeastern area of the country; Hrant Dink discussed his own relationship to official conceptions of Turkish identity. The next hearing of the case will take place on 9 February 2006.

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#### **Eyyüp Tatal, Halil Yazar, Güzel Kutlu, Mahmut Aslan, Fahri Yüksekayla and four people**

On 5 May Urfa Penal Court No. 1 started to hear the case of nine people who during the opening ceremony of a special Kurdish language course had shouted slogans in Kurdish and Turkish in favor of Abdullah Öcalan. The defendants including the representative of the daily *Özgür Gündem* in Urfa, Eyyüp Tatal are charged under Article 312 of the old TPC.

#### **Alaattin Dinçer, Yüksel Mutlu**

In May the prosecutor in Ankara indicted Alaattin Dinçer, chair of the teachers' union Eğitim-Sen and the executive of the HRA, Yüksel Mutlu in connection with speeches they held during a visit of the Peace Mothers to the trade union on 12 July 2004. The prosecutor demanded convictions under Article 312 old TPC, because in their speeches they had praised the head of the terror organization PKK as an ambassador of peace. On 19 July Ankara Penal Court No. 7 started to hear the case. Defense lawyer Zuhale Çolak said that her client Yüksel Mutlu had attended

the visit as an observer and had not delivered a speech. The court case did not conclude in 2005.

#### **Medeni Ayhan**

On demand of the General Staff the prosecutor in Ankara indicted the lawyer Medeni Ayhan in connection with a speech he allegedly held during the general assembly of Ankara Bar Association on 17 October 2004. Reportedly he said that he "as an individual of the Kurdish nation and a citizen of Kurdistan advocated the right of the Kurds to found a separate State". Medeni Ayhan was also quoted as feeling sorrow about the Armenian genocide. The prosecutor asked for a conviction under Article 312 old TPC. The trial started at Ankara Penal Court No. 15 on 3 June. After the hearing of 29 June the court decided to forward the case to a heavy penal court, because lawyers had to be tried there.

#### **Mihdi Perinçek, Selahattin Demirtaş**

The public prosecutor in Kızıltepe (Mardin) indicted the HRA representative for Eastern and Southeastern Anatolia, Mihdi Perinçek and the chair of the Diyarbakır branch of the HRA, Selahattin Demirtaş in

connection with a report the HRA published concerning the killing of Ahmet Kaymaz and his son Uğur Kaymaz in Kızıltepe (Mardin) on 21 November 2004. The prosecutor alleged that the report was a violation of Article 19 of the Press Law that related to the confidentiality of the preparatory investigation.

On 13 July Kızıltepe Penal Court No. 4 started to hear the case. After the hearing Selahattin Demirtaş said that the report had been prepared by five people but only two of them had been indicted. They had not even seen the cover of the prosecutor's file so that it was impossible for them to comment on the investigation. Demirtaş also raised the question that they were treated as journalists and charged under the Press Law. At the time the press officer of the General Directorate for Security, Ramazan Er, had made detailed statements on the results of the examination in the criminal laboratory. They had complained about this but the prosecutor in Ankara had argued against a case stating that the announcement of the press officer had been done in order to inform the public.

**Tuncer Bakırhan, Hatice Çoban, Alican Önlü, Muammer Değer, Orhan Miroğlu, Hüseyin Yılmaz, Mehmet Tusun, Veli Büyükkşahin**

In August the public prosecutor in Ankara indicted the chair of DEHAP, Tuncer Bakırhan and the officials Hatice Çoban, Alican Önlü, Muammer Değer, Orhan Miroğlu, Hüseyin Yılmaz, Mehmet Tusun and Veli Büyükkşahin and charged them with membership of an illegal organization and propaganda for an illegal organization because they had called Abdullah Öcalan "honorable Mr. Öcalan".

**Ender İmrek, Yavuz Karakuş, Mefair Altındağ, Ali Öncü**

On 28 December Diyarbakır Penal Court No. 1 continued to hear the case related to speeches at the 3<sup>rd</sup> Ordinary Congress of EMEP in Diyarbakır province. EMEP deputy chair Ender İmrek, EMEP chair in Diyarbakır province, Yavuz Karakuş, former HADEP chair for Diyarbakır province, Mefair Altındağ and the trade unionist Ali Öncü are charged under Article 301 new TPC. Defense lawyer Deniz Doğan argued that the speeches were only natural for politicians and had stayed in the limits of the freedom of expression. The hearing was adjourned to 11 May 2006.

**Hasip Kaplan**

In December the public prosecutor in Beyoğlu (İstanbul) indicted the lawyer Hasip Kaplan in connection with a speech he held on Flash TV on 30 May. He was charged under Articles 216/1 and 218 new TPC. The trial was to commence at Beyoğlu Penal Court No. 2.

**Shop Owners on Trial**

The prosecutor in İstanbul indicted the owners of nine shops in Aksaray and Laleli quarters. In protest at

constant visits by the police they had not opened their shops on 24 November and put up posters against the pressure of the police. The prosecutor asked for convictions under Article 301/4 TPC. The trial was to start at İstanbul Peace Court on 20 March 2006.

**Ethem Gürsu**

The prosecutor in Konya indicted Ethem Gürsu, inspector of the Ministry for National Education under Law 5816 on Protection of Atatürk. Allegedly Ethem Gürsu stated on a conference for teachers on 26 June that "Atatürk whom they praised to the skies had not rescued him since he died 20 years before he was even born.

**Journalists on Trial**

On 25 April the Press Council published its report on imprisoned journalists as of 1 January. The report stated that the situation of 32 people had been investigated under the aspect of whether these prisoners were of special concern for the Press Council and concluded that there was nobody imprisoned for their journalistic activities.

According to the Solidarity Platform of Imprisoned Journalists the following journalist were imprisoned as of 31 December 2005:

- 1- **Memik Horuz**, editor of the paper *İşçi Köylü*, Bolu F-type Prison
- 2- **Erol Zavar**, owner and editor-in-chief of *Odak*, Sincan F-type Prison
- 3- **Gülizar Kesici**, editing director of *Ekmek ve Adalet*, Gebze Special Type Prison
- 4- **Hatice Duman**, owner and editor-in-chief of *Atılım*, Gebze Special Type Prison
- 5- **Metin Yavuz**, owner of *Yaşadığımız Vatan*, Tekirdağ F-type Prison
- 6- **Mehmet Yayla**, reporter of *Gençlik Gelecektir*, Kandıra F-type Prison No. 2
- 7- **Mustafa Gök**, Ankara representative of *Ekmek ve Adalet*, Sincan F-type Prison
- 8- **Cengiz Doğan**, editor-in-chief of *Mavi ve Kent* (Nusaybin), Mardin E-type Prison

**Trial against the Kırandı Mission**

On 11 July HPG militants kidnapped the soldier Coşkun Kırandı on the road between Tunceli and Erzincan. On 4 August a mission was successful in securing his release. In December the members of this mission: Selahattin Demirtaş, chair of the Diyarbakır branch of the HRA, Mihdi Perinçek, HRA representative for the region, singer Ferhat Tunç, DEHAP deputy chair Alaaddin Erdoğan, Özgür Söylemez, member of the local parliament in Tunceli, Umur Hozatlı, reporter of *Özgür Gündem*, Ferit Demir, reporter of DHA, Haydar Toprak, reporter of the

Anatolian news agency and the reporters of DİHA, Kadir Özbek and Rüştü Demirkaya were indicted for having disseminated propaganda for an illegal organization.

#### **Yaşar Çamyar - *Alinterimiz***

Former editor-in-chief of the journal *Alinterimiz*, Yaşar Çamyar, was released on 7 February because of amendments to the TPC. Yaşar Çamyar had been sentenced to 16 months' imprisonment under Article 159 old TPC. He had been arrested on 17 December 2004.

#### **Ülkede Özgür Gündem**

On 27 April the daily *Ülkede Özgür Gündem* announced that 304 court cases had been initiated against the paper which had published 423 editions (so far). Of these trial 54 were conducted at Beyoğlu Penal Court No. 2; 241 at heavy penal courts that had replaced the state security courts. Nine trials were being conducted at various courts. Nine trials had ended in conviction, while 18 trials had resulted in acquittal.

Lawyer Özcan Kılıç, acting for *Ülkede Özgür Gündem* stated that of 16 trials conducted at İstanbul Heavy Penal Court No. 9 (previously İstanbul SSC No. 1) 14 had resulted in conviction under Article 6/2 ATL; one had resulted in conviction under Article 7/2 ATL and one had resulted in acquittal. The editor-in-chief had been sentenced to 10 months' imprisonment and fined YTL 18,583 and the owner Ali Gürbüz had been fined YTL 35,564.

At İstanbul Heavy Penal Court No. 10 (previously İstanbul SSC No. 2) 27 trials ended with convictions under Articles 6/2 and 7/2 ATL. Hasan Bayar was sentenced to a total of 60 months' imprisonment. Some examples of trials against the daily *Özgür Gündem* are:

#### **Ali Gürbüz, Hasan Bayar**

On 4 May İstanbul Heavy Penal Court No. 14 started to hear the case of Ali Gürbüz, owner of *Özgür Gündem* and Hasan Bayar, editor-in-chief of the paper in connection with the revelations of JİTEM staff Abdülkadir Aygan. Defense lawyer İnan Akmeşe stated that the people named in connection with the killing of Musa Anter had been put on trial in Diyarbakır. The trial based on charges of showing members of the security forces as targets (Article 6/1 ATL) did not conclude in 2005.

#### **Birgül Özbarış**

On 8 December Beyoğlu Penal Court No. 2 started to hear the case of *Ülkede Özgür Gündem* reporter Birgül Özbarış. She was charged with discouraging people from conducting military service in articles that were published on 14 May, 24 September and 19 October.

#### **Ferhat Tunç, Mehmet Çolak**

Throughout 2005 Beyoğlu Penal Court No. 2 continued to hear the case of singer Ferhat Tunç and

the then editor-in-chief of *Özgür Gündem* in connection with an article of 19 January 2004. The trial had been initiated in 2004, but did not conclude in 2005.

#### **Ragıp Zarakolu, Ali Çelik Kasımoğulları, Mehmet Çolak**

On 2 March Beyoğlu Penal Court No. 2 continued to hear the case of publisher Ragıp Zarakolu in connection with an article in *Yeniden Özgür Gündem* of 8 March 2003. During the hearing Ragıp Zarakolu stated that he could not understand why he was put on trial for having opposed the participation of Turkey in an unjustified war. This re-trial did not conclude in 2005.

The first trial had concluded at İstanbul Heavy Penal Court No. 14 on 10 September 2004. The owner of *Yeniden Özgür Gündem*, Ali Çelik Kasımoğulları had been fined TL3.3 billion under Article 7/2 ATL and the editor-in-chief Mehmet Çolak had been fined TL 3.7 billion. The case of Ragıp Zarakolu had been separated since he should be tried under Article 312 old TPC.

#### **Other Journalists**

#### **Alev Çukurkavaklı-Hergele, Deli Yürek**

In January Bakırköy Penal Court No. 2 sentenced Alev Çukurovalı who in 2000 had published the journals "Perfect Stranger" (Hergele) and "Crazy Heart" (Deli Yürek) to 367 days' imprisonment and a fine of TL 7 billion on charges of having published obscene material.

#### **Tolga Şardan, Gökçer Tahincioğlu, Eren Güvener-*Milliyet***

On 3 February a trial against the journalists Tolga Şardan and Gökçer Tahincioğlu and the editor-in-chief of *Milliyet* started. They were charged with an offence under Law 4422 on Fight against Criminal Organizations. This law was abolished on 1 June so that the prosecutor asked during the hearing of 25 October that the hearings should be held at a penal court under Article 285 new TPC.

In connection with the same articles Eraslan Özkaya, former President of the Court of Cassation had asked for compensation, but in September Ankara Judicial Court No. 15 rejected the demand. The journalists had reported on connections of Mafia boss Alaattin Çakıcı with the secret service MIT and the Court of Cassation.

#### **Tolga Şardan, Eren Güvener, Hasan Çakkalkurt-*Milliyet, Posta, Radikal***

On 9 June Bağcılar Penal Court No. 2 acquitted the reporter Tolga Şardan and editor-in-chief of *Milliyet*, Eren Güvener in connection with 7 articles on the connection of Mafia boss Alaattin Çakıcı to the secret service MIT and the Court of Cassation. They had been charged under Article 19 of the Press Law.

On the same day the editor-in-chief of the dailies *Posta* and *Radikal* Hasan Çakkalkurt was acquitted on charges related to articles on the same subject dated 20 August 2004 (*Radikal*) and 12 October 2004 (*Posta*).

#### **Fatih Demir, Yeter Cemile Gündoğdu-Radyo Dünya**

On 3 February Adana Heavy Penal Court No. 6 acquitted the editing director of the radio station *Özgür* (Adana), Fatih Demir and the speaker Yeter Cemile Gündoğdu because of a lack of evidence. They had been charged under Article 7/2 ATL.

The Ministry for Industry and Trade had asked the court to ban the company running the radio station. Adana Heavy Penal Court No. 6 turned down the request pointing at the acquittal.

#### **Hakkı Sağlam-Sakarya**

On 29 March Eskişehir Penal Court No. 2 started to hear the case of Hakkı Sağlam, editor-in-chief of the local newspaper *Sakarya* published in Eskişehir in connection with a cartoon on Prime Minister Recep Tayyip Erdoğan. The court dropped the case because it had not been initiated within two months after the cartoon had been published (on 6 July 2004; the court case had been initiated on 4 February).

For the cartoon Musa Kart from the daily *Cumhuriyet* had been ordered to pay compensation of YTL 5,000 to Recep Tayyip Erdoğan, while the columnist Önder Baloğlu from the paper *Sakarya* who had published a copy in his column did not have to pay compensation.

#### **Mehmet Şevki Eygi, Selami Çalışkan-Milli Gazete**

On 15 March the Panel of Chambers at the Court of Cassation confirmed the sentence of journalist Mehmet Şevki Eygi and the editor-in-chief of *Milli Gazete* Selami Çalışkan in connection with an article of 15 November 2000 entitled "Terror of Enemies of Religion". On 9 October 2002 İstanbul SSC had sentenced the journalist under Article 312 old TPC to 20 months' imprisonment. The sentence of Çalışkan was commuted to a fine of TL 1.8 billion. In September 2004 the 8th Chamber of the Court of Cassation had quashed the sentences ruling that the article did not carry expressions that called for violence and there was no imminent danger.

#### **Hüseyin Aygün, İnan Yılmaz-Munzur Haber**

On 24 February the prosecutor in Tunceli decided not to bring charges against Hüseyin Aygün, former chair of Tunceli Bar Association and owner of the local newspaper *Munzur Haber* and the editor-in-chief İnan Yılmaz. The investigation had been launched under Article 159 old TPC in connection with an article on village headmen in Hozat district having been

threatened. The appeal against this decision was turned down by Malatya Prosecutor's Office on 6 September.

#### **Hüseyin Aygün, İrfan Uçar, Hasan Bayar-Munzur Haber, Özgür Gündem**

During a press conference at the Elazığ branch of the HRA Hüseyin Aygün announced that he had been threatened by the commander of the gendarmerie in Tunceli, Major Namık Dursun (see the Chapter on the Kurdish question).

Once the news had been reported in the press Hüseyin Aygün published the rectification of Dursun in his newspaper *Munzur Haber*. However, the public prosecutor in Tunceli indicted Hüseyin Aygün and the editing director of *Özgür Gündem*, İrfan Uçar and the editor-in-chief, Hasan Bayar under Article 482 for insult. The trial started at Tunceli Penal Court on 13 May. After the hearing of 11 July the court decided to combine the case with a separate trial at Elazığ Penal Court No. 2 where the same people had been indicted on charges of threats.

#### **Erkan Sarıçam, Murat Tosumoğlu-Yeni Zemin, Kocaeli Gerçek**

In March Gebze Penal Court No. 2 acquitted the owner of the local weekly *Yeni Zemin* and the owner of the weekly *Kocaeli Gerçek*, Murat Tosumoğlu in connection with charges that had been brought on complaint of the district's governor claiming that the newspapers had not provided the necessary documents.

#### **Eren Güvener-Milliyet**

On 12 April the former editor-in-chief of the daily *Milliyet*, Eren Güvener was acquitted for charges of having disclosed secrets of the State by publishing excerpts from the book of Fikret Bila entitled "Initiatives for a civilian coup d'etat and the Iraq wars in Ankara".

#### **Vedat Büyüksahin, Abdürrezzak Taş-Bingöl Ab-ı Hayat**

On 14 April Bingöl Penal Court No. 2 acquitted the owner of the local newspaper *Bingöl Ab-ı Hayat*, Vedat Büyüksahin and the editor-in-chief Abdürrezzak Taş who had been tried for having putt he wrong address and date in the newspaper.

#### **Gökhan Bozkurt, Ahu Özyurt, Caferi Tayyar Özilhan-CNN Türk**

The public prosecutor in İstanbul indicted the journalist Gökhan Bozkurt, the producer of the program *Night Views* Ahu Özyurt and the responsible director of CNN Türk (TV), Caferi Tayyar Özilhan for having published the recording of phone conversations between AKP

deputy Cemal Kaya and civil servants investigating allegations of fraud in the Ministry of Energy.

#### **Ersen Korkmaz-Demokrat İskenderun**

In 2005 İskenderun Penal Court No. 4 continued to hear the case of Ersen Korkmaz, editor-in-chief of the local weekly *Demokrat İskenderun* and the TKP official Necmettin Salaz. They had been indicted under Article 159 old TPC. After the hearing of 27 December the court decided not to be competent and sent the file to İskenderun Penal Court No. 2. The trial had been initiated after an article in the newspaper on a meeting of the TKP in September 2002. The article of 1 October 2002 had been entitled "The Leader of the Kurds was captured and handed over to the fascists". Necmettin Salaz had been indicted for a speech he held during the meeting.

In June Ersen Korkmaz was indicted for an article of 12 April on the First of May. He was accused of having insulted the State authorities. The first hearing was held on 21 October and adjourned to 17 March 2006 for an expert to express his opinion on the case.

#### **Hacı Boğatekin-Gerger Fırat**

On 27 April Adıyaman Penal Court continued to hear the case of Hacı Boğatekin, owner and editor-in-chief of the newspaper *Gerger Fırat* published in Adıyaman. He was charged under Article 159 old TPC for an article that had been published in August 2004 under the title "Gang State". The Court rejected the demand of the defendant to hear certain witnesses. After this decision the defendant objected to the judge. The file was sent to Adıyaman Heavy Penal Court to decide on the objection. The rejection of the objection was announced during the hearing of 22 June. On 6 June Adıyaman Penal Court acquitted the defendant. On the same day Hacı Boğatekin was fined YTL 1,000 for not having informed the public prosecutor of the nature of his publication.

#### **Sebati Karakurt, Hasan Kılıç, Necdet Tatlıcan-Hürriyet**

On 25 October İstanbul Heavy Penal Court No. 10 decided to forward the case of the journalist Sebati Karakurt and the owners of the daily *Hürriyet*, Hasan Kılıç and Necdet Tatlıcan to a penal court. The trial had been initiated under Articles 6/2 and 7/2 ATL for an article that had been published in the Sunday supplement of the daily on 10 October 2004 under the title "The female consciousness in the Kandil Mountains has overtaken Kurdish nationalism".

#### **Toygun Atilla, Çetin Aydın-Hürriyet**

On 25 October İstanbul Heavy Penal Court No. 10 decided on not being authorized to hear the case of the journalists Toygun Atilla and Çetin Aydın who had reported on police operations against the Mafia boss Sedat Peker and his group. The trial had been initiated

under Article 10 of the Law 4422 to Fight Criminal Organizations that prohibited the distribution of confidential information.

#### **Rahmi Yıldırım-sansürsüz**

The General Staff complained to the Justice Minister about an article which the journalist Rahmi Yıldırım published on the Internet site sansursuz.com on 23 January 2005 under the title "Knowing the job and putting on a sword". When the same article was published in the journal *So!* the General Staff filed a second complaint.

Rahmi Yıldırım was indicted in May under Article 159 old TPC. On 7 September Ankara Penal Court No. 12 started to hear the case. The defendant said that the indictment had not quoted his article correctly and the wording in the indictment did not reflect his thoughts. He further argued that the new penal code did not contain an offence as described in Article 159 old TPC. Rahmi Yıldırım also said that he had not criticized the army but only named some generals who had been involved in fraud.

The last hearing was held on 24 October, The public prosecutor argued that even though the article was written in a harsh language the limits of criticism had not been exceeded and, therefore, the defendant should be acquitted. The court followed the arguments and acquitted the Rahmi Yıldırım.

#### **Selahattin Aydar-Milli Gazete**

On 13 June İstanbul Heavy Penal Court No. 14 sentenced Selahattin Aydar, journalist with the *Milli Gazete* to 20 months' imprisonment under Article 312 old TPC for an article that had been published on 11 September 2001 under the title "Let us take possession of our children". Earlier Selahattin Aydar had been tried at İstanbul SSC and in March 2004 the 8<sup>th</sup> Chamber of the Court of Cassation had confirmed the conviction. The prosecutor at the Court of Cassation had objected and the Panel of Chambers of the Court of Cassation had quashed the verdict with 14 against 13 votes. However, since the judgment was passed on objection of the prosecutor it was not legally binding and, therefore İstanbul Heavy Penal Court No. 14 had taken up the case again. The Panel of Chambers of the Court of Cassation will again have to deal with the case

#### **Elif Korap, Eren Güvener-Milliyet**

On 22 June Bağcılar Penal Court No. 2 acquitted the journalist Elif Korap and the editor-in-chief of the daily *Milliyet*, Eren Güvener from charges brought in connection with an interview with the son of İlyas Kuncak, Nurullah Kuncak, who on 20 November 2003 had conducted a suicidal attack on the General Directorate of the HSBC Bank. The Court argued that the legal element of the offence had not materialized.

**Halil Eyüpoğlu, Atilla Konukoğlu-Zafer**

On 10 June Gaziantep Penal Court No. 2 sentenced Halil Eyüpoğlu, columnist with the local newspaper *Zafer* (Gaziantep) to 3 months and 3 days' imprisonment. The sentence was commuted to a fine of YTL 1,481. The trial had been initiated because of an article dealing with Prime Minister Recep Tayyip Erdoğan. In a separate case the Prime Minister had been awarded compensation of YTL 3,000 for the offence contained in the article.

**Sami Tan, Serdar Altan, Birol Duru-DİHA**

On 13 July Bingöl Penal Court started to hear the case of Rıdvan Kızgın, chair of the Bingöl branch of the HRA, Sami Tan, editor-in-chief of the news agency DİHA and the journalists Serdar Altan and Birol Duru in connection with a press statement of 24 September 2004 in which Rıdvan Kızgın had alleged that the forests were set on fire because of artillery fire. Rıdvan Kızgın and Sami Tan were charged under Article 283 old TPC for having complained about a non-existing crime and Serdar Altan and Birol Duru who had published an article under the title "Soldiers set the woods on fire" were charged under Article 159 old TPC (also see the Chapter on Freedom of Communication).

**Rojda Kızgın, Adil Önal, Şeyhmus Çakan, Vedat Büyükkşahin-DİHA, DHA, Ab-ı Hayat**

In June Bingöl Penal Court No. 2 started to hear the case of Rıdvan Kızgın, chair of the Bingöl branch of the HRA, Rojda Kızgın, reporter with DİHA, Adil Önal and Şeyhmus Çakan, reporters with DHA and Vedat Büyükkşahin, editor-in-chief of the local paper *Ab-ı Hayat* in connection with a press statement on the alleged rape of a mute-deaf girl (N.S.) by Yunus Sayın, the son of a village guard in Ardiçdibi village in Genç district (Bingöl). The case had been opened after the defendants had refused to pay an initial fine of YTL 20,000 on the complaint of the father of Yunus Sayın who had alleged that the report had exceeded the limits of mere information.

**Emin Karaca, Doğan Özgüden, Mehmet Emin Sert-Avrupa'da ve Türkiye'de Yazın**

On 22 June İstanbul Penal Court No. 2 continued to hear the case based on articles in the journal *Avrupa'da ve Türkiye'de Yazın* in April 2002. Emin Karaca was charged for an article entitled "What 30 years remind us of" and Doğan Özgüden was charged for an article entitled "30 Years Later". Mehmet Emin Sert was charged as editor-in-chief of the journal. During the hearing the public prosecutor asked for conviction of Emin Karaca under Article 301/2 new TPC. He wanted Mehmet Emin Sert to be acquitted and the file of Doğan Özgüden to be separated since he was living abroad. On 13 September the Court sentenced Emin Karaca to five months' imprisonment. The sentence was commuted to a fine of YTL 900 and suspended. Mehmet Emin Sert was acquitted and the file of Doğan Özgüden was separated.

**Hrant Dink, Karin Karakaşlı-Agos**

On 8 July İstanbul Penal Court No. 2 continued to hear the case of Hrant Dink, editing director of the journal *Agos* and Karin Karakaşlı, editor-in-chief of the journal on charges under Article 159 old TPC. Mehmet Soydan who had filed the complaint and the lawyers Zeki Hacı İbrahimioğlu, Zekeriya Şerbetçioğlu, Kemal Kerişsiz, Namık Nas, Ramazan Kırkık, Ramazan Bakkal, Mustafa Özkurt, Sami Esen and Musa Gümüş asked to be accepted as sub-plaintiffs. They objected to an expert opinion prepared at the Faculty of Law of İstanbul University. The report had argued that the expression of "poisoned blood" did not refer to being Turkish but a wrong understanding of the Armenian identity. On 7 October İstanbul Penal Court No. 2 sentenced Hrant Dink to six months' imprisonment and dropped the case against Karin Karakaşlı on the grounds of amended provisions in the new TPC. The sentence of Dink was suspended.

Form the Amnesty international report: **Turkey: Article 301 is a threat to freedom of expression and must be repealed now!** (AI Index: EUR 44/035/2005 of 1 December 2005)

...

**Hrant Dink** is a journalist and the editor of the Armenian-language weekly newspaper *Agos*, which is published in İstanbul. On 7 October 2005, Hrant Dink was given a six-month suspended prison sentence by the Sisli Court of First Instance No. 2 in İstanbul for "denigrating Turkishness" in an article he wrote on Armenian identity. According to the prosecutor in the case, Hrant Dink had written his article with the intention of denigrating Turkish national identity. The court suspended the sentence as the journalist had no previous convictions, on condition that he does not repeat the offence. Hrant Dink is currently appealing the decision. Should he be imprisoned, Amnesty International would consider him to be a prisoner of conscience.

**Sarkis Seropyan, Arat Dink-Agos**

On 9 December Şişli Penal Court No. 2 acquitted the owner of the journal *Agos*, Sarkis Seropyan and the editor-in-chief Arat Dink from charges of having commented on an ongoing trial. The Court argued that the article had contained objective information and no comment.

**Hrant Dink, Arat Dink, Sarkis Seropyan, Aydın Engin-Agos**

In December the public prosecutor in Şişli (İstanbul) indicted the editing director of the journal *Agos*, Hrant Dink, the editor-in-chief Arat Dink, the owner Sarkis Seropyan and the journalist Aydın Engin for articles of

14 October that had dealt with the decision of 7 October. The prosecutor indicted the defendants under Article 288 with the attempt to influence a fair trial. Reportedly the case was initiated in complaint of some lawyers including Kemal Kerinçsiz.

**İlhan Selçuk, İbrahim Yıldız, Mehmet Temoçin Sucu, İlhan Taşçı-Cumhuriyet**

The public prosecutor in İstanbul indicted the owner of the daily *Cumhuriyet*, İlhan Selçuk, the editing director İbrahim Yıldız, the editor-in-chief, Mehmet Temoçin Suçu and the reporter İlhan Taşçı in connection with an article of 1 January on the killing of Ahmet Kaymaz and his son, Uğur Kaymaz in Kızıltepe district (Mardin, in November 2004). The indictment alleged that the article contained details from an indictment that had not been introduced in the trial. The article criticized the indictment as being full of contradiction and argued that it was a hint at an extra-judicial execution that the confessor Halil İbrahim Öztürk whose information allegedly had resulted in the operation had been detained one day after the incident.

On 21 December İstanbul Penal Court No. 2 started to hear the case and adjourned the hearing to 31 January 2006. The defendants are charged under Article 19 of Press Law 5187 and Article 119 new TPC.

**Cumhur Kılıçoğlu-Siirt'te Mücadele**

In October the public prosecutor in Siirt indicted Cumhur Kılıçoğlu, owner of the local newspaper *Siirt'te Mücadele* under Article 125 new TPC (insult). The case was opened on complaint of Dr. Ergun Çelik from Dicle University.

**Abdurrahman Dilipak, Mustafa Karahasanoğlu, Adnan Tanrıverdi, Hüseyin Arı, Mustafa Hacimustafaoğulları-Cuma**

On 7 September İstanbul Military Court continued to hear the case of the journalist Abdurrahman Dilipak, the editor-in-chief of the journal *Türkiye'de Cuma*, Mustafa Karahasanoğlu, pensioned General Adnan Tanrıverdi, pensioned Colonel Hüseyin Arı and pensioned Major Mustafa Hacimustafaoğulları in connection with an article of 29 August 2003 entitled "If Generals don't Listen". In July 2004 the military court had ruled that the case should be heard at Bakırköy Penal Court, but the Court of Cassation had sent back the file to the military court. The trial did not conclude in 2005.

**Abdurrahman Dilipak-Akit**

On 11 October Bağcılar Penal Court No. 2 continued to hear the case of Abdurrahman Dilipak in connection with an article in the daily *Akit* of 27 April 2001 entitled "My home country is different". The hearing was adjourned to 18 April 2006. In 2001 the public prosecutor had indicted Dilipak under Article 312 TPC. After legal amendments the charges were changed to

Article 216 new TPC and the file was transferred from İstanbul SSC to a penal court.

**Abdurrahman Dilipak-Vakit**

On 29 November Bağcılar Penal Court No. 2 continued to hear the case of Abdurrahman Dilipak for an article in the daily *Vakit* of 9 November 2003 under the title "Sezer should henna himself". The defendant argued that public authorities such as the Prime Minister or the State President had to accept harsher criticism of journalists than usual citizens. The trial did not conclude in 2005.

**Hamdullah Yılmaz-Azadiya Welat**

On 24 July İstanbul Heavy Penal Court No. 14 started to hear the case of Hamdullah Yılmaz, editor-in-chief of *Azadiya Welat* published in Kurdish. The indictment accused him of having made propaganda for the PKK in a series that was published between 24 and 30 January

**Mehmet Ali Birand, İrfan Dünder, Mahmut Şakar, Doğan Erbaş-CNN Türk**

On 14 October İstanbul Heavy Penal Court No. 14 continued to hear the case of Mehmet Ali Birand, responsible for the program 32<sup>nd</sup> Day on CNN-Türk. In connection with the edition of 8 April 2004 the lawyers of Abdullah Öcalan, İrfan Dünder, Mahmut Şakar and Doğan Erbaş were charged with him on the allegation that they supported Kongra-Gel. The lawyer requested that the ban to visit their client was lifted, but the court rejected the demand. The trial did not conclude in 2005.

**İlhan Selçuk, Mehmet Sucu, Alper Turgut-Cumhuriyet**

The owner of the daily *Cumhuriyet*, İlhan Selçuk, the editor-in-chief Mehmet Sucu and the reporter Alper Turgut were tried at İstanbul Penal Court No. 2 because they did not pay the fine of YTL 60,000 in connection with a report on a torture trial. The article had been on the trial of police officers alleged to have tortured Ahmet Turan, Müslüm Turfan and Dinçer Erduvan and the journalists were accused of having influence the judiciary. They had been fined under Article 19/2 of the Press Law.

**Gülten Aydın, Hasan Kılıç-Hürriyet**

On 17 October Datça Penal Court sentenced Gülten Aydın for a report on Sinan Kara's Black Book. Her sentence of 3 months' imprisonment was commuted to a fine of YTL 784. The editor-in-chief Hasan Kılıç was acquitted.

**Neşe Düzel, Orhan Doğan-Radikal**

In November the public prosecutor in İstanbul-Bağcılar indicted the journalist with the daily *Radikal*, Neşe Düzel and former deputy and founder of the DTP Orhan Doğan on charges of having disseminated

propaganda for an illegal organization. The charges were based on an interview that was published in the paper on 15 August.

**İsmet Berkan, Erol Katırcıoğlu, Murat Belge, Haluk Şahin, Hasan Cemal-Radikal, Milliyet**

In December the public prosecutor in İstanbul-Bağcılar indicted the editor-in-chief of the daily *Radikal*, İsmet Berkan, the journalists Erol Katırcıoğlu, Murat Belge, Haluk Şahin and the journalist with *Milliyet*, Hasan Cemal for articles on the postponement of a conference at the Bosphorous University on the Armenian question. The indictment alleged that the journalists had tried to influence the judiciary and had insulted State authorities. The charges had been brought on complaint of the Union of Jurists. The trial was to start at Bağcılar Penal Court No. 2 on 7 February 2006.

**Ali Kırca, Ertuğrul Maviöğlü-ATV**

On 8 December İstanbul Peace Court No. 2 started to hear the case of journalist Ertuğrul Maviöğlü and the moderator of the program "Political Square" broadcasted on ATV. During the program the military coup of 12 September (1980) had been criticized and the prosecutor alleged that members of the security forces had been shown as targets for illegal organizations (an offence under Article 6 ATL). During the hearing Ertuğrul Maviöğlü said that the presiding judge of Ankara Heavy Penal Court No. 11, Mehmet Orhan Karadeniz had filed a complaint, because he had accused him of kicking defendants out of the court room. Yet, it was not the duty of a judge to fight terrorism. The hearing was adjourned to 7 February.

**Mehmet Aslan-Dema Nu**

On 14 December Beyoğlu Penal Court No. 2 sentenced Mehmet Aslan, editor-in-chief of the weekly *Dema Nu* published in Kurdish and Turkish for an article written by Kemal Burkay and published on 15 March 2002 under the headline "It is comic to put he generals on trial". The Court commuted the sentence of 5 months' imprisonment passed under Article 159 old TPC to a fine of YTL 900.

**Aydoğan İnal-Dema Nu**

On 14 December Beyoğlu Penal Court No. 2 sentenced Aydoğan İnal, editor-in-chief of *Dema Nu*, for an article of 1 November 2003 under the title "405 Turkish soldiers raped one woman – does Iraq wait for these soldiers?". The court commuted the sentence of 5 months' imprisonment passed under Article 159 old TPC to a fine of YTL 1,350.

**Murat Yetkin-Radikal**

In December the prosecutor in İstanbul-Bağcılar indicted the Ankara representative of the daily *Radikal*, Murat Yetkin under Article 288 new TPC for he

attempt to influence a fair trial. The charges were based on an article of 18 September entitled "In the trial of Orhan Pamuk Turkey will be charged".

**Cengiz Doğan-Mavi ve Kent**

On 13 September Orhan Doğan, editor-in-chief of the newspaper *Mavi ve Kent*, published in Nusaybin (Mardin) was imprisoned. He was charged with disseminating propaganda of an illegal organization and praising a crime and a criminal, because he had published announcements of the HPG in the editions 37, 38, 44 and 45. The trial at Diyarbakır Heavy Penal Court No. 5 did not conclude in 2005.

**Erol Özkoray-İdea Politika**

In 2005 the court case against Erol Özkoray, editing director of *İdea Politika* continued. He was charged under Article 301 new TPC (former Article 159) for two articles in 2001. Earlier he had been tried at a heavy penal code and had been fined. The Court of Cassation ruled that the trial should be conducted according to the new TPC.

**Aziz Özer-Yeni Dünya İçin Çağrı**

On 22 December İstanbul Penal Court No. 2 sentenced Aziz Özer, editor-in-chief of the journal *Yeni Dünya İçin Çağrı*, for an article in the 71<sup>st</sup> edition of the journal. The sentence of 6 months' imprisonment was commuted to a fine of YTL 3,000.

On the same day the court concluded a trial for an article in the 72<sup>nd</sup> edition of the journal. The Court commuted the sentence of 12 months' imprisonment to a fine of YTL 6,000.

On 14 December İstanbul Penal Court No. 2 had convicted the reader Erkan Akay for an article that had been published in April. The Court sentence Erkan Akay under Article 301/1 new TPC to one year's imprisonment. The sentence was suspended since Erkan Akay had no previous record.

**Judgments of the European Court of Human Rights (ECtHR)**

On 11 January the ECtHR concluded the following two cases.

**Halis v. Turkey** (no. 30007/96)

Atilla Halis, born in 1969 and living in İstanbul, reviewed four books about problems relating to Turkey's south-eastern region in the 2 January 1994 edition of the newspaper *Özgür Gündem*. One of the books, "*Tasfiyeciliğin Tasfiyesi*", was written by the leader of the PKK, Abdullah Öcalan.

On 20 March 1995 İstanbul State Security Court found the applicant guilty of disseminating propaganda about an illegal separatist organisation and sentenced him to one year's imprisonment and to a fine of four hundred million Turkish liras. The execution of his sentence was suspended on 25 July 2002.

The ECoHR attached particular significance to the fact that the applicant was convicted and sentenced to imprisonment for disseminating propaganda about the PKK even though the impugned article was never actually disseminated, since the 2 January 1994 edition of *Özgür Gündem* was seized before it was distributed. The Court further observed that, notwithstanding the fact that the execution of the sentence imposed on the applicant was suspended, he nevertheless faced the threat of a heavy penalty.

Finding that the applicant's conviction was disproportionate to the aims pursued and, accordingly, not "necessary in a democratic society", the Court held, unanimously, that there had been a violation of Article 10.

The ECoHR awarded the applicant EUR 2,000 in respect of non-pecuniary damage and EUR 1,375 for costs and expenses.

#### **Zana and Others v. Turkey**

Leyla Zana, Veysel Turhan and Hamit Geylani were born in 1961, 1968 and 1947 respectively. Mrs Zana is a former member of the DEP (Democracy Party) that was dissolved by the Constitutional Court. Mr Turhan is the former president of the *HADEP* (People's Democracy Party) in the province of Siirt and Mr Geylani was the Secretary General of that party.

They were sentenced to one year and four months' imprisonment and the payment of a fine for publishing separatist propaganda after an article and a statement published by Mr Turhan and Mr Geylani had appeared in the January 1997 edition of the *HADEP* monthly journal. Mrs Zana was also sentenced to two years' imprisonment and a fine for inciting hatred and hostility on the basis of a distinction made on the grounds of social class, race and religion.

The applicants alleged under Article 10 (freedom of expression) that their convictions by a national security court which failed to meet the independence and impartiality requirements set out in Article 6 § 1 (right to a fair hearing) had constituted a violation of their freedom of expression.

The case was struck out of the list following a friendly settlement under which Mrs Zana will receive EUR 9,000 for damage and for costs and expenses. Mr Turhan and Mr Geylani will each receive EUR 7,000 for damage and EUR 1,500 jointly for costs and expenses. (The judgment is available only in French).

A judgment of 13 January:

#### **Dağtekin v. Turkey** (no. 36215/97)

Hasan Dağtekin was born in 1959 and lives in Diyarbakır. At the material time he was the owner and editor of the "Dilan" publishing house.

In 1994 he published a novel written by Rıza Çolpan, entitled "Xide Naxirvan U Tevkustina Dersim" (Xide Naxirvan and the Genocide of Dersim), which criticised the pressure that Turkey had allegedly exerted on the Kurdish people throughout history. As a result of its publication, Ankara State Security Court, in a judgment of 14 November 1995, instructed the applicant to pay a fine for disseminating separatist propaganda and ordered the confiscation of the disputed book. That verdict was upheld by the Court of Cassation.

The ECoHR held that the grounds put forward by the Turkish courts could not in themselves be considered sufficient to justify the interference with the applicant's right to freedom of expression. Although certain particularly acerbic passages in the book presented an extremely negative picture of the history of the Turkish State, thus giving the story a hostile connotation, they did not incite the use of violence, armed resistance or insurrection; nor was the book an example of hate speech.

Accordingly, it concluded unanimously that there had been a violation of Article 10 and awarded Mr Dağtekin EUR 1,500 in respect of pecuniary damage, EUR 2,000 in respect of non-pecuniary damage and EUR 2,000 for costs and expenses.

Judgment of 25 January:

#### **Karademirci and Others v. Turkey** (nos. 37096/97 and 37101/97)

İsmail Karademirci, Mehmet Zencir, Şennur Yılmaz, Ayla Bilir, Ayfer Aydoğdu and S.T. were born in 1961, 1964, 1966, 1966, 1961 and 1972 respectively and live in İzmir (Turkey). Mr Karademirci is the chairperson of the Union of Health Professionals for the İzmir region.

On 30 June 1995 25 persons, including the applicants, gathered in front of the *Yenişehir Meslek Lisesi* secondary school. Mr Karademirci read out a text signed by the İzmir branches of the Union of Health Professionals (*Tüm Sağlık Sen*) and of the Union of Education Professionals (*Eğitim Sen*), criticising the treatment meted out to certain pupils in the *İzmir Atatürk Sağlık Meslek Lisesi* secondary school.

The persons who attended that meeting were prosecuted for making a "statement to the press" (*basın açıklaması*) without having first submitted the text of the statement to the public prosecutor's office, in accordance with sections 44 and 82 of the Associations Act (Law no. 2908). On 13 February 1996 the applicants and the other co-defendants were sentenced to three months' imprisonment, which was commuted to a suspended fine. They appealed unsuccessfully on points of law.

The ECoHR Court noted that the applicants had been convicted for having made a "statement to the press"

under sections 44 and 82 of the Associations Act, which imposed “a formal requirement or condition” on associations before they could publish or distribute leaflets, written statements and similar publications.

Article 10 did not in itself prohibit the imposition of prior restraints on a form of communication. However, in the Court’s opinion, where failure to observe a formal requirement was punishable by a criminal penalty, as in this case, the law must clearly define its application.

In the present case, the criminal court had found that the fact of organising a press conference and reading a text aloud amounted to an action that was subject to the same formality as that established for “leaflets”, “written statements” and “similar publications” under section 44 of the Associations Act. Such an interpretation represented an extension of the scope of section 44 to an area that could not reasonably have been foreseen in the circumstances of the case. Accordingly, the applicants could not reasonably have foreseen that the public reading and distribution of a press statement could be considered as an action which fell within the scope of section 44 of the Associations Act.

Consequently, the Court considered that, in the present case, section 44 of the Act did not meet the requirement of foreseeability as to its application, and concluded unanimously that there had been a violation of Article 10 of the Convention. Under Article 41 (just satisfaction) of the Convention, the Court awarded each of the six applicants EUR 1,000 for non-pecuniary damage. The Court also awarded EUR 1,500 jointly to the first five applicants for costs and expenses, and EUR 1,500 to S.T. for costs and expenses, less EUR 625.04 which the Council of Europe had already paid in legal aid.

Judgment of 8 February:

**Erdost v. Turkey** (no. 50747/99)

Muzaffer Erdost was born in 1932 and lives in Ankara.

He wrote a book entitled ‘Three Sivases, in the centre of the pressure being exerted for the imposition of a new [Treaty of] Sèvres on Turkey’ (*Türkiye’nin Yeni-Sevr’e zorlanmasının odağında : Üç Sivas*), which was published in September 1996. It was a political essay relating how extrajudicial persecution had led to bloodshed in the town of Sivas in 1978, 1993 and 1996. It contained a number of quotations from various newspapers and reviews.

A public prosecutor applied to a judge of the Ankara State Security Court for an order for the book’s seizure, as he considered that it contained separatist propaganda that represented a threat to the integrity of the State. He also instituted criminal proceedings against the applicant. The book was seized on 4 October 1996 and on 20 February 1997 Mr Erdost

was sentenced to one-year’s imprisonment and the payment of a fine.

The ECoHR acknowledged that passages from the book on which the domestic courts had relied in convicting the applicant contained references to “people from different ethnic origins” and to the founding of “a Kurdish state” on “the collapse of the Republic of Turkey”. However, those references were quotations from articles in the press which could not of themselves justify the interference with the applicant’s right to freedom of expression. Furthermore, although certain passages from the book had to be regarded as critical of the national authorities, they did not incite violence or hatred, which, in the Court’s view, was an essential factor to be taken into consideration.

In the circumstances, the Court considered that the tenor of the book was not such as to justify the applicant’s criminal conviction, which, along with the confiscation of the book, did not meet a pressing social need and was accordingly not “necessary in a democratic society”. Consequently, the Court held unanimously that there had been a violation of Article 10. It also held unanimously that there had been a violation of Article 6 § 1 on account of the State Security Court’s lack of independence and impartiality.

Under Article 41 (just satisfaction) the Court awarded the applicant EUR 2,500 for pecuniary damage, EUR 5,000 for non-pecuniary damage and EUR 1,000 for costs and expenses.

Judgment of 1 March:

**Biol v. Turkey** (no. 44104/98)

Ilknur Birol was born in 1965 and lives in Istanbul. At the material time she was a school teacher and a member of the Education and Science Workers’ Union.

On 26 June 1997 she was sentenced to one year’s imprisonment for insulting and vilifying the Minister and Ministry of Justice in a speech at a demonstration in favour of “democracy and trade-union rights”.

The ECoHR considered that the reasons stated by the domestic courts were insufficient to justify the interference with the applicant’s right to freedom of expression. Although certain particularly acerbic passages from her speech had portrayed the Minister of Justice of the day in a most negative light, so that it carried hostile undertones, they had not encouraged the use of violence or insurrection and did not constitute hate speech. That, in the Court’s view, was an essential factor to be taken into consideration. The Court also took into account the fact that the comments had been made at an outdoor demonstration so that the applicant had had no opportunity to reformulate, perfect or retract them before they became public.

The Court found that the applicant's conviction was disproportionate to the aims pursued and, accordingly, had not been "necessary in a democratic society". There had therefore been a violation of Article 10. The Court awarded the applicant EUR 4,000 for pecuniary damage, EUR 4,000 for non-pecuniary damage and EUR 1,500 for costs and expenses.

Judgment of 15 March:

**Gümüş and Others v. Turkey** (no. 40303/98)

The applicants are practising lawyers, one is a lecturer at the Law Faculty of Kocaeli University, one is a member of the TESİŞ Workers' Union and one is a member of the Municipal Workers' Union.

In March 1992 two newspapers (*Diyarbakır Söz* and *Felak*) carried a press statement criticising Turkey's handling of the Kurdish problem, which had been drafted by a delegation including the applicants as well as two former Turkish parliamentarians, Leyla Zana and Hatip Dicle, and 20 representatives of various political parties and public organisations. The applicants were convicted of incitement to hatred and hostility and given a suspended prison sentence and fine.

The ECoHR considered that the conviction complained of constituted an interference with the applicants' right to freedom of expression, that the interference was prescribed by law and pursued a legitimate aim, that of protecting territorial integrity. It also took into account the background to the case and, in particular, the problems linked to the prevention of terrorism. In that connection, the Court observed that the press statement in question consisted of a critical assessment of Turkey's policies concerning the Kurdish problem.

However, although certain particularly acerbic passages of the article painted an extremely negative picture of the Turkish State and thus give the narrative a hostile tone, they did not encourage violence, armed resistance or insurrection and did not constitute hate speech. The applicants' conviction was therefore disproportionate to the aims pursued and not "necessary in a democratic society". The Court held, unanimously, that there had been a violation of Articles 10 and 6 § 1 and awarded the applicants EUR 2,000, each, for non-pecuniary damage and EUR 1,000, jointly, for costs and expenses.

Judgment of 17 March:

**Taniyan v. Turkey** (no. 29910/96)

Necati Taniyan was born in 1947 and lives in Artvin (Turkey).

The applicant is the owner of *Yeni Politika*, a daily newspaper published in Istanbul between 13 April 1995 and 16 August 1995. During these four months, confiscation orders were issued for 117 of the 126 issues published, either under the Prevention of

Terrorism Act or under Article 312 of the Criminal Code. The applicant appealed against the orders on 21 occasions, each of the appeals being dismissed by Istanbul State Security Court.

The applicant relied on Articles 6 (right to a fair hearing), 10 (freedom of expression), 13 (right to an effective remedy), 14 (prohibition of discrimination) and 18 (limitation on use of restrictions on rights) of the Convention.

The case has been struck out following a friendly settlement in which the applicant is to receive EUR 7,710 for any damage sustained and for costs and expenses.

Judgments of 29 March:

**Ağın v. Turkey** (no. 46069/99)

Ömer Ağın was born in 1948 and lives in Istanbul.

On 11 March 1993 the applicant was sentenced, *inter alia*, to one year and eight months' imprisonment for conducting propaganda against the integrity of the State on the occasion of a round table organised by the *Demokrat* magazine, which published the proceedings of that meeting. The article analysed the Kurdish question in the geopolitical context of the Middle East, and criticised the Government's policy towards people of Kurdish origin.

On 8 March 1996 the Istanbul State Security Court reduced the applicant's sentence to one year, one month and ten days' imprisonment.

The ECoHR considered that the reasoning of the domestic courts could not in itself be considered sufficient to justify the interference in the applicant's right to freedom of expression. While certain passages in the article concerned painted an unflattering picture of the Turkish State's policies with regard to its citizens of Kurdish origin, they did not encourage the use of violence, armed resistance or insurrection, nor did they amount to hate speech. In the Court's view, that was an essential factor to be taken into consideration. It found that the applicant's sentence was disproportionate to the aims pursued and accordingly not "necessary in a democratic society". There had thus been a violation of Article 10.

The Court awarded the applicant EUR 4,000 for pecuniary damage, EUR 15,000 for non-pecuniary damage and EUR 1,500 for costs and expenses.

**Alınak v. Turkey** (no. 40287/98)

Mahmut Alınak was born in 1952 and lives in Ankara. He wrote a novel based on real events which took place in Ormaniçi village in the province of Şırnak.

The book was published in September 1997 and, in October 1997, the public prosecutor at Istanbul State Security Court applied for the seizure of copies of the book, claiming that the content of the book incited hatred and hostility by making distinctions between

Turkish citizens on the basis of their ethnic or regional identity. The applicant appealed against the seizure order. He mistakenly gave an incorrect case number on his appeal, and as a result, it appeared that the appeal court examined the facts of another case. The applicant's appeal was dismissed and the public prosecutor brought criminal proceedings against him under the Prevention of Terrorism Act 1991. In September 1999, Istanbul State Security Court stayed the proceedings against the applicant. However, the court did not determine the applicant's request to annul the interim seizure order concerning his book.

The applicant complained that the seizure order was in violation of Article 10 (freedom of expression).

The ECoHR observed that the book in question was a fictional novel inspired by real events. It did not give a neutral account of the events. The plot of the book concentrated on the ill-treatment to which the villagers were subjected at the hands of security force officials and the villagers' unsuccessful attempts to have them punished. Having examined the whole book, the Court found no reference to the real name or rank of any official...

The Court took into account the problems linked to the prevention of terrorism and the Turkish authorities' concern about the dissemination of views which they considered might exacerbate the serious disturbances that had been going on in Turkey for some 15 years. However, the applicant, although a former Member of Parliament, was at the material time a private citizen expressing his views in a novel which would reach only a small audience, which limited its potential impact on "public order" to a substantial degree. Thus, even though some of the passages from the book seemed very hostile in tone, the Court considered that their artistic nature and limited impact reduced them to an expression of deep distress in the face of tragic events, rather than a call to violence.

The Court concluded that the order to seize the applicant's book was disproportionate to the aims pursued and accordingly not "necessary in a democratic society". The Court therefore held, unanimously, that there had been a violation of Article 10. The applicant was invited to submit his claims for just satisfaction, but did not do so within the required time-limits. Accordingly, the Court makes no award under Article 41.

Judgment of 26 April:

**Falakaoğlu v. Turkey** (no. 77365/01)

Bülent Falakaoğlu was born in 1974 and lives in Istanbul. At the material time he was the editor of the daily newspaper *Yeni Evrensel*.

He was charged with disseminating separatist propaganda on account of the publication in the 17 March 2000 edition of the newspaper of an article analysing events likely to occur during the Newroz

festival (the celebration of spring and the New Year according to Kurdish and Iranian tradition). In the article the author took a critical look at the Kurdish question and painted a picture of Turkey at that time.

In a judgment of 3 October 2002 the Istanbul State Security Court found the applicant guilty of inciting the people to hatred on racial and regional grounds and gave him, in his capacity as editor, a two-year prison sentence that was subsequently converted into a fine of approximately 1,050 euros (EUR). The applicant appealed in vain to the Court of Cassation.

The ECoHR unanimously declared the complaint of a violation of the right to freedom of expression admissible and the remainder of the application inadmissible. It considered that the reasons relied on by the domestic courts could not be considered by themselves sufficient to justify the interference with the applicant's right to freedom of expression. Although certain passages in the newspaper article had portrayed the Turkish authorities in power when the Newroz festival was celebrated at the beginning of the 1990s in a particularly negative light, it did not encourage the use of violence, armed resistance or insurrection and did not constitute hate speech. That was an essential factor in the Court's view.

As in a number of previous similar cases, the Court held unanimously that there had been a violation of Article 10. The Court awarded the applicant EUR 1,000 for pecuniary damage, EUR 3,000 for non-pecuniary damage and EUR 1,500 for costs and expenses.

Judgments of 19 May:

**Töre v. Turkey** (no. 50744/99)

Teslim Töre was born in 1939. When the application was lodged he was detained in Bayrampaşa Prison (Turkey). In November 1996, Istanbul State Security Court found him guilty of disseminating separatist propaganda and sentenced him to one year, one month and ten days' imprisonment and fined him 111 111 110 Turkish liras for having written an article entitled "Kurdistan's socialists must seize the moment" ("*Kürdistan sosyalistleri momentini yakalamalı!*"), which was published in July 1994 in the magazine *Medya Güneşi* (The Sun of Medya).

Finding that the severity of the applicant's sentence was disproportionate and not necessary in a democratic society, the European Court of Human Rights held, unanimously, that there had been a violation of Article 10.

The Court awarded the applicant EUR 310 for pecuniary damage, EUR 6,500 for non-pecuniary damage and EUR 3,000 for cost and expenses.

**Turhan v. Turkey** (no. 48176/99)

Talat Turhan was born in 1924 and lives in Istanbul. He is the author of a book entitled "Extraordinary War,

Terror and Counter-terrorism” (“*Özel Savaş Terör ve Kontragerilla*”). The applicant was ordered to pay damages to the Secretary of State Orhan Sefa Kilercioğlu, since certain passages of his book were held to have been defamatory towards him.

The European Court of Human Rights observed that the impugned remarks were the applicant's opinion about statements made by Mr Kilercioğlu in an interview, which had already been published in a magazine. They were value judgments on an issue of public interest. The Court reiterated that the truthfulness of a value judgment was not susceptible of proof and that the value judgment made by the applicant was based on information which was already known to the general public.

The domestic courts did not convincingly establish any pressing social need for putting the protection of the personality rights of a public figure above the applicant's right to freedom of expression and the general interest in promoting this freedom where issues of public interest were concerned. In particular, it did not appear from the domestic courts' decisions that the applicant's statement affected Mr Kilercioğlu's political career or his professional and private life.

In conclusion, the Court found that the Turkish authorities had failed to strike a fair balance between the relevant interests and the interference complained of was not “necessary in a democratic society”. The Court therefore held, unanimously, that there had been a violation of Article 10 and awarded the applicant EUR 600 for pecuniary damage, EUR 1,000 for non-pecuniary damage and EUR 1,500 for costs and expenses.

Judgment of 7 June

**Pamak v. Turkey** (no. 39708/98)

Mehmet Pamak was born in 1950 and lives in Ankara.

He is a journalist and the author of an article entitled “In its seventy-first year the regime is looking for extra support to keep it on its feet”, which was published in the weekly newspaper *Selam* in the issue of 31 October and 6 November 1994. The article criticised the Turkish Government's policy for fighting terrorism and separatist movements.

The applicant was prosecuted for “inciting the people to hatred and hostility on the basis of a distinction founded on adherence to a religion” and committed for trial in the Istanbul National Security Court, which sentenced him on 1 November 1996 to one year and eight months' imprisonment, among other penalties. An appeal on points of law by the applicant was dismissed on 6 March 1997.

The Court observed that it had already dealt with numerous similar cases in which it had found

violations of Article 10. It considered that the reasons given by the domestic courts could not in themselves be considered sufficient justification for the interference with the applicant's right to freedom of expression. Although certain parts of the article presented a negative view of the Turkish State's policy, and gave the account a hostile ring, they did not constitute incitement to violence, armed resistance or rebellion, nor was it an instance of hate-speech, which in the Court's view was the essential element to be taken into consideration. In those circumstances the Court considered that the applicant's conviction had been disproportionate to the aims pursued and accordingly not “necessary in a democratic society”. There had therefore been a violation of Article 10.

The Court awarded the applicant EUR 5,000 for non-pecuniary damage and EUR 1,000 for costs and expenses.

Judgment of 16 June:

**Ergin v. Turkey** (nos. 1, 2, 3, 4 and 5) (applications nos. 48944/99, 49566/99, 50691/99, 63733/00 and 63925/00)

**Ergin and Keskin** (nos. 1 and 2) (nos. 50273/99 and 63926/00)

Ahmet Ergin and Halit Keskin were born in 1973 and 1952 respectively and live in Istanbul. At the material time Mr Ergin was the editor and publisher of the newspaper *Günlük Emek* (“Daily Labour”) and Mr Keskin was the proprietor.

Both applicants were convicted by Istanbul State Security Court on account of the publication of various articles in the newspaper between 2 September 1997 and 4 June 1998.

**Ergin v. Turkey** (nos. 1, 2, 3, 4 and 5)

Mr Ergin was prosecuted for inciting the people to hatred and hostility on the basis of a distinction founded on racial or regional origin following the publication of articles in the newspaper on 2 September 1997, 15 January 1998, 19 March 1998, 26 March 1998 and 4 June 1998.

Two of the articles strongly criticised the Government's policy on the “Kurdish question”, another contained serious accusations about the security forces, another criticised an article in another newspaper about the “Newroz” festival by the son of a well-known nationalist, and the last one levelled fierce criticism at another newspaper's campaign to encourage investment in south-east Turkey and at the Government's policy on assimilation of the Kurdish people.

In judgments delivered on 14 April, 8 September, 14 October, 5 November and 25 December 1998 the Istanbul State Security Court found the applicant guilty as charged and sentenced him to one year and eight

months' imprisonment in two cases, six months' imprisonment in one case and two years in another case, also imposing fines.

*Ergin and Keskin v. Turkey (nos. 1 and 2)*

Both applicants were prosecuted for designating individuals as targets for terrorist organisations on account of the publication of articles on 20 September and 2 November 1997. In connection with the second article, Mr Ergin was also prosecuted for inciting the people to hatred and hostility on the basis of a distinction founded on racial or regional origin.

The first article consisted of information and comment about new arrangements in the Black Sea region following the appointment of a new gendarmerie commander there. The second contained strong criticism of the Government and other State institutions against the background of topical events such as the celebration of the anniversary of the founding of the Republic of Turkey, the building of new types of prison and the arrest of union-affiliated workers at a demonstration.

In judgments of 16 April and 30 June 1998 Istanbul State Security Court found the applicants guilty as charged and fined them.

In each of the cases the ECoHR Court considered that the reasons given by the domestic courts could not be regarded in themselves as sufficient to justify the interference with the applicants' right to freedom of expression. Although certain passages of the articles painted a negative picture of the Turkish State and gave the content a hostile tone, they did not constitute an incitement to violence, armed resistance or an uprising and did not amount to hate speech; that, in the Court's view, was the essential factor to be taken into consideration. The Court concluded that the applicants' convictions had been disproportionate to the aims pursued and had accordingly not been "necessary in a democratic society".

Judgment of 21 June:

***Perinçek v. Turkey*** (no. 46669/99)

The applicant, Doğu Perinçek, is the chairman of the Workers' Party and the former chairman of the Socialist Party, which was dissolved by the Constitutional Court in 1992. He is a Turkish national who was born in 1942 and was in Haymana Prison (Turkey) when the application was lodged.

In 1991 criminal proceedings were instituted against the applicant for allegedly disseminating propaganda aimed at undermining the territorial integrity of the State in speeches he had made as the leader of the Socialist Party. The same speeches had also served as a basis for the party's dissolution by the Constitutional Court. As a result of the dissolution, a complaint was lodged with the European Court of Human Rights and ended with the Court finding a violation of Article 11 of

the Convention by Turkey in its *Socialist Party and Others v. Turkey* judgment of 25 May 1998. The Court found in that case that the speeches put forward a political programme with the essential aim being the establishment, in accordance with democratic rules, of a federal system in which Turks and Kurds would be represented on an equal footing and on a voluntary basis.

In a judgment of 6 January 1995, the Ankara State Security Court found the applicant guilty of the offences as charged and sentenced him to two years and four months' imprisonment and the payment of a fine. The conviction was upheld by the Court of Cassation on 8 July 1998. The applicant remained in prison until 28 September 1998.

The ECoHR Court decided that the applicant's complaints should be examined solely under Article 10 of the Convention. The reasons relied on by the Turkish courts could not be regarded as sufficient by themselves to justify the interference with the applicant's right to freedom of expression. The applicant had made his speeches in his capacity as a politician, a player on the Turkish political scene; the speeches did not encourage the use of violence or armed resistance or insurrection and did not constitute hate speech, which, in the Court's view, was an essential factor. The Court further noted that, although the text of the Court judgment in the *Socialist Party and Others v. Turkey* case had been before the Court of Cassation when it upheld the applicant's conviction, it had not considered it necessary to take it into account. In the absence of any criminal-review procedure at the material time, the applicant had remained in prison until September 1998. In addition, the Court found that the applicant's conviction and sentence were disproportionate to the aims pursued and, accordingly, not "necessary in a democratic society". There had therefore been a violation of Article 10.

The Court awarded the applicant EUR 290 for pecuniary damage, EUR 15,000 for non-pecuniary damage and EUR 1,500 for costs and expenses.

Judgment of 13 September:

***Han v. Turkey*** (no. 50997/99)

Tahir Han was born in 1960 and lives in Adana (Turkey).

In January 1996 the public prosecutor at Ankara State Security Court filed an indictment in which he accused the applicant of disseminating propaganda against the indivisible integrity of the State, an offence under Article 8 of the Prevention of Terrorism Act. The offence related to a speech the applicant made in 1994 at a congress held by the Peoples' Democracy

Party (*Halkın Demokrasi Partisi*), of which he was a member.

In January 1997 Ankara State Security Court, which was composed of three judges including a military judge, found the applicant guilty of an offence under Article 8 § 1 of the Prevention of Terrorism Act, and sentenced him to one year's imprisonment and a fine.

On 21 December 2000 Law No. 4616 on Conditional Release, Deferral of Procedure and Punishments was promulgated and the applicant's sentence was deferred. As a result, he did not pay the fine or serve his prison sentence.

The European Court of Human Rights found, as it had done in previous cases of a similar nature, that it was understandable that the applicant, who had been prosecuted in a State Security Court should have been apprehensive about being tried by a bench which included a regular army officer and member of the Military Legal Service. The applicant's fear as to the State Security Court's lack of independence and impartiality could be regarded as objectively justified.

It examined the reasons given in the State Security Court's judgment and did not consider them sufficient to justify the interference with the applicant's right to freedom of expression. It considered that, taken as a whole, the applicant's speech did not encourage violence, armed resistance or insurrection and, therefore, did not constitute hate speech. In the Court's view, this was the essential factor in the assessment of the necessity of the measure.

The Court held unanimously that there had been a violation of Articles 6 § 1 and Article 10. It considered the finding of a violation constituted in itself sufficient just satisfaction for non-pecuniary damage in respect of Article 6 § 1 but awarded the applicant EUR 5,000 for non-pecuniary damage for his complaint under Article 10 and EUR 1,000 for costs and expenses.

Judgment of 20 September:

**Veysel Turhan v. Turkey** (no. 53648/00)

Veysel Turhan was born in 1968 and lives in Siirt (Turkey). At the material time he was chairman of the Siirt provincial branch of the People's Labour Party (*Halkın Emek Partisi*).

After giving a live telephone interview on 2 June 1998 to the illegal television station *Med-TV* the applicant was convicted, under Article 312 §§ 2 and 3 of the Criminal Code, of inciting the people to hatred and hostility on the basis of a distinction on grounds of race and region. He was charged, in particular, with having criticised the Government's economic policy and having claimed that "the Kurdish people" were victims of an assimilation policy.

On 20 April 1999 Diyarbakır State Security Court found Mr Turhan guilty as charged and sentenced him to one year and four months' imprisonment and a fine under the Prevention of Terrorism Act (Law no. 3713). On 2 November 1999 the state security court stayed the criminal proceedings brought against the applicant under section 1 of Law no. 4454 which provides for the deferment of judgment and of execution of sentence in respect of offences committed before 12 July 1997 through the medium of the written and oral press.

It was clear to the ECoHR that the applicant had expressed himself in his capacity as a politician and player on the Turkish political scene, neither inciting to nor using violence nor inciting to armed resistance or uprising. It pointed out that it had already dealt with cases raising questions that were similar to those raised in the present case, in which it had concluded that there had been a violation of Article 10.

The Court also noted that the stay of proceedings from which the applicant had benefited had had the effect of partly censoring his activities and substantially reducing his ability to voice publicly criticism that had its place in a public debate and whose existence could not be denied.

In those circumstances the Court concluded, unanimously, that there had been a violation of Article 10. Although invited to do so, Mr Turhan did not submit a claim for just satisfaction within the time allowed. The Court did not therefore consider it necessary to make such an award.

Judgment of 27 September:

**Aslı Güneş v. Turkey** (no. 53916/00)

Aslı Güneş was born in 1971 and lives in Istanbul.

At the material time she was the editor of the political journal *Hedef* ("The Target"). In that capacity, she co-authored an article in 1992 entitled *Yeni Dersimler ve Halepçeler istemiyoruz, Bahar saldırısına hayir* ("We don't want another Dersim or Halepçe, No to any springtime offensive") which was published in March 1992 in the bimonthly periodical *Emeğin Bayrağı* ("The Flag of Work"). In substance, the article expressed the view that for so long as the Kurdish people did not liberate themselves, the Turkish people would not be able to liberate themselves either. The applicant sought to draw people's attention to the fact that military operations could affect "trade union and social rights and freedoms" and she launched this appeal: "As representatives of the future, let us refuse to fight with the Turkish troops who are going to fill the Kurds' future with gloom".

The applicant was prosecuted for disseminating separatist propaganda. On 8 December 1995 Istanbul State Security Court found her guilty as charged and

sentenced her to one year and four months' imprisonment. After legislation (Law no. 4454) was introduced providing for proceedings and sentences in respect of press and publishing related offences to be deferred, the state security court deferred execution of the sentence for a period of three years. Since the applicant did not commit any further offences during that period, it declared the sentence void in 2003.

The ECoHR found that the reasons given by the domestic courts could not in themselves be considered sufficient to justify the interference with the applicant's right to freedom of expression. Although the article for which the applicant had been prosecuted contained references to the "struggle" and the "fight for the national liberation of Kurdistan", it did not encourage the use of violence, armed resistance or insurrection and did not constitute hate speech, which, in the Court's view, was the essential factor to be taken into consideration. In addition, the effect of deferring execution of sentence had been to censor part of Ms Güneş's activities as a journalist during the relevant period and to severely restrict her ability to voice criticism in public, when such criticism had a role to play in public debate. In those circumstances, the Court held unanimously that there had been a violation of Article 10.

As regards the length of the proceedings, the Court noted that they had lasted for approximately six years and seven months. In the light of the circumstances of the case, it found that that period was excessive and did not satisfy the "reasonable-time" requirement. It therefore held unanimously that there had been a violation of Article 6 § 1.

The Court awarded Ms Güneş EUR 6,000 for non-pecuniary damage and EUR 2,500 for costs and expenses, less EUR 701 she had already received from the Council of Europe in legal aid.

Judgment of 4 October:

**Ünsal Öztürk v. Turkey** (no. 29365/95)

Ünsal Öztürk was born in 1957 and lives in Ankara. He is the owner of "Yurt Books and Publishing", a small independent firm that has published numerous books in Turkey.

The applicant published certain books between 1991 and 1994 which were held by State Security Court to constitute propaganda against the indivisible unity of the State. In most cases he was convicted under the Prevention of Terrorism Act (Law No. 3712), fined and sentenced to periods of imprisonment ranging from six months to two years.

His sentences were commuted to fines following changes to the Prevention of Terrorism Act in October 1995. In August 1997 Law No. 4304 on the deferment of the judgments and of the execution of

sentences in respect of offences committed by editors before 12 July 1997 came into force and the applicant's ongoing criminal proceedings were suspended. Most of the books were confiscated.

In all, the applicant served a total of one year, five months and 20 days in prison and paid the equivalent of EUR 5,121 in fines.

The ECoHR found, as it had done in previous cases raising similar issues that the imposition of a prison sentence on the applicant, a publisher of books, under Article 8 § 2 of Law No. 3713, in its form at the material time, was incompatible with the principle of "no penalty without a law" embodied in Article 7. It therefore held, unanimously, that there had been a violation of Article 7.

As to the complaints under Article 10, for practical reasons the Court was selective in its analysis and only took into account the criminal proceedings brought against the applicant under Article 8 § 2 of Law No. 3713. The Court found that neither the conviction nor the sentence of the applicant was prescribed by law. It therefore held, unanimously, that there had been a violation of Article 10 in respect of the criminal proceedings brought against the applicant for his role in the publication of books.

The Court awarded the applicant EUR 14,500 for pecuniary damage, EUR 3,000 for non-pecuniary damage and EUR 15,000 for costs and expenses.

Judgment of 1 October

**Ceylan v. Turkey** (No. 2) (no. 46454/99)

Münir Ceylan was born in 1951 and lives in Istanbul. At the relevant time he was a trade-union member.

In January 1996 the applicant signed an article entitled *Emekçiler ve Kürtler* (The proletarians and the Kurds) which appeared in the newspaper *Demokrasi* (Democracy). The article was published in the wake of elections and criticised the "Kurds, proletarians and democrats" who had not voted for the People's Democracy Party (HADEP), which according to the applicant was best able to defend the cause of "society's underdogs", namely the Kurds and workers. He also took the position that the conditions of war prevailing in the south-eastern part of the country explained the situation of hardship in which those people found themselves.

The applicant was charged with the offence of inciting the people to hatred and hostility on the basis of race or regional origin and was sentenced by Istanbul State Security Court to two years' imprisonment and ordered to pay a fine. The court also ordered the closure of the newspaper *Demokrasi* for ten days. At the applicant's request and on the payment of a sum of money, he obtained a stay of execution of his prison sentence.

The ECoHR held, unanimously, that there had been a violation of Article 6 § 1 with regard to the lack of independence and impartiality of state security courts.

The Court moreover considered that the reasoning given by the domestic courts could not in itself be regarded as sufficient to justify the interference with the applicant's right to freedom of expression. While certain passages of the impugned article portrayed a most negative picture of the Turkish State and thus gave a hostile connotation to the views expressed, there was no incitement to violence, armed resistance or uprising, and it did not constitute hate speech, which, in the Court's view, was the main factor to be taken into account.

Moreover, the nature and severity of the sentences were also to be taken into account in assessing the proportionality of the interference. The applicant had suffered restrictions, especially in connection with his political activities, as a result of his conviction. In those circumstances the Court held, unanimously, that there had been a violation of Article 10.

The Court awarded the applicant EUR 2,000 for pecuniary and non-pecuniary damage and EUR 1,500 for costs and expenses.

Judgment of 20 October:

**Osman Özçelik and Others v. Turkey** (no. 55391/00)

Osman Özçelik, Kemal Bilget, Kemal Okutan, Bahattin Günel and Murat Bozlak were born in 1952, 1952, 1957, 1946 and 1952 respectively and live in Ankara. At the material time Mr Bilget was the Vice-President of the Democracy Party (*Demokrasi Partisi – DEP*) and the other applicants members of its executive board.

In June 1993 Mr Bilget made a speech at the *DEP's* first congress in his capacity as Vice-President of the party in which he sought to set out the party's objectives by reference to the Kurdish people's desire for freedom. In August that year, the applicants signed a declaration entitled "*Demokrasi Partisinin Barış Çağışı*" ("The Democracy Party's Appeal for Peace") and helping to produce posters with the slogan "*Savaş Değil, Demokrat Çözüm*" ("Not war but a democratic solution"). These took the form of a political appeal addressed to "the workers and to defenders of human rights and peace" with a view to obtaining a ceasefire between the security forces and the PKK and recognition of the Kurdish identity.

The applicants were prosecuted for disseminating separatist propaganda. On 17 November 1998 Ankara state security court found them guilty as charged. The sentences handed down to all the applicants except Mr Bilget included one year's imprisonment for signing the declaration and helping to produce the posters. Mr Bilget was given a two-year sentence as he had also made the speech. Under Law no. 4454

concerning the suspension of pending cases and penalties in media-related offences, the sentence imposed on the applicants for signing the declaration and helping to produce the posters was suspended for three years.

The ECoHR found that the reasons stated by the Turkish courts could not be considered by themselves sufficient to justify the interference with the applicants' right to freedom of expression. The applicants had expressed their views in their capacity as politicians and as players on the Turkish political scene. They had not encouraged the use of violence or armed resistance or insurrection and had not engaged in hate speech, which, in the Court's view, was an essential factor to be taken into consideration. The Court added that because of their dominant position, Governments should be slow to resort to the criminal law, especially when other means were available to respond to unjustified attacks or criticism by opponents. It accordingly held unanimously that there had been a violation Article 10. It further held unanimously that there had been a violation of Article 6 § 1 on account of the lack of independence and impartiality of the state security court. Lastly, it noted that the proceedings had lasted approximately five years and nine months for three levels of jurisdiction. Having regard to the circumstances of the case, it considered that period excessive and in breach of the "reasonable-time" requirement. It accordingly held unanimously that there had been a violation of Article 6 § 1.

The Court awarded Mr Bilget EUR 572 for pecuniary damage and EUR 7,500 for non-pecuniary damage. It also awarded each of Mr Özçelik, Mr Günel, Mr Bozlak and Mr Okutan EUR 5,000 for non-pecuniary damage. Lastly it made a joint award to the applicants of EUR 3,000 for costs and expenses.

Judgments of 25 October:

**Bakır v. Turkey** (no. 54916/00)

**Yüksel (Geyik) v. Turkey** (no. 56362/00)

**Bakır v. Turkey**

Vedad Bakır, aged 31, lives in Bitlis (Turkey). A journalist by profession, he described in the course of a live broadcast for the radio station *Karacadağ* the events he had witnessed during the *Newroz* (new year) celebrations. His comments, which were also retransmitted by the television station MED TV, were critical of the way in which the security forces had handled the celebrations.

On 29 September 1998 Diyarbakır State Security Court sentenced him to one year and eight months' imprisonment for having "incited the people to hatred or hostility on the basis of a distinction between social classes, races or regions". Execution of the sentence was stayed under Law no. 4454.

**Yüksel (Geyik) v. Turkey**

Vasfiye Tülay Yüksel (Geyik), aged 41, lives in Istanbul. She is a lawyer and a delegate of the Democracy Party in Istanbul. In December 1993, during a party congress, the applicant made a speech in her capacity as party delegate in which she criticised the Government's policy towards the Kurdish people.

The applicant was prosecuted for disseminating separatist propaganda and on 5 October 1998 was sentenced by Ankara State Security Court to one year's imprisonment and payment of a fine. She was imprisoned on 26 July 1999 and granted conditional release for good behaviour on 19 December 1999.

The ECoHR considered that the grounds advanced by the domestic courts in the two cases were not in themselves sufficient to justify the interference with the applicants' right to freedom of expression. It observed that the applicants had not been guilty of incitement to violence, armed resistance or rebellion, or of hate speech. It also took account of the nature and severity of the sentences imposed. The Court held that the applicants' convictions were disproportionate to the aims pursued and accordingly not "necessary in a democratic society". There had therefore been a violation of Article 10 in both cases.

The Court awarded EUR 2,000 to Mr Bakır and EUR 6,500 to Mrs Yüksel (Geyik) for non-pecuniary damage. It also awarded EUR 1,000 to Mr Bakır and EUR 3,000 to Mrs Yüksel (Geyik) for costs and expenses.

Judgment of 8 November:

**Haydar Kaya v. Turkey** (no. 48387/99)

Haydar Kaya was born in 1942. At the relevant time he was chair of the Ankara regional branch of the Employment Party (*Emeğin Partisi*).

In July 1997 he made a statement addressed to the press and public opinion in which, using words with Marxist connotations, he condemned State policy and attacked certain political and military figures whom he described as "putschists" and "gangs". He offered an explanation for the rise in violence of the preceding years in southeast Turkey and criticised the leaders' economic and social programmes. His main arguments appeared to be that "workers, proletariats, progressives and democrats" should take united action for freedom and democracy.

Criminal charges were brought against him for inciting the people to hatred and hostility and for creating discrimination founded on social class and race. He was convicted by Ankara State Security Court in November 1997 and given a two year suspended prison sentence and a fine. In addition, he was excluded from the party by its executive committee at the public prosecutor's request.

The ECoHR found that the reasons given by the domestic courts could not be considered sufficient in themselves to justify the interference with the applicant's right to freedom of expression. The applicant had issued his statement in his capacity as chair of the Ankara regional branch of the Employment Party and as a player on the Turkish political scene, and it had taken the form of a political speech, both in its content and in the kind of terms employed. It was more a reflection of intransigence on the part of one of the parties to the conflict than an incitement to violence. The Court also noted the severity of the penalty imposed on the applicant, whose conviction had also resulted in his being excluded from the party.

In those circumstances, the Court found that the applicant's conviction and sentence were disproportionate to the aims pursued and, therefore, not "necessary in a democratic society". There had therefore been a violation of Article 10.

Lastly, the Court noted that the applicant's exclusion from the party was, by virtue of Article 312 of the Criminal Code, a direct and automatic consequence of his conviction. In view of its finding that there had been a violation of Article 10, the Court did not consider it necessary to examine this complaint separately.

The Court awarded the applicant EUR 3,048 for non-pecuniary damage and EUR 3,000 for costs and expenses.

Judgment of 10 November:

**Abdullah Aydın v. Turkey** (No. 2) (no. 63739/00)

Abdullah Aydın was born in 1944 and lives in Ankara. At the relevant time he was general secretary and a member of the general assembly of the association "The People's House" in Keçiören.

In 1993 the applicant participated, as the announcer, at a meeting on the theme of "Rights and Freedoms", organised in Ankara by the association's board. He addressed the crowd. His remarks referred, among other things, to the issue of rights and freedoms, and he criticised the military coup in 1980; he also alleged that there was a national problem in Turkey, namely "the issue of Kurdish nationality and the Kurdish struggle".

The applicant was prosecuted for separatist propaganda, and was convicted and sentenced, among other things, to one year's imprisonment in July 1998. Ruling after a referral from the Court of Cassation, Istanbul State Security Court upheld the sentence but ordered that it be suspended.

The ECoHR noted that the use of such words as "struggle" and "combat" conferred a certain virulence on the applicant's words. However, it was clear that he was referring to a combat "for rights and freedoms". Consequently, "the struggle" or "Kurdish resistance"

were considered as part of this combat and could not, if read in context, be taken as incitation to the use of violence, hostility or hatred between citizens. They did not call for bloody revenge. In addition, the Court was of the opinion that the grounds given by the Turkish courts could not in themselves be considered sufficient to justify the interference in the applicant's right to freedom of expression. It therefore concluded that there had been a violation of Article 10.

The Court reiterated that it had already held that, having regard to the nature of the Principal Public Prosecutor's submissions and to the fact that defendants were not given an opportunity to make written observations in reply, the failure to communicate the Principal Public Prosecutor's opinion entailed an infringement of Article 6 § 1. As it saw no reason to depart from that conclusion in this case, the Court concluded unanimously that there had been a violation of Article 6 § 1.

It awarded the applicant EUR 5,000 in respect of pecuniary damage and EUR 4,000 for costs and expenses.

Judgment of 22 November:

**Emire Eren Keskin v. Turkey** (no. 49564/99)

Emire Eren Keskin was born in 1959 and lives in Istanbul. At the relevant time she was a practising lawyer.

In April 1995 the bimonthly review *Medya Güneşi* (The Sun of Medya – although, literally, the name *Medya* translates into “media”, the use of that term refers to the country of the Meds, the mythical country of the Kurds) published an interview with the applicant. The applicant described the actions waged by the Turkish authorities in the south-east region of the country as “war” and “barbarism”, and there was a definite aggressiveness and a virulence to the terms used in the article.

The applicant was prosecuted for disseminating separatist propaganda through the medium of the press and sentenced by Istanbul State Security Court to a year and four months' imprisonment, which was reduced to one year, one month and ten days on account of her behaviour during the hearing. In November 1999 the public prosecutor deferred execution of the applicant's sentence under Law no. 4454, which provides for a deferment of execution of sentences for offences committed through the medium of the press.

The ECoHR held that the reasons for the domestic courts' decisions could not be regarded as sufficient in themselves to justify the interference with the applicant's right to freedom of expression. The article in question had reflected an intransigent attitude on the part of one of the parties to the conflict rather than incitement to violence. The Court also noted the severity of the penalty imposed on the applicant. In those circumstances it held that the

applicant's conviction was disproportionate to the aims pursued and accordingly not “necessary in a democratic society” There had therefore been a breach of Article 10.

The Court awarded the applicant EUR 7,500 for non-pecuniary damage and EUR 3,000 for costs and expenses.

Judgment of 6 December:

**Fikret Şahin v. Turkey** (no. 42605/98)

Fikret Şahin was born in 1964 and lives in Ankara. He is a member of the DBT (Party for Democracy and Peace).

On 1 September 1996 the applicant made a speech on the occasion of the “World Day of Peace and Freedom” organised on the initiative of various non-governmental organisations and political parties. He spoke of the damage caused by the armed conflict in south-eastern Turkey and criticised the Government's position on the matter.

The applicant was prosecuted on the charge of inciting the people to hatred and hostility on the basis of a distinction grounded on allegiance to a particular social class, race and region. He was accused among other things of describing the battle against the PKK as a war against part of the Turkish people. On 21 October 1977 Ankara State Security Court found the applicant guilty as charged and sentenced him to one year's imprisonment and payment of a fine. He appealed on points of law, but without success.

The ECoHR considered that the grounds given by the domestic courts could not in themselves be regarded as sufficient to justify the interference with the applicant's right to freedom of expression. Although the remarks made in the offending speech were particularly bitter and thus gave the applicant's words a hostile connotation, they did not incite violence, armed resistance or an uprising, and they did not amount to hate-speech, which, in the Court's opinion, was the essential element to be taken into consideration. As regards the nature and severity of the penalties imposed, the Court noted that the applicant had been sentenced, among other penalties, to one year's imprisonment, of which he had served about five months.

That being so, it held that the applicant's conviction had been disproportionate to the aims pursued and was accordingly not “necessary in a democratic society”. There had therefore been a violation of Article 10. The Court further held unanimously that there had been a violation of Article 6 § 1 as regards the complaint that the state security court had not been independent and impartial. As to the other complaint about the unfairness of the proceedings, the Court reiterated that a court whose lack of independence and impartiality had been established could not in any event guarantee a fair trial to the persons subject to its

jurisdiction. It therefore took the view that it was not necessary to examine that complaint.

The Court awarded Mr Şahin EUR 4,500 for non-pecuniary damage and EUR 1,000 for costs and expenses.

Judgments of 20 December:

**Çetin v. Turkey** (no. 42779/98) *Violation of Article 10*

Vedat Çetin was born in 1961 and lives in Diyarbakır. He is editor of the newsletter of the Human Rights Association.

In the August-October 1996 edition, the newsletter published three articles conveying the aspirations of the population of south-eastern Turkey for peace and criticising the manner in which the armed forces were conducting their anti-separatist activities.

Following publication of the articles, the applicant was charged with incitement to hatred and hostility on the basis of a distinction between races and between regions. In October 1997 Diyarbakır State Security Court decided to stay the proceedings against the applicant under Law no. 4304, by which proceedings against editors may be stayed and resumed in the event of a further offence within three years. On 10 September 2001 the proceedings against the applicant were discontinued.

The ECoHR considered that the conditional decision to stay the proceedings had been liable to discourage the applicant from contributing to public debate on issues of interest to society and had constituted an interference with his right to freedom of expression. It noted that, while some particularly virulent passages in the articles painted an extremely negative picture of the Turkish State, thereby lending a hostile tone to the articles, that did not mean that they encouraged the use of violence or armed resistance or insurrection or amounted to hate speech. In the Court's view, that was an essential factor to take into consideration. It found that the impugned measure had been disproportionate to the aims pursued and therefore not "necessary in a democratic society". Accordingly, the Court held, unanimously, that there had been a violation of Article 10. It awarded the applicant EUR 1,000 in respect of non-pecuniary damage and EUR 1,000 for costs and expenses.

**Korkmaz v. Turkey** (No. 1) (no. 40987/98)

**Korkmaz v. Turkey** (No. 2) (no. 42589/98)

**Korkmaz v. Turkey** (No. 3) (no. 42590/98) *Violation of Article 6 § 1 Violation of Article 10*

Vedat Kokmaz was born in 1965 and lives in Istanbul. He is the owner of the daily newspaper *Evrensel*.

On 16 October 1995, 12 June 1996 and 17 August 1996 the newspaper published three articles entitled "DHKC denies allegations", "The bloody rise to power of Mr Ağar" and "PKK suspends ceasefire". The first

article consisted of a denial by the organisation DKHC of reports that it had been involved in a break-in. The second contained a virulent criticism of the Minister of Justice in the form of a scathing commentary on his professional career, while the third consisted of a report of a telephone interview conducted by a television station with the head of the PKK, Abdullah Öcalan.

The applicant was prosecuted on the basis of the Prevention of Terrorism Act (Law no. 3713) and sentenced by Istanbul State Security Court in April 1996 and February and May 1997 to three substantial fines. All three judgments were upheld by the Court of Cassation.

The ECoHR considered that the grounds advanced by the domestic courts could not be regarded in themselves as sufficient to justify the interference with the applicant's right to freedom of expression. It noted that the articles in issue did not encourage the use of violence or armed resistance or insurrection, nor did they amount to hate speech. In the Court's view, that was an essential factor to take into consideration. It found that the applicant's convictions had been disproportionate to the aims pursued and therefore not "necessary in a democratic society". It therefore held, unanimously in all three cases, that there had been a violation of Article 10.

The Court awarded the applicant a total of EUR 8,000 in respect of pecuniary and non-pecuniary damage and EUR 4,500 for costs and expenses.

Judgment of 22 December:

**Ahmet Turan Demir v. Turkey** (no. 72071/01) Friendly settlement

Ahmet Turan Demir was born in 1949 and lives in Ankara. At the relevant time, he was the leader of the People's Democratic Party (HADEP).

Criminal proceedings were brought against him in relation to a speech he made at a party meeting in Ankara in October 1999, following which, on 1 June 2000, Ankara State Security Court found him guilty of disseminating propaganda against the indivisible unity of the State, contrary to the Prevention of Terrorism Act (Law no. 3713). He was fined 800,000,000 Turkish liras and sentenced to a one-year term of imprisonment. He appealed unsuccessfully.

The case has been struck out following a friendly settlement in which EUR 5,500 is to be paid to the applicant for any non-pecuniary and pecuniary damage, costs and expenses.

**Çamlıbel v. Turkey** (no. 64609/01) *Violation of Article 10*

Yılmaz Çamlıbel was born in 1938 and lives in Ankara.

On 14 December 1992 Mr Çamlıbel, in his capacity as secretary of the Kurdish Rights and Freedom Foundation, took part in a symposium organised by the Kütahya Human Rights Association. He gave a talk in which he criticised the Government's policy concerning the problem of Kurds living in Turkey.

Criminal proceedings were brought against the applicant and, on 20 September 1999, he was sentenced by the State security court to one year's imprisonment, among other penalties, for disseminating separatist propaganda. The Court of Cassation upheld his conviction.

The ECoHR considered that the reasons given by the domestic courts could not in themselves be regarded as sufficient to justify the interference with the applicant's right to freedom of expression. Although certain passages in the talk painted a negative picture of the Turkish State's policy and gave the words a hostile tone, they did not incite violence, armed resistance or an uprising and did not amount to hate speech, which, in the Court's opinion, was the essential element to be taken into consideration. It found that the applicant's conviction had been disproportionate to the aims pursued and accordingly not "necessary in a democratic society".

The Court therefore held, unanimously, that there had been a violation of Article 10 and considered it unnecessary to examine separately the complaint under Article 14. It awarded the applicant EUR 1,000 in respect of non-pecuniary damage and EUR 500 for costs and expenses.

#### Decisions on "no violation of Article 10"

Judgment of 13 September:

##### *İ.A. v. Turkey* (no. 42571/98)

İ.A. was born in 1960 and lives in France.

He is the proprietor and managing director of the Berfin publishing house. In November 1993 he published a novel by Abdullah Rıza Ergüven called *Yasak Tümceler* ("The Forbidden Phrases") in which the author addressed philosophical and theological issues in a novelistic style. 2,000 copies of the book were printed.

The applicant was prosecuted under Article 175 §§ 3 and 4 of the Criminal Code for publishing insults against "God, the Religion, the Prophet and the Holy Book". On 28 May 1996 Istanbul Court of First Instance sentenced him to two years' imprisonment, which was later commuted to a fine equivalent at the time to 16 United States dollars. The court based its decision on an expert opinion and on an extract from the book in which the author asserted, among other things: "Some of these words were, moreover, inspired in a surge of exultation, in Aisha's arms ... God's messenger broke his fast through sexual intercourse, after dinner and before prayer. Muhammad did not

forbid sexual intercourse with a dead person or a living animal."

The applicant appealed on points of law but was unsuccessful.

The ECoHR considered that the applicant's conviction had amounted to interference with his right to freedom of expression. The interference had been prescribed by law and had pursued the legitimate aims of preventing disorder and protecting morals and the rights of others.

The issue for the Court to determine was whether the interference had been "necessary in a democratic society"; this involved weighing up the conflicting interests relating to the exercise of two fundamental freedoms, namely the applicant's right to impart his ideas on religious theory to the public, on the one hand, and the right of others to respect for their freedom of thought, conscience and religion, on the other hand.

The Court reiterated in that connection that those who chose to exercise the freedom to manifest their religion, irrespective of whether they did so as members of a religious majority or a minority, could not reasonably expect to be exempt from all criticism. They had to tolerate and accept the denial by others of their religious beliefs and even the propagation by others of doctrines hostile to their faith.

However, the present case concerned not only comments that were disturbing or shocking or a "provocative" opinion but an abusive attack on the Prophet of Islam. Notwithstanding the fact that there was a certain tolerance of criticism of religious doctrine within Turkish society, which was deeply attached to the principle of secularity, believers could legitimately feel that certain passages of the book in question constituted an unwarranted and offensive attack on them.

In those circumstances, the Court considered that the measure in question had been intended to provide protection against offensive attacks on matters regarded as sacred by Muslims and had therefore met a "pressing social need". It also took into account the fact that the Turkish courts had not decided to seize the book in question, and consequently held that the insignificant fine imposed had been proportionate to the aims pursued by the measure in question.

The Court therefore held, by four votes to three, that there had been no violation of Article 10.

Judgment of 10 November:

##### *Leyla Şahin v. Turkey*

Leyla Şahin was born in 1973. She has lived in Vienna since 1999, when she left Istanbul to pursue her medical studies at the Faculty of Medicine at Vienna University. She comes from a traditional family of

practising Muslims and considers it her religious duty to wear the Islamic headscarf.

At the material time she was a fifth-year student at the faculty of medicine of Istanbul University. On 23 February 1998 the Vice-Chancellor of the University issued a circular directing that students with beards and students wearing the Islamic headscarf would be refused admission to lectures, courses and tutorials.

In March 1998 the applicant was refused access to a written examination on one of the subjects she was studying because she was wearing the Islamic headscarf. Subsequently the university authorities refused on the same grounds to enrol her on a course, or to admit her to various lectures and a written examination.

The faculty also issued her with a warning for contravening the university's rules on dress and suspended her from the university for a semester for taking part in an unauthorised assembly that had gathered to protest against them. All the disciplinary penalties imposed on the applicant were revoked under an amnesty law.

Like the Chamber, the Grand Chamber proceeded on the assumption that the circular in issue, which placed restrictions of place and manner on the right to wear the Islamic headscarf in universities, constituted an interference with the applicant's right to manifest her religion.

As to whether the interference had been "prescribed by law", the Court noted that the circular had been issued by the Vice-Chancellor within the statutory framework set out in section 13 of Law no. 2547 and in accordance with the regulatory provisions that had been adopted earlier. According to the applicant, the circular was not compatible with transitional section 17 of that law, which did not proscribe the headscarf but instead provided that students were free to dress as they wished provided that their choice did not contravene the law.

The Court reiterated that, under its case-law, "law" was the provision in force as the competent courts had interpreted it. In that connection, it noted that the Constitutional Court had ruled that freedom of dress in institutions of higher education was not absolute. The Constitutional Court had held that authorising students to "cover the neck and hair with a veil or headscarf for reasons of religious conviction" in the universities was contrary to the Constitution. That decision of the Constitutional Court, which was both binding and accessible, as it had been published in the Official Gazette of 31 July 1991, supplemented the letter of transitional section 17 and followed the Constitutional Court's previous case-law. In addition, the Supreme Administrative Court had by then consistently held for a number of years that wearing the Islamic headscarf at university was not compatible with the fundamental

principles of the Republic. Furthermore, regulations on wearing the Islamic headscarf had existed at Istanbul University since 1994 at the latest, well before the applicant enrolled there.

In these circumstances, the Court found that there was a legal basis for the interference in Turkish law and that it would have been clear to the applicant, from the moment she entered the university, that there were restrictions on wearing the Islamic headscarf and, from the date the circular was issued in 1998, that she was liable to be refused access to lectures and examinations if she continued to wear the headscarf.

The Court considered that the impugned interference primarily pursued the legitimate aims of protecting the rights and freedoms of others and of protecting public order.

As to whether the interference was necessary, the Court noted that it was based in particular on the principles of secularism and equality. According to the case-law of the Constitutional Court, secularism, as the guarantor of democratic values, was the meeting point of liberty and equality. The principle prevented the State from manifesting a preference for a particular religion or belief; it thereby guided the State in its role of impartial arbiter, and necessarily entailed freedom of religion and conscience. It also served to protect the individual not only against arbitrary interference by the State but from external pressure from extremist movements. The Constitutional Court added that freedom to manifest one's religion could be restricted in order to defend those values and principles.

Like the Chamber, the Grand Chamber considered that notion of secularism to be consistent with the values underpinning the Convention, upholding that principle could be considered necessary to protect the democratic system in Turkey.

The Court also noted the emphasis placed in the Turkish constitutional system on the protection of the rights of women. Gender equality – recognised by the European Court as one of the key principles underlying the Convention and a goal to be achieved by member States of the Council of Europe – had also been found by the Turkish Constitutional Court to be a principle implicit in the values underlying the Constitution.

In addition, like the Constitutional Court, the Court considered that, when examining the question of the Islamic headscarf in the Turkish context, there had to be borne in mind the impact which wearing such a symbol, which was presented or perceived as a compulsory religious duty, may have on those who chose not to wear it. As had already been noted, the issues at stake included the protection of the "rights and freedoms of others" and the "maintenance of public order" in a country in which the majority of the population, while professing a strong attachment to the rights of women and a secular way of life, adhered to

the Islamic faith. Imposing limitations on the freedom to wear the headscarf could, therefore, be regarded as meeting a pressing social need by seeking to achieve those two legitimate aims, especially since that religious symbol had taken on political significance in Turkey in recent years.

The Court did not lose sight of the fact that there were extremist political movements in Turkey which sought to impose on society as a whole their religious symbols and conception of a society founded on religious precepts.

Against that background, it was the principle of secularism which was the paramount consideration underlying the ban on the wearing of religious symbols in universities. In such a context, where the values of pluralism, respect for the rights of others and, in particular, equality before the law of men and women were being taught and applied in practice, it was understandable that the relevant authorities should consider it contrary to such values to allow religious attire, including, as in the case before the Court, the Islamic headscarf, to be worn on university premises.

In those circumstances, and having regard to the Contracting States' margin of appreciation, the Court found that the interference in issue was justified in principle and proportionate to the aims pursued, and could therefore be considered to have been "necessary in a democratic society". It therefore found no violation of Article 9.

Contrary to the decision of the Chamber on this complaint, the Grand Chamber was of the view that, having regard to the special circumstances of the case, the fundamental importance of the right to education and the position of the parties, the complaint under Article 2 of Protocol No. 1 could be considered as separate from the complaint under Article 9 and therefore warranted separate examination.

On the question of the applicability of Article 2 of Protocol No. 1, the Court reiterated that it was of crucial importance that the Convention was interpreted and applied in a manner which rendered its rights practical and effective, not theoretical and illusory. Moreover, the Convention was a living instrument which had to be interpreted in the light of present-day conditions. While the first sentence of Article 2 essentially established access to primary and secondary education, there was no watertight division separating higher education from other forms of education. In a number of recently adopted instruments, the Council of Europe had stressed the key role and importance of higher education in the promotion of human rights and fundamental freedoms and the strengthening of democracy. Consequently, it would be hard to imagine that institutions of higher education existing at a given time did not come within

the scope of the first sentence of Article 2 of Protocol No. 1. Although that Article did not impose a duty on the Contracting States to set up such institutions, any State that did so was under an obligation to afford an effective right of access to them. In a democratic society, the right to education, which was indispensable to the furtherance of human rights, played such a fundamental role that a restrictive interpretation of the first sentence of Article 2 of Protocol No. 1 would not be consistent with the aim or purpose of that provision.

Consequently, the Court considered that any institutions of higher education existing at a given time came within the scope of the first sentence of Article 2 of Protocol No. 1, since the right of access to such institutions was an inherent part of the right set out in that provision.

In the case before it, by analogy with its reasoning on the question of the existence of interference under Article 9, the Court accepted that the regulations on the basis of which the applicant had been refused access to various lectures and examinations for wearing the Islamic headscarf constituted a restriction on her right to education, notwithstanding the fact that she had had access to the university and been able to read the subject of her choice in accordance with the results she had achieved in the university entrance examination. As with Article 9, the restriction was foreseeable and pursued legitimate aims and the means used were proportionate.

In these circumstances, the ban on wearing the Islamic headscarf had not impaired the very essence of the applicant's right to education and, in the light of the Court's findings with respect to the other Articles relied on by the applicant. Neither did it conflict with other rights enshrined in the Convention or its Protocols. The Court therefore found that there had been no violation of Article 2 of Protocol No. 1.

The Court did not find any violation of Articles 8 or 10, the arguments advanced by the applicant being a mere reformulation of her complaint under Article 9 and Article 2 of Protocol No. 1, in respect of which the Court had concluded that there had been no violation.

As regards the complaint under Article 14, the Court noted that the applicant had not provided detailed particulars in her pleadings before the Grand Chamber. Furthermore, as had already been noted, the regulations on the Islamic headscarf were not directed against the applicant's religious affiliation, but pursued, among other things, the legitimate aim of protecting order and the rights and freedoms of others and were manifestly intended to preserve the secular nature of educational institutions.

Consequently the Court held that there had been no violation of Articles 8, 10 or 14.

Judges Rozakis and Vajić expressed a joint concurring opinion and Judge Tulkens expressed a dissenting opinion. These opinions are annexed to the judgment.

#### **Writers and Publishers on Trial**

In July the Committee for Publishing Freedom in the Union of Turkish Editors published its 2005 report. On the situation in Turkey and the world the report stated *inter alia*:

"Last year hopes were raised on freedom of expression but this year has given reason for concern. There were positive developments such as 'no prison sentences' in the Press Law, but they were taken back by amendments to the penal code that passed parliament without considering the criticism of press institutions. In addition, some radical groups tried to hinder the freedom of expression."

According to the Union of Turkish Editors the following books resulted in charges in 2004 and the first six months of 2005:

<b>Publisher</b>	<b>Author</b>	<b>Book</b>
Aram	Menaf Osman	"Gire Şekan" (Yiğitler Tepesi – Hill of Heroes)
Aram	Mehmet Sabatli	"Kasırga Taburu" (Hurricane Battalion)
Aram	Kayhan Adnut	"Tufanda 33 Gün" (33 days in Inundation) acquittal
Aram	Timur Şahan	"İtirafçı/ Bir JİTEM'ci Anlattı" (Confessor-JİTEM member talked)
Ayrıntı	S. Reynolds–J. Press	"Seks İsyanları-Toplumsal Cinsiyet, Başkaldırı Rock'n Roll" (Sex Riots – Sex in Society, Rock'n Roll Revolt) acquittal
Ayrıntı	C. Palahniuk	"Tıkanma" (Clog) acquittal
Belge	George Jerjian	"Gerçek Bizi Özgür Kılacak" (The Truth Will Set Us Free)
Belge	Zülküf Kışanak	"Yitik Köyler" (Lost Villages)
Bilge Karınca	Murat Kürüz	"Kadın-Erkek Faaliyet Raporu" (Woman-Man Activity Report)
Ceylan	Hasan Basri Aydın	"Tanrıya Metuplar" (Letters to God) acquittal
Çetin	A. Öcalan	"Güney. Kürdistan'da Egemenlik" (Sovereignty in South Kurdistan)
Çetin	Derleme	"Öğrenci Gençlik Hareketi" (Student Youth Movement)
Çetin	Gülseren Aksu	"Güneşin Sofrasındayız" (Meal of the Sun)
Çetin	A.Öcalan	"Sosyal Devrim ve Yeni Yaşam" (Social Revolution and New Life)
Çetin	Mahsun Şafak	"PKK Kongre Belgeleri" (Documents on PKK Congresses)
Çiviyazıları	M. de Sade	"Juliette"
Deng	Kemal Burak	"Seçme Yazılar" (Selected Articles)
Deng	Ehmede Xani	"Mem u Zin"
Deng	Munzur Cem	"Alevilik, Zazaki ve Dersim" (Alevites, Zaza and Dersim)
Deng	Ali Dicleli	"Kürt Sorunu Barış Demokrasi" (The Kurdish Question, Peace, Democracy)
Doz	Mesut Barzani	"Barzani ve Özgürlük Hareketi" (Barzani and the Freedom Movement) acquittal
Everest	Meltem Arıkan	"Yeter Tenimi Acıtmayın" (Enough, don't hurt my skin)
Evrensel	Ahmet Kahraman	"Kürt İsyanları" (Kurdish Uprisings)
Güncel	Nedim Şener	"Uzanlar/Bir Korku İmparatorluğunun Çöküşü" (The Uzan family-the decline of an Empire of Fear)
Haziran	Derleme	"Cezaevi Direnişi 3: Ulucanlar" (Resistance in Prison 3: Ulucanlar)
İletişim	Herkül Milas	"Göç: Anadolu Rumları 1919-1922 (Migration: Anatolian Greeks) conviction
Metis	Filiz Bingölçe	"Kadın Argosu Sözlüğü" (Dictionary of Women Slang) acquittal
Özgür Üniversite	Fikret Başkaya	"Akıntıya Karşı Yazılar" (Articles against the Flow) acquittal

Pencere	Fevzi Karadeniz	"Eski Zamanlar" (Old Times) conviction
Peri	Naci Kutlay	"21. yy Girerken Kürtler" (Kurds on the Entry to the 21st Century) acquittal
Sel	Metin Üstündağ	"Pazar Sevişgenleri" (Sunday Lovers) Court of Cassation quashed acquittal
Sel	Enis Batur	"Elma" (Apple) Court of Cassation quashed acquittal
Sorun	Talat Turan	"Mehmet Eymur, Bir MİT'çinin Portresi" (Mehmet Eymur, the Portrait of an Agent) conviction
Stüdyo/İmge	Sabri Kaliç	"Eminem"
Stüdyo/İmge	Irvine Welsh	"Porno"
Stüdyo/İmge	Sibel Torunoğlu	"Travesti Pinokyo"
Stüdyo/İmge	Eminem	"Kızgın Sarışın" (Furious Blond)
Stüdyo/İmge	Suat Bilgi	"Show"
Stüdyo/İmge	Irvine Welsh	"Olağanüstü Üç Kimyasal Roman" (Extraordinary Three Chemical Novel)
Tohum	Derleme	"Kuzey Batı Dersim: Koçgiri" (Northwest Dersim: Koçgiri)
Umut	Derleme	"Bir Mesale: İbrahim Kaypakkaya" (A Flambeau: İbrahim Kaypakkaya)
Yeni Gökyüzü	Hasan Baran	"Ayağında Kundura" (Shoe at your Foot)
-	Cemal Anadol	"İsrail ve Siyonizm Kısacında Türkiye" (Turkey in the Clamp of Israel and Zionism)

The writer Necmiye Alpay was detained on 24 March during a conference of the Turkish and the Kurdish PEN in Diyarbakır on Cultural and Language Variety. She was detained at 5am on the pretext that a warrant existed but released at 10am stating that there had been a mistake.

#### **Confiscated books of İsmail Beşikçi**

The 9th Chamber of the Court of Cassation lifted decisions on confiscation of 16 books of İsmail Beşikçi in 2005. Following the abolition of Article 8 ATL lawyer Levent Kanat appealed to Ankara Heavy Penal Court No. 11 asking to lift the decisions of confiscation of books under this provision. Ankara Heavy Penal Court No. 11 rejected the demand and the appeal against this decision was also turned down. The prosecutor maintained that the books were still violating existing law.

The Ministry of Justice approached the Court of Cassation asking to correct the verdict with a written order. The 9th Chamber of the Court of Cassation issued such an order for 16 books. On 25 November Ankara Heavy Penal Court No. 11 dealt with the order. The prosecutor demanded not to lift the decisions of confiscation, while lawyer Levent Kanat argued that the order of the Court of Cassation was binding. On 22 November Ankara Heavy Penal Court No. 11 passed its verdict. It rejected to lift the orders of confiscation. The 9th Chamber of the Court of Cassation will have to deal with the issue again.

#### **"Confessing Member of JİTEM Explained"-Fatih Taş**

The prosecutor in İstanbul indicted Fatih Taş, the owner of Aram publishing house, for the second edition of the book "Confessing Member of JİTEM Explained" which contained revelations of the PKK defector

Abdülkadir Aygan on crimes committed by officials and defectors in the region under state of emergency in the 1990s. The prosecutor alleged that persons who had taken part in the fight against terrorism were shown as targets to illegal organizations.

Two cases had been opened for the book, but later the case at İstanbul Heavy Penal Court No. 10 was combined with the case at İstanbul Heavy Penal Court No. 11.

#### **"Spoils of War: The Human Cost of America's Arms Trade" -Fatih Taş**

The prosecutor in İstanbul indicted Fatih Taş for the book of John Tirman, "Spoils of War: The Human Cost of America's Arms Trade". He wanted him to be convicted under Article 301 new TPC and Law 5816 on Offences against Atatürk. On 17 November İstanbul Penal Court No. 2 started to hear the case. The hearing was adjourned to 8 February 2006.

#### **"They say you are Lost"-Fatih Taş**

On 20 October İstanbul Penal Court No. 2 sentenced Fatih Taş to six months' imprisonment under Article 301/1 new TPC (159 old TPC) for the book "They say you are Lost" that had been written under the name of State Secretary "Ali Aydın". On 7 December Fatih Taş appealed against the verdict.

There are further trials against Fatih Taş, mainly based on Article 7/2 ATL. At least three of these cases are heard at İstanbul Heavy Penal Court No. 9 and another three at İstanbul Heavy Penal Court No. 11. Another four trials are being conducted at Beyoğlu Penal Court No. 2 under Article 159 old TPC.

**"Articles against the Flow"-Fikret Başkaya, Özden Bayram, İsmet Erdoğan**

Dr. Fikret Başkaya as author of the book "Articles against the Flow" and the responsible of the publishing house Maki, Özden Bayram and İsmet Erdoğan were tried at Ankara Penal Court No. 2 under Article 159 old TPC. They were acquitted on 2 March.

**"Turkey in the Clamp of Israel and Zionism" -Y. Cemal Anadol**

On 10 March İstanbul Penal Court No. 2 started to hear the case of Prof. Dr. Y. Cemal Anadol (72) in connection with his book "Turkey in the Clamp of Israel and Zionism". He was charged under Article 312 old TPC. The court case did not conclude in 2005.

**"The Truth Will Set Us Free" -Ragıp Zarakolu**

On 16 March İstanbul Penal Court No. 2 started to hear the case of the owner of Belge Publishing House, Ragıp Zarakolu in connection with the book of the British writer George Jerjian entitled "The Truth Will Set Us Free". Zarakolu said that the author had no intention of insult and, if the book was read as whole, it become clear that he wanted to normalize Armenian-Turkish relations.

During the hearings of 17 May and 20 September the Court waited for an expert opinion. During the hearing of 22 November the defense lawyers objected to the expert Dr. Musa Duman from İstanbul University. They said that he had written articles in favor of former Mayor of İzmir, Burhan Özfatura who had insulted the writer Yaşar Kemal. The Court agreed to change the expert and adjourned the hearing to 15 February 2006.

**Dr. Garabed Hatcherian's journal "My Smyrna Ordeal of 1922"-Ragıp Zarakolu**

In August Ragıp Zarakolu was indicted for the translation of the book "Dr. Garabed Hatcherian's journal "My Smyrna Ordeal of 1922" published by Prof. Dr. Dora Sakayan. He was charged under Article 301 new TPC (Article 159 old TPC) with having insulted the army. The first hearing was held at İstanbul Penal Court No. 2 on 22 September. At the hearing of 22 November the prosecutor asked for conviction. The court adjourned the hearing to 15 February 2006 for the defense to prepare the final statement.

**"Stories of Patty Diphusa"-Avo Pardo, Metin Celal Zeynioğlu**

On allegation that the book of Pedro Almodovar "Stories of Patty Diphusa" was obscene the translator Avo Pardo and the executive of Parantez Publishing House, Metin Celal Zeynioğlu were indicted under Article 426 TPC. On 23 March Beyoğlu Penal Court No. 2 acquitted the defendants and lifted the order of confiscation.

**"Memoirs of Abdullah Öcalan-At the Table of the Sun"-Abdurrezzak Güngör, Sadık Daşdoğan**

In April the public prosecutor indicted the owner of Çetin publishing house, Aburrezzak Güngör and the owner of the printing house Berdan, Sadık Daşdoğan in connection with the book "Memoirs of Abdullah Öcalan-At the Table of the Sun" alleging that it contained propaganda for an illegal organization.

**"Philosophy in the Sleeping Room"-Ömer Faruk**

On 29 June İstanbul Penal Court No. 2 acquitted the owner of Ayrıntı publishing house, Ömer Faruk, from charges of having hurt the moral feeling of the people in the book "Philosophy in the Sleeping Room" by Marquis de Sade. In the first round Ömer Faruk had been fined YTL 4,285 since the translator of the book, Kerim Sadi, could not be found. The Court of Cassation had quashed the sentence.

**"The last Deportation"-Dragan Babic**

In June İstanbul Penal Court No 2 lifted the order of confiscation for the book of Dragan Babic "The last Deportation". In January 2002 İstanbul Peace Court No. 3 had ordered the confiscation of the book on the grounds that it hurt the moral feelings of the people.

**"Sunday Lovers" -Metin Üstündağ, İrfan Sancı**

On 25 July İstanbul Penal Court No. 2 acquitted the author of the cartoon album "Sunday Lovers", Metin Üstündağ and the owner of Sel publishing house, İrfan Sancı. On 4 July 2002 the defendants had been acquitted, but the Court of Cassation had quashed this decision.

**"Apple"-Enis Batur, İrfan Sancı**

On 23 December İstanbul Penal Court No. 2 acquitted Enis Batur, author of the novel "Apple" and the publisher İrfan Sancı from charges of having published against the general moral. On 16 July 2002 the defendants had been acquitted but the Court of Cassation had quashed the decision.

**"Poisoning of Kemalism accompanied by Laws of the Revolution"-Kasım Gümüş**

In February Kasım Gümüş, technician at the official radio and TV station TRT in Ankara, was indicted for having printed three copies of the book "Poisoning of Kemalism accompanied by Laws of the Revolution". He was charged under Law 5816 with having insulted Atatürk.

**"The story of two towns-Clash between Ankara and İstanbul"-Seyfi Öngider**

The editor and author Seyfi Öngider was charged in connection with the book "The story of two towns-Clash between Ankara and İstanbul" published by Aykırı publishing house. He was charged with having insulted Atatürk. The indictment did not include the publisher

Ahmet Saim Koç. On 8 December Kadıköy Penal Court No. 2 started to hear the case.

#### **"Witches of İzmir"-Abdullah Yılmaz**

The prosecutor in İstanbul-Beyoğlu indicted Abdullah Yılmaz, executive of the publishing house Literatür, for having insulted Turkishness in the book of Mara Meimaridi "Witches of İzmir". The trial was to start on 6 April 2006.

#### **"How the Heritage of a thousand years was destroyed-Lost Villages"-Zülküf Kışanak**

On 22 December İstanbul Penal Court No. 2 convicted the writer Zülküf Kışanak under Article 301/1 new TPC for having insulted the Turkish Republic in her book "How the Heritage of a thousand years was destroyed-Lost Villages". The sentence of 5 months' imprisonment was commuted to a fine of YTL 3,000.

#### **"Lilith"-Nermin Acar, Aysel Aktaş**

On 21 December İstanbul Penal Court No. 2 acquitted the translator Nermin Acar and the owner of the publishing house Güncel, Aysel Aktaş from charges of having publicized against the general moral in the book of French writer Alina Reyes entitled "Lilith". The trial had been initiated under Article 426 old TPC.

#### **"Varieties of Torture in Diyarbakır Prison"-Mehdi Tanrıkulu**

On 24 December Fatih Penal Court No. 2 acquitted the owner of the publishing house M, Mehdi Tanrıkulu from charges of having incited the people to enmity in the book of Zülfikar Tak entitled "Varieties of Torture in Diyarbakır Prison". The court ruled that the legal elements of the offence had not materialized.

#### **"Blood Flowers from the Captive General on Ararat"-Mustafa Balbal, Ahmet Zeki Okçuoğlu**

In 2005 Beyoğlu Penal Court No. 2 continued to hear the case of the writer Mustafa Balbal and the owner of publishing house Doz, Ahmet Zeki Okçuoğlu in connection with the book "Blood Flowers from the Captive General on Ararat". The book had been confiscated in 2002.

#### **"Sinan Kara's Black Book"-Sinan Kara**

On 17 October Datça Penal Court sentenced the journalist Sinan Kara to 9 months' imprisonment and a fine of YTL 514 for having insulted Datça Governor Savaş Tuncer in "Sinan Kara's Black Book".

#### **"Teyre Baz or Kurdish Businessman Hüseyin Baybaşın"-Ahmet Önal**

In 2005 Beyoğlu Penal Court No. 2 started to hear the case of Ahmet Öncal, owner of the publishing house Peri, again. He was charged with insult in the book of Mahmut Baksi "Teyre Baz or Kurdish

Businessman Hüseyin Baybaşın". The hearing was adjourned to 7 February 2006. On 22 March 2004 Ahmet Önal had been fined TL 1.69 million, but the Court of Cassation had quashed the verdict.

#### **"Alevites in Dersim"-Ahmet Önal**

Fatih Penal Court No. 2 continued the case related to the book of Munzur Cem "Alevites in Dersim" on charges of having insulted Atatürk and the army. The hearing was adjourned to 21 February 2006.

#### **"Woman, Voice of Pain"-Ahmet Önal**

In 2005 the case related to the book of M. Erol Coşkun "Woman, Voice of Pain" continued. In 2003 Ahmet Önal had been fined TL 2.65 million under Article 159 old TPC but the Court of Cassation had quashed the verdict.

#### **"Passion and Prisoners"-Ahmet Önal**

The trial related to the book of Evin Çiçek "Passion and Prisoners" continued in 2005. Ahmet Önal was charged with a violation of the Press Law. The hearing was adjourned to 29 March 2006. Earlier Ahmet Önal had been sentenced to 18 months' imprisonment but the Court of Cassation had quashed the verdict.

#### **"Historical and Contemporary Study on Kurds in the Soviet-Union: Kurds Diaspora"-Ahmet Önal**

Ahmet Önal was indicted for the book of Hejare Şamil "Historical and Contemporary Study on Kurds in the Soviet-Union: Kurds Diaspora" under Article 7 of the ATL.

#### **Hindered Activities**

##### **The "Armenian Conference"**

Following a speech of Justice Minister Cemil Çiçek the administration of Boğaziçi (Bosphorous) University postponed the Conference on "Ottoman Armenians during the Decline of the Empire: Issues of Scientific Responsibility and Democracy" to be held between 25 and 27 May. The details of what triggered the decision of the administration can be summarized as such:

On 24 May CHP deputy from İstanbul, Şükrü Elekdağ, took the floor in the GNAT to speak outside the agenda. He stated that the aim of the Conference was to accuse Turkey of having committed genocide and asked whether nobody at the University were able to stop this. AKP deputy for Aksaray, Ramazan Toprak, stated that if anybody would conduct a conference in Armenia and defend the Turkish thesis s/he would end up in jails. He added that the Turkish nation would not pardon those who lied about the past.

After the speeches of the deputies Justice Minister Cemil Çiçek took the floor and said that it was unacceptable to have such a conference. He added

that the attempt was to stab Turkey in the back. Although the universities were autonomous they could not be irresponsible. He called on the Council for Higher Education to take action in order to prevent 'treason'.

Following the decision of the Dean of Bosphorous University to postpone the Conference 109 staff members at the university issued a declaration stating that the decision was a restriction of the freedom of expression. On questions of journalists Foreign Minister Abdullah Gül claimed that there had been no pressure or invitation of the government to postpone the Conference.

It was planned to hold the Conference in September. However, Mustafa Özkurt, lawyer and chair of the Union of Jurists called on İstanbul Administrative Court No. 4 to stop the Conference claiming that it was no scientific and legal. The Court accepted the subject as being administrative and on 19 September decided to stop the implementation of the decision to hold such a conference. The Court asked questions such as the procedure under which the decision had been taken; the criteria for electing the participants; the question whether it was open to the public and how the costs would be met. Until these questions received a satisfactory answer the conference should not be held.

Reportedly İstanbul Governor Muammer Güler informed Prof. Dr. Ayşe Soysal, the Dean of Bosphorous University of the decision over the phone.

After the court's decision the Conference was held at Bilgi University (İstanbul) on 24 and 25 September. During both days members of the Workers' Party (IP) and right-wing groups staged demonstrations in front of Bilgi University and threw tomatoes and eggs at the participants.

On 26 September the Regional Administrative Court cancelled the decision of İstanbul Administrative Court stating that the court was not entitled to decide on such an issue. The verdict was handed over to the parties on 12 October,

Several journalists who had criticized the postponement of the Conference were indicted (see the Chapter on Prosecuted Journalists).

#### **Other Hindrances**

In January the district governor in Selçuk (İzmir) prohibited the theater play "Daddies" written by Can Yücel and performed by the theater group Efes on the grounds that it would create a divergence of opinion among the spectators.

The district governor of Bakırköy (İstanbul) prohibited the action of Bakırköy municipality to be held in commemoration of Uğur Mumcu (journalist with *Cumhuriyet*) on 26 January.

No permission was given to perform the single person play of Murat Batği under the title of "Zimandirej" at a primary school in Cizre (Şırnak) at the end of January. The school administration argued that at an official school play in the Kurdish language could not be performed.

The dean of İstanbul University did not allow the "15 Years' Activities" of *Halkbilim* Club to be held at the end of April. Rukiye Ilgın said in the name of the Club that the decision had been taken because the picture of Zehra Kulaksız (died during a death fast action against isolation in prison) had been on one poster and a panel had been planned on Alevites and Minorities.

In May the staging of the play "Antediluvian" written by Metin Balay based on the play of Moliere "Tartuffe" was banned in Şırnak and Cizre and Silopi districts (Şırnak). It was argued that the play exploited religious feelings, was obscene and insulted the people of the region.

The administration of Marmara University did not allow the students to hold a summer festival on 27 April. Although the students got permission from the municipality in Kadıköy the police prevented them from holding the festival on the square of the pier in Kadıköy.

In May it was reported that the teacher Sakıp Yaşar was "exiled" from Araban district (Gaziantep) to Burunsuzlar village in İslahiye district (Gaziantep) because he attended a play of Aziz Nesin during a festival of Viranşehir municipality (Urfa). Mehmet Bozgeyik, chair of the teachers' union in Gaziantep said that Sakıp Yaşar had been "exiled" without taking his statement. Another 10 teachers had been appointed to other places although they had not asked for it.

In İstanbul the teacher Mustafa Cemil Kılıç was appointed to a different lyceum because he had used the book "Alevites on the Rise" during lessons on religion.

In İzmir the governor prohibited the Seminar for Physicians and Jurists on Ill-treatment and Torture to be held on 25 May by the Forensic Institute with support from the European Commission was cancelled without any reason (see the chapter on Personal Security).

Hulusi Doğan, governor of Milas district (Muğla) ordered the detention of the student Çağdaş Cengiz (17) because he had read the poem of Nazım Hikmet "Traitor" during a poems reading at the Anatolian Lyceum on 25 May. The student was released after three hours. The prosecutor Fikret Yılmaz maintained that the detention was related to some disturbing movements among the students.

In Aydın town, Tuzla district (İstanbul) soldiers of the gendarmerie intervened when students gathered in

May. They had invited the singer Ferhat Tunç. Teacher Kubilay Uzunyayla said that they had been able to begin the concert, but after three songs the gendarmerie had cut the electricity.

In May Mahmut Büyükbayram, Hacı Şirin, Necla Akkaya, Mehmet Tali, Eylem Dilan Polat, Nejla Akat and Ayşe Akbaş were detained in connection with the 5<sup>th</sup> Culture and Art Festival of Diyarbakır municipality on the allegation that in the exhibition on "Witnesses of the War Speak" photographs of PKK militants had been displayed. In November they were indicted for having disseminated propaganda of an illegal organization.

In Adapazarı five teachers were subjected to an investigation because they had asked the military for uniforms to be used during a theater play. The military commander had asked for the script and then filed a complaint. Besides the teachers Hasan Yolcu, Faik Kestane and Leyla Eker the directors Talha Yayıcı and Nilgün Uygur were also subjected to a disciplinary investigation.

In June Okan Leblebeciler, governor in Güroymak district (Bitlis) did not allow that a play of Aziz Nesin was performed by the Culture and Art Association, since it was "dangerous and problematic".

At a primary school in Mudanya district (Bursa) it was not allowed to stage a play that had been written based on a novel by Yaşar Kemal. The show should have taken place at the end of the year.

The Council for Cinema and Videos prohibited the film of Swedish film director Lukas Moodysson "A Hole in My Heart" on 13 June. The decision was based on Article 11 of Law 5224 that prevents films to be shown that are against the public order, the general moral and wants to protect the mental and physical health of minors.

The governor in Tunceli postponed the 6<sup>th</sup> Munzur Nature and Culture Festival to be held between 28

and 31 July for 45 days because of reasons of security. On 27 July two women were detained when they distributed leaflets in connection with the festival. In the evening Mustafa Yıldırım, Nihat Akgün and Mehmet Şarman were detained. On 28 July a person that wanted to participate in the festival was detained in Pertek on the allegation that he was a deserter.

In August the governor in Erzincan banned a traditional festival to be held in Kılıçkaya village.

On 6 September an exhibition organized by the History Foundation, the Helsinki Citizens' Assembly and the Association of Helsinki Human Settlements under the title "The Events of 6 and 7 September in its 50<sup>th</sup> Year" was attacked. Members of right-wing groups destroyed some photographs and damaged others by throwing eggs at them.

On 13 October Beyoğlu Peace Court No. 2 ordered the confiscation of a catalogue for an exhibition of photographs to be displaced during the 9<sup>th</sup> International Biennale in İstanbul on the allegation that it insulted the army. However, there were no copies of the catalogue left when the police came on 14 October to collect them. On objection of lawyer Murat Altındere Beyoğlu Peace Court No. 3 lifted the decision of confiscation pointing at Articles 9 and 10 of the European Convention of Human Rights.

Yet, the public prosecutor in Beyoğlu indicted the organizer of the exhibition, Halil Altındere under Article 301 new TPC. The first hearing was to be held at Beyoğlu Penal Court on 13 April 2006.

In Diyarbakır the police tried to prevent an exhibition by TUHAD-DER on the anniversary of the prison operation on 19 December 2000. The photographs showed prisoners who had been killed during the operation. The police demanded that minors were not allowed entry and that nobody could look at the exhibition from outside. On 20 August the police raided the exhibition and confiscated 44 photographs.

## 2- FREEDOM OF COMMUNICATION

Some provisions relating to freedom of communication in the new penal code that entered force on 1 June are:

### Section 9: Offences against Privacy

#### Violation of privacy of communication

Article 132 - (1) Anyone who violates the privacy of communication between persons shall be punished by imprisonment of between six months and two years, or with a judicial fine. If the violation is committed by recording the contents of communication, a sentence of between one year and three years' imprisonment may be imposed.

(2) Anyone who unlawfully discloses the contents of communication between persons will be punished by imprisonment of between one and three years.

(3) Anyone who discloses a communication with someone else in public without the consent of the other person will be punished by imprisonment of between six months and two years or a judicial fine.

(4) If the contents of communication between persons are published via press and publications, the sentence will be increased by one half.

Wiretapping and recording of communications

ARTICLE 133 - (1) Anyone who monitors private conversations between persons, without the consent of either of the parties, by means of a tapping device, or who records such conversations by means of a sound recording device, shall be sentenced to imprisonment for a term of from two to six months.

(2) Anyone who records a public conversation without the consent of the other participating speakers by means of a sound recording device shall be sentenced to imprisonment for a term of up to six months or a judicial fine.

(3) Anyone who profits from information which he is known to have obtained or which he may be deemed to have obtained by committing an act referred to in the above paragraphs or who supplies that information to other persons or who enables other persons to obtain information shall be sentenced to imprisonment for a term of from six months to two years and a judicial fine of up to one thousand days. Where such a conversation is published through the medium of the press and publications, the penalty to be imposed shall be the same.

#### Violation of Privacy

ARTICLE 134 - (1) Anyone who violates the privacy of others' personal lives shall be punished by imprisonment for a term of from six months to two years or an administrative fine. Where the violation of privacy occurs as a result of recording of images or voice/sound, the minimum penalty shall be not less than one year.

(2) Anyone who discloses images or sounds of others' private lives shall be punished by imprisonment for a term of from one to three years. Where the offence is committed through the press or media, the penalty shall be increased by one half.

#### Recording of personal data

ARTICLE 135 - (1) Anyone who illegally records personal data shall be punished by imprisonment for a term of from six months to three years.

(2) Anyone who illegally records personal information data concerning others' political, philosophical or religious opinions, their racial origins, their unlawful moral tendencies, sexual lives, their health problems or their relations with trade unions shall be punished by imprisonment in accordance with the above provision.

#### Violation of Confidentiality

Article 285 - (1) Anyone who publicly breaches the confidentiality of an investigation shall be sentenced to imprisonment of from one to three years. In the case of breaches of confidentiality with respect to decisions taken during investigation that are confidential by law, and for procedures carried out in accordance with such decisions, the offence shall be deemed to have occurred even where it was not committed publicly.

(2) Anyone who publicly breaches the confidentiality of declarations or images produced in hearings that according to the law had to be held or had been decided to be held in closed session shall be sentenced according to the provision in paragraph 1. Where the protection of a witness is an issue, the offence shall be deemed to have occurred even where it was not committed publicly.

(3) The sentence shall be increased by one half if the offences are committed by means of the press or publication.

(4) If, during the investigation and prosecution stages, images are published that label persons as guilty, a sentence of imprisonment of from six months to two years shall be imposed.

#### Audiovisual recording

Article 286 - (1) Anyone who, without authorization, records or transmits sound or images during an investigation or prosecution shall be sentenced to up to six months' imprisonment.

#### Attempt to Influence Fair Trial

Article 288 - (1) Anyone who makes verbal or written statements in public in order to influence a prosecutor, judge, court, expert or witnesses before an investigation and prosecution has concluded with a legally binding verdict shall be sentenced to imprisonment for from six months to three years.

(2) (Removed by Law 5377 of 29 June 2005)

### The Trial of Birol Duru

On 10 August Birol Duru, reporter with the news agency DİHA, the HRA member Daimi Açık and Kemal Özen were detained in Yedisu district (Bingöl). Duru and Açık were remanded on 11 August on charges of having supported an illegal organization. Kemal Özen was released.

Birol Duru had gone to research allegations that the gendarmerie commander in Yedisu, Captain Ahmet Yanaral grew cannabis with some villagers. In Dinarbey village a cassette containing propaganda for the PKK had allegedly been found in his bag. Birol Duru, Daimi Açık and Kemal Özen were later charged

under Article 314 in conjunction with Article 220 new TPC with supporting an armed organization. The first hearing was held at Diyarbakır Heavy Penal Court No. 4 on 8 December.

Defense lawyer Servet Özen stated that the video-cassette did not belong to his client. Demands for the release of Duru and Açık were rejected. During the following hearing on 29 December the Court lifted the arrest warrants against both defendants.

### Confiscation of Journals and Newspapers

On 17 January Diyarbakır Peace Court No. 1 sentenced Ramazan Pekgöz, representative of the

distribution company Fırat to 3 months' imprisonment and a fine because he had been found in possession of publications that had been confiscated on order of İstanbul SSC. The sentence was commuted to a fine totaling TL 779 million. Ramazan Pekköz had been detained on 11 May 2004 but was tried without being remanded.

The public prosecutor ordered the confiscation of edition 8 of the Islamic journal "Fundamental Change" on the allegation that some articles had incited to hatred and enmity (Article 312 old TPC).

On 19 March İstanbul Heavy Penal Court No. 12 ordered the confiscation of the daily *Ülkede Özgür Gündem* for 20 March while it was being printed. The incriminated article was the announcement that Öcalan would declare his democratic project at Newroz. Allegedly the article carried propaganda for an illegal organization.

The local newspaper *Mavi ve Kent*, published in Nusaybin (Mardin) was confiscated on 13 September because it had published declarations of the PKK.

The edition of 18 November of the daily *Evrensel* was confiscated because the Republic had been belittled, crimes had been praised and racial hatred had been incited. The decision of Şişli Peace Court No. 1 did not specify the article(s) that contained the alleged offences.

Beyoğlu Peace Court No. 1 ordered the confiscation of the daily *Birgün* of 29 December. The article on the trial on the Egyptian Bazaar allegedly tried to influence the judiciary (Article 227 TPC).

Diyarbakır Heavy Penal Court No. 6 ordered the confiscation of the music album "Keçe Kurdan" of Aynur Doğan in February. Allegedly the songs contained propaganda for an illegal organization. In January and February the 13 albums of 12 different singers were also confiscated on the allegation that they contained propaganda for an illegal organization.

#### **The Trial of Sandra Bakutz**

Austrian journalist, Sandra Bakutz was arrested upon arrival at Atatürk airport on 10 February, and held at İstanbul Police HQ. According to reports, she was detained because of an arrest warrant issued in 2001.

Bakutz, who produces the programme "Anatolien Radio" for Radio Orange 94.0 based in Vienna, Austria, and who has written articles for newspapers and magazines such as *Junge Welt* ("Young World") in Germany, was taken straight into custody under an order apparently issued by Ankara's No 2. State Security Court and transported to a prison.

The Austrian journalist had traveled to İstanbul to attend the trial of 64 prisoners arrested on 1 April 2004 in a police operation against the DHKP/C.

Bakutz was accused of being a member of the organization.

On 30 March, Ankara Heavy Penal Court No. 11 decided to provisionally release Sandra Bakutz, before her 1 June trial. Bakutz was acquitted due to a lack of evidence by the court in Ankara on 1 June.

#### **Other Incidents and Persecution**

Reşat Ok, reporter for DİHA, was detained on 27 October 2004, when he wanted to cross into Iraq at Habur Border Station. He was later remanded and indicted with supporting an illegal organization. His trial started at Diyarbakır Heavy Penal Court No. 6 on 3 February. The court acquitted him for a lack of evidence.

On 10 January three people beat Ömer Taşlı, editing director of the local newspaper *Zirve* published in Zonguldak. After the incident M.S., M.S. and İ.E. were detained.

On 12 January the police in İstanbul detained Gülsen Salman and Murat Doğan, when they distributed a special edition of the journal *Ülkemizde Gençlik Gelecektir*.

On 12 January Naciye Kaynak, reporter with the daily *Yeni Asya*, was not allowed entry to the conference on Implementing an Independent, Democratic and Respectful Media organized by the TGC and The Association of Research into Communication because she was wearing a headscarf. The organizers of the conference stated that the decision had been taken by Galatasaray University where the conference was held.

In January the Administrative Council of the governor in Van decided not to bring charges against the police officer İsmail Yendi. DİHA reporter Ubeydullah Hakan had complained that this police officer was frequently threatening him.

In January unidentified men beat Ali Öztürk, editing director of the local newspaper *Günebakış*, published in Trabzon.

During the 29<sup>th</sup> Extraordinary Congress of the CHP the reporters of the daily *Zaman*, Mehmet Kaman, Remzi Doğan and Bülent Yılmaz were injured when a fight broke out.

The district governor in Pertek and Mazgirt (Tunceli) did not grant permission to investigate against soldiers in connection with the detention of *Evrensel* reporter Cemir and the DİHA reporters Burhan Ekinci and Mücahit Yalçın on 6 October 2004. The governors stated that the reporters had not been hindered in their work. In May Malatya Regional Administrative Court rejected the objection of the journalists. The journalists had been detained when they followed a group of people that called themselves "Living Shields".

Sadık Aydoğmuş, distributor of the journal *Özgür Halk* and the daily *Özgür Gündem*, alleged that he had been detained in Van on 5 January and at İstasyon Police Station they had been beaten. "We were stopped by three police cars. The police officers who I know by their first names of Fatih and Tayfun ordered me to stand against a wall and brutally beat me. Later we were taken to İstasyon Police Station. One of the police officers said that we should be treated as animals and they started to beat us again." Sadık Aydoğmuş added that the physician they were taken to did not give them a report and that the officers threatened them not to talk about the incident.

On 17 February the police in Mersin intervened in a demonstration protesting the killing of Ümit Gönültaş on 15 February. Reportedly the police confiscated the camera of *Evrensei* reporter Ferhat Uyar and beat DİHA reporter Nesrin Yazar.

During another demonstration in Mersin a few days later the local reporter Aslı Saliha Açıkkar was reportedly beaten and her camera was confiscated. During the demonstration several people were detained. Among them eight were remanded on 22 February.

During the Newroz celebrations in Eskişehir DİHA reporter Erkan Şahin was detained on 20 March. He was later released but his camera and cassettes remained with the police.

On 22 March Eyüp Çimşit, Ufuk Çimşit and Bülent Karaçay, relatives of Nemli Çimşit, headman in Akçakale village (Ardahan) beat the DİHA reporter Ümit Kılıç heavily. He was taken to Kars State Hospital and said to have a concussion and a broken arm. He suspected that the attack might be related to an article on wrongful distribution of aid to the villagers or the

The central building of Flash TV in İstanbul-Beyoğlu was the target of an attack with Molotov cocktails in the morning of 28 June. The attack caused material damage.

On 26 July a group of people who wanted to observe a trial against DHKP-C defendants and waited in front of İstanbul Courthouse was attacked by members of Sarıyer Idealists Union. The right-wingers also beat *Milliyet* reporter Musa Kesler.

On 2 August houses that had been built illegally in Tokatköy quarter of Beykoz district (İstanbul) were pulled down. The inhabitants tried to resist. In the incident *Vatan* reporter Bülent Aydoğdu and *Milliyet* reporter Gökhan Karakaş were beaten by the police.

On 4 August the police in Narlı town (Maraş) detained Elif Akmakça, Cüneyt Tışkaya and two persons with the first name of Mehmet and Mustafa, when they distributed the local journal *Azadî*.

On 16 August Pınar Çalışır, Mehmet Gökmen and Mahmut İlhan were detained when they distributed the weekly *Yürüyüş* in Adana.

Servet Alçınkaya, reporter with *Cumhuriyet*, alleged that police officers beat him on 23 August (see the Chapter on Personal Security).

The reporter of *Atılım* in Adana and four members of the ESP were detained in Adana on 26 August on charges of having illegally distributed leaflets. They were released in the evening.

During clashes near Tepecik village in Beşiri district (Batman) that started on 25 August six HPG militants were killed. Orhan Turan, from Batman Kanal 72 TV, Medeni Akba, from Cihan news agency and Reşat Yiğit, from DHA went to the place on 26 August and were detained. They were released shortly afterwards.

During the funeral of HPG militant Mesut İsa who had been killed in Maçka (Trabzon) on 21 August and was buried in Nusaybin district (Mardin) the DEHAP officials and members Nazım Kök, Azize Yağız, Azize Yağız, Hülya Kök, Seyithan Kaya, Ahmet Çağın, Murat Bal, the editing director of *Mavi ve Kent*, Süleyman Tekin and the *Özgür Gündem* staff member Engin Tokay were detained and remanded on 31 August on charges of having staged an illegal demonstration. Süleyman Tekin was released on 2 November.

In various cities incidents broke out after a demonstration of DEHAP and the Confederation of Association for Solidarity with Prisoners to be held in Gemlik district (Bursa) on 4 September in protest at the prison conditions of Abdullah Öcalan had not been permitted. During the demonstration in Van on 5 September, Ahmet İzgi, reporter with the Anatolian News Agency was beaten by demonstrators. Similarly, demonstrators in Siirt beat the reporter of İhlas News Agency, Senar Yıldız on 6 September.

FESK claimed responsibility for a bomb attack on the right-wing paper *Ortadoğu* in Ankara on 8 September.

On 23 September some 10 masked men beat the owner of the local newspaper *Yüksekova Haber*, Necip Çapraz in Yüksekova (Hakkari). Allegedly Çapraz was attacked because he researched on a radical Islamic organization in town.

Hamdiye Erbek, distributor of *Özgür Gündem* in Batman, was arrested on 23 September, because she had participated in a demonstration in August.

On 3 October a hearing was held in Adana in connection with a press statement that had been made after the killing of 17 MKP members in Tunceli. In solidarity with the five defendants a group had gathered outside the courthouse. Many people were detained including the *Atılım* report in Adana, Seda Aktepe, in İskenderun, Zahide Bektaşlı, the *Devrimci Demokrasi* reporter Nihal Gül and the representative of *Kızıl Bayrak* in Adana, Zemin Demirel.

On 6 October Adem Sarı, distributing *Özgür Gündem* in Ağrı, was remanded on charges of supporting an illegal organization.

On the same day Aysun Güven, Alev Oral, Kenan Koncuk and three persons with the first names of Sevda, Mehmet and Erdoğan were detained at Taksim Square (İstanbul) when they sold the journal *Mücadele Birliği*.

On 7 October police officers of the Anti-Riot Squad beat the reporter of Anatolian News Agency, Gürser Eser, when he was following the Friday prayers of Prime Minister Recep Tayyip Erdoğan.

On 10 October, Fehmiye Baskın, distributor of *Atılım* in Batman, was detained by soldiers of the gendarmerie. She was released soon afterwards.

A reporter of Samanyolu TV was beaten when he followed the occupation of the AKP office in Beşiktaş (İstanbul) by three members of the ESP on 18 October. Their action was a protest against the draft ATL.

On 27 October the crew of the program *Arena* broadcasted on Kanal D and CNN Türk was detained in Kumbağ town (Tekirdağ) where they were filming employment of children from East and Southeastern Anatolia. The film material was seized and they were released after 2.5 hours.

On 27 October the *Atılım* representative Belgin Kayabaşı and the reporter Ecevit Uğur were detained during raids of their houses in Adana on charges of having participated in the funeral of Özlem Eker, one of the MKP militants who had been killed in Tunceli on 6 July.

In mid-November the office of *Devrimci Demokrasi* in Elazığ was raided. Books and journals were

confiscated and staff member Özdal Kayaoğlu and a visitor called Firat were detained.

In the night of 19 November a bomb attack was carried out on the printing house Odak in Afyon. The attack caused material damage. Reportedly 10 local newspapers were printed here.

DİHA reporter Nesrin Yazar was detained after a demonstration in Çilek quarter (Mersin) on 20 November in protest at the incidents in Şemdinli.

On 4 December the Democracy Platform in Antalya held a press conference in protest at the incidents in Şemdinli. A civilian dressed police officer beat *Evrinsel* reporter Çağrı Yağar.

On 12 December *Atılım* reporter Mehmet Güzel, ESP representative Devrim Özgür Köse and Zeynel Lüle were detained in Gaziantep.

On 13 December a group of people attacked four persons who were distributing the journal of the Federation of Association for Basic Rights and Freedoms in Samsun. The Federation announced that some 15 people had carried out the attack.

Fanatics of the football team Karşıyaka raided the offices of local TV station Ege TV (Izmir) on 13 December. After the incident H.G., M.E.Y., M.Ş., F.H. and D.E. were detained.

On 14 December the police in İstanbul raided the offices of *Ülkede Özgür Gündem* and the printing houses Etik Ajans and Gün. The raids were justified with an investigation of the prosecutor in Van. After searches of 2.5 hours the police confiscated many documents and computers.

#### Decisions of the High Council for Radio and TV (RTÜK)

Compared to earlier years the High Council for Radio and TV (RTÜK) passed less decisions on closure (ban on broadcasting) in 2005. The discussion focused on the possibility for local TV and radio station to broadcast in local dialects and tongues.

A. Zahid Akman, who had taken over the chair of RTÜK from Fatih Karaca, stated on 18 July that nobody wanted to pass decisions on closure of stations but the Council was obliged to act according to the law and regulations.

The regulation on broadcasting in different dialect and tongues had been passed on 25 January 2004 by its publication in the Official Gazette; yet local radio and TV stations did not get permission for programs in different languages (mainly Kurdish). In August Prime Minister Recep Tayyip Erdoğan reminded RTÜK to take the necessary steps stating that the government and parliament had cared for the legal framework.

On 26 August the daily *Radikal* reported on a meeting chaired by the State Minister responsible for State TV and radio (TRT), Beşir Atalay. The secret service MİT and other related institutions had participated and it had been decided that MİT should prepare a report on the nine local TV and radio stations that had applied for the right to broadcast in tongues other than Turkish. The report should be sent to the Prime Ministry.

On the same day RTÜK issued a statement saying that it was solely up to the Council to decide whether certain TV and radio stations would get permission to broadcast in non-Turkish tongues. Other institutions had been consulted for information. As soon as the applying local radio and TV stations had fulfilled the conditions they would get permission.

On 27 August RTÜK held another meeting on the application of local radio and TV stations. After the meeting Zahit Akman said that it had been agreed that the programs should not be of a separatist nature, not educate in language and follow a cultural aim. He promised that the stations that had applied would be informed of a decision by the end of January. The local radio and TV stations that had applied for a special permission were:

“Siirt Metropol Radyo ve TV, Reha Radyo ve TV (Şanlıurfa), Polo TV Radyo (İstanbul), Söz Radyo ve TV (Diyarbakır), Aktüel Radyo TV (Diyarbakır), Gün Radyo ve TV (Diyarbakır), Patnos Çağrı (Ağrı), Batman Çağrı TV, Genç İmparator (Malatya), Mina Basın (Ağrı), Emtaş (Ağrı), Günışığı (İstanbul).”

On 23 March RTÜK called on all TV stations to show the Turkish flag on the screen in protest at the attempted burning of a Turkish flag in Mersin on 20 March. In an announcement of 25 March RTÜK stated that all national, regional and local channels had followed the call.

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Most decisions of RTÜK are based on Article 4 of the **Law on the Establishment of Radio and Television Enterprises and Their Broadcasts Law No. 3984 of 20 April 1994** and later amendments. Article 4 (as amended by the Law No. 4756 on May 21, 2002 and by the Law No.4771 on 9 August, 2002) reads:

Radio, television and data broadcasts shall be conducted within a spirit of public service, in compliance with the supremacy of the law, the general principles of the Constitution, fundamental rights and freedom, national security and general moral values. The broadcasts shall be in Turkish language. However, it may also be broadcast for the purpose of teaching foreign languages, which may have contribution to the formation of universal culture and scientific works or transmitting music or news in those languages.

Furthermore, there may be broadcasts in the different languages and dialects used traditionally by Turkish citizens in their daily lives. Such broadcasts shall not contradict the fundamental principles of the Turkish Republic enshrined in the Constitution and the indivisible integrity of the state with its territory and nation. The principles and procedures for these broadcasts and the supervision of these broadcasts shall be determined through a regulation to be issued by the Supreme Board.

The broadcasting standards in radio, television and data broadcasts are as follows:

- a) Broadcasts shall not violate the existence and independence of the Turkish Republic, the territorial and national integrity of the State, the reforms and principles of Atatürk.
- b) Broadcasts shall not instigate the community to violence, terror, ethnical discrimination or shall not incite hate and hostility by making discrimination in the community in terms of the diversities of the social class, race, language, religion, sect and territory or shall not give rise to feelings of hatred in the community.
- c) Broadcasting shall not be exercised in a manner that serves to the unfair interests of broadcasting enterprises, shareholders and their relatives by blood or by marriage, up to and including those of third degree or of any other real or legal persons.
- d) Broadcasts shall not, in any manner, humiliate or insult people for their language, race, color, sex, political opinion, philosophical belief, religion, sect, and any such considerations.
- e) Broadcasts shall not violate the national and moral values of the community and Turkish family structure.
- f) The privacy of private life shall be respected.
- g) Broadcasts shall serve for the improvement of the general objectives and basic principles of the Turkish national education system and the national culture.
- h) Broadcasts shall use the Turkish language in its spoken form without destroying its characteristics and rules; shall ensure its development in the form of a modern cultural, educational and scientific language as a basic element of national unity and integrity.
- i) Broadcasts shall not offend the personality of individuals beyond the limits of criticism, shall respect the right of reply and rectification; the news, which the investigation of their accuracy is possible within the framework of code of conduct of media, shall not be broadcast without proper investigation or without being sure of their truthfulness; the given information, provided that it be kept confident, shall not be broadcast unless there is a serious necessity for public interest.
- j) Broadcasts shall not serve to an unfair aim and interest and shall not lead to unfair competition, broadcasts qualified as proclamation and advertising shall be announced clearly without leading to any suspicion; a product promotion created by one agency with its own efforts shall not be broadcast by an other agency as if it belongs to itself; source of the news which are provided by agencies or another media source shall be indicated with particular importance,
- k) Broadcasts shall not present or declare no one as guilty unless there is a court decision; any programme item that leads people to commit a crime or raise the feeling of fear shall not be broadcast.
- l) Broadcasters shall respect the principles of impartiality, conformity and reliability in news programmes; broadcasts shall not prevent free formation of opinions; the secrecy of the source of information shall be preserved unless there is an intention for misleading the public.
- m) The advertisements which are deceptive, misleading or that would lead to unfair competition shall not be broadcast.
- n) The equality of opportunity shall be established among the political parties and democratic groups; the broadcasts shall not be biased or partial; the broadcasts shall not be violating the principles on the election bans which are determined at election times.
- o) Broadcasts shall not violate the rights of the right holders stipulated by law.
- p) Broadcasts shall not resort to contests or similar methods via information communication telephone lines, and no prizes shall be awarded to listeners or viewers or no mediation is provided for awarding prize; lotteries shall not be made, questionnaire and opinion polls via telephone shall be realised before the notary from the preparatory stage to announcement of the results.
- r) Broadcasts on subjects which includes information related or unrelated to the main programme, shall not be made via split-screen; continuous broadcasting by using frames or scrolling band technique shall not be done; scenes which are not related to the subject shall not be broadcast in news, scenes which show similarity with the content of the news should be identified as archive.
- s) All the items of the program services shall respect to human dignity and fundamental human rights.
- t) Broadcasts shall not be obscene.
- u) Broadcasts shall not encourage violence and discrimination against women, weak and minors.
- v) The broadcasts shall not encourage the use of violence or incite feelings of racial hatred,
- y) Broadcasts shall not reflect the fearful and intimidate features of crime organizations.
- z) Programmes, which could impair the physical, mental, and moral development of young people and children shall not be broadcast within the time intervals that they may be viewing.

### **The radio station *Dünya* (World)**

In the session of 7 and 8 March RTÜK decided on a 30-day-ban of broadcasting for *Radyo Dünya*, based on Article 4(b) of Law 3984, because on 9 July 2004 the radio station had introduced the book "Memoirs of a Guerilla".

The ban started on 4 April. Meanwhile the radio station had appealed to Ankara Administrative Court on 22

March to stop the Council's decision from being implemented. In May Ankara Administrative Court decided to stop the decision from being implemented until the radio station had provided the necessary documents. The radio station was informed of this decision on 18 May.

In April Ankara Administrative Court decided to cancel the warning issued by RTÜK on *Radyo Dünya* for a program on 13 September 2001 during which Kurdish

music was played. The warning had been issued on 25 September 2002. RTÜK appealed against this decision but the Supreme Administrative Court turned the appeal down.

#### **The radio station *İmaj* (Image)**

The public prosecutor ordered the closure of *Radyo İmaj* since it had been broadcasting without permission. Police officers transmitted the decision on 21 September. Under the same charges the executives of the radio station, İsmail Yüce, Adnan Yüce, İrem Belek, Gıyasettin Vargün, Ferhat Yıldız and Gözde Erözgün were put on trial. The indictment argued that without information of the channel for broadcast the station had broadcasted on 3 and 4 February. The first hearing was held at Ankara Penal Court No. 19 on 17 October. The trial did not conclude in 2005.

Despite the fact that the radio station had already been closed RTÜK ordered a one month's ban of broadcasting for *Radyo İmaj* in December for a program on the massacre in Sivas that had been broadcasted on 1 July 2004. The decision was based on Article 4(b) of Law 3984.

#### **Adult Channel, Exotica TV, Playboy TV, Rouge TV**

On 6 May RTÜK announced that the channels Adult Channel, Exotica TV, Playboy TV and Rouge TV that were being broadcasted by pay TV channel Digitürk had been taken off the program. The decision was based on the European Convention on Transfrontier TV providing that the programs should not be indecent and in particular contain pornography.

#### **Other Warnings and Penalties**

During its meetings on January, February and March RTÜK issued the followings bans on broadcasting: Star TV 4 times, Kanal D 2 times, CNBC-e, NTV, Akra Fm, Best FM, Radyo Shema (Ankara) one tome each.

Warning were issued for: Show TV (10 times), Kanal D (12 times), ATV (13 times), Haber Türk (3 times),

Kanal 6 (3 times), NTV (2 times), Flash TV (2 times), TGRT (2 times), Kanal Türk (2 times), Star TV (2 times), Meltem TV, Başkent TV, Sinema Türk, Radyo Ekin, X TV, Lig TV, Kanal 7, TGRT Haber, NR+, Memleketim TV, TSES TV, TV 8, Cine-5, Radyo Tatlıses, Gün FM (Diyarbakır), Can Radyo (İzmir), ERT TV (Zonguldak-Ereğli), Radyo Karadeniz (İzmir) one time each.

During the Council's meetings on 7, 13, 20, 26 April, 4, 10, 18, 26, 31 May and 8, 15, 16, 23 Haziran various bans and warnings were issued. Moviemax 2, Show TV and CNBC-e were punished with administrative fines and bans were issued for Kanal D 9 times, Show TV 4 times, Star TV and Radyo Ekin (Ankara) three times each, ATV, NTV, Kanal 7, Cine-5 and Arifan Radyo (Ankara) one time each.

RTÜK issued warnings for: Kanal D (9 times), Show TV (4 times), Star TV (4 times), ATV (3 times), Haber Türk (3 times), TGRT (3 times), Flash TV (2 times), Kanal Türk (2 times), ORT TV (Ordu-2 times), STV (2 times), TV 5, Ulusal Kanal, Meltem TV, Mesaj TV (Ankara), Başkent TV (Ankara), CNN Türk, TV8, A TV (Alanya) one time each.

In July RTÜK banned Kanal D eight times from broadcasting, plus one time for advertising. TGRT, NTV, STV and Olay TV were also banned one time each for advertising. For a news program Star TV was given an administrative fine.

In November RTÜK punished Show TV with three days' ban on broadcasting for the news on the allegation of singer Bülent Ersoy who had accused Deniz Baykal, President of CHP of having asked for a bribe, if the ban on his activities should be lifted. Kanal D and Flash TV were punished with three days' bans for other reasons. TGRT and Diyarbakır Gün TV received bans for one day each.

# FREEDOM OF ASSEMBLY

## 8 March World Women's Day

The police intervened in a demonstration in İstanbul Beyazıt and Saraçhane Park (Fatih) on 6 March held in connection with 8 March World Women's Day. Some 500 demonstrators were dispersed under beatings and gas bombs were used. 63 persons were detained including 29 women. Three women had to be taken to hospital because they were poisoned from the pepper gas. A meeting in Kadıköy passed without an incident.

The security forces appointed two inspectors to look into the incident. The inspectors found that eight members of the anti-riot squad had used excessive force, but because of the gas masks the inspectors had been unable to identify them. Later İstanbul Police HQ announced that six police officers had been suspended from duty because they had used excessive force. The identity of 2 police officers was yet to be established.

The lawyers Ali Ekşi, Behiç Aşçı and Sevim Akat from the Association of Contemporary Jurists (ÇHD) who had observed the incident filed an official complaint. The Forensic Institute issued reports for Ali Ekşi and Behiç Aşçı certifying one day's inability to work. Sevim Akat had to be taken to hospital.

The Human Rights Research Commission went to İstanbul to look into the incidents around 8 March. The delegation headed by Mehmet Elkatmış and the members Abdurrahman Anik, Mehmet Soydan and Ahmet Yılmazkaya met İstanbul Governor Muammer Güler. Later Mehmet Elkatmış stated that the attitude of the police officers was unacceptable. Yet, the officers had been provoked.

Prime Minister Recep Tayyip Erdoğan criticized the press in connection with the incident. He said that it was inhuman to beat a woman lying in the ground but the media had denounced Turkey to Europe just because of a better rating. Nobody had seen the provocation behind it. The photograph of the head of the separatists had no place in the hand of the demonstrators.

The 56 demonstrators who had been detained were put on trial shortly afterwards. The prosecutor indicted them for a violation of Law 2911 on Demonstrations and Meetings. The files of 9 defendants aged less than 18 were sent to the Juveniles' Court. The main trial

ended on 15 June. İstanbul Penal Court No. 14 concluded that the crime had not materialized and acquitted the defendants.

Later another five persons were indicted in connection with the same demonstration. Some police officers had complained that Şahin Kütükçü, Mehmet Can Demir, Barış Gürbey, Mehmet Burak Övür and Resul Solgun had resisted the police and damaged police vehicles.

The investigation of the Ministry of the Interior ended in May. It was recommended that six police officers who had beaten the women should be punished with a cut of wages; deputy Chief of İstanbul Police, Şükrü Pekgil, and the deputy chiefs of the anti-riot squad Yadigar Özdemir and Suat Günbey should be given an admonition.

In December 54 police officers were indicted in connection with the incident on 6 March. The prosecutor wanted them to be punished for injuring demonstrators by exceeding their right to use force. The indictment wanted the defendants to be sentenced for each person they had beaten and thus the requested sentences ranged from 6 months to 33 years' imprisonment. The case was to be heard at a penal court. The investigation against the chiefs of police and the anti-riot squad on the assumption that they misused their duty ended in a decision not to prosecute them.

On 8 March a demonstration was held in Malatya in connection with World Women's Day. The police intervened and detained Necdet Bali, chair of EMEP in Malatya, Nihal Pekaslan, Secretary of the HRA in Malatya, the speaker of the Socialist Platform of the Oppressed, İbrahim Bozay and Leyla Bozay, Filiz Mete, Kemal Gültekin and Kıvanç Pekaslan.

## Newroz Celebrations

The Ministry for Education added "Nevruz" to the days for official remembrance and celebration. With the "Week of the Turkish World and Communities" the 21st of March will now be officially celebrated at the schools.

Following the changes in the Law on the National Security Council the Ministry of Culture was given the duty to coordinate the celebrations of "Nevruz". The

Ministry issued a circular detailing the things that had to be done before and during the celebrations. The circular was sent to various official institutions and asked that celebrations should be allowed under considerations of security and the security forces should be instructed to react reasonable against incidents that might occur. It should be stressed that "Nevruz" was a Turkish feast also to be celebrated abroad.

In Tunceli the application for a celebration of Newroz handed in by the Platform for Labor and Democracy was rejected because of not spelling the word as Nevruz. In Erzin (Hatay), Kızıltepe (Mardin) applications were accepted after Newroz had been spelled Nevruz.

On 13 March the police in Siirt intervened into a celebration. The child Halil Kaçar was wounded to his foot by shots from police officers. After an operation he was taken to Siirt Police HQ on 15 March, but released after testifying. After release he said that he was put under pressure to sign a statement on having organized the action, thrown stones at the police officers and shouted slogans in favor of the PKK. However, he had not signed that statement.

In Edirne several houses were raided in the night of 18 March. Beşir Belke, chair of DEHAP in Edirne, the executrices Cemil Yılmaz, İlhan Bilgiç, the students Nurettin Durudemir, İlhan Kezer, Mehmet Asif Öncü, Ömer Durmaz and a person named Serhat were detained. Celebrations of Newroz were not allowed in Edirne.

Following a celebration in İstanbul-Zeytinburnu on 20 March organized by DEHAP, EMEP, KESK and DİSK eight persons carrying posters of Abdullah Öcalan were detained.

On 18 March the police in Siirt intervened into a gathering because of Newroz. In return a group of people threw stones at the local police station on 19 March. The next day civilian dressed, masked and armed persons beat up people in the street and damaged windows.

During the Newroz celebrations in Eskişehir on 20 March many people were detained including the journalist Erkan Şahin from the news agency DİHA. He was released on 21 March, but his camera was confiscated.

In many towns and settlements the Newroz celebrations on 21 March passed without an incident. In the 19 May quarter of Adana a group of people blocked the street. During the ensuing clash with the police one officer was slightly injured. In Konya one person was detained because he was carrying a poster of Abdullah Öcalan.

During the celebrations in Mersin the police confiscated banners and posters. After the end of the celebrations the police detained many people among

the dispersing crowd. Eighteen of them were arrested on 22 March. Already before 21 March, 11 people had been detained in Mersin. Among them Lezgin Aşan, Nezir Baskak, Ozan Bekçi, Vedat Geyikoğulları, Ferhan Alkan, Erdoğan Bayhan, Necmettin Çeçen, Diren Yalçın and Kıymet Toprak were arrested on 21 March.

During the celebrations in Mersin children allegedly burned the Turkish flag. Therefore, V.S. (14) and C.S. (12) were detained on 23 March, E.B. (18) and the minors F.B., M.F. (14), M.A.A., and S.T. were detained the following days. They were arrested afterwards. Only R.T. (12) who had been detained on 22 March was released. In the end six minors were indicted. The prosecutor charged C.S. (12), M.A. (12), F.B. (13) and V.S. (14) with insulting the Turkish flag, conducting an unauthorized demonstration and resisting the police. S.Ş. (16) and E.B. (17) were indicted for having staged an unauthorized demonstration.

M.A. (11) was released on 4 April, but the other five minors remained in pre-trial detention. According to an article in the daily *Hürriyet* of 24 March the minors had testified that someone gave them the flag and they had played with it. *Milliyet* reported on 25 March from the testimony of V.S.: "I walked with a group shouting slogans for Abdullah Öcalan. A well dressed person aged 25 to 30 gave a flag to my cousin C.S. and said that we should burn it. My cousin threw the flag to the ground and M.A. and I stepped on it."

Nebi Şahin from the organizing committee said that he had signed a document stating that the celebrations had passed without an incident. On his way home he had seen a group marching. A person aged 25 to 30 approached them with a flag making the sign of a wolf (used by the extreme right). In a quarrel between the person and the group the flag had fallen to the ground.

The headquarters of DEHAP sent a delegation to Mersin to research the incident. The report was published on 26 March. It stated: "The celebrations had ended without an incident. The provocation with the flag happened one hour later about 1,100 meters away from the place of the celebrations. According to press reports, statements of witnesses and the children a person aged between 25 and 30 gave the children the flag, but no measures were taken against the person. Recordings show that the person was in a position to take away the flag from the minors."

The Presidency of the General Staff issued a statement on 22 March calling the action treason of so-called citizens: "A group of people went as far as attacking the Turkish flag the symbol of the grand Turkish nation filled with blood of martyrs at every inch. The Turkish nation has seen many treasons next to countless victories, but never been met with such perfidy."

The ÇHD accused the General Staff with preparing the grounds for attacks on Kurds and DEHAP and filed an official complaint.

On 22 March MHP and the Idealist Union organized a demonstration in Mersin in which 10 thousand people participated. They wanted to storm into a school alleging that some students had shouted slogans in favor of Abdullah Öcalan. DEHAP issued a declaration stating that some right wingers had entered their office and destroyed the furniture.

On the same day the windows of the DEHAP office in Eskişehir were broken. In Ankara some 300 people participated in a demonstration in Abdi İpekçi Park and attacked a group of TAYAD members who were staging a picket for prisoners who had lost their lives during hunger strikes and death fast actions. On 26 March the students Miraç Vayıç and Osman Bingöl from Gazi University spoke at a press conference of the HRA in Ankara. They alleged that right wingers had beaten them up during a demonstration on 23 March in protest at the flag incident.

In Turgutreis town (near Bodrum) Engin Gündüz (21) was arrested on 25 March. Allegedly he tore a flag on paper which a newspaper had included in its edition to pieces and threw it into the dustbin.

In İstanbul the police intervened when a group of people held a press conference in protest at the sharp reactions to the flag crisis that started in Mersin. The group called themselves the Front of Rights and Freedoms and gathered at Taksim Square on 29 March. The police dispersed the crowd and detained 24 people.

On 25 March HRA chairman Yusuf Alataş, HRFT chairman Yavuz Önen, Mazlum Der chairman Ayhan Bilgen, the representative of Amnesty International in Turkey, Levent Korkut and the Ankara representative of the Helsinki Citizens' Assembly, Bülent Atamer met with Foreign Minister Abdullah Gül and drew attention that the increasing nationalist wave that might harm social peace.

In the months to follow more detentions were reported in connection with so-called attacks on the Turkish flag.

In the district town Salihli (province of Manisa) Cevat Tandoğan (28), Bülent Çalış (19), Erdal Delibay (20), H.E.K (16), P.Y. (17) and C.Ç (16) were detained on 31 March on allegations that they damaged the flag of a school building. H.E.K. was released, but the others were arrested. In Hatay Hasan Demirtaş was arrested on allegations of having burned a Turkish flag.

In Diyarbakır Umut Demirkol who had been detained on 25 March was arrested on 26 March on the accusation of having torn a Turkish flag into pieces.

In Erzurum the lyceum students A.Ç (16), M.K (18), S.B (16), A.Y (15), S.Y (18), S.D (19) and S.A (15)

were detained at the beginning of April on allegation of having damaged the flag of a primary school. M.K. and A.Ç. were later arrested, while the others were released.

In Adana three persons were detained on accusations of having torn the flag of a primary school into pieces on 1 April. Cengiz G. was later arrested, while the others were released.

In İstanbul Selami Yavuz (20) was arrested on charges of having staged an action that led to horror in society. He was said to have tried to destroy a flag after a concert on Taksim Square on 17 May.

In İzmir the students Kenan Yılmazışler, İlker Turgut and Gülşah Mersin were detained on 9 June on allegations of having insulted the flag.

The General Director for Security filed an official complaint against executives of DEHAP who had organized Newroz celebrations in 56 settlements including the provinces of Mersin, Ankara and İstanbul. The chief prosecutor at the Court of Cassation asked for the list of detainees in Mersin in order to establish whether members of DEHAP had been among them.

In Ankara two persons were detained on 22 March on accusations of having carried posters of Abdullah Öcalan during the Newroz celebrations. On the same allegation 31 people were detained in Diyarbakır, 28 in İstanbul, 26 in İzmir, 6 in Eskişehir and 3 persons in Konya.

In Ankara Aytaç Ayhan, Hasret Tusun, Burhan Aytaç, Behçet Güngör, Sinan Sümer, Dilek Karahan, Hatice Özüç and Nihat Fırat who had been detained after the Newroz celebrations were arrested on 24 March.

On 21 March clashes between demonstrators and the police occurred in Kadifekale quarter of İzmir. During the incident three police cars and a car of a TV station were damaged.

In Diyarbakır E-type Prison six female prisoners set their clothes on fire as a symbol of celebrating Newroz. They were punished with a ban on receiving visits for one month. The prisoners İlkur Özden, Güzel Becerikli, Sohbet Yıldız, Yıldız DüNDAR, Gülümser Yuca and Güler Çelik said that they had asked the administration for wood to burn it but, when they had been denied their request they had burned old clothes instead.

On 30 March Justice Minister Cemil Çiçek announced that during the Newroz celebrations 100 people had been detained and 39 of them had been arrested. Investigations into incidents in 19 provinces continued.

In the first week of April 23 people were detained during house raids in Malazgirt district (Muş) on allegations of having shouted slogans for an illegal organization during the Newroz celebration. They detainees were named as Ahmet Şancı, Abdin Kabişen, Adem Teker, Ahmet Yağcı, Çetin Sarıyıldız, Ekrem

Kaçar, Dilaver Yaldız, Erdal Kaçar, Ethem Keklik, Eylem Yağmur, Fatma Özer, Fırat Keklik, Hasan Sarıyıldız, İbrahim Özkahraman, İhsan Bertan, Lale Kabişen, Özlem Güzelyıldız, Reyzan Kalın, Serkan Keklik, Sibel Yağmur, Sinan Kökses, Taner Atabay and Zeynep Özbahçivan.

#### - Court Cases

The court case against the minors from Mersin who allegedly tried to burn the Turkish flag started at Mersin Penal Court No. 2 on 2 May. The first secretaries of the Dutch Embassy, Willemijn van Haaften and the Norwegian Embassy, Torleiv Opland wanted to observe the hearing, but the presiding judge Nimet Demir did not allow reporters, relatives and foreign observers to enter the court room because of the young age of the defendants. After the hearing V.S., C.S., F.B., S.T., E.V. were released. The defendants C.S. (12), M.A. (12), F.B. (13) and V.S. (14) were charged with insulting the Turkish flag (Article 145 TPC), praising a crime (Article 312 TPC), staging an illegal demonstration and resisting the police. The defendants S.Ş. (16) and E.B. (17) were charged under Article 312 and with staging an illegal demonstration.

The trial continued on 11 July, 7 November and 27 December. On 11 July the presiding judge did not allow representatives of the Embassy of the UK and Norway to observe the hearing. Defense lawyer Ali Bozan stated after the hearing that the juveniles were not the offenders but victims. They had been tortured and ill-treated and he had asked the court to file an official complaint what he would do separately.

During the hearings of 7 November and 27 December the court was still trying to establish the identity of the person who had given the flag to the juveniles. Defense lawyer Ali Dinsever stated that the investigation into the claims of torture and ill-treatment was still continuing. The next hearing was scheduled for 13 March 2006.

In Adana five police officers were indicted for having injured Cemil Aktaş during Newroz celebrations on 18 March 2004. According to the information provided by the lawyer Beyhan Günyeli the police officers from the department to fight terrorism, Mevlüt Zengin, Murat Şahin, Nihat Kılıç, Ömer Yakar and Dursun Çakır were charged with causing life endangering injuries by an incautious act. The trial started at Adana Heavy Penal Court No. 3 on 14 March and concluded on 27 March 2006 in acquittal. The court ruled that the police officers acted according to Article 6 of the Law on Duties and Competences of the Police.

In the first quarter of 2005 Bitlis Penal Court passed a verdict on Caner Ülkü and Hüseyin Ülkü charged with having insulted police officers during the Newroz celebrations in 2002. Hüseyin Ülkü was fined 2,726 YTL and Cafer Ülkü was sentenced to 33 days' imprisonment.

In Siirt two separate trials were initiated against 20 people in connection with the Newroz celebrations in 2004. In November Siirt Penal Court acquitted the defendants from charges under Law 2911 on Demonstrations and Meetings. The case launched for having used the letter "w" ended at Siirt Peace Court on 25 October. The defendants including the chair of the HRA in Siirt, Vetha Aydın and the trade unionists Sabri Özdemir and Şahin Kayıkçı were fined 100 YTL. On appeal the fines were lifted.

In April İsmail Kaplan, executive of DEHAP in Suruç district (Urfa) was indicted in two separate cases for his participation in a demonstration on 13 February and for having shouted slogans of an illegal organization during the Newroz celebrations on 21 March. Kaplan also faced three investigations into activities on 26 November 2004, 20 February 2005 and 27 March 2005.

The prosecutor in Diyarbakır indicted nine persons from DEHAP in connection with the Newroz celebrations. The case was based on Law 2911 on Demonstrations and Meetings. The prosecutor's office announced that another investigation had been launched against five people from the organizing committee and five Norwegian citizens.

In Ankara a trial was launched in April against Ercan Ç. and Veli Y. on the accusation that they had carried posters of Abdullah Öcalan during the Newroz celebration. Ankara Heavy Penal Court No. 11 was to hear to the case.

In İstanbul a court case was opened against Murat Omurtaş, chair of the MHP in Fatih, Cafer Yaylan and Hikmet Kurt in connection with a protest against the incidents in Mersin. The trial launched under Law 2911 on Demonstrations and Meetings started at Fatih Penal Court No. 5 on 21 November.

The disciplinary council at Muğla University expelled 23 students in June because they had participated in the Newroz celebrations. Enver Güngör, Yaşar Akdağ and Lütfü Yoldaş were expelled for two terms; the other 20 students were expelled for one term.

In Isparta 19 students from the Süleyman Demirel University and 7 executives of DEHAP were indicted for having praised a crime during the Newroz celebrations. The case started on 8 July. The dean of the university started a disciplinary investigation against 21 students.

At the Pamukkale University in Denizli 9 students were expelled for two terms because they had participated in the Newroz celebrations and allegedly shouted slogans for Abdullah Öcalan.

The prosecutor in Van started an investigation against seven members of the organizing committee of the Newroz celebrations of 20 March under Law 2911 on Demonstrations and Meetings.

In Şırnak the prosecutor started an investigation against 21 persons under Law 3713 on Fighting Terrorism. They had participated in the Newroz celebrations.

In Yüksekova district (Hakkari) Mesut Karabulak and Şefik Soydan from the organizing committee of the Newroz celebrations were arrested on 20 April. The other members of the organizing committee were subjected to an investigation. In Çukurca district an investigation was launched against 45 people alleged to have shouted slogans of an illegal organization during the Newroz celebrations.

In Bursa the 7 members of the organizing committee of the Newroz celebration from SDP, ESP, DEHAP and EMEP were also subjected to an investigation.

In Diyarbakır investigations were launched against 350 teachers, most of them members of the trade union Eğitim-Sen for having participated in the Newroz celebrations.

In Malatya 14 people were subjected to an investigation on the allegation of having shouted slogans during the Newroz celebrations. Photographs with open mouths were shown as evidence. In Tunceli 5 people were subjected to an investigation on the same allegation.

In Aydın 9 students from the Adnan Menderes University were subjected to an investigation for their participation in the Newroz celebrations.

In Elazığ the provincial chair of DEHAP, Celal Arslan was subjected to an investigation because he used the word Newroz in a speech. This was a suspected offence against the Law on Political Parties.

### 1 May Labor Day

On 21 April the police in Mersin prevented EMEP members to hang up posters for 1 May in Mersin.

Beyoğlu Peace Court decided to confiscate the banners and posters which the DEHAP İstanbul branch had prepared for Labor Day. The decision was taken under Article 8/1 of the Law on Political Parties since the "Bijî 1 Gulan" (Kurdish for "long live the first of May") was written on them. Mersin Penal Court No. 2 banned the posters of the SDP with the slogan "war against occupation, peace for the Kurds, long live socialism".

In most towns the meetings on 1 May went without incidents. In İstanbul 59 people were detained, in Batman 7 and in Siirt one person was detained. In İstanbul the Workers' Movement Party gathered in İstiklal Street to march to Taksim Square. The police detained 9 members and 20 members of the Revolutionary Students' Union. The detainees were beaten in the buses and sprayed with pepper gas. During the meeting in Kadıköy (İstanbul) members of the TKP and the ÖDP clashed.

On 2 May 45 of the detainees in İstanbul were released on order of İstanbul Heavy Penal Court No. 11. Five minors were released by the Juveniles' Court.

On 3 May members of the Platform of the Unit of Struggle spoke at a press conference of the HRA. Dilek Gül stated in the name of 56 people and said that they had been kept waiting in a bus for 24 hours. They had been insulted strongly and subjected to pressure. She added that despite the fact that several demonstrators had visible wounds Bakırköy and Bayrampaşa Hospital had refused to issue reports for them.

In İzmir a short fight broke out on 1 May between members of DEHAP and police officers. In Siirt the student Hüseyin Damar was detained.

Form Batman lawyer Mustafa Yıldız reported that İsmet Açıkalın, Nasır Aslan, Gülsüm Cuci, Burhan Keser, Faris Kurt, Eyüp Doğan, Ahmet Vatan Ekmen and Adil Aslan had been arrested on 2 May in connection with their participation in a demonstration on 1 May. They had been charged with staging an illegal demonstration and praising an offence.

On 10 May 20 students from Atatürk University were detained during raids on their houses. On 11 May Abdulcelil Çelebi, İsmail Koç, İbrahim Çeliker, İsa Pan, Aziz Doğan, Berivan Yüksel, Cemal Özcan and Ümit Karaca were arrested on charges of having disseminated propaganda for an illegal organization. The students were released shortly afterwards, but the administration of the university started an investigation against them.

In Hozat district (Tunceli) Erdem Ulaş Çelik, chair of EMEP and the EMEP members Hasan Kılıç, Nihat Aldemir, Alihan Muratkan and Özdal Akbaba were indicted under Article 536/1 old TPC for having put up posters and distributed leaflets on the 1st of May without permission. Hozat Peace Court acquitted them in March 2006.

In Balıkesir investigations were launched against 22 students, who had participated in the demonstration on 1 May. They were accused of having shouted slogans for Abdullah Öcalan and having supported an illegal organization. 17 students were detained, but released shortly afterwards.

In Adana the police raided several houses on 27 June and detained 11 people. The Front for Rights and Freedoms stated that the detention had been made in connection with International Labor Day on 1 May.

On 11 July Bursa Penal Court No. 10 started to hear the case of 15 ESP members in connection with 1 May. All arrested defendants were released. The names of some of the defendants were Serpil Arslan, Rıza Çimen, Hıdır Aslan, Mehmet Genç, Özcan Pamuk, Barış Çırpan, Hüseyin Akbalık, Meral Anaşın, Hacer Yıldız, Evrim Aliz, Aysel Akdemir and Ali Mete Kiraz. The trial did not conclude in 2005.

In connection with the same demonstration in Bursa Talip Arslan and Özkan Özcan had been arrested on 23 May. They were released on 29 August. The court case against them did not conclude in 2005.

On 20 December Diyarbakır Heavy Penal Court No. 4 concluded the case against Mazlum Tekdağ (DTP) and the members of the closed DEHAP, Şoreş Tekdağ, Ayşe Kaçak, Münir Akdeniz, Şahin Biçimli and Candan Yürek. They had been charged with having shouted slogans for an illegal organization on International Labor Day. The Court sentenced them to terms of imprisonment between 10 months and one year and a fine of 500 YTL according to Article 7/2 of the ATL.

### Protests against the military coup of 12 September

During the closing session of the 23rd World University Summer Sport Games in the Atatürk Stadium of İzmir Görgü Demirpençe and Veysi Yıldız opened a banner demanding that the "generals of 12 September be tried". They were detained and interrogated, but released after two hours.

On behalf of the anniversary of the coup of 12 September a meeting was supposed to be held in Kadıköy (İstanbul), but the governor postponed the event for one month. The speaker of the "Initiative of 78ers", Celalettin Can stated that the meeting under the heading of "The temporary Article 15 of the Constitution has to be lifted and the leaders of the coup have to be tried" had been postponed because of the incidents near Gemlik (near Bursa, where a demonstration for Abdullah Öcalan was to be held), the general security of the country and the fact that the meeting was open to provocation.

In protest at the decision of the governor a press conference was held in Kadıköy on 11 September. The police intervened, used gas bombs and dispersed the crowd under beatings. 54 persons were detained. They shouted slogans, when they were taken to the buses and the police used pepper gas. Reportedly the arm of Özgür Karakaya was broken and Cem Dinç, chair of the trade union Limter-İş was wounded to his head. The names of the detainees were:

Cem Dinç (Limter-İş), Ayşe Yumlu Yeter (Tekstil-Sen), Figen Yüksekdağ (Socialist Platform of the Oppressed), Nahide Kılıç (Working Women's Union), Zuhâl Yıldırım (BEKSAV), Bülent Kapar, Abbas Duman, Neriman Şaşmaz, Umut Yakar, Tacim Kaplan, Ezgi Kaplan (12), Emel Kaplan, Kenan Bektaş, Derya Demircioğlu, Serap Kervancı, Mutlu Kızılgedik, Aktaş Erdoğan, Özgür Karakaya, Işıl Altınmakas, Yılmaz Koruk, İbrahim Tunç, Kamber Saygılı, Çetin Poyraz, Münevver İltimur, Selver Orman, Yüksel Bulut, Murat Güner, Sevim Keleş, Genç Akyüz, Kenan Baştuğ, Ferdi Tunalı, Mustafa Karaoğlan, Emrah Avcı, Eylem İrğaç, Zafer Kaya, Aydın Güllüncü, Yılmaz Bozkurt, Sevda Çevik, Hilal Aslan, Selin Eylem Mumcu and persons with the first names of Gizem, Kurtuluş, Yücel, Özgür, Levent and Melahat.

### Students' Actions

On 16 March students gathered at Ankara University (Cebeci-Yerleşkesi) to commemorate the anniversary of the armed bomb attack on students in İstanbul on 16 March 1978 that had resulted in the death of 7 people. The police used forces and gas bombs and detained Fatma K.

On 25 March students protested with a press conference against the dismissal of 14 students from İstanbul University. The police intervened in the action of members of the "Youth Federation" and detained 13 people. They were released the same, but staged a hunger strike in Gazi Park near Taksim Square until 27 March.

In Van the gendarmerie intervened when students from the 100 Year University wanted to hold an alternative spring festival. The students had gathered at Van Lake on 11 May, but the soldiers dispersed them under beatings. Reportedly some 60 students were detained and Sıddık Güler, reporter of Dicle News Agency was kicked. The following day another 10 students were detained at the university.

At the Faculty of Education of Atatürk University in Erzincan right wing students attacked left wing students on 1 June. The next evening the police intervened when two groups clashed in front of the university. A group of left wing students tried to protest the attack and the police used pepper gas and truncheons to disperse them. Allegedly the police did not intervene when right wing students marched in front of the faculty with sticks in their hands.

On 27 October some 500 students gathered in the Cebeci Campus of Ankara University to protest YÖK (Law and Council of High Schools). The police tried to disperse the crowd and some students threw stones at them. No detentions were made.

On 2 November 13 students were detained in İstanbul, when members of the Youth Federation wanted to distribute leaflets against YÖK on İstiklal Street.

With the exception of Ankara all protests against YÖK passed without an incident. In Ankara the students gathered in Kurtuluş Park and wanted to march towards Kızılay Square. When the police tried to disperse them under force a fight between the police and the students with stones and sticks developed. Some 50 students were detained. The following names of detained students were mentioned:

Didem Akman, Orçun Ekinoğlu, Eylem Mumcu, Ziya Aldemir, Yıldız Yılmaz, Serkan Onur Yılmaz, İlker Ekiz, İlker Doğan, İlhan Kaya, Özgür Başkaya, Harika Yılmaz, Hasibe Çoban, Hasan Selim Gönen, Abdullah Özgün, Sema Üstünalan (Üstündağ), Didem Tekcan, Utku Aygar, Nurgül Acar, Songül Demir, Caner Yenili, Selman Çiçek, Kemal Çete, Necdet Cabbar, Gizem Tekcan, Ender Aldanmaz, Ayfer Uyanık, Sedat Karakaş, Özkan Kaya, Gökhan Aktaş, Gökhan, Hakan,

Zeynep Karademir, Binnaz Takak, Erhan Yavuz, Galip Katanacı and Volkan Alkış.

On 8 November 40 detainees were taken to the prosecutor who charged them with staging an illegal demonstration. The prosecutor released one student. Ankara Heavy Penal Court No. 11 ordered the arrest of Hasan Selim Gönen, Serkan Onur Yılmaz, Abdullah Özgün, Mustafa Doğru, Ekrem Kurtuluş, Özkan Kaya, Nurgül Acar, Didem Akman, İlhan Kaya, İlker Doğan, Kemal Çete, Volkan Alkeş, Ömer Deniz, Tufan Bakır, İlker Ekiz, Mesut Aydın, Engin Aslan, Ziyahan Aldeniz, Cihan Çınkır and Ender Aldanmaz on allegations of membership of an illegal organization. Nine students were released by the Juveniles' Court, since they were under the age of 18.

On 13 November students at Muğla University protested the events in Şemdinli, when a group of right wing students tried to attack them. The police intervened and prevented more serious developments. The next day left and right wing students clashed in Kötekli quarters. Some 20 students were injured, three of them seriously. The police detained some 45 people. On the same day some students wanted to hold a press conference against the attack of the right wing students. The police detained 8 of them.

#### - Court cases

On 16 June Ankara Heavy Penal Court No. 11 concluded a trial against 10 students charged in connection with an action at Hacettepe University on 14 December 2003. The court sentenced Haydar Karaca and Mehmet Selim Ensari to 10 years' imprisonment. The other students were acquitted.

On 24 August Ankara Heavy Penal Court No. 11 conducted a hearing in the case of the students Yasin Güngör, Nihat Fırat, Ferhat Yiğit, Taner Bektaş, Dilek Akdağ, Rahman Sümer, Abdullah Dünder, İhsan Altay, Hikmet Toprak and Yunus Emre Akan. They were charged in connection with a protest of YÖK on 5 November 2004 in Ankara Sakarya Street and allegedly had carried posters of Abdullah Öcalan. After the hearing Rahman Sümer was released, but Ferhat Yiğit remained in pre-trial detention. In connection with the same action the Dean of Gazi University had expelled Dilek Akdağ on the grounds that she was a member of an illegal organization.

The prosecutor in İzmir charged 26 students, Mustafa Rollas, chair of the HRA in İzmir and ÖDP executive Ruken Sansür in connection with a protest against YÖK on 6 November 2004. The defendants were charged under Article 312 TPC for having shouted slogans at the demonstration. The case is heard at İzmir Penal Court No. 12.

Twenty students were tried for their protest at police officers entering METU (Ankara) in uniform in April. They were charged with having resisted the police and not listened to the orders of officials. Ankara Penal

Court No. 25 held the first hearing on 10 November. It was said that the students Engin Bozkurt, Umut Soytaş, İsmet Yücetaş, Yücel Takak and Ali Kemal Arslan had not been at the university on that day. No important development in the trial was noted during the year.

In connection with the same action Kamer Doğan was expelled from the university for ever. Serdar Özbek, İlhan Kaya, Eyüp Çimen, Asım Ekin Yılmaz, Engin Bozkurt, Özgür Yeşilaraz, Ali Yücel Özden, Atakan Özel, Kemal Serin, Caner Çelik, Sinan Sürmeli, Volkan Gümüş, Umut Soytaş, Begüm Tuncer, Özgür Yıldırım, Hamit Vedat Altun, Özgür Yıldırım and Özlem Ejder were expelled for terms ranging from one month to one year.

On 16 November İzmir Penal Court No. 7 concluded the case in connection with a protest of the US occupation of Iraq held on 11 April 2003. Lawyer Aysun Koç reported that two students were sentenced to three years' imprisonment and 14 students to 18 months' imprisonment. The latter sentences were suspended.

#### - Dismissed and Expelled Students

Sixteen students who had protested at civilian dressed police officers filming an action at the Law Faculty of İstanbul University on 22 December 2004 were dismissed. The reason was given as "insulting the staff of the university". The student Özgür Ceylan Aytaç made a declaration in February and said that the staff members Ersan Şen, Birsen Ersen and Rauf Verbay who had carried out the investigation had threatened him and the student Tamer Doğan asking them to become informers.

Following an attack of right wing students some students held a press conference in front of Zonguldak Karaelmas University. Twelve of them were dismissed. In addition, one student was expelled for two terms, one student for one month and six students for one week. Six students received a warning.

At Abant İzzet Baysal University an investigation was launched against 25 students in March supposed to have participated in an action in which they drew attention to problems with transport, food and accommodation. Reportedly one of the students had graduated one year ago and another one had quit university two years ago.

Although on 31 December 2004 Edirne Administration Court had overruled the decision of the disciplinary council at Thrace University to punish students in connection with the spring festival held on 20 May 2004 the disciplinary council decided on 2 February that the students had to "serve" the remaining penalties. 35 students had been expelled for one year, 18 students for one term and 11 students for one month. At the festival students allegedly carried photographs of Abdullah Öcalan. Therefore the police

had intervened and detained many students, 20 of which had been arrested. The dean of the university appealed to Edirne Administration Court to correct the verdict, but the appeal was turned down on 24 February.

At Kocaeli University the students Serdar Yıldırım, Metin Kaya, Seda Kumral, Süriye Çatak, Nazım Hoplar, Kuzey Boy, Ekin Güneş Saygılı, Tufan Bakır and Çağlayan Bozacı were dismissed in September because they had participated in an action on the anniversary of the death (by hanging) of the student leaders Deniz Gezmiş, Hüseyin İnan and Yusuf Aslan on 6 May.

During the action the gendarmerie soldiers had shot at the students carrying banners. The soldier Levent Gencelli died in the shooting. In connection with the incident one soldier and 33 students are on trial at Kocaeli Penal Court No. 4. Meanwhile it was reported that in 2004 and 2005 the dean expelled about 80 students for a total of 20 years and 7 months from university.

The student Hamza Ertaş had been expelled from the students' dormitory after he allegedly had participated in a protest at the operations of 19 December 2000 in prisons on 17 December 2002. He won his case at the administrative court, since he had not participated in the action.

Faruk Tatlı, the former chair of the students' association at Van 100 Year University, was expelled from university for one week because of a press statement in protest at the investigation against students of 20 December 2004.

Tahir Baykuşak, student at Diyarbakır Dicle University, was expelled for one term because he participated in a protest at police officers entering the university on 13 October 2004 and in an action against YÖK on 5 November 2004.

At Mersin University five students were expelled for one term, five students were expelled for one month and the student Kadir Özer was expelled for one year because they had participated in a protest at YÖK on 4 November 2004.

At the Süleyman Demirel University in Isparta the student İsmail Yıldız was dismissed because he participated in the Newroz celebrations. The disciplinary council decided in August to expel four students for two terms, eight students for one term and three students received a warning. A court case on the accusation of "praising a crime" is continuing at Isparta Penal Court No. 2 with 30 defendants.

At the Faculty for Language and History-Geographies of Ankara University 20 students were punished with expulsion ranging from two weeks to one term in connection with the incidents in June. The names of the students are: Fırat Belen, Nagihan Gültekin, Dündar Gün, Şenol Durur, Mithat Öner, İnan Kaya,

Mehmet Selim Süzer, Ufuk Şafak, Cihan Baykal, Cihat Akgül, Mehmet Baran, Serkan Tögen, İsmail Oğuz Başağa, Serkan Tatlı, Eray Destegül, Samet Yüce, Kubilay Han, Cemal Keskin, Halim Harputlu and Metehan Çolak.

In September the investigations against 148 students at İstanbul University, who had been involved in fights that arose after an attack of right wings students in November 2004, concluded. 36 students were punished with expulsion of between one week and one term. A court case against 46 left wing students on charges of hindering education and violent acts is continuing.

In 2004 and 2005 some 2,000 students at Van 100 Year University were subjected to investigations. As a result of these investigations eight students were dismissed and 100 students were expelled for terms between 2 months and one year. About 40 students were arrested.

#### Actions of Workers and Civil Servants

On 18 February the police intervened when workers of the SEKA factory in Kocaeli protested against the closure. The police prevented the workers from entering or leaving the factory and sprayed them and their families with pepper gas. The worker Tarık Kılıçkaya broke his legs when he tried to enter the factory by jumping from a roof.

After 20 February the workers started a picket in front of the factory. They were visited by members of the Front for Rights and Freedoms on 6 March. The police detained 16 visitors.

Earlier, on 20 February members of the Revolutionary Workers' Committee and the Front for Rights and Freedom had staged an action in Beyoğlu in support of the workers from SEKA. The police detained 40 of them.

Prime Minister Recep Tayyip Erdoğan opened a case against the daily *Evrensel* for having printed the slogans of the SEKA workers. He asked for 15,000 YTL as compensation since the slogans allegedly contained an insult. Ankara Judicial Court No. 16 turned down the demand in March 2006.

On 18 February Prime Minister Recep Tayyip Erdoğan went to Adana to participate in a meeting of the Chamber of Trade. Some workers protested by lying under the bus that carried the Prime Minister and some other ministers. The police dispersed them using pepper gas and truncheons.

On the same day some 500 workers of Tekel Cigarette Company in Tokat protested against the privatization of their factory on the road between Tokat and Turhal. The police intervened.

On 24 February an incident occurred, when workers of a factory in İkitelli (İstanbul) protested the dismissal of

34 workers. A group said to be sent by the employer attacked the demonstrators and injured the trade unionist Çayan Dursun and the workers Harun Bulut and Erdal Bozkurt. The police intervened and detained 20 people.

On the same day workers protested the dismissal of colleagues from Desan Company in Merter (İstanbul). The police intervened and detained the trade unionist Fethiye Erdoğan and another 15 member of the trade union Tekstil-Sen.

The police in Ankara intervened on 9 March, when members of the trade union Türk Büro-Sen protested in front of the GNAT against the reduction of staff in the Presidency for Administering Income.

While the collective bargaining in the leather industry in Tuzla (İstanbul) was continuing the governor of Tuzla and the local commander of the gendarmerie asked to ban the press conference of the workers scheduled for 23 March. On 23 March the gendarmerie circumvented the trade union's office of Deri-İş.

In Konya-Seydişehir the workers of an aluminum factory protested the privatization. When on 23 May they heard that representatives of the company wanted to inspect the premises 1,500 workers locked themselves up and their relatives gathered in front of the factory. The police broke down the doors, sprayed the workers with water and threw gas bombs. Outside the factory the police beat up the relatives. The incident lasted for 5 hours resulting in injuries of 48 workers and 18 police officers.

On 21 May the teachers' union Eğitim-Sen wanted to hold a press conference in front of the Ministry for Education. The gathering was prohibited on the grounds that the place was not a legal place for meetings.

On 5 June the police in Diyarbakır detained 15 people who had participated in a meeting in protest at the demand to close Eğitim-Sen.

In mid-July the company Thrace-Transport responsible for the distribution of Coca Cola sacked 110 employees reportedly because they were members of the trade union Nakliyat-İş. They occupied the factory in Dudullu (İstanbul). The police detained the workers under force and dispersed the colleagues in front of the factory under beatings. Two demonstrators had to be taken to hospital.

In Çorlu district (Tekirdağ) several workers were dismissed from a leather factory in February because of their membership in the trade union Deri-İş. On 8 August the workers and trade unionists protested in front of the factory. The police detained them, but released them in the evening.

In Tuzla (İstanbul) workers from a leather factory who had been dismissed staged an action. On 30

November they were attacked by some 40 persons said to have been engaged by the employer. The aggressors used stones and sticks and injured five workers. Afterwards the gendarmerie detained 19 members of the trade union Deri-İş. The workers continued their action and, on 8 December, the trade unionist Hasan Sonkaya and four workers were detained. They were released the next day. On 20 December the gendarmerie intervened in a demonstration in solidarity with the workers and detained the trade unionist Zeynel Erdoğan.

#### - **The Great March of Educators**

On 26 November Eğitim-Sen organized the great march of educators in Ankara. The teachers who had come from distant places were not allowed entry to Ankara on 25 and 26 November. On 25 November some teachers wanted to march from the junction Kolej. They made a press conference in Ziya Gökalp Street. The police closed the road to Kızılay Square with armored vehicles. The teachers waited there for a long time, but despite some heavy disputes no important incident was reported.

On 26 November clashes occurred at the place where the teachers were waiting for action. 17 people were injured, two of them seriously. Several teachers were detained, but released shortly afterwards. The SG of Eğitim-Sen, Emirali Şimşek held a press conference at the office of the trade union and said that the teachers from distant places had been forced to stay in Gölbaşı, Polatlı and Elmadağ. These teachers occupied the roads when they heard of the police intervention in Kızılay Square. The police used water cannons and gas bombs to disperse the demonstrators. Eight teachers were injured. The teachers in Ankara gathered in Güven Park and tried to cross the barricades of the police. Nine teachers were injured here. The President of Eğitim-Sen, Alaaddin Dinçer and KESK President İsmail Hakkı Tombul tried to meet the Prime Minister, but were not given an appointment. Together with another 11 trade unionists they staged a sit-in in front of the Prime Ministry. The demonstrations ended at 5pm. Summarizing the results of the day the trade union announced that Mehmet Arda had been hit by a gas bomb from close range and had broken ribs. Erkan Barikan had a broken leg. Except for the teachers from Samsun, Eskişehir and Konya directions the teacher waiting outside Ankara were given permission to enter Ankara in the evening. On 27 November the teachers gathered in Güven Park, but the police hindered them again to march. Later the teachers were able to hold a press conference that ended without an incident.

Later Eğitim-Sen President Alaaddin Dinçer visited the injured teachers in hospital. Security officers claimed that the visit had not been allowed and forced journalists to leave the hospital. In the garden of Numune Education and Research Hospital Dinçer held a press conference stating that six of the 17 injured teachers in Sincan State Hospital and 8 injured

teachers in Numune Hospital had been released. Ertan Beritan would be unable to walk because of an injury to his foot.

The trade union filed an official complaint against Ankara Chief of Police, Ercüment Yılmaz and the commander of the gendarmerie, Major Vahdettin Bereceli and the police officers and soldiers on duty. The complaint listed 18 injured teachers who had been injured by the water cannons held at them from close range and gas bombs that had been used as weapons. The force used by the police and gendarmerie was "disproportional".

#### - Investigations and Court Cases

On 9 February Sungurlu Penal Court (Çorum) concluded the trial against seven teachers who had participated in the strike action of 11 December 2003. The court acquitted the teachers Asker Akyol, Soner Karaca, Cevher Boztaş, Yurdanur Saraç, Hülya Yiğitoğlu, Hatice Kel and Elvan Sökeli who had been tried with not going to work without an excuse.

In March an investigation was launched against 53 trade unionists and politicians who had protested against the transfer of SSK hospitals to the Health Ministry. They were accused of having violated Law 2911 on Demonstrations and Meetings.

On 20 April İstanbul Penal Court concluded the trial against 85 trade unionists and members of the Medical Association. They had been charged after an action of 5 November 2003 in which they demanded the right to free health service and an improvement of working conditions. The prosecutor argued that the demand was in line with the Constitution and international agreements and asked for acquittal. The court followed the argument and acquitted the defendants.

In Tarsus Cuma Erçe, Şahin Yücel, Necdet Eser (from Eğitim-Sen), Bekir Geyik (from the HRA), Mehmet Erel and Sinan Okutulmuş were indicted for having participated in an action on 20 February. The action was held in protest at the demand to close Eğitim-Sen. The court case launched under Law 2911 on Demonstrations and Meetings did not conclude in 2005. In connection with the same action another court case was opened against 21 people from KESK and Eğitim-Sen.

On 8 December 2004 one protest action was held in Kadıköy (İstanbul). 56 demonstrators were indicted. Kadıköy Penal Court No. 6 started to hear the case on 18 May and passed a judgment of acquittal since the offence had not materialized.

The teacher Hacer Koçak was "exiled" to Aktaş village in Kumlu district (Hatay) because in July 2004 she had participated in an action of the Association for Basic Rights and Freedoms in connection with the

death fast actions in prison. She had first been dismissed, but returned to her profession on a court's order.

At the beginning of April executives of KESK had to testify to Ankara Public Prosecutor in connection with a general stop to work action on 1 December 2000.

In Gebze 120 people were indicted in connection with an action against the closure of Eğitim-Sen. Gebze Penal Court No. 2 started to hear the case on 14 October. Lawyer Nadir Selvi said that the hearing was adjourned to 13 April 2006.

On 21 November Tunceli Penal Court acquitted 830 civil servants in connection with a protest at the draft law on civil servants. Lawyer Hüseyin Aygün stated that the decision was based on Article 260/2 new TPC (action for professional and social rights of civil servants).

On 14 September the police officer R.L. killed the taxi driver Hasan Akdağ in Tunceli. Subsequently a press conference was held in which many trade unionists participated. Some of them were "exiled" to different places: Murat Özkan (Kültür-Sen) to Kastamonu, Kenan Korkmaz (Yapı-Yol-Sen) to Karaman, Selma Polat (Eğitim-Sen) to Kastamonu, Vedat Ali Çelik (Eğitim-Sen) to Çankırı, Hasan Hayri Kılıç (Eğitim-Sen) to Yozgat, Yaşar Yamaç (Eğitim-Sen) to Samsun, Hüseyin Eler (Eğitim-Sen) to Yozgat, Ufuk Ulaş (Eğitim-Sen) to Konya. Some 100 civil servants were subjected to a disciplinary investigation.

On 9 December İzmir Penal Court continued to hear the case of 220 civil servants who had participated in the one day stop working action of KESK on 1 December 2001. The defendants had been acquitted in the first round, but the Court of Cassation had quashed the verdict.

#### Living Shields

On 31 March a group of 78 people including three Germans who wanted to stop military operations in East and Southeast Anatolia and who named themselves "Living Shields" were detained in Derik district (Mardin). They were released on 2 April. The Germans Daniel Hübner, Martin Dolzer und Christoph Kolaczowski were deported. When 70 members of the group wanted to enter Çay village in Derik district again they were detained. Later they alleged that soldiers had beaten them and filed an official complaint.

On 3 April 27 of the detainees were arrested. Another 31 members of the group who had been released on 3 April were arrested. All of them were charged with resisting officials on duty. 27 defendants were released on 25 April. The court case at Mardin Penal Court is continuing.

On 31 March another group of 24 people were detained, when they wanted to go to Şırnak from

Adana. They were released on 1 April, but detained again, when they tried to continue their trip.

On 3 June the trial against 6 members of the "Living Shields" who had been detained on 27 March when they wanted to go to Cudi Mountain from İskenderun continued at İskenderun Penal Court. The court decided that the case should be heard in Şırnak. The trial did not conclude in 2005.

### Demonstrations for Abdullah Öcalan

On 6 February a demonstration was held in Davutlar town of Aydın province to commemorate the anniversary of the transfer of Abdullah Öcalan to Turkey. On 7 February several houses were raided in the town and Ercan Dinçer, Yasin Aslan, Emrah Erçetin, Yılmaz, Yağmur Bağca and three unnamed persons were detained.

For the same reasons demonstrations were held between 13 and 16 February in many towns. In many cases clashes broke out when the police intervened. Many people were injured and lots of people were detained.

On 13 February people in Toroslar town (Mersin) province gathered in front of the DEHAP office. The police prevented the crowd of 300 people to march and used water and pepper gas. This resulted in clashes. In Adana the police intervention resulted in many detentions and several shops were damaged.

On 13 February the police in İstanbul prevented a group from holding a press conference in Ümraniye. On İstanbul Street in Bakırköy the police clashed with demonstrators. The clashes resulted in damages to three branches of banks and some shops. The police detained 10 people. On 14 February the police detained 35 women who had staged a demonstration on the Golden Horn Bridge.

On 15 February a group of people wanted to hold a press conference in Dağkapı Square (Diyarbakır). When they wanted to march a struggle with the police broke out. The police used pepper gas and water and the demonstrators responded with stones and sticks. About 60 people were detained and 12 persons including two police officers were injured. On the same day the police did not allow a demonstration in Nusaybin district (Mardin)

In front of the DEHAP office in Şırnak about 1,000 people gathered and wanted to march towards the Cumhuriyet Square. In the struggle one person was injured. In Cizre (Şırnak province) the police intervened when a group wanted to march. In the struggle one police vehicle was damaged. In Silopi district about 3,000 people gathered and tried to go the office of the AKP. The police prevented them from doing so.

In İstanbul DEHAP wanted to hold a press conference in front of Galatasaray Lyceum. The police used gas

bombs and truncheons and the demonstrators responded with stones.

In İskenderun the police prevented 5 women from the DEHAP to leave a black wreath at the office of the AKP.

In İzmir the police hindered some 1,000 people from walking from the DEHAP office to the AKP office in Basmane. Some demonstrators staged a sit-in in front of the AKP office. The police intervened. In the incident Hülya Akman from the youth wing of DEHAP suffered a broken arm and leg.

During a demonstration in Şırnak on 20 February the police detained three persons.

M. Abi (16) declared that police officers had beaten him during the demonstration in Van on 14 February. He told the HRA that he had been on his way home in the evening when police officers had detained him: "They beat me with the butts of their arms on my head. Then they stepped on me and bruised my hands and feet. After another blow to my head I fainted. When I regained consciousness I found myself next to a riverbed. Someone who knew me took me to his house and informed my family."

Tahir Koç, Gülistan Koç and Mikail Şan who had been detained after a press conference of DEHAP in Hakkari were arrested on 21 February according to Article 7/2 ATL. Erdoğan Bozan was released, but will also be charged. In Mersin Abdurrahman Gültekin, Remziye İnan, Gülistan İnan, Remziye Sarıca, Nezahat Kaya, Kadriye İlibaş and Remziye Beyter who had been detained for the same reason were arrested on 22 February. Çetin Gezer, Fuat Sarman, Nimet Sarman and Raşit Bulut who had been detained after a demonstration in İstanbul-Esenyurt were arrested on 22 February. Saliha Karakoç from the DEHAP will be tried without pre-trial detention.

On 7 April Mehmet İnan and another unnamed six people were detained in Diyarbakır after a demonstration in favor of Abdullah Öcalan.

During house raids in Mersin on 25 April M.A., Z.A. and another two unnamed minors were detained on the grounds that they participated in a demonstration for Abdullah Öcalan and the Newroz celebrations.

Right wingers attacked a press conference of DEHAP in Adana on 15 June. The press statement had been concerned with the situation of Abdullah Öcalan. The police intervened and injured Orhan Baday, Raife Ergün, Vasifiye Akgül and Fikriye Özbay from DEHAP. In Çukurova State Hospital the police put physicians under pressure not to issue reports for the injured persons.

In Batman the executives of the prisoners' solidarity association TUHAY-DER, İslam Koyuncu und Mehmet Gidici who had been arrested after a demonstration

demanding the release of Abdullah Öcalan were released on 3 May on objection of their lawyers.

On 3 July the police in İzmir used gas bombs and water under pressure against demonstrators who wanted to draw attention to the situation of Abdullah Öcalan and protest the operations in Southeast Anatolia. The demonstrators clashed with the police. On the same grounds the police in Siirt intervened in a demonstration on 14 July.

During a similar demonstration in Kızıltepe (Mardin) on 26 July Deniz Yüksel, Mehmet Kino and İsmail Asi were detained and arrested on 30 July together with İhsan Tankara.

On 10 August an action for Abdullah Öcalan was conducted in front of the AKP office in Van. The police detained Eylem Açıkalin, Hatice Tokluğun, Tefik Say, Mirza Yacan, Osman Görür and Behzat Kaplan. They were arrested on 12 August.

Police interventions were reported from Adana and Batman on 30 August when demonstrations for the situation of Abdullah Öcalan were held. Clashes arose when the police used tear gas.

On 11 September a press conference for Abdullah Öcalan was held in Urfa and 62 people were detained. Among them A.F., H.S., A.F., H.P. and A.F. were arrested on 13 September on the grounds of having disseminated propaganda for an illegal organization.

In Cizre (Şırnak) 11 people were detained on 23 November after a protest at the prison conditions of Abdullah Öcalan. The detainees were named as Revşen Gün, Özlem Güven, Nesrin Güven, Hunav Darga, Riban Darga, Hane Darga, Hemgin Malgaz, Fatma Malgaz, Suat Aygaz, Hüsnü Akman and Şirin Gazıyag. Hane Darga and Şirin Gazıyag were released after a short while.

**Ümit Gönültaş:** On 15 February (anniversary of the transfer of Abdullah Öcalan to Turkey) a demonstration was held in Mersin. The demonstrator gathered in Akdeniz and Toroslar township and the police shot in the air and used water cannons to disperse the crowd. Raif İnan (30) and another person were detained. In the evening demonstrators erected barricades in Kurdali quarter. The police used armored vehicle to tear down the barricade. The crowd ran into side streets. Later the corpse of Ümit Gönültaş (19) was found close to the scene. He had been shot.

Deputy Chief of Mersin Police, Süleyman Ekizer stated after the incident that an investigation into the allegation that Ümit Gönültaş had been shot by police officers was continuing. The bullet had been found and it could also be possible that he had been shot by an enemy. The person had a criminal record of an offence against property, but no record of activities for the PKK.

The daily *Özgür Gündem* quoted an unnamed witness as saying that members of the political police had shot Ümit Gönültaş. The witness had stated that they made an action at 9.30pm by lighting a fire. The police had occupied the side street. Ümit Gönültaş had been between him and his brother. Officers of the department to fight terrorism had shot at them directly. Ümit had held his chest and then tumbled to the ground. They had only been able to carry him for 15 to 20 meters, because the police had shot at them again.

The witness alleged that Ümit Gönültaş had been alive when they left him and that it would have been possible to rescue him, if the police officers had taken him to hospital in time.

The governor's office in Mersin made a declaration on 17 February stating that the Ministry of the Interior had been asked to send a state inspector to investigate the incident. The incident itself was described as a usual police operation to open streets for traffic. The prosecutor had been informed immediately.

During a demonstration in protest at the killing of Ümit Gönültaş the police intervened in Şevket Sümer quarter of Mersin on 16 February and injured *Ferhat Sabtık* (12) and *Cihan Geçkin* (14) with arms. Geçkin was taken to Mersin State Hospital. He said that on his way home from school he had seen a crowd. He had stopped there. First someone had thrown a stone from above and later someone came down and pointed at them with a pistol. He had tried to hide next to a wall but a bullet had hit him at the shoulder. The owner of a shop had fired the shots. The father of Ferhat Sabtık said that everyone in the quarter said that the shop owner had fired the shots.

Reportedly an investigation was launched against Ferhat Sabtık and Cihan Geçkin for praising a terror action.

On 17 February a crowd gathered in front of the DEHAP office in Mersin. The police intervened and detained 14 people including the DEHAP executives Ercan Sezgin and Halis Değer. In addition, the police confiscated the camera of *Evrinsel* reporter Ferhat Uyar and beat and threatened Nesrin Yazar from the news agency DİHA.

At the beginning of March the Kars branch of DEHAP held a press conference in connection with the death of Ümit Gönültaş. The police detained several people. Among them Mehmet Uşar, Enver Yıldız, Fatih Taşdemir and Ebru Şanlı were arrested on 5 March. In connection with a demonstration for Abdullah Öcalan that had been held in Kars on 19 February DEHAP chair for Kars, Güngör Alp and the students İsmail İmre, Ahmet Uğurlu, Yunus Eriş and İbrahim Boçnak were arrested on 3 March for having shouted slogans of an illegal organization.

The report of the HRA in Mersin on the death of Ümit Gönültaş was announced on 26 February. It stated

that no evidence was found that the demonstrators had used arms. The report mentioned that Gönültaş had been shot at 9pm, but the police claimed to have been informed one hour after the incident. The HRA asked whether the police had made recordings of the action and criticized that no testimony had been taken from the persons that had been with Ümit Gönültaş.

One witness, Mehmet Suretli, had told the HRA that armored vehicles had come to the place of the action and he had heard some shots. Someone had shouted "he was hit, he was hit" and then, "I saw that they had taken the wounded person in front of my house. At the same time police officer shouted 'they escape' and 'catch them'. I saw how the police officers followed the persons who carried the wounded man. First civilian dressed police officers with sticks in their hands came and later members of the anti-riot squad and uniformed police officers gathered there in numbers of 150 to 200." Mehmet Suretli added that he had not heard any warnings before the shots, but also had not seen the person who fired the shots.

The prosecutor in Mersin indicted nine persons who had participated in the press conference of DEHAP after the killing of Ümit Gönültaş. According to the information of lawyer Ali Bozan the prosecutor wanted Fahri Turgut to be convicted as a member of an illegal organization, while he requested a conviction of Abdurrahman Gültekin, Remzi Beyter, Gülistan İnan, Nezahat Kaya, Remziye İnan, Remziye Sarıca, Kadriye İlbaş and Mustafa İlgen according to Article 125 TPC. The case was to be heard at Adana Heavy Penal Court No. 7.

**The Gemlik Meeting:** DEHAP and the Law Solidarity Association with Families of Prisoners (TUHAD-FED) organized a meeting in Gemlik district (Bursa) for 4 September to protest the situation of Abdullah Öcalan. The governor's office in Bursa banned the meeting. In various towns incidents occurred after this decision. The police killed one person. Many people were injured and a lot of detentions were made.

On 1 and 2 September buses left in many towns trying to go to Gemlik. On the way these buses were searched frequently. At other places the buses were not allowed for traffic. Those buses that continued were stopped in İnegöl district (Bursa) on 4 September. Thousands of people returned, since they were not allowed to move on. In İstanbul the deputy chair of DEHAP Murat Yazıtekin stated that the bus company that they had an agreement with to hire 150 buses had withdrawn from the agreement because of a letter from the Ministry of the Interior.

At various places clashes between the police and demonstrators evolved. In Gaziosmanpaşa quarter one bus of the municipality was burned and in Çağlayan quarter a Molotov cocktail was thrown into a bank. İstanbul Governor Muammer Güler announced that on 3 and 4 September 145 people were detained. Of the 61 people that had been detained during incidents in

Ümraniye and Esenyurt 18 had been arrested. Of the 18 people detained during a demonstration in Kadıköy 9 were arrested on 9 September.

In several cities the buses were attacked by right wingers. In Bozüyük district (Bilecik) 41 people in the buses, 8 security officers and 5 attackers were injured. Sadriye Sular told that the police had warned them not to continue their journey, because they would be attacked on the way. We should enter the bus and wait. "As soon as we entered the bus again, another bus hit us from behind and our driver was injured badly. We could not drive away. They threw stones and Molotov cocktails at us. They also set the bus on fire. Police officers took some of us out of the bus, but nine of us stayed inside and had to hide behind the seats in order not to be hit by stones. Someone entered and asked how many people we were. We were glad to be taken out but instead they bent our arms on the back and dragged us over the ground to the police station." Sular alleged that they were beaten at the police station and injured persons had been beaten at the hospital. No news had been received of Mahmut Tekin who had been in the bus with them.

Reportedly İhsan Güler, chair of Kürt-Der, who had been seriously injured, had to be taken to the hospital of Hacettepe University in Ankara. Bilecik Governor Musa Çolak claimed that the incident had developed because of a provocation of the people in the bus. Reyhan Yalçındağ, deputy chair of the HRA, drew attention to the fact that the incident had happened close to the police station and not a single attacker had been detained.

In İznik district (Bursa) 14 people were detained. Subsequently right wingers attacked five people claimed to be of Kurdish origin.

Incidents continued in various cities on 5, 6 and 7 September. In Van the police intervened when a group returning from Gemlik wanted to hold a press conference. The group responded by throwing stones. 10 people including three police officers were injured. The police detained 80 people. One person was wounded with a gun to his arm and Selahattin Urgan was wounded with a bullet to his head. Selahattin Urgan entered vegetative state.

The demonstrators also beat Ahmet İzgi, reporter of the Anatolian News Agency. Incidents continued in Van on 6 September. In the clashes Nurettin Gül was wounded with a gun. The car of a police officer was set on fire and stones were thrown at many shops and the office of the AKP.

Among the detained demonstrators in Van 14 were arrested and 71 were released to be tried without pre-trial detention. The names of the arrested persons were given as: Habib Güven (15) Behan Burak, Mehmet Kıpçak, Çuli Abi, Tuba Aslan, Şemsettin Aslan, Güllü Burak, İlhan İşsiz, Münir Demircan, Rahim Kaya, Eyüp Özdemir, Şirin Aslan (65), Refik Şeker (16) and Ömer

Kesercik. DEHAP chair in Van, Abdurrahman Dođar was arrested on 17 September in connection with the demonstration of 5 September. Reportedly he was arrested on the grounds of having made propaganda for an illegal organization and having motivated the people to violence.

On 5 September clashes arose in Diyarbakır, when a group of people wanted to welcome the travelers from Gemlik. The demonstrators threw stones at some cash points, the office of the MHP and the police station 10 April. During the incident one police car was set on fire. The demonstrators also beat up the security officers in front of the MHP office.

In Mersin clashes between the police and a returning group that wanted to hold a march emerged on 6 September. Among the detainees M.H.A. and Y.P. were arrested. After release Yılmaz Pişkin and M.K. (14) alleged that they had been tortured.

On 6 September the police in Siirt intervened when a group met the people returning from Gemlik. During the clashes 17 people including one police officer were injured and 93 people were detained. **Abdullah Ayan** who had been wounded to his head with a gun died in hospital. A witness who wanted to remain unnamed said:

"The crowd gathered in front of the People's Library at Atatürk Square. A military jeep came and the crowd threw stones at the jeep that drove away quickly. Just before the vehicle turned around the corner an officer shot at the crowd with an automatic gun. Abdullah Ayan was hit and fell to the ground."

20 of the people who had been detained in Siirt alleged that they had been beaten and insulted in custody. They filed an official complaint. Among the complainants Metin Beydođan said: "After the action we went to the office of DEHAP. Police officers broke the door and came in. They attacked as with truncheons and sticks, laid us on the ground and continued to beat us. In the car and in custody the beatings went on and we were insulted and cursed at. In custody they stubbed out a cigarette on my arm.

In Diyarbakır the people who had been detained on 5 September were arrested on 10 and 12 September.

On 7 September the police in Yüksekova district (Hakkari) intervened in a demonstration. During the incident 11 people were injured including two police officers and one journalist. The demonstrators Cengiz Alçıçek and İshak Er were said to be seriously wounded. The demonstrators also beat Senar Yıldız from the news agency İhlas. The incidents continued for 3.5 hours and 10 people were detained.

During a demonstration in Adana on 7 September the commissioner Süleyman Göbel had a heart attack and died.

#### - Court cases

The court case against Müjdin Bayav, Mesut Alagaş, Mustafa Akpınar, Müslüm Candan, Mahsum Erol and Hasan Güler who had participated in a demonstration in protest at the prison conditions of Abdullah Öcalan on 21 January 2003 started again at Adana Heavy Penal Court No. 7 on 12 January. The first trial had concluded on 12 January 2004. The court had sentenced Müjdin Bayav to 7 years' imprisonment for having used explosives and made propaganda for an illegal organization. The other defendants had been sentenced to one year's imprisonment under Article 7/2 ATL. The 9<sup>th</sup> Chamber of the Court of Cassation had quashed the sentence on 17 March 2004.

On 31 January Mersin Penal Court No. 5 continued to hear the case against 9 people who had been charged in connection with petitions asking for the release of Abdullah Öcalan. After the hearing Mevlüt Uçar, Kazım Avcı, Süleyman Çakmak, Zümeyra Oğuz, Ozan Bekçi, Ali Aktaş and Mehmet Eren Teke were released. Yunus Aşan and Şükrü Sungur had been released on 7 December 2004. The defendants were charged under Article 312 TPC and with a violation of Law 2911 on Demonstrations and Meetings.

In Hakkari an investigation was launched in January against 1,851 people who in October 2004 had handed over petitions for the release of Abdullah Öcalan to the governor's office in Hakkari. Reportedly the police raided their houses and took the suspect to the police headquarters to testify.

On 4 February İstanbul Heavy Penal Court No. 9 continued to hear the case of three people who had participated in a demonstration on the anniversary of Abdullah Öcalan's transfer to Turkey. After the hearing Sebahattin Çatıkkaş and Ekrem Üzer were released. Cemal Özen remained in pre-trial detention.

Of the 62 people who had been detained after a demonstration in Diyarbakır on 15 February 41 were arrested on 17 February on the accusation of having staged an illegal demonstration. A total of 70 people were indicted and three separate trials were initiated: one at the Juveniles' Court (3 defendants); one at Diyarbakır Penal Court No. 1 (3 defendants) and one at Diyarbakır Penal Court No. 3 (64 defendants). The first hearing was held on 14 March. The court cases did not conclude in 2005.

In Yüksekova district (Hakkari) 1,100 shop owners who had kept their shops closed on the anniversary of Abdullah Öcalan's transfer to Turkey (15 February) were charged with having disseminated propaganda for an illegal organization. The trial started at Yüksekova Penal Court but continued at Van Heavy Penal Court.

In May the prosecutor in Mersin indicted 9 people in connection with a demonstration for Abdullah Öcalan on 16 February and the Newroz celebrations on 21

March. He demanded sentences under Article 125 TPC.

On 10 November Urfa Penal Court No. 1 continued to hear the case of 9 people alleged to have shouted slogans for Abdullah Öcalan during the opening ceremony for the Kurdish language course in Urfa. In this trial the defendants including the *Özgür Gündem* reporter Eyyüp Tural, Cengiz, Eriş, Halil Yazar, Güzel Kutlu, Mahmut Aslan and Fahri Yüksekayla were charged under Article 312 TPC.

On 24 June Ankara Penal Court No. 25 started to hear the case of Mehmet Emin Özyalçın (in pre-trial detention for another offence), Abdurrahim Bilen, Tuncay Yoğurtçu, İsmet Aras, Erol Kaplan and Mehmet Şirin Karademir in connection with the press conference on Kızılay Square on 15 February. On 7 September the court decided that there was no case against the defendants that had been initiated under Article 312 TPC.

#### - Funerals

In February 30 people were indicted in Tatvan (Bitlis) for having participated in the funeral of the HPG militant Rıza Çakan who had been killed in a clash in November 2004. The prosecutor wanted the defendants to be convicted for having shouted slogans for an illegal organization, but Tatvan Penal Court later acquitted the defendants, named as: Mehmet Can Demir (chair of DEHAP in Bitlis), Bahattin Çağtay (chair in the central district), the DEHAP executives Medeni Yalçınkaya, Emrullah Cayhan, Medeni Başkan, Mine Şerefhanoglu, Nezir Çalışkan, Sait Aydemir, Suhat Altun and the DEHAP members Çetin Aydemir, Sebahattin Özel, Ramazan Dalgalan, Ferhat Koç, Mehmet Galip Ulus, Ahmet Nuyan, Maşallah Demirtaş, Fırat Yetişkin, Emine Dikmen, Nesim Karadaşlı, Erdiñç Tulay, Derviş Gündüz, Osman Çakan, Behvar Barz Şerefhanoglu, Orhan Bezirganoğlu, Mehmet Nezir Karabaş, Hasan Ülkü, Abdurrahman Eren, Vedat Yamaç, Mehmet Salih Aydemir and Onur Yalçınkaya.

The police in Siirt intervened in the funeral of Sibel Sartık and Nergiz Özer, two out of 5 HPG militants who had been killed near Toptepe village in Kumçatı district (Şırnak) on 19 January. The police used pepper gas and shot into the air while the demonstrators threw stones. 9 police officers and 25 demonstrators were injured. A crowd of some 1,000 people insisted on burying the militants at a place for which the municipality had not given permission and another clash with the police arose during which 100 people were detained. In March 62 of them were indicted for an offence under Law 2911 on Demonstrations and Meetings. The court case at Siirt Penal Court did not conclude in 2005.

In connection with the same incident the Ministry of Interior launched a case against 26 people asking for

compensation since they had damaged a police car. This court case, too, did not conclude in 2005.

During the funeral of HPG militants who had been killed near Tepecik village in Beşiri district (Batman) **Hasan İş** was killed. He was buried on 29 August. The autopsy report of Batman State Hospital claimed that Hasan İş had been killed before the funeral was held. Batman Police HQ maintained that the police was not responsible for the death. Chief of Batman Police, Arif Öksüz said:

"Hasan İş was shot from 5 to 10 centimeters. The police shot into the air from a distance. We estimate that it was a criminal killing or one police officers must have accidentally fired a shot, while he was standing next to the victim."

Ferhat Bayındır, the lawyer of the family said that Hasan İş had been killed during the funeral by a single shot that entered his head at his right ear and left his head at the left ear. The daily *Özgür Politika* quoted a witness called Abdulselam Yıldız. He said:

"During the funeral they shot at us and Hasan İş fell to the ground. We tried to help him but because of the incident could only put him into a taxi after 10 to 15 minutes. We also called an ambulance. When the car came we wanted to put him there, but two civilian dressed police officers prevented us. They took possession of the corpse."

The witness Nuri Kilit stated that Hasan İş had been at the funeral together with them and had been shot directly to his head. He had been bleeding from his ear. The witness Ayşe Toprak also confirmed that the victim had been at the funeral. Shots had been fired from armored vehicles. Hasan İş had been shot at their side.

Ten of the persons who had been detained during the funeral of Hasan İş were arrested on 30 August.

On 1 September 22 witnesses of the killing of Hasan İş testified at Batman Police HQ. Among them, Eşref Karaarslan and Ayşe Toprak were detained because they participated in the funeral. Karaarslan was arrested for having made propaganda for an illegal organization and praised a crime. Toprak was released to be tried without pre-trial detention.

On 2 September Metin Yılmaz, executives of the Mesopotamian Culture Center, was detained because he had participated in a commemorating meeting for the HPG militant Gaffur Doğan who had been killed in Iraq in 2004.

The police intervened in a funeral of HPG militants who had been killed near Gerçüş district (Batman) on 31 August and detained several people. M. Salih Ataç, Ramazan Boğadır, Hüseyin Andıç and Ömer Faruk Akyüz were arrested the same day on the ground of conducting an illegal demonstration, praising a crime, attacking the security forces and damaging public

property. The public prosecutor released M. Salih Ekinci, Ahmet Sarıtaş, Abdulkuduz Garzan and Fahrettin Işık. Fahrettin Işık stated that he had been detained although he had not been at the funeral. He had been injured to his head and bruises on his back and his face. Ahmet Sarıtaş said that he had been detained under beatings in the cafe where he worked. He had been beaten and the beatings had continued in the ambulance that he had been taken to.

On 31 August Nazım Kök (DEHAP chair in Nusaybin district), DEHAP executive Azize Yağız, DEHAP members Hülya Kök, Seyithan Kaya, Ahmet Çağın, Murat Bal, Süleyman Tekin (from a local newspaper) and Engin Tokay (*Özgür Gündem*) were arrested for having participated in the funeral of HPG militant Mesut İsa. He had been killed in Maçka district (Trabzon) and buried in Nusaybin district (Mardin).

HPG militant Ayhan Seven who had been killed near Mazgirt district (Tunceli) was buried in Yüksekova district (Hakkari) on 9 September. The participants of the funeral wanted to march and clashed with the police. During the clashes many shops and vehicles were damaged. For the HPG militant Ziver Demirbağ who had been killed in the same clash a funeral was held in Nusaybin district (Mardin). The police detained several people. Among them Azad Yüksekdağ and Abdulvahap Abandır were arrested on 10 September. DEHAP chair for Mardin, Cemal Veske, Alaattin Sinayıcı, Hatice Kaya and Garbi Acar were released.

On 13 October M. Şirin Arı (chair of TUHAY-DER) was called to Batman Police HQ to testify in connection with his participation in funerals of HPG militants. He was arrested on the same day, while the trade unionist Halis Yakut and the spokesman of a sport club, Hüseyin Tüzer who testified on the same day were released.

### Other Demonstrations

During a demonstration of groups opposing Turkey's entry to the EU incidents developed on Kızılay Square on 17 January. The demonstrators had gathered in Kurtuluş Park and wanted to march to the square. The police detained 198 people. During clashes between the demonstrators and the police several people were injured in the side streets. Among the detainees Uğur Eyilik, Mert Kavak, Onur Özdemir, Musa Kurt, Hasan Balıkçı and Fatih Beygirci were arrested on 21 January. The remaining 192 people were released.

Following an earthquake in Hakkari on 25 January a crowd protested in front of the governor's office on 27 January the fact that no help was received. The police intervened and the crowd went to the office of the AKP and broke the windows. The police shot in the air and beat some demonstrators up. About 15 people were detained. Among them Bülent Demir, Maruf Engin and Ömer Balıkesir were arrested on 29 January on

charges of having shouted slogans of an illegal organization and damaged public property.

In March 26 people were indicted under the Law 2911 on Demonstrations and Meetings. The case was to be heard at Hakkari Penal Court. Reportedly Bülent Çiftçi who had joined the PKK 10 years ago and had not returned was among the defendants.

The governor of Bakırköy (İstanbul) did not allow a commemoration meeting on 26 January, the 12th anniversary of the death of *Cumhuriyet* columnist Uğur Mumcu on the pretext that illegal groups might be provoked.

The police intervened when members of the People's House staged a demonstration against the visit of US Foreign Minister Condolezza Rice at Kızılay Square (Ankara) and detained four people.

Young members of DEHAP wanted to erect a tent at Kadıköy Pier on 5 February as part of the campaign "no permission for war" but the governor banned it. In Siirt the gendarmerie intervened when a press conference was to be held in connection with the same campaign. Four people were injured. In Salihli district (Manisa) the police detained 111 people when they wanted to leave a black wreath at the office of the AKP. Reportedly Asiye Kaya, Şirin Özdemir, Kadriye Özdemir, Yağmur Deniz, Sultan Yıldız, Gülistan Adıyaman, Meryem Gök, Mahmut Ecer and Hamit Özdemir were injured.

In İstanbul-Eminönü street vendors protested the municipality on 12 February because they had not been given permission for sale. The police detained 14 people. On 24 February the police prevented 30 street vendors from holding a press conference in front of the new mosque in Eminönü.

On 13 March several people protested when Prime Minister Recep Tayyip Erdoğan participated in the meeting of the women's wing of AKP. The police detained 14 people. They were released by the public prosecutor.

On 7 April a group calling themselves "Assembly of Free Citizens" wanted to hold a press conference in Diyarbakır. The police detained seven people, among them Mehmet İnan, Yılmaz Kahraman, Aslan Akbalık and Şeref Kılıç.

On 9 April the police in Van intervened when members of the "Independent Youth Movement (BAGEH) wanted to hold a press conference. The police detained Fadıl Taşçı (chair of the students' association at Van 100 Year University), Yunus Eriş, Özgür Abik, Osman Özgenç, Mesut Uçer, Hüsna Yakut (from the journal *Genç Bakış*), Sinan Çağlar, Nihat Abay and 7 unnamed others. Later 10 people were arrested. Among them Hüsna Yakut, Sinan Çağlar and Nihat Abay were released on 26 April.

On 28 April Şakir Özyayın, Sıddık Eren, Tuncay Ok and Bulut Kişin were detained after they participated in a press conference of the Democratic People's initiative and the "Independent Youth Movement". All but Özyayın were released after four hours.

On 8 April the police in İstanbul intervened when a crowd demanded the release of members of "Hizb-üt Tahrir" after they came out of the Friday prayers in a mosque in Beyazıt. The police detained 10 people.

On 30 May 20 students were detained in Ankara because they participated in commemorating meetings for the death of Deniz Gezmiş and his friends. Among the detainees Aydın Acar, Hikmet Toprak, Erhan Arif, Ferhat İnsan, İdris İnsan, Cemal Ataş, Zeki Demir, Aziz Gezik, Erkan Erol and Mehmet Emin Özyalçın were arrested on 31 May. On the same reason Erdal Atasoy, Erdal Emeç, Mehmet Sait Arzu, Hüseyin Kayan, Burhan Güneş, Yunus Kurt, Veysi Ayhan, Sedat İpek, Tekin Çakırgöz, Nizamettin Çelebi, Adnan Şinegu, Alaaddin Bingül, Hacer Karaoğlu, Nurcan Çakı, İbrahim Demir and Bora Yılmaz Taş were arrested in Sivas. An arrest warrant *in absentia* was issued for Seyhmus Boz.

In Eskişehir the students Mehmet Ali Ay, Hasan Ekinci, Devran Balkaş, Cihan Hayta, Uğur Tekel, İbrahim Yıldırım, Cuma Bozkurt, Suphi Taş, Edip Uysal, Ruşen Şahin and students with the first names of Hüseyin, Akif, Serhat, Ferhat and Muhittin were detained on the same grounds. Fellow students protested at the courthouse. The police detained 20 of them.

On 5 June, World Environmental Day environmentalists held a festival in Bergama (İzmir). They were attacked by mine workers. Reportedly the police and gendarmerie did not intervene.

On 18 April the Socialist Platform of Oppressed (ESP) made a demonstration in Bursa. The police detained five people including the ESP representative for Bursa, Serpil Arslan.

On 25 June Gökhan T., Hüseyin Ö., Yaşar Ç., Olcay B., Ferhat A., Şehabettin Ö., Savaş K., Merve Y., Dilek K., Hasan T., Ahmet D., İbrahim Y. and İbrahim A. were detained in Samsun in connection with a press conference on the killing of 17 MKP (Maoist Communist Party) in Tunceli. They were arrested on 28 June.

DEHAP member Mehmet Kino was arrested in Kızıltepe (Mardin) on 13 April because of a press conference on 27 March. The arrest warrant was issued under Article 7/2 ATL.

On 8 July three people were detained in İstanbul after a demonstration for the release of the conscientious objector Mehmet Tarhan. First the police was uncertain, whether the action of two persons, Evşen Yaşar Akçay and Bahar Bayram could be called a public action and waited for permission of the

prosecutor to intervene. When Doğan Özkan from the HRA joined the sit-in the police detained them, since it were three people.

On 10 July a press conference was held in Adana. The police detained eight people including Tayyip Yıldız (chair of DEHAP for Adana province) and Hıdır Taşkiran (chair of Yüreğir district).

In Suruç district (Urfa) the governor did not allow a "peace tent" to be erected by the DEHAP on 15 July.

On 18 July a ceremony was held for İzmir Governor Yusuf Ziya Göksu before he quit his post. People from Bergama protested because the governor had not ordered the closure of the gold mine in Bergama. The police detained some 20 people. The activists were released in the evening.

In İstanbul the police intervened when a group of people protested the demolition of houses in Kağıthane quarters on 21 July.

During the hearing on 26 June of Serpil Cabadan charged in İstanbul with membership of the DHKP-C some people wanted to hold a press conference on the death fast actions. The police detained 30 people while a group of 10 members of the Idealists' Union from Sarıyer attacked the group. *Milliyet* reporter Musa Kesler was also attacked.

On 1 April two persons who wanted to put up a banner against the ban on headscarves and a Turkish flag on Ankara Wall were detained.

On 2 August a group of people in Adana first threw carnations into Seyhan River and later sent postcards to prisoners with the aim of "securing public peace". Among the participants Adnan Uygur (DEHAP), Durmaz Özmen (DEHAP) and Nuriye Aksoy were arrested on 13 August.

Serdar Aka was detained on 15 August during a demonstration in Akdeniz town (Mersin) on the anniversary of the PKK's start of armed actions. He was arrested on 18 August.

On 27 August a demonstration for an end of military operations was held in Beşiri district (Batman). Special teams, gendarmerie and the police intervened. Clashes broke out when armored vehicles moved towards the crowd, shots were fired into the air and tear gas was used.

On 29 August 21 Greenpeace members staged an action at the coal fired power plant in Çanakkale. 12 activists climbed the cooling tower, but were unable to fix a banner. Later the activists chained themselves at the entrance. After five and a half hour the gendarmerie detained the activists. All 21 demonstrators including five foreigners were banned

from leaving the country. The ban was lifted in September.

On 30 August the police in Ankara intervened when a commemoration meeting was held for Erdal Yıldırım, who had been killed 10 years ago in Keçiören quarter of Ankara. The police detained Hasan, Ali and Hakan Yıldırım.

On 29 August Bayram İçlek, Fatih Gökhan Arslan and Ufuk Sayın opened a stand as part of a campaign of the Association for Basic Rights and Freedoms against the increase of fees for transport by İzmir Municipality. They were detained and on 31 August put in pre-trial detention.

In İstanbul protests were held against a festival organized by the municipality in Sarıgazi on 3 September. The police detained 72 people. Nine of them were arrested on 4 September. On 9 November Ümraniye Penal Court No. 2 started to hear their case based on charges under Law 2911 on Demonstrations and Meetings. After the hearing Goncagül Telek (from the journal *Atılım*), Mehmet Fatih, Ali Nail, Celal Alabay, Gülnaz Yapışkan, Murat Ateş, Hayri Durukan and Şeracettin Yağmur were released.

On 2 September a radical Islamic group held a demonstration near Fatih Mosque (İstanbul). The police detained 7 people. Among them Uğur Kankur and Erdal Ercan were arrested on 6 September. Hakan Ercan, Ömer Duman, Türker Güven, Zeynep Karslı and Hürü Güler were released. Cengiz Kabataş was detained in Erzurum on 13 September. Allegedly he had participated in the demonstration.

In October 19 demonstrators were indicted and charged with membership of an illegal organization with the aim to change the constitutional order and establish the caliphate of Rashid. Süleyman Uğurlu was named as the person responsible for İstanbul.

In Ankara a group demonstrated on 9 September, when Prime Minister Recep Tayyip Erdoğan was in the Hacı Bayram Mosque for the Friday prayers. The police detained 38 people. On 12 September 24 demonstrators were arrested on charges of being members of the Islamic organization Hizb-üt Tahrir. Two separate cases were launched against them. Ankara Heavy Penal Court No. 11 heard the case on charges related to membership of an illegal organization and Ankara Penal Court No. 13 heard the case related to the charges of resisting police officers. The trial at Ankara Heavy Penal Court No. 11 started on 29 November. The court issued an arrest warrant for Şinasi Ünver.

In Diyarbakır a demonstration was held in protest of the killing of Abdulrezak Özdemir who had been killed in Karatavuk village, Akçakoca district (Düzce) during a fight among seasonal workers collecting hazelnuts.

During the demonstration 14 people were detained. On 10 September Vasfi Erdem, Halit Kayık, Çetin Demir, İdris Nakçı and Ümit Aslan were arrested.

During a press conference in Tunceli Özcan Dutağacı, chair of the Association of Basic Rights and Freedoms in Hozat and the executive Ali Demir were detained. They were arrested on 25 September. On 28 September members of the Association protested against the arrests. This time, Murat Kaymaz, chair of the Association of Basic Rights and Freedoms in Tunceli, Ziya Kulbak, Ali Ekber Kaya, Hüsnüye Mavi, Eylem Vural, Onur Munzur, Özgür Demir, Timuçin Kılınç, Oğuz Bulat and Duygu Kalanç were beaten and detained. On 29 September 7 of them were arrested on charges of having refused to identify themselves, resisted officials and spoiling public peace. On 28 November Ali Ekber Kaya, Hüsnüye Mavi, Eylem Vural, Ali İhsan Çıplak and Murat Kaymaz were released from pre-trial detention.

In İnay village (Uşak) the gendarmerie hindered the inhabitants to stage a demonstration on 22 September against the TÜPRAG Company that was digging for gold using cyanide. The villagers staged a sit-in on the way to Gümüşkol village and clashed with the gendarmerie. 11 people were injured and 12 people were detained.

On 27 September members of the Socialist Platform of the Oppressed protested against the Anti-Terror Law on Kızılay Square in Ankara. The police detained 7 people who were released in the evening.

On the same day a demonstration was held in Tunceli. 10 people were detained and 8 of them were arrested later.

The governor in Diyarbakır ordered the postponement of a meeting to be held on 2 October under the heading of "Yes to the EU". The decision was taken because of the 4th International Middle East Industrial Fair since the international guests might be at risk.

On 15 October members of the Socialist Platform of the Oppressed chained themselves to traffic lights at Taksim Square (İstanbul). The police detained four of them.

On 17 October the police in İstanbul dispersed a crowd of people from the Federation of Associations of Basic Rights and Freedoms protesting the destruction of buildings in slums (gecekondu) in Saraçhane Park. After clashes with the police 20 people were detained. Cihan Keşkek, member of the music group Yorum was released the same day.

A group of the ESP (Socialist Platform of the Oppressed) protested on 1 November against the F-type prisons by blockading the Bosphorous Bridge on the Anatolian side. The police intervened and detained Emine Güngör, Ağca Kaplan, Tuğba Gümüş, Arzu Baysungur, Güneş Şenyüz, İbrahim Uçar, Fırat Çağla,

Cengiz Özgül, Hüseyin Güneş, Emrullah Avcı and Abbas Duman.

On 11 November a group protested in İstiklal Street (Istanbul) the cutting of trees. The police dispersed the crowd under beatings and detained 3 persons including the theatre actress Sevinç Aytuğ Civan.

On 27 November, the anniversary of the foundation of the PKK, the police and demonstrators clashed in Gaziosmanpaşa quarter of İstanbul. The police detained 15 people.

Following a meeting on "Democratic and Peaceful Solution of the Kurdish Question" held in Diyarbakır in 13 November the girl F.D. (17) was detained. Later she alleged to have been tortured. She told the HRA in Diyarbakır that she had been held at the anti-terror department of Diyarbakır Police HQ for eight hours. Later she had been taken to the department for juveniles. She had been strip searched and held for another 40 hours. Together with other children she had been held in a cold cell without fresh air and had not been given anything to eat or drink for two days.

In connection with the same meeting Zennur Kızılkaya, Süheyla Gül, Reşat Ayaz and a person with the first name of Sabri were detained on 22 December. Reşat Ayaz was released the same day.

In protest at the incidents in Şemdinli and Yüksekova districts (Hakkari) a demonstration was held in Seyhan district (Adana) at the beginning of December. The ESP members Gülcan Taşkıran, Hatice İlden Dirini and Halil Göğercin were released on 7 December.

In connection with worldwide human rights day a press conference should be held in Şemdinli district (Hakkari) on 8 December. Participants came from various places but were not allowed entry to the town. Some groups arrived in Yüksekova and held a press conference in front of the dissolved DEHAP's office. The crowd dispersed without an incident.

The governor in Tunceli banned a meeting scheduled for 24 December in protest at the decisions to "exile" civil servants in November and December. No reasons were given for the ban. Instead of the meeting the Labor and Democracy Platform of Tunceli held a press conference at the meeting place.

#### - Other court cases

A court case was opened against the members of the organizing committee for activities on 1 September 2004, World Peace Day. The committee members Emin Sarı, Emrullah Öztürk, Nevzat Geylan, Abdullah Tekin, Saadetin Taşçı, Fazıl Yılmaz and İbrahim Ötengil were charged with a violation of Law 2911 on Demonstrations and Meetings. The trial started at Şemdinli Penal Court on 9 March.

In İstanbul the members of the organizing committee of a meeting in Zeytinburnu on 5 September 2004 on behalf of World Peace Day faced the same charges.

The committee members Hürriyet Şener (former chair of HRA İstanbul), Şah İsmail Karagöz, Engin Yaşar, Yıldız Aktaş, lawyer Oya Ersoy Ataman, Hasan Toprak, Hüseyin Bektaş and Çetin Ova were tried at İstanbul Penal Court No. 1. The first hearing took place on 28 April.

At Fatih Penal Court No. 1 a trial against 16 people started on 10 February on the same charges. These people had participated in a press conference on 22 September 2003 in protest at the detention of Tuncer Bakırhan (chair of DEHAP), Ahmet Turan Demir (chair of ÖTP) and the musicians Haluk Levent, Gökтуğ Şenkal and Demir Karacehennem after return from the Kurdish Festival held in Germany. The defendants included Eren Keskin (chair of İstanbul HRA), Hüseyin Ayyıldız (trade union Tüm Bel-Sen) and Rıdvan Turan (SDP). The trial did not conclude in 2005.

The prosecutor in Bursa started an investigation in January on accusations that 14 people might have insulted the Republic in a press conference of the youth wing of DEHAP in Bursa on "yes to differences, no to discrimination" on 5 December 2004.

The 8th chamber of the Court of Cassation quashed a verdict of Hatay Penal Court No. 1 passed on 8 demonstrators who had been sentenced for resisting police officers during an action in 2004. The Court ruled that it was a democratic right to make a demonstration without prior permission.

The governor in Bursa did not allow an investigation to be started against police officers who had filmed during an action on 5 September 2004 on behalf of World Peace Day. The governor's office argued that the officers had acted on orders of their superior and no offence was committed.

On 6 April a trial started against EMEP officials in Bursa in connection with a press statement of 28 November 2004 on the US attack on Iraq. On 14 June the court decided to drop the case against Cengiz Yıldız, Gökhan Aydın, Ömer Furkan Özdemir, İskan Yıldız, Öznur Çağlayan, Enis Öztay, Emel Sözer, Özcan Kılıç, Musa Garip and Yasin Çelik.

In Ceylanpınar district (Urfa) the trial against 25 people charged in connection with a demonstration on 20 July 2004 continued on 18 May. No information was available on further developments.

On 15 April Cizre Penal Court concluded the case against Tuncer Bakırhan (chair of DEHAP), Resul Sadak (former chair of DEHAP in Şırnak) and Mehmet Dilsiz (chair of DEHAP in Cizre). They had been charged with violating Law 2911 on Demonstrations and Meetings during a meeting held before the local elections on 28 March 2004. The court sentenced the defendants to 18 months' imprisonment and fines of 346 YTL each. The sentences of Sadak and Dilsiz were suspended, while the sentence of Tuncer Bakırhan was

not suspended since he had earlier been sentenced by Kars Penal Court No. 2 on the same grounds.

On 28 April the trial against Baki Akkuş (Association of People from Tunceli) and the DEHAP officials Güneş Yavuz, Tuncay Arsan, Ercan Turan, İbrahim Çiçek, Kutbettin Toprak, Mehmet Şirin Alp, Semra Yavuz, Bedriye Işık and Enver Erdal started at Bursa Penal Court No. 5. They were charged in connection with a press statement on 5 September 2004.

The prosecutor in Trabzon indicted Murat Bektaşoğlu and Ethem Küçük from the People's House in Trabzon with insult since they had thrown eggs at the Prime Minister on 24 June. On 14 November Bektaşoğlu testified at Trabzon Penal Court and claimed that the throwing of eggs was a democratic right and no insult. Actually the Prime Minister had insulted them by calling them provocateurs.

On 22 June Ankara Heavy Penal Court No. 11 continued to hear the case of 46 people from the Socialist Platform of the Oppressed who had been detained on 7 December 2004 during a protest of the draft law on execution of sentences. The court released Selver Orman (*Atılım*), Burcu Gümüş (*Atılım* in Bursa), Nuray Kesik (*Atılım* in Eskişehir), reporter Seda Aktepe, Gökhan Yaman, Güneş Şenyüz and Mahir Akkaya. Deniz Bakır (*Atılım* in Ankara), Dursun Armutlu (*Atılım* in Eskişehir), Yusuf Bayraktar and Gülcan Taşkıran stayed in pre-trial detention. The case did not conclude in 2005, but the defendants were also put on trial with the demand on compensation for damaging car of Ankara Police HQ. Ankara Peace Court started to hear this case on 22 November.

In Ankara the DEHAP officials İsmail Anıcı, Abdürrahim Bilen, İsmet Aras, Mehmet Kaya, Şirin Altay, M. Şirin Karademir, Erol Kaplan, Dilek Yıldırım, Rahman Sümer, Metin Yıldız and Dursun Turan were on trial in connection with a meeting of the trade union confederation KESK on 25 September 2004. The defendants were charged for having shouted slogans. Ankara Heavy Penal Court No. 2 started to hear the case that later continued at a penal court on 11 July and 13 September. There was no important development in 2005.

On 29 July Siirt Penal Court concluded the case against 22 defendants. The DEHAP executives

Mahmut Yıldız, Muhyettin Timurlenk, Rıdvan Oğuz, Gürü Toprak and Halit Taşçı were sentenced to 6 months' imprisonment for their participation in a demonstration on 9 October 2004 and the shouting of slogans of an illegal organization. The sentence of Mahmut Yıldız was suspended and the sentences of 5 defendants were commuted to a fine of 1,980 YTL. 16 defendants were acquitted.

On 29 July Menemen Penal Court started to hear the case of ESP members who on 11 June had protested against the privatization of Seydişehir Aluminum Factory. The court ordered the release of Mert Yamaç, Yılmaz Karaçam and Baris Bozyığıt and scheduled the next hearing for 29 November.

On 15 July Nurten Karakaş, chair of the "Democratic Women's Movement" in Ankara was arrested, reportedly because of a press conference on the killing of 17 MKP militants in Tunceli. For the same reasons Azime Peker was arrested in Mersin on 20 September.

On 3 October a trial against 5 people continued at Adana Heavy Penal Court No. 7 in connection with a press conference on the killing of the PKK militants in Tunceli. The court released the defendants. The police dispersed the crowd that had gathered in front of the court house and detained Seda Aktepe (*Atılım* in Adana), Zahide Bektaşlı (*Atılım* in İskenderun), Nihal Gül (*Devrimci Demokrasi*), Zemin Demirel (*Kızıl Bayrak*), Yasemin Tuğcu, Emrah Topaloğlu, Emrah İlingi, Faris Hacıoğlu, Ufuk Köse, Erdağ Yenel, Derya Günaydın, Suna Düşkün, Arap Türk, Vahab Toraman, Çiğdem Diren Kırkoç and Mustafa Sarısözlük.

On 12 October Ankara Heavy Penal Court No. 11 continued to hear the case of alleged members of the Islamic organization Hizb-üt Tahrir who had staged a demonstration in Abdi İpekçi Park (Ankara) on 22 May. The court released the defendants Ahmet Sirven, Metin Aydoğan, Aydın Karademir, Kurtuluş Sevinç, Hüseyin Bayrak and Ömer Aksu and adjourned the hearing.

On 22 December İstanbul Penal Court No. 6 continued to hear the case of 24 people who had staged an action with headscarves during the İstanbul Marathon in October. Mazlum Der chair in İstanbul, Mustafa Ercan said that they had worn t-shirts with one letter each to express "Freedom for Headscarves".

# FREEDOM OF ASSOCIATION

## Freedom of Association

During recent years some obstacles to freedom of organization had been removed with legal amendments, but the problems with the freedom of association, in particular shortcomings in practice continued in 2005. The problems related to the working life particularly continued on an increased level. The pressure on oppositional parties, organizations and their members did not decrease.

Within the project of "Active Supervision for Democracy" the HRFT developed charts to show the number of violations. They showed that the problems

continued with freedom of association and that on each category at least one violation was observed.

Throughout the year dismissal from work was frequently observed for laborers that got organized. The actions of victims of such acts were met with obstacles from civilians as well as officials. Executives of trade unions were put on trial and members were "exiled".

Among the measures against the freedom of association were raids on headquarters and branches, ban of activities and pressure on members and executives. Human rights defenders were subjected to similar treatment.

## 1 - PRESSURE ON HUMAN RIGHTS ACTIVISTS

At the beginning of November Justice Minister Cemil Çiçek made an announcement in Stockholm directed against the Human Rights Foundation and the Human Rights Association. He said *inter alias*: "They meet with the HRA and the HRFT but until today I have not seen one EU delegation that has met with associations formed of families of martyrs or veterans. When we

talk to someone we have to take care of marginal groups and their statements that are made as if they want to slander Turkey."

HRA President Yusuf Alataş and HRFT President Yavuz Önen made a joint statement and asked for an apology. The press statement read:

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### "Government Should Apologize to the İHD and TİHV"

The Human Rights Association is an independent human rights organization defending the rights of all without making distinction of any kind among people, such as race, sex, language, religion, political or other opinion, national or social origin, or any other reason since 1986. It is comprised of 33 branches and has more than 15.000 members. Since its foundation in 1990, the Human Rights Foundation of Turkey has been a respected human rights organization whose significance is acknowledged in national and international public opinion especially regarding its works on torture. Both of these organizations were established with demands coming from public in order to struggle against repression, cruelty and human rights violations in Turkey after 1980.

Throughout their 20 years struggle period, our organizations have been subjected to attacks and pressure from state organizations and organized political groups supported by state organizations.

All these oppression and attacks could not manage to impede the İHD's and TİHV's struggles in accordance with their institutional principles and international human rights instruments. The attempts to marginalize and efforts of putting us outside of law remained ineffective. Significance of the roles of the İHD and TİHV should not be underestimated in the starting of the discussions on concepts of human rights in Turkey and certain improvements made in the field of rights and freedoms in the country.

The İHD and TİHV are reliable and respected human rights organizations that the whole world relies on their remarks and practices take them as a reference and get suspicious about the formations and efforts that they do not participate in. Therefore, current government including Minister of Justice asked the İHD and TİHV's participation for Human Rights Commission's activities insistently. While the TİHV participated in Prime Ministry Human Rights Advisory Board, the İHD refused to be included in these commissions because of inappropriateness of structures and functions of these commissions to international standards. Likewise, both the İHD and the TİHV are invited to "Civil Society Summit" held on 9 September 2005 by current government. Besides, government sent a written invitation asking for their active participation in the negotiations period between Turkey and the EU.

The negotiations between İHD and/or TİHV and international institution, organization and persons have been always demanded by opposite sides. Minister of Justice should consider on the reasons of worldwide recognition of these organizations instead of

being disturbed from this situation and describing the İHD and the TİHV as “marginal organizations that are away from public opinion”. Especially by confusing human rights problems and violations with humanitarian problems and drawing conclusions from such a mentality and making accusations can only be indicator of vision of the Minister of Justice.

Qualifying human rights organizations as the İHD and the TİHV with marginality and accusing them of supporting illegal organizations is an obvious weakness of the government, which claims that it has defended human rights and improved the general condition of the country in accordance with the human rights and protects rule of law. The government should reconsider its hesitant and insincere attitude towards human rights, and should acknowledge importance of notion of human rights. In that context it will be a sign of sincerity of the government to get down to work by apologizing to İHD and TİHV.

Yusuf ALATAŞ  
Chairperson of İHD

Yavuz ÖNEN  
President of TİHV

### **The Human Rights Foundation of Turkey (HRFT)**

In March the public prosecutor indicted lawyer Mustafa Cinkılıç, representing the HRFT in Adana and the physician Mehmet Antmen, working at the office in Adana. Cinkılıç was charged with hiding evidence of a crime. Antmen was charged with the same offence and in addition with forging documents.

The background of the trial was the treatment of Şükrü Boyav, who had been released from the E-type prison in Adana in 2003. The representation of the HRFT in Adana had sent him with an internal letter to a physician volunteering for the HRFT. Later Şükrü Boyav filed an official complaint against the prison administration and guardians and attached a copy of this letter to his application. On 16 September 2004 Mehmet Antmen was detained on orders of the prosecutor's office. During the questioning by the prosecutor Mehmet Antmen and Mustafa Cinkılıç acting as his lawyer they stated that they were not in a position to hand over the original of the letter. This had to be demanded from the head office in Ankara.

On 11 July Adana Penal Court No. 11 held the first hearing in this case. Lawyer Mustafa Cinkılıç said: "The impression is created that it is the prosecutor who wants to find evidence for torture and we are the ones who want to prevent this. The opposite is true for the work of the HRFT." Another hearing was held on 4 October. Dr. Enver Seçinti was heard as witness and stated that the charges were unfounded. The trial was adjourned to 31 January 2006.

### **The Human Rights Association**

Mihdi Perinçek, representing the HRA in the East and Southeast Anatolian region and Selahattin Demirtaş, chair of the HRA branch in Diyarbakır were indicted for a report on the killing of Ahmet Kaymaz and his son Uğur Kaymaz in Mardin-Kızıltepe on 21 November 2004. Kızıltepe Penal Court No. 4 held the first hearing on 13 July.

After the hearing Selahattin Demirtaş stated that the trial was an attempt to put pressure on the HRA. The report had been prepared by 5 people but only two of them had been indicted. The indictment treated them as journalists under the Press Law. Demirtaş pointed at the statement of the press officer of the General Directorate for Security on the results of the criminal investigation and stated that this had not been termed

interference in the proceedings but information for the public. The court case did not conclude in 2005.

### **The Diyarbakır branch of the HRA**

In January the public prosecutor in Diyarbakır indicted the board of the HRA branch in Diyarbakır in connection with a meeting with foreign delegations. The board members were charged with having staged an illegal demonstration and not having asked for permission from the Ministries (Foreign Affairs and Interior) to meet foreigners.

The first indictment related to a meeting with 16 members of the Middle East Committee of the Socialist International. Diyarbakır Penal Court No. 4 held the first hearing in 27 January. The second trial related to a meeting with students from Sweden on 16 April 2004. The trial was held at Diyarbakır Penal Court No. 1. Both cases resulted in acquittal.

### **The İstanbul branch of the HRA**

In April the chair for the HRA İstanbul Branch Eren Keskin, HRA Marmara Region Representative Doğan Genç and HRA Executive for İstanbul Branch Şaban Dayanan were sent letters signed by Turkish Revenge Brigade (TİT) threatening them with death by referring to an attack against former HRA President Akın Birdal.

### **The Bingöl branch of the HRA**

In December Bingöl Penal Court No. 2 passed its verdict on Rıdvan Kızgın, chair of the HRA branch in Bingöl. He had been charged in connection with an investigation of the HRA into the killing of 5 people near Yeniköy hamlet, Yumaklı village, Genç district (Bingöl) on 10 July 2003. The Court sentenced Kızgın to 30 months' imprisonment for having hidden criminal evidence. After the investigation of the HRA allegations had been raised that villagers handed over a knife to the delegation. During the trial the members of the delegation had denied the charges.

On 24 September 2004 Rıdvan Kızgın had made a press statement on the burning of forests in Bingöl province. In June he and Sami Tan, Serdar Altan and Birol Duru (all from Dicle News Agency) were indicted. Rıdvan Kızgın and Sami Tan were indicted for having filed an unfounded complaint according to Article 238 old TPC and Serdar Altan and Birol Duru were charged with having published the report under the headline "Soldiers set woods on fire". This was seen as an

offence according to Article 159 old TPC. On 13 July Bingöl Penal Court started to hear the case that was not finished in 2005.

The governor's office in Bingöl fined Rıdvan Kızgın 1,112 YTL for having written the name of Bingöl in the Kurdish version "Çewlik" in a letter he had sent to the governor's office and the Ministry for Interior on 29 June. The fine was announced according to Article 31 and 32 of the Law on Associations that provides that correspondence of associations have to be in Turkish. Kızgın stated that the letterhead of the association carried Turkish, English and Kurdish text and announced that he would appeal to Elazığ Administrative Court.

On 3 July three security officers were buried in Bingöl. They had died in a bomb attack on a train running between Elazığ and Tatvan. On that day unidentified people entered the office of the HRA in Bingöl and

damaged the furniture. At the time nobody was in the office.

### **The Association for Basic Rights and Freedoms (THÖD)**

On 29 August Bayram İçlek, Fatih Gökhan Arslan and Ufuk Sayın were detained in İzmir. They had opened a stand as part of the campaign of the THÖD against the increase in prices for bus tickets in İzmir. On 31 August the detainees were put in pre-trial detention.

In October the THÖD in Tunceli collected signatures against the large number of detentions being made in town. On 4 October Delil Çevik (THÖD) and Mehmet Canbek (ESP) were detained but released shortly afterwards.

On 28 November Elif Akkurt, board member of THÖD in Tunceli was detained in Pertek district. She was released after two hours.

## **2 - POLITICAL PARTIES**

On 7 February the verdict of the Constitutional Court rejecting the demand of closure for 7 political parties was published in the Official Gazette. In a verdict of 22 July 2003 the Constitutional Court had lifted Article 105 of the Law on Political Parties. The legislative could have replaced the provision within one year. Since no such amendments had been made until 22 July 2004 the demands of closure for the Socialist Workers' Party of Turkey, the Justice Party, the Justice Party of Turkey, the Great Justice Party, the Party 'Turkey is happy with its Disabled', the Revolutionary Socialist Workers' Party and the Main Way Party had lost their basis.

On 13 April the Court of Cassation confirmed the sentences of 30 months' imprisonment for 7 people charged and convicted at Silvan (Diyarbakır) Penal Court for having voted more than once during the general election of 3 November 2002. On confirmation of the sentences Saim Sağlam, Mehmet Salih Akçan, Cahit Gül, Şakir Parlak, Deniz Bozkurt, Emin Fidan and Mukadder Dönen were imprisoned.

### **The Justice and Development Party (AKP)**

On 16 June two bombs were planted in offices of the AKP in districts of Ankara. In the third floor of the office in Altındağ the door of the office was destroyed. The sound bomb at the entrance of the office in Çankaya was defused before explosion.

The chief prosecutor at the Court of Cassation reminded the AKP to change 8 provisions in their statute found to be anti-democratic or faulty. The reminder included provisions on the competences of the chairperson, the competence of the central executive committee to cancel elections in provinces and district and to give the president the right to name the candidates for the center.

The AKP was asked to change the provisions. Since this was not done the prosecutor launched a case at the Constitutional Court on 30 November.

### **The Great Unity Party (BBP)**

On 11 July an armed attack was carried out against the headquarters of the BBP in Ankara. At 10.30pm some 20 people broke the windows and fired shots inside. Police officers and civilian security personnel in the building shot in the air and the attackers escaped.

### **The Democratic People's Party (DEHAP)**

On 19 November the DEHAP held its 3rd Congress. It announced dissolving and participation in the Democratic Society Party (DTP). The headquarters in Ankara were handed over to the DTP. Despite the dissolving of the party the case which Sabih Kanadoğlu, chief prosecutor at the Court of Cassation, had opened on 13 March 2003 was not dropped.

### **DEHAP members and executives on Trial**

On 11 February Bitlis Penal Court convicted M. Salih Yalçınkaya, Gürcü Araz, Enver Kurtuluş, Şahin Çoban, Celalettin İlbar, Abdurrahman Eren and Mehmet Can Demir, executives of DEHAP in Bitlis province because of Kurdish songs and slogans shouted during the first congress of the party in Bitlis on 11 May 2003. The prison term of five months was commuted to a fine of 1,733 YTL. The verdict based on Article 117 of the Law on Political Parties.

On 16 February Bingöl Penal Court acquitted Saif Bıçakçı, member of the parliament of DEHAP. He was on trial for having argued that KADEK had to be legalized during a congress of DEHAP in Bingöl on 29 April 2003. The acquittal based on a sample decision

the Court of Cassation had taken regarding the columnist Selahattin Aydar from the *Milli Gazete*.

In February Erzurum Heavy Penal Court No. 2 sentenced Erdal Özakçil, former chair of DEHAP in Erzurum province, to three months' imprisonment in connection with a press statement he had made in 2003. The conviction based on propaganda for an illegal organization.

In March Nazım Kök, chair of DEHAP in Nusaybin district (Mardin) and the executives Sinem Akyüz and Alaattin Siyaniç were indicted in connection with posters that were put up in Nusaybin in December 2004 as an invitation to a meeting. They were charged under Article 312 old TPC with inciting the people to enmity. In connection with slogans shouted during the meeting Ziver Ağırman, Asiye Tokay, Kazım Kök, Mehmet Salih Erkil and İrfan Akın were indicted, too.

On 9 March Malatya Heavy Penal Court No. 3 started to hear the case of Deputy Tunceli Mayor Mustafa Taşkale (DEHAP). He had been detained after a note with his name was found on a killed HPG militant.

On 30 May Malatya Heavy Penal Court No. 3 convicted Mustafa Türk, former chair of DEHAP in Malatya, lawyer Doğan Karaoğlan, chairing a congress on 27 April 2003 and Zeki Aktar, former chair of DEHAP for the central district, because Kurdish music had been played and Kurdish speeches had been held during the congress. The Court sentenced them to six months' imprisonment based on the Articles 81/C and 117 of the Law on Political Parties. The sentences were commuted to fines of 2,079 YTL and suspended.

On 1 June İstanbul Heavy Penal Court No. 12 started to hear the case of Mazlum Özdemir, reporter of DİHA, Aydın Bolkan (*Özgür Gündem*) and Osman Özçelik, deputy President of DEHAP, charged with participation in the congress of Kongra-Gel between 16 and 26 May 2004. Defense lawyer Özcan Kılıç stated that DİHA reporter Reşat Ok had been tried and acquitted at Diyarbakır Heavy Penal Court No. 6 on the same charges. During a search of the journal *Özgür Halk* on 15 September 2004 a list of 300 participants to the congress had been found on a computer. The names of the three defendants had been on the list. The defendants were charged with membership of an illegal organization.

On 5 July Halfeti Penal Court sentenced Handan Çağlayan, deputy chairwoman of DEHAP, to 6 months' imprisonment and a fine of 440 YTL and Ahmet Dağtekin, DEHAP chair in Urfa, to 7 months' imprisonment and a fine of 513 YTL because they had held speeches in Kurdish during a meeting in Yukarı Göklü town in Halfeti district before the local elections on 28 March 2004. The Court of Cassation had quashed the first conviction in December 2004 ruling that new legislation had to be considered.

On 11 July Ankara Penal Court continued to hear the case of İsmail Anı, DEHAP chair in Ankara and the

executives Abdürrahim Bilen, İsmet Aras, Mehmet Kaya, Şirin Altay, M. Şirin Karademir, Erol Kaplan, Dilek Yıldırım, Rahman Sümer, Metin Yıldız and Dursun Turan charged in connection with slogans that allegedly were shouted during an action of the trade union confederation KESK in Ankara on 25 September 2004. The hearing was adjourned to 13 September. The case had started at Ankara Heavy Penal Court No. 2, but this Court had decided not to be competent.

In July Erzurum Heavy Penal Court No. 2 acquitted Tuncer Bakırhan, President of DEHAP and Bedri Fırat, chair of DEHAP in Erzurum in connection with speeches they had held in Tekman district (Erzurum) on 28 October 2002 (prior to the general elections of 3 November 2002). The case had first been heard at Erzurum SSC. The defendants had been sentenced to 10 months' imprisonment under Article 312 old TPC. The Court of Cassation had quashed the verdict.

On 29 July Siirt Penal Court concluded the case against 22 defendants charged in connection with a demonstration in Siirt on 9 October 2004. The DEHAP executives Mahmut Yıldız, Muhyettin Timurlenk, Rıdvan Oğuz, Gürü Toprak and Halit Taşçı were sentenced to six months' imprisonment for having shouted slogans of an illegal organization. The sentence for Mahmut Yıldız was suspended and for the other five defendants commuted to fines of 1,980 YTL. The remaining 16 defendants were acquitted.

On 9 October Urfa Penal Court sentenced Reşit Yardımcı, executive of DEHAP in Urfa, to six months' imprisonment and a fine of 1,640 YTL for having held a speech in Kurdish during the congress of 11 June 2003. The sentence and fine were suspended.

In September Adana Penal Court No. 2 convicted Hasan Beliren, former deputy chair of DEHAP in Adana, to one year's imprisonment, because he had mentioned Abdullah Öcalan in a speech of 8 September 2004 as "honorable Öcalan". His lawyer Vedat Özkan said that the conviction was based on Article 215 TPC (praising a crime and inciting the people to disobey law). He complained that they had been informed very late of the conviction.

In October the Court of Cassation confirmed the sentence of 6 months' imprisonment for Vahdettin Yusufoglu, DEHAP executive in Hınıs district (Erzurum). Hınıs Penal Court had convicted him for a speech in Kurdish on 14 October 2002.

### Pressures, Raids and Detentions

In January Cafer Şimşek, DEHAP chair of the central district in Mersin, M. Emin Taştan and a person with the first name of Mehmet were detained in Mersin.

Following a number of attacks in Esenyurt district (İstanbul) in February the police in İstanbul detained five people including the chair of DEHAP in Büyükkçekmece district. Reportedly the police had found material used to construct Molotov cocktails,

pictures of Abdullah Öcalan and 11 banned publications in the offices of DEHAP in Büyükkçekmece.

On 2 March the police in Kars detained Güngör Alp, chair of DEHAP in Kars, İbrahim Boçnak and the students Ahmet Uğurlu and Yunus Eriş for having participated in the press conference on the killing of Ümit Gönültaş in Mersin on 19 February.

On 23 January unidentified persons attacked the DEHAP offices in Van. They set an oven on fire and left a gas cylinder open, but did not cause much damage.

On 22 March a group of right-wingers attacked the offices of DEHAP in Üsküdar district (İstanbul). Reportedly the group had held a demonstration against the burning of a Turkish flag in Mersin and tried to destroy the furniture. On the same day the windows of the DEHAP office in Eskişehir were broken.

On 20 March unknown people attacked the DEHAP offices in Antep. Vakkas Dalkılıç, chair of DEHAP in the province, stated that material damage had been caused. He complained that after each action they were exposed to attacks. Although they had informed the police the perpetrators were not found.

On 8 May the gendarmerie raided the offices of DEHAP in Yukarı Göklü town in Halfeti district (Urfa). The search had been ordered by the prosecutor on the assumption that posters of Abdullah Öcalan were in the office. The gendarmerie confiscated two such posters.

On 26 June the police raided the DEHAP offices in Yüksekova district (Hakkari) and confiscated some books, banners and documents.

In Kumçatı town (Şırnak) the DEHAP member Osman Ayan was detained on 6 April and later arrested on charges of membership to an illegal organization.

In Kızıltepe district (Mardin) the DEHAP member Mehmet Kino was detained in connection with a press statement of 27 March. He was arrested on 13 April, reportedly on charges under Article 7/2 ATIL. In mid-April the DEHAP members Erol Kaplan, Kenan Çam, Abdurrahim Bilen, İsmet Aras, Şirin Karademir, Metin Yıldız and one with the first name of Nevzat were detained in Ankara.

At the beginning of May İsmail Akgül, chair of the youth wing of DEHAP in Hakkari and the DEHAP members Tahir Sever, İsmail Kılıç and Hüseyin Sayir were detained on charges of support of an illegal organization.

On 28 May the DEHAP executive Fatma Sağan and her husband Mehmet Sağan were detained during a house raid in Doğubeyazıt district (Ağrı). In Mazıdağı district (Mardin) the DEHAP executive Mehmet Kaya was detained during a house raid on 28 May.

On 15 June a group of right-wingers attacked DEHAP members who wanted to hold a press conference on Abdullah Öcalan. The police beat the members of DEHAP and injured Orhan Baday, Raife Ergün, Vasifiye Akgül and Fikriye Özbay. Reportedly the police officers threatened physicians at Çukurova State Hospital not to issue reports for the injured persons.

In the night of 3 April unknown persons shot at the DEHAP office in Erzurum.

The DEHAP office in Yalova was set on fire on 19 May. There were no casualties.

On 7 July the security forces raided the office of DEHAP in Bostaniçi town (Van), a cooperative and a shop in town. Casim Aslan, chair of DEHAP in town and Orhan Tutuk were detained.

On 6 July the police in Tunceli raided houses of DEHAP executives. Murat Polat, chair of DEHAP in Tunceli and the DEHAP members Hıdır Ayaç and Nuray Atmaca were detained. Nuray Atmaca was released in the night and the others the next day.

In mid-July İnan Yılmaz, member of the local parliament for DEHAP was detained in Hozat district (Tunceli) on charges of supporting PKK militants.

Aydın Aydınoglu, executive of DEHAP in Beşiktaş (İstanbul) was detained in Çorlu district (Tekirdağ) in the night of 11 July. He was taken to İstanbul and released on 13 July.

Semiha Can, member of the youth wing of DEHAP in Batman was detained on 20 July.

On 17 August Diyarbakır Heavy Penal Court No. 7 ordered the release of Yıldız Orak, deputy Mayor in Cizre. He had been detained on 8 March after his name had been found on a note of a HPG militant who was killed near İdil district (Şırnak).

On 19 August the security forces raided the offices of DEHAP in Elbistan district (Maraş). Hüseyin Kısa, chair for the district, Ali Polat and two persons with the first name of Faruk and Oğuz were detained, but released after five hours. Metin Gönülşen, chair of DEHAP for the province, said that the police had tried to provoke the population by saying the DEHAP members were terrorists planting bombs.

On 9 September the DEHAP members Tahir Özmen, Alya Tok, Şivan Eren, Zeynep Mete and Fatih Bayar were detained during house raids in Silopi district (Şırnak).

On 15 September eight people including Tayyip Yıldız, DEHAP chair for Adana and Hıdır Taşkıran, chair for Yüreğir district, were detained in connection with a press statement made on 10 July. Among them Tayyip Yıldız, Hıdır Taşkıran, Zeki Kılıç and Kenan Çiçek were arrested on 16 September. Bedrettin Karakaş, Nihat Doğaner, Kadri Yağmur, İsa Bulut, Emine Adıbelli, Ali

Toprak and Kenan Karavil were released. Reportedly police officer kicked at lawyer Turgay Berk who was present during the search of the DEHAP office after the detention of the members.

In mid-September Abdülkadir Akdağ, DEHAP chair in Eminönü (İstanbul) and the DEHAP members Siddik Gülmez and Nurettin Şengit were detained. On 17 September Abdurrahman Doğar, chair of DEHAP in Van was arrested in connection with a demonstration on 5 September. During the demonstration for Abdullah Öcalan he allegedly made propaganda for an illegal organization and stimulated the population to violence.

DEHAP member Mahmut Kavuk, living in Çınarönü (Cilin) village in Savur district (Mardin) complained about death threats from the commander of Sürgücü Gendarmerie Station. Mehmet Emin Sincar, a relative of him, had been killed in a clash and he had gone to Beytüşşebap district (Şırnak) to get the corpse. On 7 August he had returned the village. At 11pm the commander had called him to the station and asked him what he had been doing in Beytüşşebap. In reply the commander had said that he wished that an incident would occur in his village so that he could imagine what would happen to him. He had been reminded of an incident in 1997 during which a sergeant (Coşkun Telci) had been killed. In connection with this incident four villagers were still on trial.

On 2 September Cemal Coşkun, member of the party parliament of DEHAP, held a press conference at the HRA in İstanbul. He stated that the police threatened him and his family constantly. Despite the fact that his whereabouts were pretty well known the police had chosen to raid his house at times when he was not at home. During the last two weeks four such raids had been conducted when his 14-year-old daughter was at home. People with arms and walkie-talkies in their hands had introduced themselves as police officers and asked for him.

On 10 October the police in İzmir raided the DEHAP office in Konak and the central office and detained Mehmet Taras and Mahmut Çelik. Reportedly the raid was conducted in connection with the meeting planned to be held in Gemlik district (Bursa) on 4 September. Mahmut Çelik was released on 13 October. Also in October Hüseyin Dağ, chair for İzmir province and the executives İlhami Çağan and Hasan İla were detained in İzmir. They were released on 18 October.

On 30 October the police in Batman raided the contact office for the Democratic Society Movement and detained Kenan Demir, Hamit Aslan, Bahar Yeşilyurt and Fahrettin Seven.

On 6 December the DEHAP office in Davutlar town in Kuşadası district (Aydın) was raided and Tekin Abay, Ramazan Göçer, Sabri Gök, Eşref Yıldız and Şükrü Körpe were detained.

### **The Democratic Society Party (DTP)**

Following the release of the former deputies from the Democracy Party (DEP) the Democratic Society Movement started activities for the foundation of a new political party and finally the Democratic Society Party (DTP) was established.

The application for the foundation of DTP was handed over to the Ministry of the Interior on 9 November. Among the 411 founders former deputies of DEP; Leyla Zana, Orhan Doğan, Hatip Dicle and Selim Sadak were to be found. DTP favored a two-folded presidential order and Ahmet Türk (former chair of DEP) and lawyer Aysel Tuğluk were elected as co-presidents. Tuncer Bakırhan who had resigned from the Presidency of DEHAP on 26 October and Doğan Erbaş, lawyer of Abdullah Öcalan were members of the executive committee of DTP.

In December the prosecutor in Ankara indicted Tuncer Bakırhan and 11 executives of the DTP on charges of membership and support for the PKK. The indictment mentioned that the defendants had called Abdullah Öcalan "honorable Öcalan". Speeches of the defendants were quoted as well as slogans shouted on meetings of DEHAP.

### **The Labor's Party (EMEP)**

On 26 February an armed attack was conducted on the headquarters of EMEP. A single person came to the office in Sıhhiye (Ankara) and fired one shot into the office, once the door had been opened. Cem Gurbetoğlu (23) was injured to his leg. Some people in the office tried to follow the aggressor but he could escape. Later a person named Tolunay Bostancı surrendered to the police in Ankara admitting that he had carried out the attack. He was arrested on 1 April.

On 29 April Ankara Penal Court No. 7 started to hear his case. He stated that he had followed a person he believed had beaten him in Sivas. He had fired a shot with the aim to frighten the person not to injure anyone. Later he had discovered that it had not been the person he knew from Sivas. During the hearing of 27 May the defendant stated that if his intention had been political he would have shot at all the persons in the office. Another hearing was held on 2 December. Ankara Penal Court adjourned the hearing to 3 February 2006.

On 13 January Levent Tüzel, President of EMEP testified to the public prosecutor in Ankara in connection with an investigation into the March 2000 edition of the party's organ "Addressing Labor". The incriminating words had been "Newroz Piroz be" (Kurdish for "Long live Newroz").

On 6 April Bursa Penal Court started to hear the case of Cengiz Yıldız, Gökhan Aydın, Ömer Furkan Özdemir, İskan Yıldız, Öznur Çağlayan, Enis Öztay, Emel Sözer, Özcan Kılıç, Musa Garip and Yasin Çelik, executives of EMEP in Bursa, in connection with a

press statement on 28 November 2004 entitled "Protest the US attack on Iraq". The trial was adjourned and no further information on it was received in 2005.

In June the public prosecutor in Hozat (Tunceli) indicted Erdem Ulaş Çelik, EMEP chair for Hozat district, in connection with photographs of Deniz Gezmiş being put up in the office of EMEP. Hozat Penal Court held the first hearing on 6 July. Çelik said that the commemoration meeting on the anniversary of the death of Deniz Gezmiş and his friends had not been permitted and, therefore, they had gathered in the office.

On 28 December Diyarbakır Penal Court No. 1 continued to hear the case of Ender İmrek, deputy President of EMEP, Yavuz Karakuş, EMEP chair for Diyarbakır, former HADEP executive Mefair Altındağ and the trade unionist Ali Öncü in connection with speeches they had held on the 3rd congress of the party in Diyarbakır. Defense lawyer Deniz Doğan said that it was only natural that the defendants held political speeches on the congress of a political party in opposition. Their words had remained within the boundaries of freedom of expression. The indictment asked for sentences according to Article 301 new TPC. The hearing was adjourned to 11 May 2006.

The executives of EMEP in Kocaeli were fined 700 YTL for having put up posters of Deniz Gezmiş. The party had prepared posters to be used during an activity on 6 May 2005, but the governor had not allowed using these posters. Kocaeli Administrative Court, however, had stopped the decision from being implemented and the executives of EMEP had put up the posters at various places of the town, not knowing that the decision of the administrative court would be overruled by the regional administrative court on 9 May 2005.

#### **The Party of Rights and Freedoms (Hak-Par)**

In March the public prosecutor in Ankara indicted Abdülmelik Fırat, President of the Party of Rights and Freedoms (Hak-Par) and 12 executives of Hak-Par in connection with the first congress of the party. The indictment stated that invitations in Kurdish had been sent to the State President, the Presidency of parliament and the Prime Minister. Reşit Deli had held the opening speech in Kurdish even after he had been warned by the commissioner of the government. Further speeches had also been held in Kurdish and, although the speeches had contained heavy criticism, there had been no call for hatred or violence.

The indictment asked for sentences according to the Article 81/c and 117 of the Law on Political Parties that prohibits the use of languages apart from the Turkish language.

On 25 May Ankara Penal Court No. 3 started to hear the case. Abdülmelik Fırat and another nine defendants testified in Kurdish. The lawyer Sabahattin Korkmaz translated their statement into Turkish. Korkmaz was accepted as interpreter since the statement contained legal expressions. The lawyer resigned from his post as defense lawyer and made an oath for correct interpreting.

Another hearing was held on 7 December. The defense asked the court to forward Article 81 of the Law on Political Parties to the Constitutional Court since it was against the Constitution. The demand was rejected and the hearing was adjourned to 2006.

#### **The People's Democracy Party (HADEP)**

On 12 July Çermik Penal Court fined executives of the closed down HADEP in Çermik district (Diyarbakır) 1,089 YTL in connection with a congress on 1 June 2002 because Kurdish music had been played and Kurdish slogans had been shouted. Ali Yerlikaya was acquitted since he had not been in Çermik on the day. The persons that were fined under Article 81/c of the Law on Political Parties were Ahmet Karakoç, Hacı Akbulut, Mehmet Emin Taşkıran, Abdülkerim Yaman and Mehmet Demirkol

#### **The Nationalist Movement Party (MHP)**

On 26 July unknown persons set the offices of the MHP in Mamak district (Ankara) on fire. A previously unknown organization called "Anti-Fascist Forces" (AFAK) claimed responsibility.

#### **The Freedom and Solidarity Party (ÖDP)**

In the night of 20 January a fire broke out in the office of the ÖDP in Eryaman district (Ankara). Aytekin Erdiş, chair of ÖDP in Etimesgut, stated that the windows had been broken before someone lit the fire.

On 1 August the ÖDP office in Yenimahalle (Ankara) and the representation of the trade union Eğitim-Sen in Batıkent were attacked. The attackers destroyed the flag of the ÖDP, tore the cables of the bell and the phone into pieces and wrote on the wall "Turkey belongs to the Turks" and "How happy who can say to be a Turk".

#### **The Welfare Party (RP)**

In January the public prosecutor in Ankara postponed the execution of a sentence of 28 months' imprisonment passed on the former President of the closed down RP, Necmettin Erbakan for a second time for 3 months. Erbakan had been sentenced for forgery on the so-called "Lost Billions" trial. In December 2003 the Court of Cassation had confirmed the sentences of a trial held at Ankara Heavy Penal Court No. 9. Besides Erbakan 19 executives of the party had been sentenced to 14 months, 50 executives had been

sentenced to 12 months and two executives had been sentenced to 10 months' imprisonment. The Court of Cassation had not confirmed the sentences for Mehmet Emin Tutan and Ali Temür who had been elected deputies for the AKP.

Erbakan would have to stay in prison for 11 months and 15 days, but due to a medical report of Numune Hospital in Ankara his sentence was postponed for one year in December 2003. In July 2005 the execution of the sentenced was once again postponed for six months. At the same time the chief prosecutor in Ankara asked Ankara Heavy Penal Court No. 9 whether new regulation would allow for a different interpretation. The Court replied stating that the new provisions of the penal code did not change the sentence, but pointed at Article 110 of the new Law on the Execution of Sentences that would allow the

execution of sentences of the material damage had been paid.

#### **The Bliss Party (SP)**

On 2 February Ankara Peace Court continued to hear the case of the Vice-President of the RP, Recai Kutan and four former deputies charged with having received aid from the treasury in 1997 based on forged documents. The hearing was adjourned. No further information on this trial was available in 2005.

On 19 July the Constitutional Court issued a warning for the SP since it had not conducted a congress within 45 days after Necmettin Erbakan had quit the post of President. On 1 December Recai Kutan declared that they had withdrawn the objection against the verdict of the European Court of Human Rights on the Virtue Party (FP) since they had no trust in the justice of that court.

### **3 - PROFESSIONAL ORGANIZATIONS AND TRADE UNIONS**

The circular of Prime Minister Recep Tayyip Erdoğan entitled "Measures to be taken for Developments related to Trade Unions" was published in the Official Gazette on 1 June. In the public sector special care should be taken that civil servants should not be appointed to other places for more than 2 months, unless they personally wanted to. For internal education of trade union public buildings should be used. The education should include trade union and human rights. There should be no disciplinary investigations, if trade unionists made press statement connected to their unionist activities. Further principles included facilitation for demonstrations and meetings and the possibility to participate in trade union meetings on the executive level without loss of wages.

#### **The Teachers' Union Eğitim-Sen**

In January Eğitim-Sen announced its report on 2004. According to this report 8,500 members were tried in İzmir, 400 in İstanbul-Üsküdar, 100 in Urfa-Viranşehir, 200 in Yalova, 117 in Ankara, 302 in Muğla-Fethiye, 166 in Muğla-Köyceğiz, 44 in Muğla-Dağça, 52 in Kırıkkale, 5 in Adıyaman, 1,100 in Diyarbakır and 45 members were tried in Tunceli charged with having violated article 236 of the TPC. As a result of these trials 14 persons were suspended from duty for three months and many persons were dismissed or fined. The sentences were suspended for five years.

In connection with the action to stop working on 10 and 11 December 2003 a trial in Tunceli with 447 defendants and in Çorum with 150 persons is still continuing. In connection with the action to stop working in December 2000 36 trade unionists are on trial at Ankara Penal Court No. 8 and 11 unionists are on trial at Ankara Penal Court No. 19.

Eğitim-Sen President Alaaddin Dinçer stated that since the foundation of the union in 1990 more than 100 penal and administrative cases had been launched against them but the majority had resulted in decisions not to prosecute anyone. For each press statement they made an investigation would follow.

Emirali Şimşek, SG of Eğitim-Sen stated that in 2003 personnel in the Sports Institution (TTK) had been appointed to other places without legal grounds. Only for those working in Ankara (among 167 persons) the union had launched a court case. Having won the case the teachers were able to return but the material loss had not been compensated.

**Case of Closure:** On 21 February Ankara Labor Court No. 2 rejected the demand to close Eğitim-Sen for a second time. The case had been launched by the governor in Ankara stating that the expression on the right to education in the mother tongue in Article 2/b of the Statute was in contravention of Article 3 and 42 of the Constitution.

The demand for closure had first been rejected on 15 September 2004, but the Judicial Court of Cassation No. 9 had quashed the decision stating that the freedom of association can be restricted if the unity of the country or national security were at stake.

In March the reasoned verdict of Ankara Labor Court No. 2 was announced. It stated that according to Article 90 of the Constitution international conventions dominated over national law, if there was a conflict about basic rights and freedoms. The right to learn the mother tongue apart from the official language was not in contravention to law and according to Articles 10 and 11 of the European Constitution of Human Rights trade unions, associations or political parties could only be closed if there was an "imminent danger" or on the criteria of "violence". Even if the formulation in the

Statute of Eğitim-Sen would be interpreted as being against law there was no "imminent danger" or an element of "violence" in it.

On 25 May the General Assembly of the Judicial Court of Cassation quashed the verdict of Ankara Labor Court No. 2 unanimously. After the decision Alaaddin Dinçer said that this did not directly result in the closure of the trade union. They were decided to keep the trade union open. He called on the government, the opposition and further social circles to work for the removal of obstacles to the freedom of organization.

On 3 July the Article on the right to education in the mother tongue was changed during a general assembly of Eğitim-Sen. Alaaddin Dinçer stated that once they had won their case at the European Court of Human Rights the principle would be reinforced into the statute.

At the end of July the General Assembly of the Judicial Court of Cassation announced the reasons for its verdict stating that it was a provision of the Constitution that no other than the Turkish language could be taught as the mother tongue. Only in private life everybody was entitled to live the culture that s/he felt to be a part of. The teaching of different local languages and dialects and broadcasting in these languages had been accepted as a democratic right, but not the education in other languages.

On 27 October Ankara Labor Court No. 2 dealt again with the case and ruled that since the expression of the right to education in the mother tongue had been removed from the statute there was no case to decide on.

In July a court case was initiated against the trade union of office workers BES, member of the trade union confederation KESK in connection with the second Article of the Statute that stated that the trade union advocated the right of everyone to speak and be educated in the mother tongue. Prosecutor Hamza Uçar turned down the complaint of Ankara Police HQ after the trade union had changed the formulation to "the trade union aims at developing the culture of its members and the use of their mother tongue".

On 10 June Müzahit Karkuş, secretary of Eğitim-Sen in Van held a press conference at the HRA in Van and said that he had received death threats over the phone by someone who introduced himself as a member of JİTEM. He had been called at 11pm and the person had given a name such as Cevat or Cahit. He had been accused of illegal contacts and threatened to be killed if he did not cut these contacts.

In April Sakıp Yaşar, teacher at the primary school in Gümüşpınar village in Araban district (Antep) was "exiled" to the school in Kalebası hamlet, Burunsuzlar village in İslahiye district after he had put a theater play of Aziz Nesin "Ugly Honey" on stage.

Mehmet Bozgeyik, chair of Eğitim-Sen in Antep stated that Sakıp Yaşar had only attended the play and had

been "exiled" without being heard on the accusation. Bozgeyik added that another 10 teachers had been appointed to places against their wish and declared that the trade union would appeal to the regional administrative court.

In July İbrahim Ayhan, chair of Eğitim-Sen in Urfa stated that 99 investigations had been launched against more than 50 members of the trade union and for trade unionists (3 from SES, trade union of social workers and 2 from Eğitim-Sen) had been "exiled".

#### **The Trade Union of Wood Workers (Ağaç-İş)**

In April Mürsel Taşçı, chair of Ağaç-İş, announced that 55 workers in Düzce had been dismissed from Divapan factory in an unlawful manner. The other employees were under pressure to leave the trade union.

#### **The Trade Union Birleşik-Metal**

On 26 January 20 workers, who had been dismissed from the Zintaş factory in Kastamonu and two trade unionists were detained in complaint of the employer. The workers had been waiting in front of the factory with the demand to be informed in writing of the reasons for their dismissal.

#### **The Trade Union Tekstil-Sen**

On 28 February the police intervened when workers who had been dismissed from the Desan factory in Merter (İstanbul) staged an action. The police detained the trade unionist Fethiye Erdoğan and 15 workers.

#### **The Medical Association (TTB) and SES (trade union of health and social workers)**

On 20 April İstanbul Penal Court No. 7 passed its verdict on 85 persons from TTB, SES and the Association for the Rights of Patients who had demonstrated on 5 November 2003 for "right to health free of charge and correction of working conditions". The prosecutor argued that the defendants had used their right to demand certain rights and that this was part of international conventions as well as the Constitution. The Court followed his demand for acquittal.

#### **The Trade Union of Workers in Motorized Industries (TÜMTİS)**

On 24 February 34 workers staged a demonstration in front of the factory in İkitelli (İstanbul) after they had been sacked. A group of persons said to be the "men of the employer" attacked the workers. Çayan Dursun (TÜMTİS) and the workers Harun Bulut and Erdal Bozkurt were injured. The police intervened and detained 20 workers.

#### **Pressure on Organized Workers and Staff**

In January the company Aktur sacked six workers in Ankara who had joined TÜMTİS. On 24 February armed men kidnapped TÜMTİS member Mehmet Çoğurcu. He was warned not to deal with the Sam Nak and told that the workers would not be organized.

In March 11 workers were sacked from the CCS Company, because they had joined a trade union.

In September the trade union Türk-İş announced that 11,902 workers had been sacked in 2004 and during the first six months of 2005 a total of 1,876 workers had been dismissed. The figures for 2004 according to the trade unions were: Tümtis 121, Tezkoop-İş 200, Tek Gıda-İş 261, Ağaç-İş 171, Petrol-İş 298, Teksif 1,150, Liman-İş 104, Toleyis 63, Haber-İş 43, Hava-İş 96, Çimse-İş 8, Belediye-İş 5,299, Demiryol-İş 85, Tarım-İş 30, Selüloz-İş 365, Deri-İş 488, T. Maden-İş 2, Kristal-İş 445, Dokgemi-İş 20, Koop-İş 8, Türk Metal 1,800.

The figures for the first six months of 2005 were: Çimse-İş 30, Koop-İş 30, Liman-İş 15, Tezkoop-İş 158, Teksif 207, T. Maden-İş 1, Ağaç-İş 61, Tekgıda-İş 143, Petrol-İş 596, Deri-İş 635.

In July 110 workers at the transport company Trakya in İstanbul-Dudullu responsible for the distribution of Coca-Cola occupied the factory after they had been dismissed because of their membership to the trade union Nakliyat-İş. The police intervened and detained the workers under beatings. Two workers had to be taken to hospital.

The Antalya branch of the agricultural and wood workers trade union Tarım Orkam-Sen filed an official complaint against the regional directory for woods. The statement mentioned that some 50 people working at the directory had been "exiled" and about 250 staff members had been forced to leave the trade union. The complaint pointed at officials of the directory and accused them of having misused their duty.

On 8 August the police intervened in an action of workers in Çorlu (Tekirdağ) that had been sacked because of membership to the trade union Deri-İş. The detainees were released in the evening.

In August Nihat Ayçiçek from the trade union Belediye-İş in Rize declared that people employed at the municipality had been forced to leave the trade union and join the union Hizmet-İş.

On 27 August two persons distributing leaflets of Limter-İş against privatization in Aliğa (İzmir) were detained. Both, Suna Koç and Emel Elibul, were released in the evening.

In August the teacher Hacer Koçak was "exiled" from Mersin to Aktaş village in Kumlu district (Hatay) because she had participated in an action of the Association for Basic Rights and Freedoms on death fasts in July 2004.

At the end of August, beginning of May some 34 workers from a factory in Gönen (Balıkesir) who had been sacked because of their membership to the trade union Deri-İş filed a complaint against their former employer because he had threatened them. Having waited in front of the factory for 50 days they were

attacked by "men of the employer" on 31 August. In the evening shots were fired at them. The worker Hamit Kökçü was injured.

Sabahattin Değirmenci from the branch of Tez-Koop-İş in Antalya stated that in September 10 staff members of the Ministry of Tourism had been appointed elsewhere.

On 14 November the police intervened when civil servants held a press conference in front of the Directory of Telekom in Gayrettepe-İstanbul and detained the trade unionists Ali Yıldız, Ahmet Kurt, Levent Dokuyucu, Ertan Taştan, Enver Işıklı, Metin Gündüz and the civil servants Fikret Torun, Şahset Kalu and Yücel Sezon.

Ahmet Kabaca, chair of the Adana branch of Petrol-İş, was seriously wounded in an armed attack on him in a car park on 14 November. He was wounded to his head.

Following a press conference on the killing of taxi driver Hasan Akdağ in Tunceli on 14 September the trade unionist Murat Özkan was "exiled" to Kastamonu and the trade unionist Kenan Korkmaz to Karaman. Disciplinary investigations were launched against more than 100 civil servants.

Later further trade unionists who had participated in the press conference were "exiled": Selma Polat to Kastamonu, Vedat Ali Çelik to Çankırı, Hasan Hayri Kılıç to Yozgat, Yaşar Yamaç to Samsun, Hüseyin Erenler to Yozgat, Ufuk Unaç to Konya.

On 30 November workers from a leather factory in Tuzla (İstanbul) who had been dismissed were attacked. Some 40 "men of the employer" attacked them with sticks and stones. Five workers were injured. After the incident the gendarmerie detained 19 members of the trade union Deri-İş. On 8 December the trade unionist Hasan Sonkaya and four workers were detained. They were released on 9 December.

In Ayılınayak town of Mersin the director of the primary school, Ali Galip Duran and the teachers Mehtap Pektaş, Yusuf Temiz, Sevilay Çiftçi and Gülsüm Çoban were "exiled" to other schools in December allegedly because they taught the evolution theory and closed the window during the call for prayers (ezan). Mersin Governor Atilla Osmançelebioğlu alleged that the teachers had wrongfully received aid for their families, had not attended the singing of the national anthem, not been properly dressed and discriminated against some pupils.

The Tuzla branch of the trade union Deri-İş presented the following information. On 24 November the leather factory Cevahir dismissed 28 workers, before the incidents of 30 November happened. During another action on 20 December the gendarmerie intervened and detained the trade unionist Zeynel Erdoğan.

## 4 - ASSOCIATIONS, FOUNDATIONS AND CIVILIAN INITIATIVES

On 29 December the Constitutional Court stopped Article 10(1) of the Law on Association that was published in the Official Gazette on 23 November 2004 from implementation. This Article provided that associations may receive aid from political party. The case had been filed by the State President Ahmet Necdet Sezer.

### **The Association for Kurdish Democracy, Culture and Solidarity (Ankara Kürd-Der)**

The governor in Ankara did not approve of the Statute of Kürd-Der which the association had handed in on 7 July 2004. On 8 August 2004 the governor's office in Ankara filed a complaint against Kürd-Der arguing that the formulation "Kürd-Der aims to secure social and individual rights for Kurds" was against the Constitution. The public prosecutor in Ankara turned down the request stating that there was no criminal element in such a formulation. In February the governor's office appealed against this decision to Sincan Heavy Penal Court.

### **The Association for Atatürk's Ideas (ADD)**

On 14 September Bursa Peace Court No. 3 acquitted Lütfü Kirayoğlu from charges in connection with a poster put up in the Bursa branch of ADD stating that "the soil of the home country that was won with blood cannot be sold". Lütfü Kirayoğlu, chair of the Bursa branch of ADD had been charged with putting up a poster illegally. The poster protested the opportunity given to foreigners to buy land in Turkey. Bursa Peace Court No. 3 argued that there was no such provision in the new penal code.

### **The Confederation of Alevites Unions in Europe**

On 29 April, Turgut Öker, chair of the Confederation of Alevites Unions in Europe was detained at Atatürk Airport (Istanbul). Reportedly an arrest warrant existed against him dating back to 1982. The public prosecutor ordered the release of Turgut Öker.

### **The Democratic Women's Movement**

On 15 July Nurten Karakaş, Ankara representative of the Democratic Women's Movement in Ankara was detained and later arrested on charges of membership to an illegal organization. Her arrest was reportedly related to a press release on the killing of 17 MKP militants in Tunceli.

### **Dersim Cultural Association**

On 8 December Taner Gökbaş and Cafer Kılıç, members of Dersim Cultural Association, were detained in Pülümür district (Tunceli).

### **The Gülistan Youth Culture Center (Eskişehir)**

At the end of August the Gülistan Youth Culture Center (Eskişehir) was sealed on the accusation that it was illegal. Reportedly the representatives of the center had

not received permission since there was no provision for a center in the procedures. Asli Urgancı from the center said that the official wanted to keep cultural and artistic work under their monopoly. Plain clothed detectives had been waiting outside the center and asked visitors for their IDs. Shortly before the decision to seal the center unknown persons had attacked the center at night with stones.

### **Pelda Woman's Association PEKAD (Ergani)**

The Woman's Association Pelda (Pelda with the meaning "blossoming flower" in Kurdish) did not get permission because of its name. Chairwoman Sevil Öztürk called this an arbitrary decision. Abdülkadir Güven, governor of Ergani district, had stated that the application was still valid, while the local chief of the department for associations had told them that the association would be closed if no alternative application was received in 20 days.

### **The Socialist Platform of the Oppressed (ESP)**

On 17 August Ankara Heavy Penal Court No. 11 continued to hear the case of 46 people who had been detained after a demonstration against the Law on Execution of Sentences, held by ESP members at Kızılay Square on 7 December 2004. After the hearing Yusuf Bayraktar, Deniz Bakır, Gülcan Taşkiran and Dursun Armutlu were released. The next hearing was scheduled for 26 October.

Kayseri Peace Court banned the ESP poster prepared on the anniversary of the military coup of 12 September (1980) calling for "Justice – Try the generals of 12 September". Based on the court decision the offices in İzmir were searched and a huge number of posters were confiscated.

In November the governor in Hatay banned the poster on Ali Aktaş who had been executed in 1983. The poster said "He was a revolutionary and executed – Try the general of the coup d'etat".

### **KAOS – Gay and Lesbian Association**

The governor in Ankara applied to the public prosecutor in Ankara asking for a ban of the association working for homosexual rights. Umut Güner, deputy chair of the association said that they had changed their form of organization from being a journal to an association and had approached the Ministry for Interior to get permission. The governor had argued that the name of "gay and lesbians" was against the general moral and law.

The public prosecutor did not open a case for the closure of the association stating in October that the name did not carry an element against the moral, since the word were used in every day's language and scientific discussions.

### **The Association for Kurdish Democracy, Culture and Solidarity (Diyarbakır Kürt-Der)**

On 12 July Diyarbakır Judicial Court No. 2 started to hear the case with the demand of closure of Diyarbakır Kürt-Der because of the passage in the statute that education and teaching had to be done in the Kurdish language and that a TV channel was needed broadcasting like TRT but in Kurdish. The case did not conclude in 2005.

On 5 April the offices of Diyarbakır Kürt-Der were raided and spokesperson İbrahim Güçlü, Arjen Arı and Sedat Oğur were detained.

On 27 April Şahin Ayaz, founding member of Kürt-Der and Hak-Par, was detained after he had participated in a program of Flash TV. He was released on orders of the public prosecutor. Yılmaz Tunca the moderator of the program was also interrogated.

### **The Kurdish Writers' Association (Kürt-Pen)**

On 1 November Diyarbakır Peace Court No. 2 acquitted Vahit Güneş, former chair of Kürt-Pen from

charges of having been in possession of banned publications.

### **The Munzur Nature and Culture Festival**

The 6th International Munzur Nature and Culture Festival that was planned to be held in Tunceli between 28 and 31 July was postponed for 45 days on orders of the governor in Tunceli. On the assumption that illegal organizations might stage actions during the festival the premises of the Basic Rights and Freedoms Association and the Culture, Art and Solidarity Association in Tunceli were raided on 23 July. Reportedly three people were detained.

### **The Association for the Protection of Social Rights and Values, Support and Solidarity in Education (Toplum-Der)**

Abdülbaki Yetik, SG of Toplum-Der, was detained on 9 December when he wanted to go from Diyarbakır to Elazığ. Celal Aygen, chair of Toplum-Der stated that the detention was related to an article in the journal *Mizgin* with the title "The State within the State: from the special forces to Şemdinli".

## HUMAN RIGHTS FOUNDATION of TURKEY PUBLICATIONS

01. Turkey Human Rights Report 1991 (Turkish-English)
02. Turkey Human Rights Report 1992 (Turkish-English)
03. HRFT Treatment and Rehabilitation Centers Report 1990-1992 (Turkish-English)
04. Turkey Human Rights Report 1993 (Turkish-English)
05. File of Torture – Deaths in Detention Places or Prisons 12 September 1980-1994 (Turkish-English)
- 05/2. File of Torture - Deaths in Detention Places or Prisons 12 September 1980-1995 (Revised 2nd edition Turkish-English)
06. HRFT Treatment and Rehabilitation Centers Report 1993 (Turkish-English)
07. Abidin Dino / Torture (drawings)
08. The Report on the Health Services and Health Personnel's Problems in the Southeast (English)
09. Festschrift for Emil Galip Sandalcı (Turkish)
10. Turkey Human Rights Report 1994 (Turkish-English)
11. HRFT Treatment and Rehabilitation Centers Report 1994 (Turkish-English)
12. Freedom of Expression and Migration (Turkish)
13. HRFT Treatment and Rehabilitation Centers Report 1995 (Turkish-English)
14. Turkey Human Rights Report 1995 (Turkish-English)
15. HRFT Treatment and Rehabilitation Centers Report 1996 (Turkish-English)
16. HRFT on Trial 1998 (Turkish)
17. HRFT Treatment and Rehabilitation Centers Report 1997 (Turkish-English)
18. Turkey Human Rights Report 1996 (Turkish-English)
19. HRFT Treatment and Rehabilitation Centers Report 1998 (Turkish)
20. Turkey Human Rights Report 1997 (Turkish)
21. Turkey Human Rights Report 1998 (Turkish)
22. HRFT Treatment and Rehabilitation Centers Report 1998 (English)
23. HRFT Treatment and Rehabilitation Centers Report 1999 (Turkish-English)
24. Manuel on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – “Istanbul Protocol” (Turkish-English)
25. HRFT Treatment and Rehabilitation Centers Report 2000 (Turkish-English)
26. Turkish Human Rights Movement Conferences 1 and 2 / 1998-1999 (Turkish)
27. “Mahmut Tali Öngören” (Turkish)
28. Turkey Human Rights Report 2001 (Turkish-English)
29. HRFT Treatment and Rehabilitation Centers Report 2001 (Turkish-English)
30. Turkey Human Rights Report 1999 (Turkish)
31. Turkey Human Rights Report 2000 (Turkish)
32. Human Rights Movement Conference 2002 (Turkish)
33. Turkey Human Rights Report 2002 (Turkish)
34. Turkish Human Rights Movement Conference 2000 (Turkish)
35. HRFT Treatment and Rehabilitation Centers Report 2002 (Turkish-English)
36. Turkey Human Rights Report 2003 (Turkish)
37. Turkish Human Rights Movement Conference 2001 (Turkish)
38. HRFT Treatment and Rehabilitation Centers Report 2004 (Turkish-English)
39. Torture and Impunity 2005 (Turkish-English)
40. Turkey Human Rights Report 2004 (Turkish)
41. Turkish Human Rights Movement Conference 2004 (Turkish)
42. Human Rights Monitoring: Freedom of Expression, Freedom to Organise, Torture (Turkish)
43. HRFT Treatment and Rehabilitation Centers Report 2005 (Turkish)
44. HRFT Treatment and Rehabilitation Centers Report 2005 (English)
45. Turkey Human Rights Report 2005 (Turkish)